

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

11 March 1981
Vol. 1

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Sixth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Wednesday the 11th March, 1981, at the hour of 10.30 o'clock in the forenoon.

PRESENT:

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

GOVERNMENT

The Hon. Sir Joshua Hassan, CBE, MVO, QC, JP -
Chief Minister
The Hon. A. J. Canepa - Minister for Economic Development
and Trade
The Hon. M. K. Featherstone - Minister for Public Works
The Hon. I. Abecasis - Minister for Tourism and Postal
Services
The Hon. H. J. Zammit - Minister for Housing and Sport
The Hon. Major F. J. Dellipiani, ED - Minister for Education
and Labour and Social Security
The Hon. Dr. R. G. Valarino - Minister for Municipal Services
The Hon. J. B. Perez - Minister for Medical Services
The Hon. D. Hull, QC - Attorney-General
The Hon. R. J. Wallace, CMG, OBE, - Financial and Development
Secretary

OPPOSITION

The Hon. P. J. Isola, OBE - Leader of the Opposition

The Hon. G. T. Restano
The Hon. Major R. J. Peliza
The Hon. W. T. Scott
The Hon. A. T. Locco
The Hon. A. J. Haynes

The Hon. J. Bossano

IN ATTENDANCE

P. A. Garbarino, Esq., MBE, ED - Clerk of the House of
Assembly

PRAYER

Mr. Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 17th December, 1980 having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) the Elections Order, 1981.
- (2) Reports of the Charity Commissioners for the year 1978 and 1979.

Ordered to lie.

The Honourable the Minister for Economic Development and Trade laid on the table the following documents:

- (1) The Prison (Amendment) Regulations, 1981.
- (2) The Pilots (Amendment) (No.2) Rules, 1980.
- (3) The Entertainments (Safety) (Amendment) Rules, 1980.

Ordered to lie.

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

- (1) The Landlord and Tenant (Rent Relief) (Terms and Conditions) (Amendment) Regulations, 1981.
- (2) The Postal Order (Amendment) (No.2) Regulations, 1980.
- (3) The Savings Bank (Amendment) Rules, 1980.

Ordered to lie.

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

- (1) The Social Insurance (Benefit) (Amendment) Regulations, 1980.
- (2) The Social Insurance (Contributions) (Amendment) (No.2) Regulations, 1980.
- (3) The Social Insurance (Insurability and Special Classes) (Amendment) Regulations, 1980.

(4) The Social Insurance (Claims and Payments) (Amendment) Regulations, 1980.

(5) The Conditions of Employment (Retail Distributive Trade) Order, 1980.

Ordered to lie.

The Honourable the Minister for Municipal Services laid on the table the following documents:

(1) The International Trunk Call Charges (Amendment) Regulations, 1980.

(2) The International Trunk Call Charges (Amendment) Regulations, 1981.

Ordered to lie.

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

The Hospitals (Fees and Charges) (Amendment) Rules, 1980.

Ordered to lie.

The Honourable The Attorney-General laid on the table the following document:

The Fugitive Offenders (Designated Commonwealth Countries) Order, 1980.

Ordered to lie.

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

(1) Supplementary Estimates Consolidated Fund (No.4 of 1980/81).

(2) Supplementary Estimates Improvement and Development Fund (No.4 of 1980/81).

(3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.6 of 1980/81).

(4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.7 of 1980/81).

(5) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.4 of 1980/81).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 p.m.

The House resumed at 3.15 p.m.

ANSWERS TO QUESTIONS CONTINUED.

The House recessed at 5.20 p.m.

The House resumed at 5.55 p.m.

ANSWERS TO QUESTIONS CONTINUED

THE ORDER OF THE DAY

MR SPEAKER

The Honourable the Minister for Public Works and the Honourable the Minister for Municipal Services have given notice that they wish to make statements. I will, therefore, now call on the Honourable the Minister for Public Works.

HON M K FEATHERSTONE

Mr Speaker, Honourable Members may remember that at the meeting of the 4th November last year, I made a statement in which I said we had appointed consultants to carry out an in-depth survey and to submit proposals towards the long-term and permanent solution of the rainwater penetration into the Tower Blocks. The report has been received and Government is now studying it specifically on the remedial measures suggested to remedy the water penetration and the attached complications. I shall be making one copy of the report available for the DPBG Opposition and another for the Honourable Mr Bossano within the next fortnight.

It will also be made available to the press and the public.

HON P J ISOLA

We look forward to reading the report, Mr Speaker, but may we welcome the voluntary statement on the part of the Minister to give members of the Opposition the report. I think that is a move in the right direction.

MR SPEAKER

I will now call on the Minister for Municipal Services.

HON DR R G VALARINO

In March, 1980, Messrs Preece, Cardew and Rider were appointed to prepare the necessary tender documents for a power house with space for three sets, a loading bay, fuel storage and treatment, equipment, one generating set, a complete engine block for a second similar set and a piled base to take a third engine base. There were in addition the following major options:

- (a) a similar second set; and
- (b) provision of offices and surface areas to the North of the engine room.

Invitations to tender were issued in July and the closing date was the 29th of October, 1980. After clarification of contractual and technical ambiguities in relation to bid documents, Preece, Cardew and Rider completed their tender report which was received on 12th of January, 1981. Preece, Cardew and Rider engineers visited Gibraltar for discussions during the week beginning 26th of January, 1981. Following the recommendations of Preece, Cardew and Rider and the Government negotiating team, and adjudication by the Tender Board, Government has awarded the contract to Hawker Siddeley Power Engineering Ltd. (HSPÉ) on a turnkey basis and have accepted HSPÉ's choice of Baylor Woodrow International as their preferred civil sub-contractor. Government has opted for two similar engines of 5.2MW each and also the inclusion of the additional service areas. The installation of a second engine in the new station would convert it to a base load station from its beginning, thus the provision of adequate facilities for proper maintenance and servicing are necessary and also justifies the inclusion of the additional service areas, messing facilities and office accommodation in the original contract. Moreover, savings, particularly on fuel, will be considerable and further economies will be achieved by way of hire charges for the temporary plant and reduced maintenance costs due to retiring all plant in King's Bastion South. The scheme of the agreement on the contract thus reads as follows:

1. The HSPÉ contract price is £6,713,740. The total project cost including consultants' fees is £7,269,481;
2. The date of completion to commissioning of the first set is 8th May 1982 and of the second set the 17th of July 1982.
3. The amount of UK goods and services on the contract price is £5,732,944 of which

£4,873,002 which is 85%, is available through supplier credit finance. The balance of £1,840,738 is to be provided by commercial borrowing.

4. The letter of acceptance has established the date of contract as of the 27th of February 1981.
5. The formal signature of the contract will take place in April, once the contract documents have been bound.

HON G T RESTANO

Mr Speaker, I notice that the Minister for Municipal Services does not seem to take the advice of his Leader, because a moment ago his Leader said that he had told his Ministers not to give any dates because he would have Restano on his back and here he has given the dates of completion of the two engines by the 8th of May 1982 and 17th July 1982, respectively. First of all, is there any clause whereby should there be any slippage there would be compensation to the Gibraltar Government?

HON ATTORNEY GENERAL

There will be penalties for delay.

HON G T RESTANO

The payment of this contract, Mr Speaker, could I have some clarification on point 3 in the Minister's statement; "The amount of UK goods and services on the contract price is £5.732m of which £4.873m is available through supplier credit finance". Does that mean that there is no ODA connection in this scheme?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, may I answer that question. There is no ODA involvement in this project whatsoever. What we have done is gone for supplier finance which provides 85%. What happens is that 15% of the total cost of the contract is paid 30 days within the signature of the letter of acceptance and the balance of the UK goods and services will be paid at a rate of 8½%, which is a concessional rate, over a period of 7 years, six months after the completion of the contract. The balance of £1.8m will

be from a commercial loan which we are negotiating and have almost completed negotiations with a British bank and we hope to have this completed within the next week.

HON G T RESTANO

It is not unusual, Mr Speaker, for such a huge project as far as Gibraltar is concerned to have no ODA assistance? Has there been any other large, really large project going into millions of pounds, where the ODA has not given assistance? Were ODA asked to assist in this, or not?

HON FINANCIAL AND DEVELOPMENT SECRETARY

This, Mr Speaker, is a project which the ODA would expect to pay for itself over a period and is not the kind of project which would normally attract ODA finance.

HON G T RESTANO

When does the Government foresee that it will take up the option on the third engine, if at all?

A base is being paid for, Mr Speaker, for the third engine and I am asking when does Government foresee that it will take up the option on the third engine.

HON DR R G VALARINO

We shall be able to instal the third set as and when Government feels necessary but it will probably be somewhere in the region of 1985/1986.

HON G T RESTANO

But has any price been fixed for the option or will that be something that will come at a much later stage and no provision has been made.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, there seems to be some confusion here, there is no option for a third engine, the option was for a second engine. In fact, we have got a price for a 7-megawatt engine which is a price in 1981 terms, this would be about £1.6m.

HON G T RESTANO

The first and the second, I think the Minister said, were 5.2 and the third one will be 7?

HON DR R G VALARINO

Yes.

HON A J HAYNES

Will the new power house result in problems by way of aural pollution for the Varyl Begg Estate?

HON DR R G VALARINO

Mr Speaker, having regard to the prevailing winds which are mostly easterly and south westerly we think that the amount of pollution especially in a new generating plant with new equipment with proper facilities, will be minimal.

HON A J HAYNES

Mr Speaker, I am talking about aural pollution. Is he going to leave it up to the wind to decide whether there is going to be aural pollution? Are there any specific designs in the new power house to combat aural pollution?

HON DR R G VALARINO

Mr Speaker, I believe the Honourable Member really refers to noise level.

HON A J HAYNES

I refer to aural pollution.

HON DR R G VALARINO

These engines will have the appropriate silencers. The noise level will be kept to an acceptable level.

HON P J ISOLA

Let me say straight away that we welcome this announcement on the part of the Government. It is the end, really, and an admission of a long history, October 31st, 1979, when we asked the Government to give us assurances about the continued power supply situation in Gibraltar and we were told that within 18 months, which is next month, we would have a 5-megawatt generator in operation. It looks as if at long last, Mr Speaker, we are to have not one 5 megawatt generator in operation which we have been told was all that was required, we are to have two 5-megawatts generators within two years which is a vindication of the Opposition's stand that the real problem the Government had was a lack of generating capacity in Gibraltar and this has been the reason why for a very long time the Opposition has been asking to see the Preece, Cardew and Rider report. It seems to me that from the moment that Preece, Cardew and Rider was brought in February 1980, to evaluate the tenders, it appears that out of the blue because it is literally out of the blue, for the first time the House and Gibraltar is being informed that the Government is going to spend money to buy two 5-megawatt generators and not just one as had been their story ever since 31st October, 1979. Would it be too much to ask the Minister to explain to the House what are the reasons that have led this Government to decide on the 27th of February 1981, to have two 5-megawatt generators in operation by 1982. Does the Minister not think that this House and the public is entitled to have an explanation for this fundamental volte face in the Government attitude to the power supply of Gibraltar and I say in asking this question, that we welcome the statement and we would have criticised the Government as a grave error of judgement if they have not announced today two 5-megawatt generators because it was becoming increasingly clear to us that despite the skid generators and so forth, the Government was suffering from a serious lack of generating capacity and could we ask the Minister whose advice brought about this fundamental change in Government policy and in the very welcome Government decision of supplying two 5-megawatt generators. Mr Speaker, 1982, I think is going to be quite a happy year for Gibraltar. By about June or July, provided there is no slippage, we will have a continuous supply of power and by the end of the year we have been promised we shall have automatic dialling in and out of Gibraltar as well, so 1982 should be a good year.

HON DR R G VALARINO

For the Minister.

HON P J ISOLA

For the Minister, yes, all these things three or four years late but nevertheless one would welcome an explanation from the Minister.

HON DR R G VALARINO

Mr Speaker, the Government has always contemplated a second engine, in fact, when we went out to tender in my first paragraph I said there were in addition the following major options, a similar second set. So that we always contemplated a second engine. There are three basic reasons why we decided firmly on a second engine soon after the first one. Firstly, because we were thinking ahead and planning properly. Secondly, the fact that saving, particularly on fuel and spares, will be considerable and, thirdly, that by retiring all plant in KB South and by way of the hire charges we would save a great deal of money.

HON P J ISOLA

Mr Speaker, I shall not ask any more questions, obviously, we will study avidly everything the Minister has said and no doubt we will have a lot more to say about this.

BILLS

FIRST AND SECOND READINGS

THE SAVINGS BANK (AMENDMENT) ORDINANCE, 1981

HON H J ZAMMITT

Mr Speaker, Sir, I have the honour to move 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 and the Bill was read a first time.

SECOND READING

HON H J ZAMMITT

Mr Speaker, Sir, I beg to move that the Bill be now read a

second time.

Sir, the explanatory memorandum tries to bring forward the impracticability of the Postmaster having to send a letter to a depositor who has had money in the Savings Bank for a particular period during which there has been no movement at all and it has been proved quite cumbersome in the past that it has been virtually impossible to trace the whereabouts of individuals particularly Servicemen who have served in Gibraltar and have had a small amount of money which has had no movement in the account. What the Bill is seeking to do, Mr Speaker, is that although it will not be done other than for a period of over 7 years when there has been no movement, it will be sufficient for the Director of Postal Services to give six months public notice as opposed to having to trace the whereabouts of the depositor. There are a number of accounts in the Post Office with very small amounts that have remained static for a very long time and it is felt that this Bill will overcome the difficulties the Director of Postal Services encounters in having to keep up with the procedure previously adopted. I think there is little I can add Mr Speaker, on this Bill. I commend the Bill to the House.

MR SPEAKER

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

HON MAJOR R J PELIZA

I think what the Minister is doing is very reasonable except I think that there should perhaps be some safeguards. Obviously with small amounts the principle may still be there but it does not really matter if a small amount eventually is lost to some depositor who some years later realises that he has not received a letter and comes and claims it. A small amount perhaps is not so important but there could be an instance where the amount could be substantial and in such a case I think that special motivation is given

HON H J ZAMMITT

The sum can never exceed £25.

HON MAJOR R J PELIZA

I suppose that notwithstanding that the account is closed a record could be kept and if a genuine claim were to be received I suppose it would be met.

HON CHIEF MINISTER

The point is that this is already in existence in respect of smaller accounts and what happens is that you publish the names in the Gazette on two or three occasions and if there is no response then the money does not become payable.

HON H J ZAMMITT

If the Honourable Member would care to look at Section 11 (b) of the Ordinance he will find that if at any time after an amount standing to the credit of a depositor has been transferred to general revenues, under section 11(a), any claim that establishes to the satisfaction of the Postmaster a claim to the whole or any part thereof, the Postmaster shall certify in writing the sum to which the claimant appears to be entitled.

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

HON H J ZAMMITT

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

This was agreed to.

THE EMPLOYMENT INJURIES INSURANCE (AMENDMENT) ORDINANCE, 1981

HON A J CANEPA

Sir, the Minister for Education and Labour and Social Security has unavoidably had to leave the House. I do not mind tabling this Bill since I am familiar with its contents. I have the honour to move that a Bill for an Ordinance to amend the Employment Injuries Insurance

Ordinance (Chapter 49) be read a first time.

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

SECOND READING

HON A J CANEPA

Mr Speaker, I have the honour to move that the Bill be now read a second time. The Bill merely seeks to update the penalties which are specified in the Employment Injuries Insurance Ordinance. They stood at their present levels for many years and having regard to the loss in the value of the pound they were really most unrealistic. That is why the increases appear to be quite appreciable, in some cases being increases of the order of 500% but I think that they are much more in order with what should be expected to be a reasonable fine in present circumstances.

MR SPEAKER

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

HON ATTORNEY GENERAL

Mr Speaker, I would just like to add by way of clarification that Honourable Members may recall that last year there was an amendment to the Social Insurance Ordinance to increase the penalties and as these two measures are, I think, of the same nature, it is appropriate that this Bill should make similar amendments to the Ordinance in question today and in fact it follows the same rate of increases, as it were, as the Social Insurance Amendment Bill did.

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

HON A J CANEPA

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

This was agreed to.

THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE 1981

HON ATTORNEY GENERAL

Sir, I have the honour to move that a Bill for an Ordinance to amend the Merchant Shipping Ordinance (Chapter 106) be read a first time.

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

SECOND READING

HON ATTORNEY GENERAL

Sir, I have the honour to move that the Bill be now read a second time. Section 45 of the Merchant Shipping Ordinance contained a provision and favour of a seaman, i.e., it says that his right to wages is not dependent on his having to earn freight, but at present it also contains a qualification. The qualification is that he may be deprived of his wages in the event of a shipwreck of a loss if he has not used his utmost exertions to save the ship and the cargo and the stores which is perhaps a rather old fashioned and anachronistic provision. The United Kingdom law and also the International Convention applying to this, the International Labour Convention No.8 have deleted this qualification so that what is left is an absolute entitlement of the seaman not to have to depend on earning freight in order to be paid his wages and this Bill will follow the UK law and will also follow the International Convention. Sir, I commend the Bill to the House.

MR SPEAKER

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

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

HON ATTORNEY GENERAL

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

This was agreed to.

The House recessed at 8.00 p.m.

THURSDAY THE 12TH MARCH 1981

The House resumed at 10.45 a.m.

THE STAMP DUTIES (AMENDMENT) ORDINANCE, 1981

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that a Bill for an Ordinance to amend the Stamp Duties Ordinance (Chapter 147) be read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

There is clearly growing interest in Gibraltar as a finance centre and it is the Government's intention to foster this interest and wherever practicable and it is in the interests of the territory to introduce so to do to introduce new or amending legislation where this would improve the facilities that Gibraltar has to offer.

An area of new interests which has recently arisen is in the establishment of offshore Unit Trusts. Only non-residents of Gibraltar would be allowed to invest in the units of such off-shore Trusts. The Deed setting up the Trusts would contain an absolute prohibition for any Gibraltarians or resident of Gibraltar (other than a tax

exempt company) to invest either directly or indirectly in the Trust without the consent of the Financial and Development Secretary. Such Trusts would be managed by companies registered here under the Companies (Taxation and Concessions) Ordinance. To date one such scheme has been approved in principle but interest has been shown in the formation of another.

The schedule of fees to the Stamp Duties Ordinance contains no specific provision for the transfer of units or assets in unit trusts and in the absence of such provisions the units and assets would be regarded as marketable securities and their transfer will attract the same Stamp Duty as a conveyance, i.e., 63p per £50 market value or part thereof. The level of transfers of units and unit trusts cannot be foreseen but transfers in batches of a million pounds in value would attract duty of some £12,600 for each transfer. This duty could be avoided by a locally-registered unit trust company maintaining the unit trust register outside Gibraltar. The Stamp Duties Ordinance provides for the remission of fees where duty has been paid elsewhere. Transfers with all the attendant work would be executed outside Gibraltar and thus would not be liable to stamp duty. Rates of stamp duty in competing financial centres elsewhere range from nil to 4%. The promoters of unit trust corporations interested in operating from Gibraltar would prefer to concentrate all activities, including transfers of units and the assets, here but given the existing high rate of stamp duty for such transactions would be prepared, if necessary, to execute the transfers elsewhere. In the circumstances it is proposed to replace the normal stamp duty liability with a fixed amount charge of £1,000 to cover all transfers of units and assets in all unit trusts including any resident trusts that may be set up in the future. The £1,000 fee would be an annual fee and would be paid whether or not any transfers were executed during the year. The change is designed to attract non-resident funds which in the normal course of events would not come to Gibraltar and is one which gives rise to no loss of revenue given that payment of Gibraltar Stamp Duty could be avoided. I regret and apologise to the House that owing to an oversight in the drafting instructions which I prepared for the Attorney-General, the Bill before the House does not provide for the transfer of the assets of a unit trust and I propose to introduce an amendment. Sir, during the course of the Committee Stage, with your leave.

Sir, I commend the Bill to the House.

MR SPEAKER

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

HON P J ISOLA

Mr Speaker, the idea of encouraging off-shore unit trust schemes, of course, appeals and one agrees with the principle that some provision should be put in the Stamp Duties Ordinance to ensure that some revenues are collected from them. However, I do not know whether there should not be more comprehensive legislation of unit trusts rather than what seems to me to be a Bill that is a bit rushed. For example, it gives the definition of a unit trust scheme by reference to an Act of Parliament and I would have thought that there should be an amendment to the Stamp Duties (Amendment) Ordinance which defined a unit trust scheme for the purposes of Gibraltar. It seems to me wrong that one should have to go to an English Act of Parliament to find out what a unit trust scheme is. If there is a definition in the English Act may I suggest that this be incorporated in a definition amendment in this Bill. I notice that there is to be established an off-shore unit trust in Gibraltar and I wonder whether, if we are to encourage these unit trust schemes, whether there should not be some sort of legislation governing them. The question of the fee, I would certainly like to hear the Financial and Development Secretary tell us on what basis it has been decided to have a fee of £1,000, what is the basis for that fee? Are there going to be some rules or regulations governing the setting up of a non-resident trust. I think that in this area of unit trust schemes there ought to be some sort of legislation. I have not looked at the Prevention of Fraud Investment Act of 1958, I am not familiar with it, but should we not have ourselves some sort of legislation in that respect?

Is there going to be a licensing scheme for unit trust schemes? On what basis are licenses going to be given? Companies that wish to run, or people or investors who wish to run unit trust schemes, are there going to be some constraints put on them and, if so, what are these constraints to be? Is the £1,000 a year going to be a fee levied no matter what the size of the trust is. Or should there not be a graduated fee scale? I do not mean a very detailed graduated fee scale because I suppose one does not want to lose the business for Gibraltar, one wants to attract it. But it would be very difficult, I think, to change this and I would have thought that if

there was a trust of, say, £1m. that scheme could be a £1,000 a year and so for every £1m. one could put it up by sums of, say, £1,000. I do not know enough about it, I do not know whether this is financially possible or not but I do think that although there may be an interest in unit trust schemes and one welcomes these off-shore unit trust schemes in Gibraltar, I think the Government should try and get not too much, a reasonable amount of revenue from it. I would like to have reasons why there is to be just a flat fee no matter what the size of the trust is. There is one thing I would like to hear a bit more about. I thought I heard the Honourable Financial and Development Secretary, towards the end of his address, referring to resident trusts. Does that mean that a resident unit trust scheme of course, would be one that would not have any exemptions of any kind and would be set up in Gibraltar. I would have thought that for that sort of unit trust scheme one would require to have obviously rules and regulations about the setting up of them, and I suppose as these would probably pay tax of some sort here in Gibraltar, because it is a resident unit trust scheme, then such a trust scheme might well be exempt from any payments in view of the fact that their funds when invested would be paying tax to the Gibraltar Government. Mr Speaker, I hope these schemes will flourish but I think once we are legislating on unit trust schemes we ought to try and have some sort of comprehensive legislation, is that possible? If not, I suppose we could make do with this but certainly I think the Committee Stage should be taken at the next meeting of the House, Mr Speaker, and consideration is given at least to amending the legislation so as to have a definition of what a unit trust scheme is in our own legislation.

With those comments, Sir, which I hope will commend themselves to the Honourable Financial and Development Secretary, that is all I have to say on the Bill.

HON ATTORNEY GENERAL

Mr Speaker, if I can speak on the Bill. I note what the Honourable and Learned Leader of the Opposition has said about the definition. It is a point I was myself conscious of and were we introducing a general scheme for the control of unit trusts then most certainly I think the scheme should contain the same definition, there should be a definition in Gibraltar law of what the unit trust is but in this instance we are really only touching, as it were, on unit trusts into statutes and I think there

is a question from the drafting point of view, I know it is not the best practice but there is a question of balance. The two statutes we are touching are of course the Stamp Duties Ordinance and the particular part we are touching is one aspect of that Ordinance in the Schedule and also the Licensing and Fees Ordinance and again we are simply adding a provision to a schedule and on overall balance I think it would be a little cumbersome to repeat in full in each of those provisions, the definition which I have in this event taken from the Prevention of Frauds Investment Act of the United Kingdom and that was the reason that in drafting the Bill I did not do so but I understand the point of course made by the Honourable and Learned the Leader of the Opposition. If it came to the stage where there was a comprehensive regime for the regulation of unit trusts in Gibraltar then most certainly I think there should be a definition in Gibraltar law of a unit trust. The other point I would refer to, Mr Speaker, is that I think the Honourable and Learned Leader of the Opposition put the point to what extent are we providing for licensing machinery. Well, again, this is a rather peripheral aspect of unit trust operations and the effect of the amendment simply is to say as a matter of law that there shall be a licence fee of so much per year. It is not an elaborate licence. There again were we regulating unit trusts comprehensively, of course, the legislation would contain rather fuller provisions.

Thank you, Mr Speaker.

HON J BOSSANO

Mr Speaker, I think that apart from the technicalities of how best to regulate the establishment of unit trusts in Gibraltar where I myself have no expertise whatsoever, I do not really know enough about it to be able to contribute much in that connection. I think the philosophy behind making Gibraltar more attractive as a financial centre is one that the Government is right to embark on and one that we should support and encourage. It is an area where the benefits to Gibraltar economically derive not simply from the fee that is paid in stamp duty but from the employment it creates, particularly white collar employment which is something where we are beginning for the first time in Gibraltar to find difficulty in placing school leavers in jobs in the white collar area and where Gibraltarians traditionally have had skills which can be used very effectively, have been used very effectively by setting up off-shore finance centres in places like the Channel Islands and we should learn from their own experience in the area and make ourselves equally attractive because when the Government will be drawing revenue from the

money that is earned by the people who will be providing that sort of service. We have to be conscious that it is the skills of our people that is the best resource we have in exploiting Gibraltar's economic potential. I think I can say that I support fully the philosophy without considering myself sufficiently expert in the subject to be able to say whether there are things that should be added to this Bill to make it better.

MR SPEAKER

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I am grateful to Members who have spoken on this Bill for their valuable contributions. I agree with the Honourable and Learned Leader of the Opposition that if unit trusts are to develop on a substantial scale in Gibraltar then we shall need rather more comprehensive legislation. But, of course, the basic control over a unit trust is the trustee which is set up and which provides for the way in which the unit trust will be run, its accounts kept, its auditing and for the protection of the persons who put their money into this trust. Clearly, in looking at overseas trusts which wish to register here, we in the Treasury, on consultation with other advisers, looked very carefully at the deed trust which is being established in the UK or elsewhere for the setting up of the trust. Furthermore, it is generally in the interest of the persons who are setting up the trust as an overseas trust here to clear themselves with the legal authorities and also with Inland Revenue in the United Kingdom to make sure that it meets Inland Revenue requirements. In the case of the one which is being accepted in principle, this has been done. In so far as we are concerned, we require that the trustees should have a minimum paid up share capital of £1m. The fee of £1,000 was agreed on the basis that a certain amount of work would fall on to Government offices, we would like to get some form of return for this. How much work it is difficult to say at this moment of time until the trust has been running for a period. It will be paid every year, not those years in which a transaction takes place. In all the circumstances a trust could go elsewhere, to the Cayman Islands or some other area, register their unit transfers or security transfers and pay nothing. We considered that a fee of £1,000 was not unreasonable and I believe that the persons who are interested in coming here would be prepared on that sort of fee to have their

register and all their documents registered here. I do not think that I have got anything else to say except that if, of course, unit trusts were to be set up locally and one hopes that at some time in the future they will be, then we shall need legislation and in drafting that legislation we would need to take cognisance of the point made and they will generate funds from the company tax point of view then they may well have offset the requirement to pay a fee for transfers.

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

This was agreed to.

THE GAMING (AMUSEMENT) ORDINANCE, 1981

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that a Bill for an Ordinance to amend the Gaming Ordinance (Chapter 64) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that the Bill be now read a second time. During the course of a review of the need to licence amusement machines, the Law Officers advised that operators of amusement machines which pay out lottery tickets as prizes were in effect operating those machines as gaming machines and this is contrary to the provisions of the Gaming Ordinance. Accordingly, the

Government agreed, in principle, that such machines should be granted an exemption under the Gaming Ordinance subject to the necessary amending legislation being passed and to the annual payment of a fee that initially should be £100 per machine. A number of ways in which such an exemption might be granted were considered. It would be possible to grant exemption under the existing Ordinance. However, Section 5 of the Ordinance is better suited to particular situations and the exemption procedure contained in that section would be cumbersome for the present use. Where we have a clear class of gaming machines and there are likely to be several applications, it is easier to issue a licence and to issue it to the operator and the Bill so provides. Sir, I commend the Bill to the House.

MR SPEAKER

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

HON P J ISOLA

Mr Speaker, Sir, this is another amendment that we are having in respect of gaming. I think at the last meeting of the House, if I remember rightly, we had an amendment I think it was to the Licensing and Fees Ordinance, in relation to the amusement arcades and the licensing of the same. During that debate we, on this side of the House, expressed concern at the way in which these gaming machines of all sorts were appearing all over the place in Gibraltar and we asked for legislation controlling amusement arcades and, indeed, gaming machines generally and I think the answer we got from, I think, the Minister for Economic Development and Trade, the answer we got was that this was a matter for parents to control how their young behaved. We do not agree with this because we believe on this side of the House and I think people generally believe that although primarily responsibility for control of children must lie with parents, the State or the Government has a responsibility, generally, to ensure that people do not suffer as a result of the free use of these machines.

This Bill Mr Speaker, proposes to authorise an issue of an annual licence for the keeping for gaming purposes of gaming machines that only pay out lawful lottery tickets by way of prizes. I know this will help the Lottery Committee and the sale of the Government lottery. This is good and we applaud it but again it is an extension

once more of gaming in Gibraltar. At the moment people can, I presume, play and will get prizes that are not worth anything or play a game, etc. Now it appears that as a result of winning they are going to win lottery tickets which will bring them £15,000 or whatever.

Mr Speaker, I would like to repeat the plea on the part of this side of the House of the need for legislation to control gaming and amusement arcades in Gibraltar. Although we agree that there should be a licence if they are going to give out lawful lottery tickets, we do not agree in Government making it easier for gaming to take place more widely than it already does so in Gibraltar and again we say there is a need for legislation to control amusement arcades and all places where gaming takes place in Gibraltar. There have been some extraordinary situations in England, as the House must be aware and only recently, Casinos owned by big public reputable companies have lost their licences, have sold them. I read in the paper only two days ago that four very big Casinos in London, owned by very reputable companies were sold and they went up on appeal that the gaming licences should not be cancelled, they went on appeal to the Court and the Court said; "It does not matter, you may have sold them to the most reputable people but if we were to allow an appeal then we would be condoning the original offence". And they did not grant the licence and those Casinos have had their licence cancelled. I do not say, Mr Speaker, that we have that sort of problem in Gibraltar but I do believe that there is a need for a licensing authority to be set up as there is in England, a licensing authority, to give gaming licences to all those who have it and a licensing authority to which objection can be taken by the Police if the place is not properly run or by members of the public. There is a need to control and regulate the use of amusement arcades and other gaming places and I would ask the Government to give us assurances that these matters will be gone into and that the Government will consider legislation for the regulation and control of places where gaming takes place.

HON CHIEF MINISTER

Mr Speaker, I think the Leader of the Opposition has drawn a very wide comment on a matter which is really very specific and has repeated what he said the last time. With regard to the question of amusement arcades, we did say that we would keep the matter under review and it appears that the original concern and possible abuse that appears to have existed and which was the worry of a lot of people, has subsided and that these people are managing their affairs in a way that they have not given any recent

cause for complaint but nevertheless we are monitoring, we are getting reports of the way in which these places are run and if there was any cause to create any trouble then of course the Government would step in. The Government is reluctant to control more than is really necessary in any aspect of life and certain matters must be left to the responsibility of people themselves, in the case of youngsters, of course, to themselves, to their parents and to their teachers. For the moment that aspect of the matter is under review, the points made by the Honourable the Leader of the Opposition last time have been kept in mind and we have been reminded of them now and if there is any change in the attitude of course the Government will have no hesitation in coming to the House in respect of that. I shall deal with another aspect of what he has said in a minute. With regard to this one, this is nothing new. Precisely because the arcades have had to be registered and so on these machines have been operating at no doubt some considerable profit but these are not machines that operate in arcades, these are machines that operate mainly in bars and so on. My concern is really not so much a question of obtaining the fee for the licence as of making sure that really the prizes are lottery tickets and this is where I would like to take this opportunity of issuing a warning in this respect and this I make in protection of the Gibraltar Government lottery which is also a good income raiser for the community and that is that we hope that now that they have been identified and will have to be registered, that there will be a closer check on whether in fact sometimes money passes or does not pass instead of lottery tickets. It has been my experience, though I do not visit bars very often, that occasionally when people have won in my presence, the Management have said: "We do not have any lottery, take the money and buy it somewhere else". Well, that is not good enough for us, we want bars to have lottery for their commitment under this scheme because that is why we have allowed them. Once they have been allowed and once they are making profit it is only fair also that they should be monitored by the payment of a licence and in order to be able to make sure that they are used for the purpose for which they are authorised. With regard to the latter part of the statement made by the Leader of the Opposition about a general licensing authority for gaming, I think we are well covered but I shall cause a look to be taken at this in a general way to see whether now that we have the number of licences in respect of different kinds of gaming whether they need some centralisation control not only in respect of the collection of the fees but, generally, in respect of gaming. We are in a position here in Gibraltar that the only hard gaming available to the public is under the exclusive licence of the Casino operator and he has a concession, the terms of which may come up for reviewing

in a few years' time and therefore we have not got that problem, we only have the problem of enforcement but certainly we have had no report or anything to show that the Casino is not being well run and that there have been causes of the kind that arose in the United Kingdom about the cause to which gaming Casinos were being put to. We have only one Casino and we have no doubt that it is run properly though nowadays as everybody knows it is 60% to 70% of the time a Bingo Hall run than a Casino. That is because of the situation but if this situation changes and the Casino is then used for the purpose for which it was originally meant in the condition of an open Frontier then of course much more control and regard will have to be had into the way it is run but I would like to say here that there is nothing that the Government knows in respect of the Casino that would want it to be more supervised than, in fact, it is now.

HON A LODDO

Mr Speaker, I am a firm believer that persuasion rather than coercion leads to more respect for the law and I can understand up to a point the Government's reluctance to come down heavily on the question of gaming machines but I personally am very worried at the proliferation of gaming machines in Gibraltar and this is a worry that is shared by all the members of the DPBG. The measures adopted up to now in legislation to me seemed to be more concerned with revenue raising than with the actual control and as for this piece of legislation ensuring that the prizes will be lottery tickets, well, that I am afraid is pie in the sky because whether or not you insist that prizes be lottery tickets it will be up to the individual barman to say whether the prize can be collected in lottery tickets or drink unless there is a policeman behind every shoulder of every barman we will not be able to control that 100%. My other worry here is on the question of gaming machines which pay out money legally in Gibraltar. We have heard that the Casino has a concession but I have been given to understand that at least one hotel in Gibraltar either has a gaming machine that pays out money or will shortly instal a gaming machine which will pay out money presumably for the use of the patrons of the hotel. If I remember correctly, when the Casino was first opened in Gibraltar, the idea that it would be for the use of the tourists and like similar Casinos in other places the local residents would not be allowed to make use of it. However, as time has gone by, it has been found that the Casino is kept going by the local residents and this is a worry to me, that machines that actually pay out money will be installed. I would like to know whether, in fact, this is the case, that one

hotel in particular will be installing a machine that pays out money and if so under what conditions this hotel has been allowed this concession, which up to now has been the prerogative of the Casino International.

HON CHIEF MINISTER

Mr Speaker. If the Honourable Member will give way before he finishes. I would just like to say that the person who has the concession is the owner of the machines that have been installed in the hotel exceptionally and for reasons that he made we allowed a minimum number of so-called one-arm bandits to be installed in hotels and only one or two have materialised in one hotel and I think they were seven. This has been an extension of the concession to the Casino but in no way has it been the intention of the Government to allow the installation of machines that give money as prizes other than strictly under the terms of the licences which has been slightly extended in a very limited capacity. One of the sites which they had asked in this representation which we limited to the hotels to the extent only of 7 in all was for one to be installed at the airport and that was turned down so we have limited it to the purpose which the Honourable Member mentioned, to tourism, i.e., mainly hotels.

HON A T LODDO

I am grateful to the Honourable and Learned the Chief Minister for shedding some light on this. Not that I am for the gaming machines, I think my intervention will have shown that I am not for gaming machines in any way but I would have thought that if there was going to be an extension of this it would have been more equitable to have invited applications for the installation of these machines and have made it more competitive. The Government might have been able by throwing this open to recoup more from the use of these machines. However, I say this without prejudice because I am against the proliferation of gaming machines.

HON CHIEF MINISTER

I am going to say one thing that I should have said before, that even these seven that have been allowed will carry a very heavy tax in respect of each one that is installed.

HON MAJOR R J PELIZA

Mr Speaker, I think my Honourable Friend who has just spoken has raised two very interesting points which I think confirms the suggestions from my Honourable Friend Mr Isola for the need to have some kind of control because although the Chief Minister said that he was reluctant to have control unless it was absolutely necessary I think the indications that are coming out from this discussion is that the need is there already. For instance, I think my Honourable Friend Mr Loddo very clearly stated that although these machines are giving out lottery tickets they can easily be converted into money because even if the policeman is there is it an offence for a person to sell a lottery ticket to another? Would it be an offence at all if the barman gave the individual who got the ticket money for his ticket? It would be interesting to know from the Honourable and Learned the Attorney-General if that would be an offence because if it is not then the whole thing is a farce in that the ticket is drawn out of the machine and that can be converted into money. That difference is there whether the machine gives out lottery tickets or produces money prizes. I can hardly see the difference at all. The other point which was very interesting is the fact that now the so-called one arm bandits seem to be spreading over town and what is more they are under the monopoly of one concern. Is that really the way to look at this? I do not know why the members of the Government say no because that is what I think the Chief Minister said. As far as I know the machines are run by the Casino, so what we are doing now is that a licence that was given for one particular place is now being used in other premises. Since I understand the licence is restricted to one person, that person is acquiring a monopoly for the use of one-arm bandits in Gibraltar. This is something that has got to be looked into and this is why in my view there is a need for an authority which will look exclusively into this matter for any complaints, whether this comes from a business concern which is interested to try and they themselves exploit that kind of business or individuals who may object to the spreading of these gambling machines. I hope to persuade the Chief Minister that there is a need to look into this very carefully. I am glad to say that he said he would. I think he is not dead against the idea of finding out whether there is a need for an Authority but what I am saying is that the evidence that has been coming out from this discussion seems to point out that already there is a need. With regard to amusement machines, such as gaming machines etc., one must also keep an eye on that. I understand that there have already been cases of children literally

MR SPEAKER

No, we are not going to elaborate on that under any circumstances.

HON ATTORNEY GENERAL

If I may speak on the point to which the extent of the law prescribes dealings in prizes from gaming machines. The point of this amendment and indeed the scheme of the existing statute, the Gaming Ordinance, in so far as it provides for exemptions is to make legal what is otherwise not legal. All this Bill is doing is saying that if a machine is a gaming machine if it is a gaming machine which only distributes prizes which are tickets in a lottery or are parts of tickets because in Gibraltar we have tickets in segments, if it does no more than that then it is not unlawful but it says nothing about anything else. When one comes back to the basic prohibition or injunction in the Gaming Ordinance is that you shall not operate a gaming machine, this is a dispensation from that, this does not authorise anything else to be done.

HON MAJOR R J PELIZA

What I was asking is, is it an offence to exchange the lottery ticket for money?

HON ATTORNEY GENERAL

All this Bill does is say that you may operate a gaming machine even though it is a gaming machine if it only hands out lottery tickets. It is an offence to give anything else by way of a prize unless you can point first of all to an exemption under Section 5 of which if there is an exemption then of course it is legal or you can point to a licence under this Ordinance which authorises lottery tickets to be given otherwise, yes, it is an offence.

HON P J ISOLA

Could the Honourable Member clarify this point. Is the position then that if a person is licenced to give a lottery ticket, once the person gets the lottery ticket from the pub there is nothing to stop him in law from selling that lottery ticket back to the pub and therefore should it not be a condition of the licence that such lottery ticket shall not be exchangeable in the premises in which it was given, otherwise you have got a gaming machine giving out money and the lottery is not going to

be sold, it is going to be transferred day to day, the same lottery ticket is going to be sold for money every day.

HON CHIEF MINISTER

That is a good point that can be put at the Committee Stage, that part of it.

HON J BOSSANO

I think, Mr Speaker, the Bill itself is a fairly straightforward one and a lot of issues have been raised which are not directly relevant to the Bill but which certainly are issues that need looking at. As I understand it the position is that as a result of looking at the amusement machines, it has been decided that the machines that were already in existence in the bars were not in fact amusement machines at all and that the distinction between an amusement machine and a gaming machine is that the amusement machine is one which you play for the pleasure of playing it and the gaming machine is one that you play for the profit that you make out of it and consequently these machines are now being reclassified as gaming machines as opposed to amusement machines, that I think is the issue. As regards that particular issue I believe it is true that the machines have been operating as gaming machines for a very long time and they have in fact been paying out money because I certainly have been in bars where the prizes have been credit at the bar and consequently if one is able to use credit at the bar and leave the credit there until the credit is used up that is as good as money in the bank. I think the point made about the lottery ticket is equally valid. I think while the Government is looking at the question of these machines one thing it must look seriously at and I myself am not very favourably disposed to setting myself up as judge of other people's morals, I believe my responsibility is on my own conduct and I do not really believe that one should say that gaming is something that should be encouraged or discouraged or that people should be prohibited from it. Ideologically I am not inclined to support that sort of philosophy. I fail to understand why people do it. I have been in a place where somebody has actually obtained £20 of coins in a bar and put the £20 in the machine and kept on playing it until the £20 have run out. I cannot understand why people do it but apparently they want to do it and it is their money and if they are doing it then what we must ensure is that that which is really a totally pointless economic exercise because it is a way of using up time and energy which produces no wealth

at all then that should not simply be in existence in our community to make a few people rich and to provide very little income for the community as a whole. If people want to spend their money doing that as opposed to spending it some other way then a greater share of the profit that is made and of providing them with the opportunity of doing it should go to the Government and should be used for the benefit of the community and therefore I am not thinking so much of taxes as a penalty or as a means of discouragement but if people have got money to throw away on gaming machines and money to throw away on amusement machines then at least let us see that part of that money is used for something that is socially beneficial rather than telling them what they can or cannot do with their money. I think the Government should seriously think of having a more effective control about the money that is being made with these machines and of ensuring that a part of it is used for public welfare.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I feel that discussion has become slightly blurred by a number of misconceptions. The first is that this is a new departure in that at the moment no amusement machines give out lottery tickets and this amendment in the Gaming Ordinance is being introduced to enable them to do so. The fact of the matter is that, as pointed out by the Honourable Mr Bossano, that over a long period lottery tickets have been paid out as prizes on amusement machines and when it was found out that this was being done and the law officers advised that it was illegal, then the steps were taken to licence machines for this purpose. Secondly, the impression has been given in discussion that there is a very lax attitude on the part of this Government and earlier Governments on the licencing of gaming machines. I have only been in Gibraltar for some eighteen months and I must draw on Treasury files for information that I have but I can assure the House that over the past twelve years, if not longer, there have been continuous approaches to various Governments by bodies asking for licences to operate gaming machines and these have been steadfastly refused. In the mid-70's, following representations by the Ministry of Defence, it was agreed that gaming machines might exceptionally be installed in certain Service messes. This was after the closure of the frontier and one of the reasons given also was the fact that soldiers and sailors who came here were used to finding these amusement machines in messes where they had served elsewhere overseas and for various reasons a limited number of licences were approved and as the Honourable and Learned the Chief Minister has mentioned one was approved for an hotel. I mentioned the

figure seven to the Chief Minister and I may stand to be corrected but it is certainly under ten, the number of exceptional licences that have been granted in this manner. We have turned down numerous requests by clubs and certain other Service messes for these machines and the Government has said no, they would not extend the figure which was agreed in the mid-70's. I would like to make it quite clear, Mr Speaker, to the House that there is not a feeling of; "Well, if anyone wants a licence for a garing machine they can have it". It is being very carefully controlled. The Attorney-General has dealt with the point of the payment of money and the points made by the Honourable and Learned Leader of the Opposition has been noted and Government will consider this before the Committee Stage. I do not think I have got any other points I would like to make, Sir, and I commend the Bill to the House.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I beg to give notice that the Committee Stage and third reading of the Bill be taken at a later stage in the meeting.

HON P J ISOLA

We would like the Committee Stage to be taken at the next meeting because we are going to propose some amendments to the Bill and we were only given notice of this Bill four days ago.

HON CHIEF MINISTER

What we really do not want is last minute proposed amendments at the time of the hearing and having to agree or not agree ad hoc to something that is produced. If the Honourable Members have any ideas and they should formulate them, I would be grateful if they could be communicated either to the Attorney-General or to me so that we can look at them and see whether we will try and accommodate them as much as possible but it becomes difficult to deal with proposals on an ad hoc basis at the Committee Stage when one does not know all the implications.

MR SPEAKER

Under the Standing Orders, of course, the rule is that unless there is a unanimous vote it cannot be heard on the same day but it can be heard tomorrow or at a subsequent time within this particular meeting. Is it being proposed that it should be heard at a subsequent meeting?

HON CHIEF MINISTER

Not at this session but at this meeting.

HON P J ISOLA

I was not asking for tomorrow, I was asking for the next meeting of the House. Generally, it is the practice that Bills at Second Reading are taken at one meeting and Committee Stage is usually taken at the following meeting unless people generally agree. This is one of the Bills that we feel should follow the normal practice. The Bill was only made available to members on this side of the House, this Bill and some others, on Friday of last week and of course it has been published in the Gazette but as far as we are concerned we are proposing to move amendments and we take the point that the Chief Minister has made that we should give notice of them but it is impossible for us to do this by tomorrow morning.

HON CHIEF MINISTER

I am not suggesting that at all. What I said was that this meeting is being divided into two and we could take it in the second part of the meeting, i.e., on 22 April at the Budget. We have one other Bill which I have precisely, because of that, not put it down for Committee Stage and Third Reading at this meeting which is the question of the interest on non-payment of rates which is particularly important to be taken before the end of the Budget because it comes into operation on 1 July and therefore it will be necessary, anyhow, for people to be given notice. What I mean is that there may be, apart from the Budget, an element of legislation to be done anyhow and this one could be one of those.

HON ATTORNEY-GENERAL

Mr Speaker, may I just clarify a point. The Honourable and Learned Leader of the Opposition said that the Bill was made available on Friday, I am not detracting from

anything that has been said but it is a matter of slight concern to me, the Bill was published on the 3rd and if there has been a delay in it being given to Members . . .

MR SPEAKER

With due respect to the Honourable and Learned Attorney-General there has been no delay on the part of the House in delivering copies of the Bill to Members of the Opposition.

HON ATTORNEY-GENERAL

I am sorry, Mr Speaker, I was not suggesting that at all.

HON P J ISOLA

I must apologise because, in fact, I was relating it to when we got the Agenda. We got the Agenda a week last Thursday and it was the afternoon. I am sorry, we have had it more than a week, I got the wrong week.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Having made the original mistake which caused this controversy I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage of the meeting.

This was agreed to.

THE PUBLIC HEALTH (AMENDMENT) ORDINANCE, 1981

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance (Chapter 131) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

The object of the Bill now before the House is to provide for the charging of penalty rates where any part of the general rate or a salt water rate remains due and unpaid for more than three months. Sir, it is an unhappy fact of life that everywhere in the world there are some persons or groups of persons who are slow in paying their bills. They leave the payment of all bills until the last moment thus enhancing their own financial position and cash flow to the detriment of the creditor. In so far as rates are concerned it is the Government and the Government is acting as the banker to people who do not pay their bills on time. The slowness in payment of bills to public authorities may be in the form of income tax, estate duty, rates or charges for the provision of services such as electricity and water. There is at present, Sir, provisions in the Income Tax and Estate Duty Ordinances to charge penalty rates where amounts are due and owing for more than a specified period. The Government is also empowered under the provisions of the Public Health Ordinance to cut off the supply of potable water, electricity or telephones if the consumer makes default in paying for the services supplied. There is, however, at present no provision in the Public Health Ordinance to charge a penalty rate and clearly this is an area where services cannot be cut off. The intention is, therefore, to introduce for both salt water and the general rate a penalty rate equal to 5% of any amount due and unpaid within three months after it is due and payable. If at the end of the further three months the amount owed, including the penalty, is not paid in full, a further penalty rate equal to 5% of the amount due and payable will be levied for each subsequent period of three months during which the amount remains due and unpaid.

Sir, I commend the Bill to the House.

MR SPEAKER

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

HON P J ISOLA

We have to support this Bill but there is one point that I think the Financial and Development Secretary might consider. It seems to me from the reading of the Bill that if you have not paid for three months you pay a 5% penalty. Having incurred that 5% penalty it would seem to me that you could then hold on to the money to the

expiration of another 2½ months because your new 5% liability will only arise when the sixth month has gone by. Once somebody has gone past that date, he could say that the Government might as well wait for another six months since he has got to pay 5% more. I do not want to suggest more draconian measures but perhaps there should be a provision that once a date passes the new rate comes in otherwise there could be an incentive to hold on to the money for another three months.

Mr Speaker, apart from that, anything that helps Government to collect revenue we agree with.

HON CHIEF MINISTER

Mr Speaker, this is a point which has worried us before, this point that has been made now, and the original idea was that thereafter there would be a penalty for every month. This would bring in considerable administrative difficulties and in view of the fact that the payment of a percentage for the first quarter does give virtually a licence for two months and twenty-eight days, we might have to think about putting the percentage a little higher than 5% but this is a matter which has worried us before but in fact it was the Financial and Development Secretary who thought that this would bring considerable administrative difficulties in gauging the interest if it had to be done by the month since rates are levied quarterly.

MR SPEAKER

Rates are paid in advance are they not?

HON CHIEF MINISTER

On demand.

MR SPEAKER

And they are demanding in advance?

HON CHIEF MINISTER

Yes.

HON FINANCIAL AND DEVELOPMENT SECRETARY

I am grateful to the Honourable and Learned Leader of the Opposition for the point he made which I think that the Chief Minister has answered. In fact, when the papers were originally drafted they did provide for a penalty for each month. I went into this very carefully with the Accountant-General and the members of his staff who are responsible for the collection of rates and I realised that they would have such difficulty in working out the actual penalty in the office and we would probably be seeking extra staff so I decided that it would be far better to go for the three month period on which they are due and hence this is the reason. Even so, if a person leaves it for the six months he will be paying 10.25% and at the end of the year he will be paying 21.55%. This is a substantial penalty but I think it is one which is necessary when the House takes into account that at the 31st March, 1980, arrears to the general rates and salt water was some £345,531 which is nearly 20% of the revenue from rates on salt water for the year, a very, very high amount.

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1980/81) ORDINANCE, 1981

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1981, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that a Bill be now read a second time. The Bill seeks to appropriate, in accordance with Section 65(5) of the Constitution, a further sum of £1,983,522 out of the Consolidated Fund. The purposes for which this sum is required are set out in Part I of the Schedule to the Bill and are detailed in the Schedule of the Consolidated Fund Supplementary Estimate No.4 which I tabled at the commencement of this meeting. The Bill also seeks to appropriate, in accordance with Section 57 of the Public Finance (Control and Audit) Ordinance, the sum of £313,400 from the Improvement and Development Fund for the electricity and telephone services. A detailed explanation of the composition of this amount is included in the Schedule of Supplementary Estimates No.4 1980/81 for the Improvement and Development Fund which I also tabled at the beginning of the meeting.

Mr Speaker, Sir, as this is, I hope, the final supplementary for 1980/81, I should perhaps bring the attention of the House to the fact that if the amount sought in the supplementary on the Consolidated Fund is approved, the total supplementary for the current financial year will amount to £3.2m. which is slightly less than 10% of the total voted on a recurrent budget excluding Consolidated Fund charges. On the Improvement and Development Fund the supplementary brings the total supplementary sought from that Fund in the financial year to £3m.

Sir, I commend the Bill to the House.

MR SPEAKER

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

HON P J ISOLA

We will be speaking, obviously, on the Schedule in Committee stage but at this stage could I ask the Financial and Development Secretary to explain the reason for and the necessity for Clause 5 in the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I think that this is because we have applied from the 1980 Pay Settlement the amounts required to meet the introduction of Members' salaries which have been done in the past. I will go into it in detail, if I may, at the Committee Stage.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL

Sir, I beg to move that this House resolve itself into Committee to consider the following clause by clause.

1. The Savings Bank (Amendment) Bill 1981;
2. The Employment Injuries Insurance (Amendment) Bill 1981;
3. The Merchant Shipping (Amendment) Bill 1981;
4. The Stamp Duties (Amendment) Bill 1981;
5. The Supplementary Appropriation (1980/81) Bill, 1981.

THE SAVINGS BANK (AMENDMENT) BILL, 1981

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

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

THE EMPLOYMENT INJURIES INSURANCE (AMENDMENT) BILL, 1981

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

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

THE MERCHANT SHIPPING (AMENDMENT) BILL, 1981

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

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

THE SUPPLEMENTARY APPROPRIATION (1980/81) BILL, 1981

Clause 1

HON P J ISOLA

The Appropriation Bills usually have a number after them.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, Sir, this is the First Supplementary Appropriation for 1980/81 for 1981. The first supplementary Appropriation Bill in 1980 was the Supplementary Appropriation Bill 1980/81 and then the second one is given a number, etc., but once we move into the new calendar year then we leave out the number.

If in fact we do need a Bill after the Public Accounts Committee has seen the accounts for the year then that would be the second Supplementary Appropriation Bill of 1981 for 1980/81.

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

Schedule

Consolidated Fund - Schedule of Supplementary Estimates
No. 4 of 1980/81.

Item 1 Head 3 - Education

HON A T LODDO

On this one I would like to ask how many supply teachers

have been taken on due to maternity leave?

HON MAJOR F J DELLIPIANI

Mr Chairman, I think we are talking in the region of between 29 and 30 teachers. We have at the moment 17 maternity cases.

HON A T LODDO

Is this an occupational hazard? Mr Chairman, on Item 3, Transport Subsidy of schoolchildren - £500. Could I have an explanation?

HON MAJOR F J DELLIPIANI

This refers, Mr Chairman, to the cheque system for the buses. This is a backpayment. The cheque system was based at a certain rate for the bus fares, the bus fares went up and this is an adjustment.

HON A T LODDO

On Item 17, I notice that there has been a substantial increase in fees from £366 to £880 per child with effect from 1 April. Could I ask the Minister if there has been a reciprocal increase from our side to MOD.

HON MAJOR F J DELLIPIANI

We are talking of two different things, Sir. When we talk about £336 and the £980 we are talking of children between the ages of 5 and 12, i.e., Primary and Middle School, and not Secondary School. Our figures, in fact, for the same kind of education are £445 and their figures because of all kinds of fringe benefits of the teachers, accommodation, etc., etc., come to £880. In fact, our own figures for secondary education in modern comprehensive which is far more involved, more equipment, the ratio per teacher still comes under £880. We are going to increase based on our own estimates, but not to the extent of £880.

HON A T LODDO

Is it then a case of us being overcharged?

HON MAJOR F J DELLIPANI

We are not being overcharged, we have looked through their figures and they have looked through our figures and there is no question of overcharging. That is what it costs them.

Item 1 Head 3 - Education was agreed to.

Item 2, Head 4, Electricity Undertaking

HON G T RESTANO

Item 7. Cost of essential additional spares. Could we know for what engine those spares are intended for?

HON DR R G VALARINO

Yes, Mr Chairman. These are the costs of essential additional spares and in fact they are not for any particular engine, they are for reconditioning of any unit. The Governor which is £1,000; reconditioning of motor assembly £14,000; pump unit spares £5,300; service of torsion exhaustion vibration £1,800; engine spares, the excitor, £5,000, engine spares, general, £1,400, pump spares £4,500, condensers £500; engine joints £6,500; filters £1,600 and exhaust bellows £400, making a total of £42,000. These are additional requirements for repairs and do not cover any specific engine.

HON W T SCOTT

Mr Chairman, is there any element within the cost of those additional spares for the skid generators?

HON DR R G VALARINO

As far as I know, none at all, Sir.

HON W T SCOTT

Can the Minister say whether there is or not?

HON DR R G VALARINO

There isn't any, Sir.

HON G T RESTANO

Item 85. Cost of additional brickwork and further essential work for the new generating plant. Could we have details of the extra £27,000?

HON DR R G VALARINO

Yes, before we turn to Head 85, I would, with the leave of the House, like to reduce that figure by £3,600. I beg to move that the sum of £27,000 appearing in the Supplementary Provision column under Item 2 Head 4.- Electricity Undertaking Sub Head 85 (New) Hire of Generating Plant, be reduced to £23,400.

Mr Speaker put the question in the terms of the Honourable Dr R G Valarino's amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON DR R G VALARINO

I will now answer the question, Mr Chairman. The Honourable Member wanted to know the figure in question. £11,500 is to heighten the wall; £8,800 is the catwalk that the Electricity Department erected. This consists of steel £1,800 and labour £7,000; £2,723 of unallocated stores and £484 of ducting from site to control room, making a total of just over the figure mentioned.

HON G T RESTANO

Why has it been found necessary to heighten the wall, Mr Chairman?

HON DR R G VALARINO

To quote the Honourable Mr Haynes, to cut down on aural levels.

HON G T RESTANO

This had not been estimated before the generators were installed?

HON DR R G VALARINO

Mr Chairman, no. This was due to subsequent complaints,

Sir.

HON G T RESTANO

Did the construction of this wall go out to tender?

HON DR R G VALARINO

Yes, Sir.

HON G T RESTANO

Was it gazetted, Mr Chairman?

HON M K FEATHERSTONE

We can find out for you.

HON G T RESTANO

I would like that information. The catwalk, Mr Chairman, was that not constructed in November?

HON DR R G VALARINO

It was being constructed during this period of time but the fact is that the engines had to be put there and therefore the catwalks had to be built.

HON G T RESTANO

But I remember the Minister being questioned in November and he said that the catwalks had been erected.

HON DR R G VALARINO

I do not particularly remember that but, in fact, if I do remember correctly during this time there were slight industrial problems at the time arising from the jointers so I very much doubt whether I could have exactly said what the Honourable Member is saying.

HON P J ISOLA

I think we got a figure, apart from that £27,000, we got

a figure of virement warrants which brought up the whole estimate for the hire of the generating plant £31,500 by another £65,000 and I would like to know why has the estimation been so bad, so mistaken, it seems to be, from what we were told in the House in November or December?

Secondly, I would like to know whether any of the other items above that we are asked to vote today whether there is any part of those items connected directly or indirectly with the new skid generators, the expenditure of the installing or running of the new skid generators.

HON DR R G VALARINO

The extra expenditure is due to the change of site. There is no amount in either of these votes connected with the new skid generators and in fact if the Honourable Member would wish it I would give him a breakdown on the £38,500 which was voted on yesterday, Sir.

HON W T SCOTT

If I might go back to Item 7. Purchase of Engine Spares. There seems to be an inordinate amount, in fact, of £42,000 for these spares in relation to that which was originally asked for, that is the £80,000, can we have some explanation? Has something totally unusual or unexpected happened?

HON DR R G VALARINO

Mr Chairman, my very last words were that these were additional requirements due to repairs and breakdowns.

HON A J HAYNES

Will this new building on Sir Herbert Miles Promenade be removed in the near future? Will the Promenade be restored to its previous use?

HON DR R G VALARINO

Mr Chairman, once the skid engines are removed, the Promenade will be restored to its normal use, in case the Honourable Member would like to walk up and down.

HON A J HAYNES

Mr Chairman, having introduced the Minister to aural

pollution yesterday I would like to introduce him to the aesthetics today. Is the Minister able to assure me that it will happen in eighteen months, two years or what?

HON DR R G VALARINO

Mr Chairman, it will be done as soon as possible after the engines have been removed but obviously at this stage no special date can be given to the Honourable Mr Haynes otherwise the researcher will have to do more work.

HON P J ISOLA

I am surprised that my Honourable and Learned Friend on my right should have been asked about eighteen months. We, on this side of the House, are of the feeling and of the opinion that the skid generators are likely to be with us for some considerable time so therefore we should not be asking yet when they are going to go because they have only just arrived. Mr Chairman, on the urgent repairs on the toilets/ablutions and sewage pipes, £14,000, again this seems to be an extraordinary piece of expenditure. Have there been new toilets or ablutions put in?

HON DR R G VALARINO

Mr Chairman, the toilets and ablutions were in a bad condition and the repairs and maintenance of these toilets and ablutions were absolutely necessary and that is why we undertook the work immediately, Sir.

HON P J ISOLA

What was under these toilets and ablutions that you spent £14,000, Mr Chairman? Can the Honourable Member give us some breakdown because the whole vote was £38,000 and we now require an additional £14,000. What are the nature of these urgent repairs that are being carried out?

HON DR R G VALARINO

Mr Chairman, this is being done by PWD labour, it really means major works being carried out to the toilets, new pipes, repairing and where necessary putting new ablutions and in fact generally putting them up to the required

standard. I have personally seen these ablutions and these toilets and they were certainly in a very bad condition and the money is very well spent.

HON P J ISOLA

Mr Chairman, nobody on this side of the House would refuse to vote any money to improve conditions for people working there but it seems to me that the amount spent of £14,000 would probably be for toilets and ablutions in the Ritz Hotel. The Minister has said new ablutions and that, perhaps, may be the answer. Could we ask where are these new ablutions? It seems to us that £14,000 to repair toilets and ablutions is a lot of money.

HON DR R G VALARINO

Mr Chairman, by new ablutions I meant replacement of toilets and re-tiling, repairs to sewers, etc. In all there are about twelve toilets and ablutions.

HON P J ISOLA

Let me say straightaway that as far as that item is concerned we are not convinced that £14,000 is a reasonable sum to spend on twelve toilets and ablutions. It seems to us an incredible amount of money. Perhaps my Honourable Friend Mr Restano might like to visit the Generating Station again and have a look at these ablutions and toilets, they must be tiled in gold. But anyway, the next item, Mr Chairman; I notice that there is an item regarding the supply of Electricity by Inter-Services Generating Station. For a long time we have not had any payments, the MCD used to be repaid in kind, then we got a vote for £25,000 because, apparently, they were asking the Government to pay some money since it did not look likely as if they would ever be able to repay in electricity. I notice now that for the quarter ending 31 December, 1980, the Government is paying £29,000. Am I right in thinking that this item will now appear regularly every quarter until the 2.5MW generators are in operation? I do not mean the amount but there will be an item every quarter, or is there an agreement on the matter?

HON DR R G VALARINO

The answer to the question that the Hon Member is asking is the one I gave to the House, No 34 of 1981, yesterday, when I gave a complete and detailed answer. The last part of the question, whether this would come up every quarter, this is extremely difficult to say, certainly, as I illustrated in my answer the amount that the ISGS gives to KB is higher than the amount that KB gives to ISGS therefore

there is always a certain amount of deficit at the end of each quarter.

HON P J ISOLA

We all know that the ISGS gives more to the Government than the Government gives back because we do read the Government communiques which express appreciation to the ISGS for helping them out from having power cuts all over Gibraltar. What I am asking is whether the Government will now be making provision in the Estimates for an amount to pay the ISGS because this is a continuing factor, as far as we can see on this side of the House, rather than come to this House every three months on a Supplementary Appropriation Bill as if this was a once-and-for-all, ie, are we going to get sensible about this and is the Government going to make provision in the Estimates to be able to pay the Dockyard for the units that we borrow?

HON FINANCIAL AND DEVELOPMENT SECRETARY

The answer to that is, Yes, Sir.

HON A J HAYNES

Government say they cannot give a definite date as to when they will remove the building housing the skid generators but can they give me the criteria they will use. I seem to remember the Chief Minister on television saying that it would make a rather nice warehouse.

HON CHIEF MINISTER

I never said that. I think the Honourable Member must be crackers. In any case it will have to be pulled down to take the skid generators out.

HON A J HAYNES

The engines will be returned to the owners when the new Generating Station has been built. Will Government undertake to remove that building if and when the new Generating Station has been put in operation?

HON CHIEF MINISTER

The answer to that is No, Sir, because we have already given that undertaking and we do not have to repeat it. The idea of putting the skid generators on the Boulevard at the time was taken to be purely of a temporary nature and as soon as the emergency that required them was over they would be

removed and the whole of the promenade would be restored including the one bench that people were deprived of for watching the activities in the court below so that really the answer to that is that as soon as the power is not required the end of the contract for hiring will arrive and the removal will come but prior to that the wall will have to be pulled down.

HON P J ISOLA

Is the Honourable and Learned the Chief Minister saying then that notwithstanding that the two 5MW generators are in operation it may be that the skid generators may still be required?

HON CHIEF MINISTER

What I have said is that it could be possible that we might not need the skid generators before the two new engines are installed.

HON G T RESTANO

Can the Government confirm that the eighteen months' hire of the generators plus the extra funds that have been asked for in respect of the generators at this meeting now amount to approximately £270,000? So that if there are no further expenses involved then it would be alright but if there are any further expenses involved we will be getting very, very close to the figure that we would have had to pay if we had purchased those generators outright.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, all I wish to say is that whether we bought them or whether we hired them we would still have had to pay another £42,000 because they were sited on the Bastion.

Item 2 Head 4 - Electricity Undertaking, was agreed to.

Item 3 Head 5 - Fire Service, was agreed to

Item 4 Head 6 - Governor's Office, was agreed to

Item 5 Head 7 - House of Assembly, was agreed to

Item 6 Head 8 - Housing was agreed to

Item 7 Head 9 - Income Tax Office

HON P J ISOLA

Are tax tables printed every year?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, Sir, they are only printed if there is a change in the tax allowances or the rates of tax. If the Honourable Member will remember, we changed the allowances so we had to reprint. Why it has come in at this last moment is that I refused to put forward a supplementary appropriation until I was satisfied that the Commissioner of Income Tax could not find savings to meet the cost. He could not and that is why it has come forward now.

HON P J ISOLA

Can we look forward to further printing?

Item 7 Head 9 - Income Tax Office, was agreed to.

Item 8. Head 10. Judicial. (?) Supreme Court. was agreed to

Item 9. Head 11. Labour and Social Security, was agreed to.

Item 10. Head 14. Medical and Public Health, was agreed to.

Item 11. Head 16. Port

HON A J HAYNES

Could the Minister give a more detailed explanation of the surveys carried out?

HON A J CANEPA

This is a regular practice in the Port. There is a Surveyor and we pay him and more surveys have had to be carried out than was provided for in the Estimates. We get revenue in return but we have the services of a Port Surveyor throughout the year and we pay according to the call that we make on his services. We have had to call on his services more than anticipated so we have to pay him more by way of fees. These are fees for surveys that have had to be carried out on ships so that they meet the requirements about safety and other conditions which are laid down.

HON A J HAYNES

Again, can we have a fuller explanation of the areas where berthing has been made available by the Admiralty and for what kind of ships?

HON A J CANEPA

No, I am sorry, Mr Chairman, I think the Honourable Member does not realise that when I come to the House for a supplementary which arises because more ships arrived in Gibraltar and used berths, I cannot come armed with the kind of details that he is after as to what ships have berthed where and as a result have produced what revenue or what expenditure we have to pay the MOD. We estimate at the beginning of the year, when the Estimates are drawn up, we estimate that £58,300 are going to be paid to the Admiralty based on the number of ships that you anticipate are going to call in to Gibraltar. If more ships call then, by agreement with the Admiralty in respect of the use of the berth, we have to pay the Admiralty more money but of course that is more than offset by what we collect by way of port charges and tonnage dues from the extra ships that are calling. Perhaps I can give details when one looks over the whole of the year in retrospect and report to the House; but that appears in any case in the Annual Report of the Port Department and the Report for 1980 is already in draft form and will be published shortly. I cannot come to the House when there is a supplementary and give the kind of details which I think is of a more general nature than the Honourable Member is after, I am sorry.

HON A J HAYNES

Can the Minister at least tell me which part of the port is loaned to us by the Admiralty?

HON A J CANEPA

The whole of the North Mole and part of the Detached Mole, the northern half or so of the Detached Mole.

HON A J HAYNES

Is any other area included in this or not?

HON A J CANEPA

Perhaps under the rent, yes, there is the jetty in the North Mole, the Detached Mole and perhaps the Camber may also be included under rent.

HON P J ISOLA

As far as the North Mole is concerned, is it on a rental basis, not on a berthing basis, or is there a bit of one and a bit of the other?

HON A J CANEPA

The extra is probably because of greater use made of the Detached Mole.

Item 11, Head 16 - Port, was agreed to.

Item 12, Head 18 - Prison

HON W T SCOTT

On subhead 1, is there a need to increase the staff of the Prison due to the reasons given?

HON MAJOR F J DELLIPIANI

There is going to be an increase of one arising from staff inspection.

HON A J HAYNES

Could we be informed of what it costs to keep one prisoner?

HON MAJOR F J DELLIPIANI

Between £6,000 and £7,000 a year per prisoner.

HON A J HAYNES

And for what period is this increase?

HON MAJOR F J DELLIPIANI

Till the end of the financial year.

Item 12, Head 18 - Prison, was agreed to.

Item 13, Head 20, Public Works Annually Recurrent

HON W T SCOTT

Mr Chairman, yesterday we had a re-allocation of £83,000 on sick leave under Public Works Annually Recurrent. Here we have an extra £13,000 making a total figure just over £100,000 which seems to us to be a particularly large figure. Can I ask the Government whether they have taken due regard of this in the Estimates for next year so that they do not come next year with a figure of this nature.

HON M K FEATHERSTONE

We cannot, of course, anticipate what the sick leave is going to be next year but we monitored the sick leave throughout, in fact, we monitor it every week. Throughout the calendar year of 1980 accumulative average of days lost per man was taken and if this was put in the form of a graph it became after the first few weeks almost a straight line graph which hardly varied from week to week and it is averaging out that every man is taking approximately .3 of a day sick leave per week, which is running somewhere around 13.7 days per year. This is higher than was estimated. We have tried considerable disciplinary action to cut this down. A number of people have had their sick leave privilege removed, 34. We have also issued warnings to some 66 in the first stage and 12 in the second stage. Recently we put a few men in the situation that if they continued they would be dismissed and we have to go through a rather cumbersome disciplinary procedure before we can do it but we are keeping very much on top of this. We hope that next year the incidence of sick leave, because of the measures we are taking, should drop and we are going

to budget in the Estimates for what we consider will be a reasonable figure but this is of course something which is entirely beyond our control.

HON W T SCOTT

I notice under Item 20 - Operation of Distillers that we have a figure of £93,000. Increase in cost and fuel, power and sulphuric acid for the operation of distillers but yesterday we were told that the North Front distiller had been out of operation for over seven months. Can we have an explanation of this?

HON M K FEATHERSTONE

The North Face Distiller may have been out of operation but the VTB, as I said yesterday, has been working very well from about May or June and the total production through the year was considerably more than the year before. The situation is, of course, that one makes one's estimates roughly in December of any year and one's estimates are then based on the current cost of oil, power, acid, etc. Throughout the year it is always possible that the cost of these commodities may rise and throughout 1980 the cost of oil alone rose by over 20% and this of course is where we have to come back for the extra money.

HON W T SCOTT

I am fully aware of that, Mr Chairman, but how can we justify an under-estimation of £93,000 and yet have one of the distillers out of operation for seven months, is there not a gross under-estimation here?

HON M K FEATHERSTONE

I would not call it an under-estimation. The difference between the total at the end of the year and the estimated figure at the beginning of the year is entirely due to the increased costs of fuel, etc. If fuel had not gone up in price we would have kept within the original estimate.

HON P J ISOLA

On the question of the importation of water, is there likely to be an increased use of this facility during 1981? Is there more and more reliance on importation than on the distillers, is that the situation that is developing?

HON M K FEATHERSTONE

As I said, I think, yesterday, we still hope that some rain will come before the end of what is known as the rainy season. Obviously, if it does not rain the situation in this general area is such that there will be a scarcity of water, it will mean that our wells will not be able to produce as much as they should produce in a normal year, it may also mean that the area from which we are importing at the moment also finds that they suffer from shortage of water and therefore we cannot very easily expect that we could import all water from this source. There is, of course, a possibility of importing from other sources but although we have already made enquiries about it the cost is going to be very, very high indeed.

Item 13, Head 20 - Public Works Annually Recurrent, was agreed to.

Item 14, Head 22, Secretariat

HON FINANCIAL AND DEVELOPMENT SECRETARY

On Subhead 4, a point of explanation. One of the largest items in the £520 was the repair of electric typewriters. The Ministry of Defence has to repair these, they did not bill us for two years, it has just come in and it is £384. This should have been mentioned in the explanation and I apologise for the fact that it was not.

HON G T RESTANO

Item 7 - Rent of Flats and Offices. Can the Government say what these increases in rents were due to?

HON FINANCIAL AND DEVELOPMENT SECRETARY

It is an increase in the rent charged by the persons letting flats and accommodation to the Government. Rents have gone up from £50 a week to £75 and in some cases to £80 a week.

HON G T RESTANO

These were not rents which were under contract?

HON FINANCIAL AND DEVELOPMENT SECRETARY

It is when the contract runs out that the rent can be put up and also, of course, there are the charges, they work out on a pro rata basis on a block of flats and we have to pay the charges which the management levy on each flat for communal services provided to a block of flats.

HON G T RESTANO

In those blocks of flats, how many flats are rented by the Government? Does the Government rent the majority of those flats?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, I can only speak for the flat that I was living in at Rosbay Court and certainly the Government had less than 20%, I would have thought of the total number of flats. As to the rest I have no idea.

HON J BOSSANO

Does the Government think if it is suffering these exorbitant rents itself in respect of the tenants that are Government employees, there is all the evidence that it requires for something to be done to control this and in fact the Government by being willing to pay £70 and £80 rent for a flat are making it impossible for local people who wish to rent accommodation because they are unable to get a Government flat, to get those flats for anything less because they are being driven out by the competition by the Government itself.

HON CHIEF MINISTER

I did say, I think it was in the course of a TV interview, that we were thinking about this. We have to be careful because if there is too heavy a control then there would be no incentive for people to build and let flats as a commercial enterprise so we have to measure both sides. I think there should be some criteria as to the maximum to which certain flats, particularly having regard in some cases, I am not saying in these cases, should be let. In the case of flats in post-war buildings then of course there is the element of incentive whether they would extend the investment in this kind of thing, we might find ourselves without them but I agree that it requires looking

into and I did say that we would look into it.

HON J BOSSANO

I know it is not directly related to this matter but I think it is an opportunity to mention it. Is there any requirement to register the rents or anything like that? As a first stage, whether the Government is at this stage simply considering, should they not be attempting to establish the magnitude of the problem or by regulation require people to register their rents with the Government even if they are not controlled at this stage?

HON CHIEF MINISTER

There is no registration in fact, even of the controlled rents, you only do that by reference to the rateable value in May 1940, as to whether they are controlled or not. I do not think that we would have much difficulty in finding out what the standard is because the bulk of them are run by what are now one or two important property companies and others who would give us the necessary material before we discuss the question of control.

HON G T RESTANO

Would the Government not agree that £3,300 maintenance charges for eight flats which comes out to nearly £8 a week for maintenance charges is excessively high?

HON FINANCIAL AND DEVELOPMENT SECRETARY

I think the Honourable Member has misread the note. There is a semi-colon after the eight additional flats £13,300; and increase in maintenance charges. That is the maintenance charge for all flats.

HON G T RESTANO

How many flats would that be?

HON FINANCIAL AND DEVELOPMENT SECRETARY

I think it is flats in Seclane House and others where we have a major tenancy but I could not say off-hand, I would have to let the Honourable Member know in writing.

HON W T SCOTT

On Item 9. Can I ask the Government whether these 1,000 copies of a Belgian magazine containing the article on Gibraltar were distributed to?

HON CHIEF MINISTER

Quite a number of these are in the Tourist Office and used by the Tourist Office. Some of them have been sent to Tourist Office in London and some are kept by the Press Office here and some have been sent to Tangier and are distributed as and when material is asked for about Gibraltar. We still have a few in stock but buying less would have been much more expensive.

HON W T SCOTT

I am grateful to the Honourable and Learned the Chief Minister, Mr Chairman, but what I am really asking is that they are open to anybody to ask for them, but were any sent to influential individuals or departments in Government etc?

HON CHIEF MINISTER

Departments of Government have all got them. I do not know whether the Government has distributed them to the people normally in the distribution list for other material, I shall certainly make sure of that. I hope all members had a copy at the time and if they have not then that is something we have to remedy. It is very comprehensive and I shall certainly see that Members receive a copy of it. It is in French, of course.

HON G T RESTANO

There is quite a massive increase of £22,000 for printing, stationery and the use of photocopying machines. What I would like to question is whether there is sufficient economy consciousness on the use of photocopying machines. It is very easy when one has a photocopying machine to make excessive use of it and I wonder whether economy could be very much in the mind of the Secretariat.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, Sir, when this figure was brought forward the Government instructed that an instruction should go out to all staff to economise in the use of stationery and of photocopying. It was felt that there were far too many photocopies being made. The Member has a good point but we have, in fact, picked that up already.

HON G T RESTANO

But we still have to pay £22,000 extra?

HON W T SCOTT

On a point of clarification. The Government photocopying machines, presumably, are rented?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, most of the machines are hired and we are taking a close look at whether we are hiring too many or not in the context of the Draft Estimates.

Item 14 - Head 22, Secretariat, was agreed to.

Item 15 - Head 24, Tourist Office (1) Main Office and (2) London Office, was agreed to.

Item 16 - Head 25, Trading Standards and Consumer Protection

HON J BOSSANO

I am not quite clear what it means, it says the Consumer Protection Officer's contract has terminated under Technical Co-operation and that the incumbent was offered an extension under USAS terms. Does that mean that we are now completely responsible for paying him?

HON A J CANEPA

I am afraid we have not been successful in persuading the ODM to continue to pay for the salary of the officer under Technical Co-operation and we need to have this officer in post for another year because it will not be till the summer of this year that the newly-trained Trading Standards Officers, Gibraltarian Trading Standards Officers, will be returning to Gibraltar. In fact, at the moment the only Trading Standards Officer that we have in post is the Consumer Protection Officer himself because the contracts of the two Trading Standards Officers have ended and they have not been renewed, so we have a period at the moment between now and the summer when this is the only Trading Standards Officer that we have, between the summer and December of next year when, hopefully, the two newly-trained officers return, they should be working under some supervision and therefore the intention is to extend the

contract under GSAS terms at our expense of the officer in question till December. The £3,400 is only to the end of this financial year and therefore there will be substantial provision in next year's estimates to cover the salary and then after December the likelihood, I would imagine, will be that the post will be localised.

Item 16 - Head 25 Trading Standards and Consumer Protection, was agreed to.

Item 17 - Head 27 - 1980 Pay Settlement, was agreed to

Item 18 - Head 28 - Contributions to Funded Services

HON G T RESTANO

Is it not unusual for us to have to meet the deficits before the Budget? This is the first time that I can recall that the deficits have been brought in at this stage, can we have an explanation on all three?

HON FINANCIAL AND DEVELOPMENT SECRETARY

In looking at the way in which the funds are running for the financial year 1980/81, it became quite clear that there were deficits, in some cases fairly substantial deficits, in certain of the funds and in my view it would have been wrong to carry these forward into 1981/82 knowing full well that there is very little chance, in fact no chance at all, of meeting them by increased costs as they were so substantial and so I advised the Government to clear off these deficits by the end of the financial year so that when we come to the new financial year we shall be starting forward with no great balances carried forward.

HON CHIEF MINISTER

This complies also with the recommendation of the Public Accounts Committee that we should get all Supplementary Estimates in a March meeting before the end of the year.

HON P J ISOLA

Mr Chairman, there is one fund there, the Housing Fund, where I notice that supplementary provision is double what was in the Estimates. It happens to be exactly double. What is the reason for that, may I ask?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Two main reasons, Sir. First of all, the deficit brought forward from 1979/80 was about £125,000 more than projected and, secondly, there have been increases of some £600,000 in the maintenance cost of housing. These are supplementary provisions voted by the House for the maintenance of the Government housing stock and it is that which has pushed up the cost enormously.

Item 18 - Head 28 - Contributions to Funded Services, was agreed to.

Schedule of Supplementary Estimates Consolidated Fund (No.4 of 1980/81), was agreed to.

Improvement and Development Fund - Schedule of Supplementary Estimates (No.4 of 1980/81).

Item 1 - Head 110 Electricity Service

HON P J ISOLA

Could I ask; there is £605,000 going to be paid as a down-payment in connection with the new Government Power Station of which the cost of the project is £7.3m. The additional 5MW generator, what amount does that represent of the cost of £7.3m? Has the Government got a costing of each generator and the three parts of the contract? Is there a reduction in the additional one?

MR SPEAKER

I think this was touched upon yesterday, if I remember rightly. I think the information was given yesterday when the statement was made.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Speaking from memory, the cost of the second generator was some £1.2m and the additional ancillary works which had been agreed to was about £.35m. The additional cost of these two new elements is about £1.5m. give or take a few pounds.

HON P J ISOLA

Perhaps we could have the reason for having to make a down-payment..

HON FINANCIAL AND DEVELOPMENT SECRETARY

Yes, Sir. The Minister, in making his statement yesterday, mentioned that we were obtaining the financing on supply finance for the United Kingdom goods and services. One of the requirements of the United Kingdom financial institution which grants favourable terms for United Kingdom goods and services is that 15% of the contract price should be paid thirty days after the signature of the contract and in this event the amount to be paid by the 27th March is £1,007,061. Honourable Members will recall that in the Estimates we projected £.5m. as a down-payment and we need £.6m. to bring it up to pay the £1,007,000 and also the fees of the consultants which will have to be met for work done so far.

Item 1 - Head 110 - Electricity Service, was agreed to.

Item 2 - Head 112 - Telephone Service, was agreed to.

MR SPEAKER

As a result of the amendments which have been carried I think the Honourable Financial and Development Secretary should move that the Schedule should be amended by the deletion in Head 4 of the figure £116,400 and the substitution therefor of the figure £112,600, if he agrees with my mathematics, of course, and the deletion of the figure £1,983,522 and the substitution therefor of the figure £1,979,922. Is that correct?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Thank you, Mr Speaker, I so move.

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, I beg to move that the figure of £1,983,522 in the penultimate and final line of the Clause be amended to read £1,979,922.

Mr Speaker then put the question in the terms of the Honourable Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 2, as amended, was agreed to and stood part of the Bill.

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, I beg to move that the sum of £1,983,522 in lines 2 and 3 of Clause 4 (1) be amended to read £1,979,922.

Mr Speaker then put the question in the terms of the Honourable Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 4, as amended, was agreed to and stood part of the Bill.

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

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

THE STAMP DUTIES (AMENDMENT) BILL, 1981

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

Clause 2

HON ATTORNEY-GENERAL

I beg to move the following amendment, in Clause 2, to add after the new paragraph 2 the following paragraph:

"3. Any instrument transferring or assigning to or from a unit trust (as so defined) any marketable security or otherwise making any disposition of such a security to or from a unit trust, - provided that in every such case the security relates to or represents an asset situated outside Gibraltar."

Mr Chairman, the effect of the amendment would be to enable a unit trust which deals in securities, as distinct from the units and the trust itself, to deal with those securities provided they relate to assets outside Gibraltar.

Mr Speaker put the question in the terms of the Honourable the Attorney-General's amendment which was resolved in the affirmative and Clause 2, as amended, was agreed to and stood part of the Bill.

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

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

THIRD READING

HON ATTORNEY-GENERAL

Sir, I have the honour to report that the Savings Bank (Amendment) Bill, 1981; the Employment Injuries Insurance (Amendment) Bill, 1981; the Merchant Shipping (Amendment) Bill, 1981; the Supplementary Appropriation (1980/81) Bill, 1981 and the Stamp Duties (Amendment) Bill, 1981, have been considered in Committee and agreed to. In the case of the Supplementary Appropriation (1980/81) Bill, 1981 and the Stamp Duties (Amendment) Bill, 1981, with amendments and in the other cases without amendment and I now move that they be read a third time and passed.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, would I be out of order if I answered a point which was raised by the Honourable and Learned Leader of the Opposition on the Supplementary Appropriation Bill, Clause 5?

MR SPEAKER

Most certainly, yes.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I mislead the House and not only that but I had the temerity to suggest that the Clause is there because it had something to do with their salaries. This is a heinous crime for which I apologise most humbly. In fact, under the Public Finance (Control and Audit) Ordinance, there can be no virement between heads of expenditure but since 1979 when we had the introduction of pay increases during the course of the year, we were not sure what these would be. We introduced the new head from which we vire to each other head for salary increases and in the final Appropriation Bill for the financial year we put in the Clause empowering the Financial and Development Secretary to vire from the head to the salary increases to all other heads. That is the reason, and again my apologies for misleading the House.

The House recessed at 1.10 p.m.

The House resumed at 3.40 p.m.

PRIVATE MEMBERS' MOTIONS

HON P J ISOLA

Sir, I have the honour to move the motion standing in my name which reads: "That this House is concerned on all aspects of drug trafficking and abuse and resolves that a Select Committee of the House be appointed with the widest possible terms of reference to consider all aspects of the drug problem and to make recommendations".

Mr Speaker, during the last two years, I suppose one could say, one has seen the problem of drugs come more to the fore. In particular, and this is a matter that must be of great concern to all members of the House, the name of Gibraltar has tended to be coupled rather more and more with the idea that something goes on from Gibraltar as far as drug trafficking is concerned. This is the main reason, may I say, for proposing a motion in this House that the Members of this House should form a Select Committee to investigate the matter because although, for example, the question of control of trafficking is probably a matter for the Police and the Customs and to a certain extent is what one would call a non-defined domestic matter, although that is true, on the other hand, at the end of the day the good name that suffers is the good name of Gibraltar and that is a matter of very great concern to the elected representatives of the people and that is why I think that there is a need to show that we are concerned about the problem that exists, that we ourselves want to look at it, we ourselves want to see what is being done about it and finally, we ourselves should see whether there is any recommendations that should be made in our legislation to control it and to show that Gibraltar has no desire whatever to be linked with any sort of drug trafficking in any part of the world. We are concerned and must be concerned, Mr Speaker, at the fact that the name Gibraltar seems to come up now and then, fortunately it is not with monotonous regularity, but it seems to come up now and then on occasions when there are big drug hauls and certainly I think we would all wish to reassure not only Governments outside Gibraltar but also the people of Gibraltar themselves that we will do everything we can do to stamp out what is clearly and obviously a detestable form of earning a livelihood or doing business which relies

on the weaknesses of other people, which relies on the addictions of other people and which thrives on misery, because that is all what it is about. As I say, that is the main reason for my bringing this motion. It is important enough to the community of Gibraltar as a whole to merit a Select Committee investigating the matter on behalf of the House and reporting the recommendations, that is the main reason. Mr Speaker, there is also the other reason, there is, undoubtedly, because there is so much trafficking or whatever you would like to call it, obviously, some of it has to rub off in Gibraltar and there is no question about that there is, judging from the prosecutions that are occurring constantly in Gibraltar, there is apparently a problem within Gibraltar of drug abuse and that, of course, is a matter that must also concern members of the House. I know that the Police have quite properly and rightly formed a drug squad to deal with this aspect of the problem but I think that we as Members of the House and representatives of the public would wish to be reassured that everything is being done to stamp out drugs not only in the trading of it outside Gibraltar or from Gibraltar but also within Gibraltar. In moving this motion I have suggested a Select Committee to deal with the matter because it is simpler for three members of the House, I do not think it would need a larger Select Committee, three members of the House to sit round and see the problem, ask for evidence, and make recommendations. The questions that I would have thought and I ask for the widest possible terms of reference because I think this Select Committee should be free to investigate and look at any law that deals with drugs, one that immediately comes to mind as far as I am concerned is the provisions of the Merchant Shipping Ordinance, and the Port Ordinance, as to whether there can be legislation passed to curb certain activities known to us all in the House that occur and apparently are able to occur with impunity because of the rules of the sea, international waters, and so forth. I think they ought to be looked at, I think it is possible to control abuse, put it that way, abuse of our Port, abuse of the facilities that exist in Gibraltar, abuse of our democracy for the purpose of gain. I think there may be a way and this is what I would like to see investigated by which this trafficking or these activities can be curtailed. I do not think there is anybody in Gibraltar who would not wish to see something done about this and if we can I think we should and I think the appropriate place to consider the matter is in a Select Committee of this House which can call in the various people who are involved in trying to stamp out this trafficking and who may feel they are somewhat constrained by the existence of particular laws. I think that the sooner we get down to looking at this matter and doing something about it the better. Let me assure the

House that it was quite fortuitous that my motion went down on the same day as the particular tug was arrested in the Straits, it was quite fortuitous that both came on the same day. We had decided that we should put a motion down on this and we had decided that we should invite the House to approve a motion of setting up a Select Committee to see what can be done about these matters. I do not think I have anything else to say, Mr Speaker, at this stage. I commend the motion to the House.

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

HON CHIEF MINISTER

Mr Speaker, whilst I agree with the spirit of the motion proposed by the Honourable Leader of the Opposition and fully share his concern about the good name of Gibraltar, I must say that I am somewhat disappointed, I thought he would have produced a much more convincing statement in support of the motion of a matter which is of a much wider implications that the short references that he has thought fit to make. As I say, we fully share his concern and I think we should go a little further because we have been concerned with this matter as well for a long time. I would like to say now that certainly at this stage and subject to what I have to say about the matter, we do not think that a Select Committee is the best way of dealing with it, certainly not at this stage. I do not think with respect, Mr Speaker, that members of this House are in a position to consider all aspects of the problem and to make recommendations.

It is the experts in all these aspects, those dealing with the problem from day to day, who should be asked to consider what further steps might be necessary over and above the measures already in force and to make recommendations accordingly. Once that has been done the Government can look at the matter and then, perhaps, in this House we can best decide how to proceed with it. This is a matter of concern to all, we have not had any advance information nor has there been any consultation with the Government about the motion so of course we are perfectly entitled to take the view that this is a matter that must be looked at in the broadest way possible as is the responsibility of Government to do. The drug problem of course is not a political party issue and therefore I think we can all discuss the best way of dealing with this matter and one would wish there can be full consultation all the time and co-operation as necessary between the two sides of the House. I undertake that I will keep the

other side of the House informed of any developments and will arrange for consultations whenever appropriate. The House must appreciate that the responsibilities on this matter overlap as the Mover has just partly mentioned but I must spell it out in a little more detail. While Ministers are not responsible for Police or Customs, they do have a responsibility for public health as well as for ensuring that the legislation is adequate and that funds are made available to enable departments concerned to carry out their duties effectively. These are matters in which the various departments are in a better position than Members of this House to formulate recommendations, in other words, the officials and other agencies involved, and there are many which I will name, are the ones that should identify whatever problems exist and what improvements are possible so that decisions can be taken to remedy what is necessary if it is necessary in relation in particular to further legislation or increased expenditure. For this reason and also because of the nature of the problem, it seems to me that a Select Committee is certainly not the answer here unless we did not come out with right answers otherwise. Apart, of course, from the fact that I do not know how quickly a Select Committee could act now particularly with resources available, with the sitting of the Public Accounts Committee and also now with the Select Committee on the Matrimonial Causes Ordinance which will no doubt take a long time, with members of the House and particularly with the staff who have to service it. It is no use having meetings if they are not as excellently serviced as we have been used to and hope to continue to have excellently serviced in the future. I do not think Honourable Members opposite are not aware that the newspaper VOX has been waging a campaign on the drug problem in recent weeks. The Editor sought an appointment with me and at a meeting I held with him on the 27th of February I said that because it involved non-defined domestic matters, particularly Police and Customs, I would take up the matter with the Governor so that the various aspects of the problem might be reviewed and I might be informed more fully of the situation. I raised this matter with the Governor shortly before his departure for the United Kingdom recently, on the 5th of March, and requested that steps be taken to ascertain whether new or more intensive measures are required to deal with the problem and whether the necessary legal and financial provisions were adequate. I also asked that the Misuse of Drugs Advisory Council be re-activated. I should make it clear that the scope of the problem is of course well known to the Government. The Customs, the Police and the Medical and Health Departments have all acted within their respective fields of competence as have the Departments of Education and the Department of Labour and Social Security so far as health education on the problem of drugs and the care of young people are concerned. Consideration as to which further measures are to be taken is at present focussed on consideration of the report by the British Medical Association Working Committee of the local branch which was

set up in 1979. The comments of all the Government departments concerned have been sought on the report and only the Department of Medical and Health Services is still outstanding. When all the comments have been received the Deputy Governor will chair a meeting of officials to consider what recommendations for action in the Committee's report might be made to the Council of Ministers and to Gibraltar Council. The Government is grateful to the British Medical Association and others concerned with the work that has already been done and will continue to maintain contact with the Association if necessary. The question of drugs, as the House will appreciate, has got two distinct aspects of the problem of illicit dealings in drugs. The first is I think, the way that has been highlighted by the mover which is the criminal activity in or around Gibraltar concerned with the transfer of drugs almost always on the way from Morocco to Spain and also in respect of vessels that carry drugs in big quantities which have subsequently been arrested off the British Coast and found to contain Cannabis, as is the case which the Honourable Leader of the Opposition mentioned, is one aspect only. Another is the discovery in Gibraltar water of consignments of cannabis which are mainly intended for Spain and which, if they find difficulties on the way they try to dispose of them somehow and we have had in recent months huge quantities brought ashore by the currents and that is because they have not either properly put down the buoys or because they have had to get rid of them before being apprehended. But the second kind of criminal activity is the importation into Gibraltar of drugs and drug abuses within Gibraltar itself. The Attorney-General has details of both kinds of activity over the past few years. It shows that discovery of quantities of drugs off the Gibraltar coast has increased dramatically over the past year. It is believed that most, if not all of these consignments were destined for Spain and other neighbouring countries. On the other hand the number of cases of possession and trafficking of drugs within Gibraltar declined in 1980 as compared with 1979 so the indications are that 1981 is again a bit on the uphill and perhaps it will pick up with 1979 again. I think it is important that the distinction should be made between the drug problem inside and outside Gibraltar and this should be emphasised. We have a part to play in combatting drug trafficking outside Gibraltar largely through the Customs and Police and will of course, continue to play it but I think what is in many people's minds, the main concern is the abuse of drugs within Gibraltar mainly by young people. As I have said, I will keep the Honourable the Leader of the Opposition and other members informed of the developments in this matter and I will certainly do so as soon as the recommendations for action on the British Medical Association Working Party report have been made and considered and perhaps that would be a better time or a more appropriate time or perhaps the best next appropriate time in which to discuss the matter.

Mr. Speaker, I regret that the Chief Minister does not believe that it is appropriate to appoint a Select Committee to handle the drugs problem and rather he would rather hand over the problem to a team of experts for their recommendations and without questioning the bona fides of such a move I do believe that it is misconceived I think a Select Committee could serve a much more useful purpose. One, it shows that we have not abrogated our powers, that we insist on handling a problem of this severity ourselves and that we are competent to do so. A Select Committee can act with speed and efficiency and I do not accept the excuse that the House already has too many Committees. The Leader of the Opposition has said a committee of three would suffice. That Committee could call in the experts it considered necessary and it could treat the problem as a political problem in its global sense and not just as a psychiatrist or psychologist would treat it in terms of rehabilitation, the Committee could deal with the problems throughout the spectrum of the drug offences.

The Chief Minister's reference to the Attorney-General is relevant. The Attorney-General's speech at the opening of the Legal Year was concerned primarily with drugs and with the determination to be more vigilant in this field and yet we have heard that there has not been a decline in the drugs that are passed through Gibraltar though not for Gibraltar consumption. Perhaps, if there was a down market statistics for local offenders or local people caught in possession it is perhaps because they were in 1980 in jail but there is nevertheless a hard core of youth in Gibraltar who are recidivists, who are forever appearing in one Court or the other for similar offences. For small amounts they appear in the Magistrates' Court and for larger amounts they appear in the Supreme Court. I think all the lawyers in Gibraltar hatched dealings with these people, they are a fairly sorry lot at the moment. They are unable to break out of this vicious circle and we have seen no diminution in their numbers, nor have we seen any efforts made by Government to rehabilitate them. If I may concern myself primarily with the local aspect of the point, Mr Speaker.

Again, from court experience, the Police have given evidence to the effect that they estimate 15 kilos of drugs are consumed locally per week and the value of this consumption is approximately £17,000. The local consumption alone is worrying. Admittedly, the local problem is confined almost entirely to cannabis resin and other

cannabis products and they are all Moroccan drugs. These are, therefore, what are considered soft drugs but nevertheless though they are not the most dangerous of drugs, although the vast quantities of drugs that have been washed on our shores are not believed to have been destined for Gibraltar, those drugs which we do know are for local consumption are of a substantial size. It is therefore our duty to either contain the problem or to reduce it. I do not believe that this will be achieved unless this House takes strenuous measures. All Departments the Attorney-General's, the Police and the Customs will need the backing of this House and how better to give it than with a Select Committee which can be that much more effective that much more persuasive and can cut through red tape, so to speak, and also be above party politics. We know that however much we are in agreement on a subject when we are debating in open House there is not the same relaxed approach which is necessary in order to be truly above party politics. I think a Select Committee is the only way we can achieve these aims.

If we do not contain the problem we run the risk that this primarily small drug problem of cannabis resin could escalate into something rather more severe. As I have said before, there is a band of youths in Gibraltar who are not just habitual smokers but who are also criminals and that criminality is primarily concerned with drugs, either they are criminally charged with being in possession of drugs or as a result of that desire to buy drugs they indulge in small criminal activities. Apart from that rather distressing band of habitual smokers there is a much larger part of the population which does partake of drugs but does not allow these drugs to result in criminal activities. But this small band of recidivists could quite easily, I do not think you have to agree with my full analysis on the psychology of drug smoking, but these people are ostracised enough from our society to be just one step away from taking much harder drugs. I think this is where the wider ambit of the drug problem comes into it. We are getting a bad name in the rest of the world and Gibraltar's geographical position is such that we are beside one of the number one exporters. It is inevitable that with our contacts with Morocco that we should be painted with the brush of traffickers and if this branding, which for the most part is unfair, should be taken seriously by the wrong people, it will attract them to Gibraltar to further their own illicit business and if we start importing into Gibraltar rather sinister characters who want to continue the drug trade we may well find that not only do we have a cannabis problem but we have a heroin problem or a morphine problem or a cocaine problem or an LSD problem and these drugs are quite easy to introduce into Gibraltar, they are not more bulky than

cannabis, they are not more difficult to introduce and all they require is a start and then we will find that we have not only an international problem but a very damaging local problem. The possibility that this exists should excite even this rather complacent Government into activity. I know that they say they are very concerned with our youth though we never see any results and on this occasion I ask that they do show some concern for our youth and it is our youth that we are concerned about, it is the youth who primarily are the victims of drugs and in this House I have repeatedly asked for a rehabilitation centre to be introduced to combat those of our society who are victims of drugs and perhaps a Select Committee in its reference to the local problem would consider the advisability or the need for a rehabilitation centre. I will not deal with it in such a maverick fashion as Government have dealt with my questions. If we allow the drug problem locally to escalate we will be attracting an extraneous criminal body to our town and this if it means the advent of heroin in our streets is not only deplorable for its sake but it will result in violence. Heroin inevitably brings violence, either the smoker or the addict will become violent in their search for more drugs or those in the trafficking trade in efforts to resist capture or to ensure payment, will resort to violence. I think we can prophecy, we can foresee violence in Gibraltar emanating from the drug problem. If Government therefore is in agreement with us in our concern over the drug problem and I readily accept that they are and it has been shown by the Attorney-General's firm commitment in a crusade against drugs, then why should Government not make every effort to stop drugs? Why not use the opportunity of a helpful Opposition, why not use the opportunity to have our help in a Select Committee, why not show that you are genuinely concerned and are willing to act on the matter? It is a thorny problem but the nettle must be grasped.

Sir, I commend the motion.

HON ATTORNEY-GENERAL

Mr Speaker, I can appreciate the concern of the Members about the problem of drugs but I myself would not be in favour of a Select Committee to be appointed to investigate the drug position because to me it implies two things. First of all, it implies that nothing is being done about drugs at the moment and that the Government is not supporting action against the drug problem at the moment and I cannot agree with that. Things are being done to

combat drugs, drugs are a very serious problem, one can never be complacent about it. I would not say there are not things that cannot be looked at and improved but nevertheless there is a genuine and a continuing fight going on against the drug problem. Secondly, another reason why I would not be in favour of a Select Committee is not because the Committee would not be competent to look into drugs but rather that it is not appropriate at this time for a committee to do so. I agree with what the Chief Minister has said, I think that at this stage it is a matter which officials must pursue and those concerned with the enforcement of the law and of course it is a wider problem than just the enforcement of the law, it is a problem also of remedial action, rehabilitation action but I think at this stage it is essentially a matter which lies at that level for action so I myself would not favour the appointment of a Select Committee. In so far as the law in Gibraltar is concerned as it stands at the moment, as has already been indicated it addresses itself to two things, if I can deal with the criminal side of it. The first is the prevention of abuse caused by drugs and is directed towards the people who become addicted to drugs and the second which is necessarily if you are going to have an effective policy, is necessarily a back-up to this, is of course tackling trafficking in drugs. Abuses, primarily, in so far as Gibraltar is concerned is an internal problem, the point has already been made. I think one also has to acknowledge that abuse is also an international problem and because of the nature of drugs it is important that there should be international co-operation and Gibraltar has a part to play in this. Trafficking can be directed towards feeding the addicts in Gibraltar and of course the point has also already been made that trafficking can also be directed towards supply between third countries. Our law at the moment is primarily the misuse of Drugs Ordinance of 1973 and it tackles the various elements which go to make up the offences relating to drugs, starting with possession, dealing also with productions, importation, exportation, possession with intent to supply and the actual supply. In so far as the law is concerned at the present time, looking at the law as such, the maximum penalties are, in the case of importation, exportation, intention to supply and actual supply, fourteen years' jail. I know we hear from time to time when we read overseas newspapers that other countries have very tough laws going as far as the death penalty. One may have one's views on that but I myself think that fourteen years' jail, if one takes time to consider it, is a long sentence and I have got no reason at all to believe that, fourteen years is not an adequate sentence. From this point of view, from the point of view of existing penalties

I do not believe that there is any need to increase those penalties. My Chambers do not find in practice that the penalties in the present law are not adequate to deal with cases once we have cases referred to us. We feel that the existing machinery for prosecuting cases and particularly prosecuting cases of trafficking, is adequate and I would not myself propose any changes in that respect. It may be for consideration that there are matters of machinery which could be improved, that is always the case with the law, but looking at the overall scheme of the law I think myself that there is an adequate regime for the control of drug abuse and drug trafficking. The Honourable and Learned Leader of the Opposition referred to the fact that in the last two years drugs have become more prominent and if I understood him correctly he drew the conclusion that they are on the increase. As I said at the outset I do not myself think that there is any scope for complacency whatsoever with drugs. I think one is always battling with them, one is always trying to contain them but I am not myself persuaded certainly within Gibraltar that there has been an increase. I would prefer to look at it and I do not do this complacently but I would prefer to look at it in this light to say that really over the last two years that there has been increasing efforts to put in drug protection and that the cases which are coming to light are the result of the work done by the Police in this respect. I would prefer to look at it that way. I think that is substantially true and I think the Police are maintaining a campaign successfully against drugs and I know that they intend to do so in the future. The point was also made that Gibraltar is acquiring a reputation. I do not myself see how one can acquire a bad reputation by detecting and prosecuting drug offenders. On the contrary I would have thought that showed that Gibraltar is tackling the problem. I think, too, perhaps that if we live here in Gibraltar obviously the cases assume a good deal of prominence, they are important cases, but I think one has to look at it in the overall context and while in recent years in Gibraltar the people have become much more conscious of drugs I do not think that overall Gibraltar has an especially bad reputation for the reasons that I have already given. I think that it cannot be a bad thing to be detecting and prosecuting people for drug offences. The reason that I am not in favour of a Select Committee at this stage is that I think the matter should be left with officials, I think officials must continue to tackle the problem of drugs. This motion having been brought and concern having been expressed by the Opposition, obviously, that is a matter which would be taken into account but I myself subscribe to the view already put forward by the Chief Minister that at this stage it lies with officials to pursue the campaign against this.

HON MAJOR R J PELIZA

Sir, I would agree with what the Honourable Attorney-

General has said if this was a problem that had just arisen and therefore it would be fair to say: "Let us allow time to go by and see how effective the machinery that exists to combat drugs is". But this problem has been with us for quite a number of years now and it is obvious that whatever exists to combat drugs is not being effective. In fact, if anything, the drug addicts and traffickers seem to be getting the better side of the deal if one goes by what one hears. I fully understand that the problem outside Gibraltar is obviously going to be very, very difficult for this House to tackle. However, good ideas might well come out of a Select Committee in that respect. To what extent we can be effective in that respect, of course, that is a matter that looking ahead it might be very difficult for us to do anything very effective but where it concerns Gibraltar I think that a Select Committee could be very effective. Gibraltar is a very, very small place, it is difficult to come in and it is difficult to go out. In fact, one wonders how it is that drugs do come into Gibraltar and that in such a small place like this cannabis smoking carries on even in public places where everybody seems to know what is going on but yet it keeps going on. This is the big question mark. If Gibraltar is a small place, if it is difficult for the stuff to come in, if we all know every nook and cranny of the place and if we know where the offence is taking place as it seems to be public knowledge, why is it that over the years this has not been stopped? It is a question, Mr Speaker, that everybody in town ask themselves and about which parents are very, very concerned. I cannot see what harm it can do to have a Select Committee of this House. This has been going on for years so what does it matter if we take six more months to arrive at a conclusive campaign to overcome this difficulty? What objection can there be at having a Select Committee? It is not going to cost the Government any more money, all that the Government is going to have are more opinions. I think the getting together of three elected members is very effective, effective because it shows to the people of Gibraltar that the members of this House once and for all are going to tackle this matter very seriously above party politics. Parents, I think, would be very pleased to see that we are going to have a group of elected members concentrating exclusively on this matter. I cannot see why the Chief Minister cannot accept it now but says that perhaps he will consider it in due course. What does he mean by that? Having seen for the past 20 years the situation has not got better, why waste another six months or one year or two years before we eventually decide that we need a Select Committee to look into this matter? The fact that we have a Select Committee will immediately make all the officials concerned get on their toes. They will know now that a group of elected members representing the people of Gibraltar are watching and want to see results and they will probably come out with certain ideas which I think could be used to overcome this very serious problem in

Gibraltar. I think my Honourable Friend, Mr Haynes, has pointed out that perhaps we are on the brink of moving over to much more serious drug taking in Gibraltar and it would be very sad if just for a question of months we would find ourselves in a graver situation than we are in today. I think this House owes it to the people of Gibraltar once and for all to see if we can do something to stop this evil. I would say to the Attorney-General that he must not take offence at this. It is not a question of this House believing that the officials have not been doing their duty, that is not the case. The case is that perhaps new brooms sweep cleaner and I think it is a good thing to have new brains tackling this matter, particularly elected Members who are very much in touch with the local population and can get information and ideas from the public, generally. I do hope that the Chief Minister will reconsider his position now having heard more than one Member of this House expressing their point of view. He should realise that no harm can come out of it, some good might, but no harm can come out of it. What is there against giving it a try? I hope that the Chief Minister will reconsider the position.

HON J B PEREZ

Mr Speaker, it seems quite clear to me, after listening to the contributions which I have heard from both Major Peliza, the Honourable Leader of the Opposition and the Honourable Mr Haynes, that, in fact, the whole House, both Government and Opposition, are agreed on the principles and the sentiments behind the motion as put by the Honourable Mr Isola but the Opposition differ with the Government as to the approach of the situation. In other words, I think it must be said quite clearly that the fact that the Government is not in support or is not in favour of appointing a Select Committee to look into the matter does not, in fact, mean that the Government is not concerned with the problem as has been outlined by the mover of the motion, of course this is not the case, the Government is concerned except that the Government believes that the matter can be tackled in a much better fashion as has been suggested by the Honourable and Learned the Chief Minister rather than by the setting up of a Select Committee and I think it would be useful if I would limit my intervention now, having made the general point, by outlining to the House what I and my Department have in fact done throughout the last year not just after the Honourable Mr Isola introduced the motion but going back to one year, how we have tackled the problem and what we are doing and what changes we intend to adopt as far as the Medical Department is concerned. The first point I would like to make is that we have carried out an exercise in connection with the Gibraltar Branch of the British Medical Association on this matter and we have identified two points. One is the question of therapeutic drugs illegally obtained in Gibraltar, that is point one, and point 2 is therapeutic

drugs legally obtained in Gibraltar. Mr Speaker, coming back to the first point, that is, those illegally obtained, the allegations put forward or the main contentions are as follows.

- (1) It can be obtained by forgery of prescriptions.
- (2) It can be obtained by threatening chemists.
- (3) It can be obtained by the threatening of doctors and compelling them to issue prescriptions.
- (4) By theft.
- (5) By the legal importation of amphetamines which have been imported in Gibraltar under the name "Bustaid" which is in fact imported directly from Spain.

Those are the five contentions in which therapeutic drugs can be legally obtained in Gibraltar. What have we done about this? Well, as far as the forgery of prescriptions are concerned, there have been a number of prosecutions, I believe, in the last year. Not only that we have had quite a number of meetings with doctors, not only the doctors employed by Government but also the private practitioners in Gibraltar and we have encouraged them and impressed upon them the very strong need there is for them to write much more clear prescriptions than they have been doing in the past in order to try and get away from the ease with which somebody can forge the prescription. The second point, the question of threatening chemists, well, we have also had meetings with chemists and we have told them that any point when they feel that somebody is behaving in a threatening manner they are to phone the Police straight away and this in fact has been done and I know this has been done on a number of occasions by one particular chemist who unfortunately seems to have all the young Gibraltarian addicts going to him for the dispensing of drugs. He has phoned the Police on a number of occasions and the Police have dealt with it quite well. The question of theft, well, that again is a matter for the Police, I think there was one theft last year and the culprit was in fact caught and taken to Court and convicted. Lastly, on the question of importation, we are now working in very close liaison with the Customs and if there is any suspicious importation or suspicious parcels coming into Gibraltar or the importation of drugs they get in contact with us and the Head Pharmacist if he finds it necessary goes to Waterport and finds out what the drug imported is. I think we have in fact stopped the importation of Bustaid tablets into Gibraltar. The second point which I have mentioned is the one dealing with therapeutic drugs which are legally obtained within Gibraltar. The criticisms here are as follows:

- (a) Over prescription by doctors.
- (b) Indiscriminate prescriptions by doctors.
- (c) The obtaining of several prescriptions from different doctors in Gibraltar.

For example, a particular individual going to the Health Centre, seeing one of the doctors there, getting a prescription and then going after that straight afterwards to see one of our private practitioners and getting another prescription from him as well without of course disclosing that he has already been to see a doctor in the Health Centre. Another point is the dispensing of drugs without a prescription. In connection with the overprescribing by doctors, we have had quite a number of meetings with the doctors at the Health Centre in which I have been present and also the Director of Medical Services has been present and the British Medical Association have helped, and we have tried to impress upon them the question of the over-prescribing, not only because of the financial aspect in overprescribing and wastage but also in connection with the fact that patients do not take all their tablets and they have these available either for sale or for giving over to friends. I recall only yesterday I had one particular complaint from a friend of mine who had been to the Health Centre and the complaint in this particular case was that this particular patient was suffering from influenza and had in fact been sent home and told to go to bed with Panadol. I hope we do not go from one extreme to the other but it has already been impressed upon the doctors of this particular necessity not to overprescribe. In connection with indiscriminate prescriptions that again has been stressed to doctors and of course they are well aware of this. On the question of obtaining several prescriptions from different doctors, this really is a matter of liaison between the two local private practitioners and the Health Centre doctors. Apart from that it is in fact very difficult for us to actually put a stop to that. The dispensing of drugs without prescription that, of course, is unlawful and chemists know that if they do actually dispense without prescription and if they are in fact found out then of course they will be prosecuted by the pertinent authorities. Having outlined those two points I would like to go even further, Mr Speaker, and that is to inform the House about certain recommendations which as yet we have not carried out but we are in fact thinking of doing in the not too distant future. The recommendations have already been discussed with the British Medical Association and the Medical and Health Department and we have both agreed with these particular recommendations. The first one is the setting up of an inspectorate to investigate prescriptions and inspect the pharmaceutical register throughout chemist shops and other establishments who are authorised to dispense medicines. The inspectorate would consist of the

staff pharmacist and senior police officers and I can say, Mr Speaker, that my information is that the Police have already appointed a particular inspector to form part of this small team. May I add that there is already provision in the relevant Ordinance for the setting up of this particular inspectorate. The second recommendation is that the staff pharmacist should be responsible for receiving, co-ordinating and collating prescriptions dispensed as a specified drug with a view to monitoring overprescribing and/or indiscriminate prescribing from individual doctors. This is in fact already in a small way being done by the Head Pharmacist. Another aspect is that in the case of drugs which arrive by parcel post the staff pharmacist should be immediately contacted if a drug or medicine was considered suspect. This, as I have already pointed out, is already being done. Another recommendation would be that the mass media should be encouraged to give publicity to the whole spectrum of drug abuse with a view to making parents and the public more aware of its dangers. That has not yet been done. Another recommendation is that a campaign be launched to persuade the public to return unwanted medicines and/or drugs. This has been done to some extent but I think it ought to be revived once again. Another recommendation is that specified medicine procedure should be agreed for those persons requiring treatment and that consideration should be given to looking closely at the question of drug addiction in connection with particular patients. Another recommendation which has already been done is that all general practitioners should seek to prescribe the following categories of drugs:

- (a) Barbituric acid derivatives
- (b) Amphetamines and Dex-Amphetamine derivatives
- (c) Methaqualone

and that has already been done. So you see, Mr Speaker, I started off my general comments by saying that in fact the Government is already well aware of this problem and is already taking steps to see what it can do to combat this particular problem and I think I have outlined what the Medical and Health Department have been doing throughout the last year. I have also outlined the points that we have covered and I think I have also outlined the recommendations which I think should also be implemented and which I hope will be done within the next few months, Mr Speaker, the fact that the Government does not support the setting up of a Select Committee does not mean that we are not concerned. Of course we are concerned, we just feel that if we do it in the manner outlined by the Chief Minister it will have a much better result.

HON G T RESTANO

Mr Speaker, we have had three members of the Government speaking on the motion, the Chief Minister, the Attorney-General and the Minister for Medical and Health Services, and the three have said that there is no requirement, there is no need for a Select Committee to be appointed to look into the abuse and trafficking of drugs in Gibraltar.

Other than perhaps the Minister for Medical and Health Services who has touched on one aspect of the problem which is the prescribing of drugs locally, none of them have given any valid reasons, to my mind, why there should not be a Select Committee. The Chief Minister as well as the Attorney-General have said the problem should be looked at in its broader sense, in the words of the Chief Minister, and the Attorney-General said that things were being done by officials and that therefore that was sufficient for the problem to be looked into but they have given no reasons. This motion has two aspects to it, one is drug consumption locally and the other is the trafficking of drugs. On the local consumption of drugs this of course we know has been going on for many years in Gibraltar and yet although it has been going on for many years although there have been officials responsible for the control of this sort of thing, the Police and the Customs, yet the problem seems to grow year by year, there may be a lapse in one year but altogether it grows year by year and the problem becomes greater. It has been the responsibility of the Police and the Revenue because these drugs are imported from Morocco, I understand. We get from time to time convictions in the courts of people who are caught smoking the drug, we even get convictions for those who are called "pushers" who sell the drugs but I think it has always been a big question mark as to why are there never convictions against, shall we call them, the financiers of these operations, the organisers of these operations in Gibraltar? Those sort of convictions never seem to occur. It is the addicts who get convicted, and I think quite rightly so, but I think it is a pity that it is only the addict who gets convicted, they are really the victims of the exercise.

HON ATTORNEY-GENERAL

If the Honourable Member will give way-

HON G T RESTANO

Most certainly.

HON ATTORNEY-GENERAL

It is not correct to say that only the addicts are convicted, I can give him figures if he would like, of the breakdown of the convictions over the last three years.

HON G T RESTANO

If the Honourable Member will let me finish the particular statement then I would be most willing to give way and let him give the figures. I said that in most cases the addicts were those who were convicted. I was going to go on to say that those who sold the drugs, the "pushers", as I understand they are called, are also convicted but they themselves, again I understand, are not possibly those who could possibly finance these sort of operations, the importation of the drugs, for paying for the drugs. I know that the Police have convicted the pushers as well as the addicts but I have not, certainly to my recollection, heard of any convictions against the organisers who finance the operation. Those I would have thought are the areas where there seem to be a particular lack in convictions. To me that would appear - and I do not want to cast any aspersions on any officials - but certainly I would say that it would indicate that neither the Police or the Revenue Department have been very successful over the years in controlling the importation or the local organisation of the distribution of drugs in Gibraltar and therefore if over, say, 10 or 12 years culminating over the last few years, the Police and the Revenue have not been very successful. Why should this House not appoint a Select Committee to try and do something about this to try and look into the problem where no official has really been successful over the years? The Minister for Medical and Health Services made a very good exposition, I think, on the control of drugs through the prescription of doctors and through pharmacies in Gibraltar but that of course is not really the point of the motion. It is of slight irrelevance in that what the motion really is concerned about is the dissemination of drugs that have been imported from outside and not through legal sources as those that the Member was making a reference to. Therefore unless any member of the Government comes up with any real concrete argument against setting up a Select Committee and unless they

stop saying "Oh, things are being done", well, it has been proved time and again that things are not being done and it has not been done over 12 years. I am not saying that nothing has been done, yes, of course, some people have been convicted but are we getting to the source? Have those people who have been involved in convicting people gone to the source of the problem? That, I think, has not occurred and that is possibly where a Select Committee would be directing its attention to. Thank you, Sir.

HON H J ZAMMITT

Mr Speaker, Sir, I had not intended to participate in this discussion but I think that I have a little knowledge of what has been said here this evening and I would like to start, Mr Speaker, by saying that the Chief Minister said that in spirit I think one has to agree with the terms of the motion as moved by the Leader of the Opposition but the arguments that have followed that I am afraid do not hold much water particularly, Mr Speaker, the last contribution from the Honourable Mr Gerald Restano. I see he does know a few of the words within the fraternity but I can assure the Honourable Mr Restano that if he thinks that little Gibraltar with or without a Select Committee, is able to discover the people who finance cannabis operations then he is really in the moon and let me assure the Honourable Mr Restano that the quantity of cannabis that Gibraltar may require for its drug community is so minute that it does not require great amounts of money to purchase. It is purely done, and I say this with some authority, Cannabis is imported into Gibraltar in small doses, normally in small doses, rarely exceeding a kilo or two, carried by an individual and smuggled into Gibraltar. I think that we have to be absolutely clear about this and say that if that is the problem that we are looking at as opposed to the trafficking problem of Gibraltar receiving the bad name that the Honourable the Leader of the Opposition and the Government and I think everybody in Gibraltar would like to dispense with, they are two very separate instances. I think any of us can agree that the amount of cannabis that has been found in a tug or purely, may I say, because the tug happened to call at Gibraltar is that Gibraltar was flashed in the national press in the United Kingdom. With regard to the hundreds of kilos off the shore, I think we have to accept that that amount was never intended for Gibraltar consumption. There is not that market in Gibraltar for drugs. So it is clearly intended, as the Chief Minister rightly pointed out, it is on the way from

Morocco or from North Africa finding its way into the more sophisticated European countries and I think it is an established fact that a great amount of it gets into Algeiras. Time and time again one hears the name of Algeiras being mentioned in the Spanish press and radio of very large hauls of cannabis and other drugs and amphetamines being picked up by the Spanish aduana in Algeiras and more so transhipment into Malaga. One has to accept, and I think it is common knowledge, that the drugs consumption in the Southern part of Spain is basically meant for the Costa del Sol both for Spanish consumption and for a touristic consumption for people who find it much cheaper to come down to Costa del Sol and have a fortnight's holiday than stay, say, in Oslo. I can assure the Honourable Mr Restano that the Police have for many, many years been trying to find out who is financing the operations and it is very difficult. It is very difficult because these things in great quantities require an enormous amount of money and it is not for me to say where it comes from but it is not easy to because it is a worldwide operation. Mr Speaker, the local drugs problem I think we are all very concerned about, and I think it has been a problem not brought about because of the bad name Gibraltar may have received on account of large operations a year ago, 2 years ago, or 3 years ago or two days ago, but because of the deteriorating circumstances of drug taking in Gibraltar. I can go back Mr Speaker, to the early 1960's when it was uncommon, indeed, a rare occasion when an individual was taken to court for possession of drugs. It was not as common as it is today. I am not condoning it under any circumstances but it is not a problem solely in Gibraltar. Fortunately, our experience of LSD and opium and heroin in Gibraltar is virtually nil. What we are talking about is what is termed by some people as "soft" drugs that is cannabis which is wrongly, to my mind, accepted by many countries and by many parents and that is what we are talking about. Although the situation cannot be condoned in any way, I think our youth should be congratulated because it is contained within the same bunch of individuals, it is not an expanding market. The sellers cannot make much money out of it because as I say, there is not a market for it here and these people are known to the Police and may I say both the Police and the Customs do an excellent job in drug prevention. Mr Speaker, I do not think that a Select Committee could do anything more than what the Police, the Customs and the Public Health Department have been doing in this respect. We all know that there is a Drugs Advisory Committee which meets from time to time, it could well be re-activated, as the Chief Minister said, and things brought out in the open once again. I think we must not

exaggerate the problem. If we find one bale of cannabis washed up on our beaches let me assure you there are probably 20 bales 500 yards further up the Coast. We must be very careful, Mr Speaker, not to make this known to the world that we consider ourselves to be a drugs centre because we are not. Mr Speaker, when the Attorney-General mentioned to the Honourable Mr Restano the amount of convictions that have taken place in Gibraltar, in 1979 there were 91 cases of simple possession, 27 cases of possession with intent, 2 cases of attempting to import or export - and I should pause here and say that I remember that in this House we have received an enormous amount of urging trying to facilitate Waterport passengers coming through

MR SPEAKER

No, that is not relevant.

HON H J ZAMMITT

Very well, Mr Speaker, let me continue. Supplying, one case, obstructing Police 24 cases and conspiracy 6, that was in 1979, a grand total of 151 convictions. In 1980 there were 82 cases of simple possession; 4 cases as opposed to 27 cases of possession with intent, 8 cases of attempting to import or export as opposed to 2 the previous year; 10 cases of obstructing Police as opposed to 24 and 8 cases of conspiracy as opposed to 6. In 1981 to date there have been 17 convictions for simple possession; 1 for possession with intent; 2 of attempting to import and export, 3 officers of supplying and 3 of obstructing Police. Mr Speaker, that is the drugs situation in Gibraltar. Let me assure the Honourable Mr Restano that the situation in Gibraltar is not to be applauded but I think our youth ought to be congratulated because elsewhere wherever one goes one reads of a tremendous amount of soft drugs going on and I do not think that we should explode out of all proportion the situation in Gibraltar. Let me assure the Honourable Mr Restano that we do not grow it. We all know where it is grown and we all know and the world knows where the large quantities end up. Mr Speaker, one has to agree that there is no need for a Select Committee just to let the world know that we are not responsible for a tug calling at Gibraltar and being arrested three days later in some other seas. There is no need to explode this out of all proportion or beyond what we know the problem is. Our concern is to keep our youth and our people as far as possible away from these temptations. We will not stop it, let me assure the Honourable Members, we

will not stop it with a Select Committee of three or with the whole House sitting as a Select Committee. It is far too well established in the world for it to be stopped. We must try to restrain and hold back as much as possible. Mr Speaker, I have to agree with the Chief Minister and my colleagues in this. I think Honourable Members will have to agree that if I have to say something I will say it despite the fact that I may have to vote against it but I will say it and I have established that on more than one occasion. If I agreed I would say I agreed and then vote against not agreeing but on this occasion I do not agree that a Select Committee would do anything at all for the benefit of Gibraltar or clearing the name of Gibraltar in the drug market.

HON A T LODDO

I must certainly Mr Speaker had no intention of speaking in this debate but I was amazed that the Honourable Mr Zammitt who had no intention of speaking in this debate came so well documented. The Honourable Mr Zammitt's speech has been the epitome of complacency. He asks us to believe that the market for drugs in Gibraltar is not an expanding one and yet by quoting the figures he proves the contrary. He asks us to believe that the market for drugs in Gibraltar is not expanding and yet tells us that virtually headlines were made a few years ago when a defendant appeared in Court for possessing drugs and now it is the order of the day. I will go along with him in one thing, however, and that is that by and large our youth are to be congratulated. That is a fact, but I do not think the Government can claim any merit for our youth. The thing that strikes me most about this is that here we have a problem, a big social problem which we all agree exists, here we have an Opposition trying to be constructive, trying to give this problem the importance it deserves and here we have a Government who will not accept the hand of friendship but will continue its own sweet way regardless. Their attitude is one of: "I am right and I will not have anybody tell me what to do and what not to do, even when it is done with the best of intentions". I am still amazed.

HON J BOSSANO

Mr Speaker, I think that a Select Committee of the House would not in fact produce dramatic results. I think the problem of the use of drugs, to me, is the symptom of an illness and I do not think the illness can be cured by

making those who wish to indulge in drugs by making it more difficult for them to do so. I think the solution at the moment is that the penalty that society imposes on those who for some unknown reason becomes dependent on drugs is quite heavy. I have got very little knowledge of the problem except where it affects peoples employability. In that area I am involved very frequently in trying to persuade employers to take into employment people who have been convicted of using drugs and it is very difficult to persuade any employer to do it and it is particularly difficult when there are people unemployed who do not take drugs because the employer then has got the choice and generally speaking, the employer will feel that he can expect greater dependability from someone who has not been involved in drug taking than from someone who has and society, in fact, lays a heavy penalty on people who use drugs already in Gibraltar and that does not seem to be a deterrent. I am supporting the motion for a Select Committee not because I myself am convinced that it can come up with a dramatic solution to the problem but because I believe that the intention behind it is in fact a genuine one of trying to see whether anything more can be done than what is being done already, and I believe in trying to do that there is no need to suppose that what is going on at the moment and what has been done already is going to be hindered. If, in fact, the Government had said that all the things they are already attempting would be interfered with by the existence of a Select Committee then I might feel that we might be doing more harm than good by having a Select Committee and although I am not optimistic about the result that it would produce and although I myself cannot offer myself services to such a Select Committee because I have not got the available time that it requires, I still think that it cannot do any damage. That does not mean that I agree with a great number of things that have been said in support of the motion because a great deal of them I do not agree with. I think it is not our responsibility to police the Straits of Gibraltar for a start. I think certainly we have to make a contribution, a contribution relating to our size but if there is a major traffic flow from Morocco to Spain then the two authorities that should be primarily concerned in bringing that to a halt are Morocco and Spain who have got much bigger resources than Gibraltar, a much bigger Customs department and a much bigger Police Department than we have. We will cooperate but it is not our job to send out a British gunboat into the Straits and shoot down every marijuana boat that tries to get across. I think a great deal of the traffic is in fact by-passing Gibraltar and it is only incidentally that it lands up here. I think the Gibraltar market is a limited one and that given the magnitude of the traffic at international scale from the

outside knowledge that I have of it, I only have the knowledge that other members may have who read about it, but given the outside knowledge that I have the impression that I have is that even if everybody in Gibraltar smoked cannabis it would still be a minute market in terms of the millions of pounds involved in this international traffic. I think we face an extremely serious challenge in the possibility of an open frontier which nobody has mentioned so far and there I think whatever we do here the people who want to smoke it will only have to take a short trip across and my understanding from those who have gone, I have not gone myself for 15 years and I have no intention of going unless the frontier is ever opened, but I understand that in our neighbouring territory the thing is now so widespread that there is no attempt to hide the fact any longer, that it is openly used in bars and that kind of thing and I think is a very, very serious situation which we need to think about. I do not know what can be done but I think that would really place a tremendous challenge to anything we may do doing at this end to combat it with a situation where it is easily accessible next door. Therefore I come back to the first point that in my view something that is extremely important is to try to analyse what it is that makes some people dependent on drugs and not others and to cure the illness and not the symptom. I think the use of cannabis is the one that is associated in the public mind with drug abuse. I think that the point made by the Honourable Mr Perez is of course an extremely important one that abuse of drugs by things like obtaining overprescriptions is possibly as widespread as the use of cannabis, possibly as dangerous to society but not seen in the same light. I do not know of anybody who is actually being affected in his opportunity to obtain employment because he has had too many drugs of that type but I know that those that are convicted of having one gramme of marijuana in their pocket are ostracised. We tend to see the problem in a very narrow range and I think if there were a Select Committee perhaps the Select Committee might not be capable of coming up with answers to practical solutions to the problem but it is certainly something that we should look at in a wider context in what is involved, in what is lacking in our society, in the case of direction we give young people in preparing them for their role as adult citizens. Surely, it is in the area of education that we must start combatting this and make people aware of what is involved in living a full and satisfying life without having to depend on the dreams produced by the smoking of cannabis or by anything else. There, I think, is the most effective way which would then give us a situation where instead of having to put a barrier, instead of try-

ing to prevent the product physically reaching those who want to use it. We would be preparing young people so that they do not see the need to use it. That is a direction I think political leadership can be given rather than in saying we multiply the number of customs officers and we multiply the number of Police officers, because in fact the history of man shows that the more you try to prevent somebody from doing something the more determined he becomes to do it. There are people who put the contrary argument, there are people who say that the abuse of tobacco and the abuse of alcohol are far more dangerous than the abuse of cannabis. I think it cannot do any harm to take a look at the situation. I cannot offer my services although I support the motion and I think the way that I would like to see the problem looked at would be in its wider political context of what sort of leadership we can expect as responsible elected members on behalf of the people, on behalf of the parents who are worried about the possibility of their kids being involved and I do not know to what extent the problem exists amongst youngsters, I have heard some horrifying stories of about 50% of the school population using it and that sort of thing but we know how things are exaggerated. I think that in that context we should be looking not just at methods of preventing the accessibility because as I say the problem cannot be resolved entirely by that and I think it is the people who are professionals in their job who are best equipped to handle that. I think it would be very difficult for any of us to be able to tell a Customs officer or a Police officer how better to improve his methods of detection or how better to improve the way that the job is being done. I agree with the Honourable, Mr Zammit, I believe that it is brought into Gibraltar in small quantities and that it is virtually impossible to short of searching completely everybody that comes in and out. That is my feeling on the matter.

MR SPEAKER

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

HON P J ISOLA

Thank you, Mr Speaker. This has been a most interesting and instructive debate, certainly for me. I thank the Honourable Mr Bossano for his remarks. I agree with him that the idea of a Select Committee was to look at it in its wider political context. I think this point seems to

have been missed on the Government benches. I am convinced the motion should go to a vote after listening to the Honourable Minister for Housing and Sport who I think was very complacent about the internal situation and the external situation. He talked about one of two finds of cannabis in Gibraltar. I think there has been a little bit more than that and the finds there have been and the importation there has been not into Gibraltar but in other countries, has been of a sufficient quantity to cause us concern. I was very restrained in my opening and I continue to be restrained because I am conscious that there are proceedings sub-judice and I would not like to comment in one way or another on the activities that are alleged to have taken place but I think there is sufficient evidence available to us to make us realise that there is a serious problem internationally for Gibraltar. I think that the main people who can look at that problem objectively, is, in fact, a Select Committee of the House because it does affect the good name of Gibraltar. We are the best suited to look into the matter, we have the procedure, we have Select Committee procedures which enables us to call before the Committee anybody dealing with the problem of drugs. I cannot be complacent Mr Speaker, when I see what I see when I go down to the Marina areas of Gibraltar, need I say anything more, I cannot be complacent when I see what I see. Then he goes into the eternal problem, the problem of our youth which of course must be uppermost in our minds. I cannot accept 162 convictions in one year, that is, 3 convictions a week, to be something to be satisfied about because if there are 162 convictions how many other offences must there inevitably have been during the year that are not detected? Of course it must be a matter for concern and even if there are only 50 convictions I would have thought it would be of concern to us. The Minister for Housing referred to the Committee on Drugs. I am prepared to give way if somebody will tell me on how many occasions during the last 10 years this Committee has sat. If any member of the Government side can tell me on how many occasions during the last ten years the Committee has sat I will give way. I would have thought not even once.

HON CHIEF MINISTER

If the Honourable Member will give way. The point is that there was a Committee, it carried out a number of statutory duties that it has. It prompted, I think the report of the British Medical Association which is being considered. The Committee then did not meet for a while and it is the intention to re-activate the Committee. I have spoken to the former Chairman and he is prepared to take it on. If

the Honourable Member is prepared to serve in a committee and to chair a committee I am prepared to consider the matter if he will appoint one of his members and I will appoint a member but to ask us generally without prior consultation to appoint a committee without finding what the constitution of the committee is going to be and so on and then to pretend that we want to be all together without any consultation and just put in a motion because there is a big campaign in one of the papers I think this is not really the spirit in which it is pretended that the motion is being put.

HON P J ISOLA

Mr Speaker, I was giving way to find out how many times this Committee had met. I did not know it was a Statutory Committee that is still more. If it is a Statutory Committee then the number of times it has met must be available to somebody in the Government. The Chief Minister has said that the term of office of the Chairman has expired and that indicates that the Committee has not been sitting, certainly, in the last 3 years. If that can be denied, well, please say so. I think that is complacency and I do not think that there are any grounds for complacency. I did not mention the Campaign in Vox, the Chief Minister has mentioned it. If there had been a campaign in Panorama or the Gibraltar Evening Post perhaps one should have given that newspaper rather more weight possibly than the Vox. The VOX has been making quite a persistent campaign on this matter of drugs, this is true, and in fact in the same way as the Chief Minister was approached by VOX and I notice the Chief Minister undertook to consider the matter and the VOX looked forward to hearing from him. I think the same way as the VOX approached the Chief Minister the VOX also approached me and asked me what was the Opposition going to do about it. It is very difficult to tell people the Opposition can do precious little about anything other than in this House and putting a motion down and I am glad that the main purpose of the motion has been achieved in that certainly on this side of the House and to a certain extent on the other side of the House, although with a considerable degree of complacency, as I said, from the Honourable Minister for Housing and Sport concern has been expressed in the House and the whole purpose of having a Select Committee is to reassure the people of Gibraltar that their elected representatives, that the highest body in the land is concerned and is prepared to take time to consider the matter. As I said, I think there are things the Select Committee can do but I would not like to go into detail in this debate. Certainly, if anybody has been following

VOX, especially the articles of 7th of March, anybody who has read it and I would have thought that the Honourable Minister for Housing and Sport would benefit enormously from reading it. You may not read VOX but I am different, I read all the newspapers, I read the POST, I read the PANORAMA, I read the CALPE NEWS, I read GIBRALTAR LIBRE, I read THE PEOPLE. I am most interested in the articles written by my Honourable Friend in The Post, I read them all, Mr Chairman, and of course THE GIBRALTAR CHRONICLE, but of course I know that the other side are a bit biased against VOX or any newspaper that does not seem to toe the line. I think he would learn a lot from reading the VOX of Saturday 7th of March, after I put the motion down. I think he would learn a lot from the main article headed: "We can learn a lesson from America and Britain", I think he would learn a lot if he read that. Because what has happened in Britain is what happened in America 15 years before and what may happen in Gibraltar if we do not do something about it is what is happening in Britain now and will happen in Gibraltar in five years and eventually in 10 years what is happening in America. And it is very interesting to read that article for anybody who is concerned about the problem because if he reads the article he will see that it has been definitely established that there is a connection between cannabis and heroin and I share what the Honourable Minister for Housing and Sport has said when he said: "Thank God we do not have a hard drug problem". But that is what the Americans said when it all started there 25 years ago but they do not say it now and that was what the British said when it started there 10 years later. But they have a problem now and what we have to ensure in Gibraltar and what we are concerned about in Gibraltar is that it does not happen here in 5 years time because there is a definite connection between cannabis and heroin. And you do move from cannabis to heroin, possibly the same as you move from alcohol into alcoholism. I share what my Honourable Friend Mr Restano said and the concern he has expressed on this matter as well. About the only constraint I had about putting this motion down was the thought of the Clerk of the House having to service another Select Committee of the House and that was about the only thing that constrained me from putting the motion down. But knowing his great sense of public duty and devotion to the House, Mr Speaker, I said to myself he will not mind too much. Mr Speaker, seriously, as I said in my opening, I am of course very concerned about what happens to our youth, we all are. Primarily that must be our main concern. I do congratulate all those who do not smoke and if it is controlled I am very glad to hear it. I do not think it is from what I hear myself but I am very concerned about the international position of Gibraltar. I am very concerned that countries

or people should say that we in Gibraltar, the elected representatives, are doing little about it because I agree with what the Honourable and Learned the Attorney-General has said that his department, the Police and the Customs, I know they are all doing tremendous things in this, they are all working hard and they are co-operating internationally and so forth, I do know that. But unfortunately the way of officialdom are such that officialdom cannot publicise what it does, it is Governments who have to do that. It is the elected representatives of the people who have to project how a country feels and that is why I think it is important that this House should appoint a Select Committee to consider this matter. I think enough has been said, Mr Speaker, on both sides of the House but before I finish I do want to mention one point about what the Honourable Mr Bossano said. I am not suggesting that we send a British gunboat into the Straits, first we have to find one and then we have to get them to agree to go. I do agree that trafficking between Morocco and Spain is primarily the responsibility of Morocco and Spain and trafficking between Morocco and England is primarily the responsibility of Great Britain and Morocco.

But when we get involved or our nationals get involved in one way or another by the method of the operation then I think that if we can do something about it we should do something about it. That is the point I would like to make in answer to that. Mr Speaker, I will say nothing more, I commend the motion to the House.

Mr Speaker then put the question in the terms of the Honourable P J Isola's motion and on a division being taken the following Honourable Members voted in favour:

The Honourable J Bossano
The Honourable A J Haynes
The Honourable P J Isola
The Honourable A T Lodd
The Honourable Major R J Feliza
The Honourable G T Restano
The Honourable W T Scott

The following Honourable Members voted against:

The Honourable I Abecasis
The Honourable A J Canepa
The Honourable Major F J Dellipiani
The Honourable M K Featherstone
The Honourable Sir Joshua Hassan

The Honourable J B Perez
The Honourable Dr R G Valarino
The Honourable H J Zammit
The Honourable D Hull
The Honourable R J Wallace

The motion was accordingly defeated.

The House recessed at 5.20 p.m.

The House resumed at 5.45 p.m.

PRIVATE MEMBERS' BILLS

FIRST AND SECOND READINGS

THE HOUSE OF ASSEMBLY (PUBLIC OFFICES) ORDINANCE, 1980

HON F J ISOLA

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

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

SECOND READING

HON P J ISOLA

Sir, I have the honour to move that the Bill be now read a second time. Sir, in dealing with the Bill before the House, I think I would like to go straight away into what I consider is the constitutional principle of the Bill. In the last meeting of the House, when I asked the House for leave to move this Bill the Chief Minister stated and I here quote from Hansard page 158: "The position is that the Governor has been informed that Ministers do not agree that the Bill as drafted should be passed and I have given an undertaking to this effect and to the effect that amendments that may be proposed will be first discussed in Gibraltar Council. In the light of this undertaking the

Governor has signified he will allow the Bill to go through for discussion". The reason why I quote that piece from the Chief Minister's address is because he gives the impression that the Bill would not have been brought by the Government without first discussing the same in Gibraltar Council which is understandable, that is a matter for the Government, but that he conceded that we could not have it in the House without that consent from the Governor because the Governor had stated it was a non-defined domestic matter. During my address to you, Mr Speaker, on the matter I said: "Of course, whilst I must accept the rulings from the Chair, obviously, in my view this is not a non-defined domestic matter, it is a matter that is primarily by the Constitution for the Legislature to decide. And I hope that that principle is supported by the House generally". The reason why I say this, Mr Speaker, is that as far as the question for standing for election by persons holding public office is concerned, there is a constraint in the Constitution as to how far this House can go. This House cannot for example, pass a Bill even if the Governor were to consent to it, it would be ineffective under which, for example, the Financial and Development Secretary could stand for election and take his seat after the election without first resigning his position. Even, as I said, with the consent of the Governor. There is no power under the Constitution for a Bill to be passed that enables civil servants to stay in office after they have been elected. I will refer to that in a minute. I think that is an important point of principle because that is what the Constitution says and you cannot pass a Bill that goes against the provisions of the Constitution. I would like to refer the House to the Constitution of 1964. Under that Constitution, Section 29, the section that says: "No person shall be qualified to be elected as an elected member of the legislature", there was a provision which said: "(d) who holds or is acting in a public office". And therefore - and I believe there was a Bill passed, how I do not quite know - it was not possible, without changing that Constitution for the legislature to allow anybody to stand for election because it was outside the power of the legislature. The Gibraltar Constitution Order of 1969 changed that position and it changed it as a result of the Constitutional Conference that was held in Gibraltar with Lord Shepherd at which some of us were present. The point I wish to make is that in that Constitution specific provision was made to enable members of the public service to be able to stand for election if the legislature so determined. That was not put in voluntarily by the British Government or by the civil service, or by the Governor, because that is exactly what was not there in the previous Constitution because it was precisely the

policy, if I may put it this way, of the civil service both in Gibraltar and in London not to have members of the civil service standing for the House of Assembly. Those provisions were put in as a result of the Constitutional Conference and as a result of pressure on the Minister to make provision in the Constitution so that civil servants could stand for election on such terms as might be determined. And it is because of that, and the case of teachers was one that was mentioned at that time I remember very clearly, because of that, that order was made. Mr Speaker, I have been looking through my records because I remember specifically seeing a minute, I might have seen it in another capacity but I remember specifically seeing a minute in which it stated quite clearly that who should stand for election was a matter for determination by the elected members of the House of Assembly. And this was not, Mr Speaker, unusual at that period of our history because around 1957 Mrs Judith Hart who was then a Minister involved with the Foreign and Commonwealth Office, made a statement in the House of Commons referring to other territories and saying specifically that it was up to these territories to decide who could or could not stand for Parliament in the same way as the British Parliament had decided that. The reason I say this is because I cannot find a record, in fact, I could not find a single record, Mr Speaker, of the Constitutional Conference which makes me feel that my file must have been a confidential one which I did not take out because I found such things as the speech by Lord Thomson in 1968 at the City Hall and things like that of great interest I found out strangely enough nothing at all on the Constitutional Conference. Anyway, I say and I am sure it will not be denied that the very fact that provision was made in the 1969 Constitution for powers to be given to the legislature so that people could stand for election is evidence that the point was brought up and was agreed in a limited way. Under Section 28 of the Constitution, 28 (1) is the same as 28 (1) in the 1964 Constitution, (2) and also (3) or roughly the same, in fact the same I think, I have not actually compared it line by line but it is the same but there is a new Clause 4 and it says there: "If it is so prescribed by the legislature a person shall not be disqualified for election as an elected member of the Assembly by virtue of his holding or acting in any public office specified (either individually or by reference to a class of office) by the Legislature.

- (b) A person may stand as a candidate for election as such notwithstanding that he holds or is acting in any public office specified in the manner aforesaid by the Legislature, if he undertakes to relinquish or, as the case may be, to cease to act in that

office if he is elected as an Elected Member of the Assembly". So that the Constitution says the man has to undertake to resign if elected. He cannot carry on in post.

- (c) Any office specified in the manner aforesaid by the Legislature being in office the emoluments of which they are paid, directly or indirectly, out of public funds, but which would not otherwise be a public office for the purpose of this section, shall be deemed to be a public office for those purposes."

And then he goes on to say that : "Any law made in pursuance of paragraph (b), the last foregoing subsection may contain incidental and consequential provisions, including provision that an Elected Member who has given such an undertaking as is referred to in that subsection shall be incapable of taking his seat in the Assembly until he has fulfilled that undertaking and shall vacate his seat if he has not fulfilled it within such time as is specified by such law". The constitutional document is very, very clear. It has given the legislature powers to enable civil servants to stand for election but it has also said that they may only stand if they undertake prior to standing that they will resign on election and even if you pass the law they will be incapable of taking their seat until they have resigned.

That was, Mr Speaker, the compromise agreed at the Constitutional Conference in 1969 because there were some of us who thought that it was perfectly alright for members of certain grades of people unconnected entirely with the governmental machine or the administrative machine of the Government; it was not to our mind invidious for them to keep their jobs and sit whilst they were sitting on the Opposition benches. That was not agreed by everybody there and so the compromise was: "Alright, the legislature can make provision as to who can stand, we leave that to you guys to do. But once a person stands and is elected he must resign". So when, Mr Speaker, we are talking about the Bill and the merits of the Bill I would like Honourable Members not to give the impression that what we are saying is, because we cannot say it much as some might like to say it, what we are saying is that civil servants can be civil servants and elected members. We are not saying that. So the question the principle of master and servant does not apply here because the servant will not be a servant if he is elected and really, Mr Speaker, all we are talking about in this Bill is giving somebody 21 days in which to resign, that is what we are talking about. I would like Honourable Members who have spoken on this in the past to bear that very much in mind in their contributions because reading what has been said in the past one has got the impression that they were not aware of that and I think they should be fully aware of that because it is very important because we are concerned here, Mr Speaker, with the democratic principle of representation, of the right of people in the Register of Electors to stand for election and of the

importance of allowing as many people as possible to be able to exercise that right, to stand for election without having to take enormous personal and family risks and that is what we are talking about. What I say and what the DUPG Opposition say, is that the Government and we, as elected members of the House, should be as liberal as possible to allow as many people as possible to be able to exercise that democratic right which is the essence of democracy, to be able to stand for election. There are two democratic rights, one is to vote the other one is to stand, that is the basis of any democracy. We are not talking here, Mr Speaker, of the political activities of civil servants. You can never stop a civil servant from belonging to a political party. You can never stop a civil servant having his own political views. One, however, relies on them, as responsible members of the community, not to allow their political inclinations to affect their service to the Government in power and their service to the community. The British system recognises this, it recognises this in the system it has for civil servants to dabble in politics. It has got what are called the politically free in the civil service and these people, Mr Speaker, can indulge in political activities, can stand for election, can sit in Parliament and retain their jobs. Then there is the intermediate class and they are the people who are allowed to indulge in politics to a limited extent but on election must resign and then there are the politically restricted class and they are the people who are the top civil servants, the top executives, the middle executives, if you like, they cannot do anything. If they belong to a party they must keep it to themselves. There you have got a democratic country which recognises the principles of democratic representation and saying: "Well, let us look at it. It is our job to see it, is our job to ensure that as many people can exercise this democratic right to stand for election. Therefore we think, for example, that dustmen or porters in our Whitehall buildings, we think that those people can stand, what do we care what views they hold?" And therefore they allow them to stand for election and keep their jobs. I am not saying we should do that because our law does not allow us to do that. But that is what happens in England and they have taken trouble to see the areas. The teachers, for example, which seems to be the bone of contention, I do not know why but it seems to me. The teachers work for Local Authorities and they can stand for Parliament. The argument used with teachers, for example, is; "They will not do their job, if they are in Parliament they cannot be involved in politics. I cannot have a teacher who is politically biased teaching my son and inculcating him with all the principles of his political party". Well, in England they do that. The Local Authorities allow them to stand for election and sit in Parliament, Socialists, Conservatives and Communists. Of course teachers can sit in Parliament, not in the Local Authorities. A Local Authority may say they have to

resign but we have to resign anyway in Gibraltar. The point I am making is that the argument that is used that teachers should not be able to be elected members is not an argument that is accepted in England which is the cradle of democracy, the mother of Parliament. I think it is important to get these principles, Mr Speaker, into our heads so that we do not get confusion in arguments on the merits of the Bill. What this Bill basically seeks to do is to allow a very limited number of people, a very limited number of people. The Honourable Mr Bossano told us he would vote against the Bill, he thinks it is not radical enough but this is what I would like, Mr Speaker, I would like to see some practical experience of this so that is why I say in a limited way. Let us see what happens. When we see what happens it may be we can extend it. Let us have more trust in our civil servants, let us have more trust in people who are not directly connected with the Governmental machine. Let them stand for election. Because really, Mr Speaker, what we are talking about here is that the Government says, for example, to a teacher or any civil servant: "If you want to stand for election you are not like Isola or Haynes or Peliza, no, if you want to stand you have got to decide now, lose your job and I cannot give you any guarantee about reinstatement and then if you do not get elected, well bad luck". Why should one demand that from a human being in 1981? Why should we ask people to make the sacrifices that Mr Xiberras made or Mr Canepa made? Mind you, in those days there was a great shortage of teachers and perhaps they could have got a job back again straightaway, I do not know whether that is the position now. Why should we have to do that? Why do we have a highly educated part of our community that is able to contribute to public life and has contributed in the guise of Mr Canepa and Mr Xiberras in the past? Why do we make them have to take the plunge, lose their gratuities, lose all their rights? Are they not making enough sacrifice, Mr Speaker, in resigning in the first place once they are elected with no guarantee as to what will happen when the electorate thinks differently four years later? Is that not a big enough sacrifice? Perhaps it is not when the governing party gets its eight candidates in because they would be in for 16 years or for 12 years, I do not know, but this is not that is going to continue indefinitely I am quite sure of that. It is not right to put additional burdens on people who want to exercise their democratic rights to stand but who are told: "There is a penalty in your case. There is a penalty that puts at risk your family, your children and your future. We are imposing a penalty on you but not on Haynes, not on Featherstone, not on so and so and everybody else".

It is surprising to me that the limited extent of the Bill is objected to. It can have no objection in principle,

Mr Speaker, because the civil servant concerned is required under the Constitution to resign on election. All we are going, and to this extent I have some sympathy for what Mr Bossano says, that this should be as wide as possible, because they have to resign anyway. I could not agree with the proposal of Mr Bossano that the Financial and Development Secretary, for example, can stand for election, get elected into the Opposition and sit in this bench being Financial Secretary there. That would be absurd but under the Constitution he has to resign. In any case in Gibraltar there is something to be said for actually being rather more generous than I am being in this Bill, but my generosity is only limited in the hope that I can tempt the Legislature to agree and tempt them to say: "Let go this far and let us see what happens". Mr Speaker, we all know and I do not have to say it, it is especially important in Gibraltar, when the public sector constitutes such a vast majority in Gibraltar, I think Members will agree that in Gibraltar, even more so than in England, it is important that we should allow as many people as possible to exercise their democratic right to stand for election without unduly penalising them for it because at least now we know that if they get elected they are going to get paid a reasonable salary. Therefore once elected they have to worry about four years later, true, but some will be worse off others might be better off. If they get elected into Government they may be that much better off than when they were a civil servant. That may be the case for some, not for others. As I said, this is a modest document and what I have done in the Bill is to, as far as the public sector is concerned with the Imperial Government, I have extended the number of people who can stand for election and I have allowed any industrial or any non-industrials, it is proposed, should be able to stand except such offices of emolument of a grade which the Governor may by Order prescribe to be middle managerial or above. I know from my experience, just before the elections, with the Governor and the Deputy Governor, about one of our possible candidates, I know that from a note that was handed to the Governor which he gave to me, that the United Kingdom Departments were only concerned that those in front line management should not be able to stand for election but apart from that they did not seem to have the objections then. And the criteria that I am now putting forward of that middle managerial or above cannot stand, I think is well within those limits and I believe it really means only clerical officers up to E0 grade. Above that they cannot stand but up to E0 grade they will be able to stand. Frankly, I see that as a modest extension to the existing legislation on this subject and it avoids the absurd situation we had prior to the elections when an Accommodation Accounting Clerk was unable to stand although he was only getting £5 more a year

than a clerical officer who could stand and the Governor was, so we were advised precluded from making any Order because the legislation just did not allow it and by prescribing up to 30 we would get over that difficulty and similar difficulties. As far as the Gibraltar Government is concerned, I have chosen the grade of Clerical Officer or a grade prescribed by Order of the Governor as being a grade equivalent to or below the grade of Clerical Officer. It will be up to the Government to decide what are the equivalent grades. I think, from my records, that the Government probably was prepared to go a little further than that and that is why we are suggesting a Select Committee of the House but from a note the Chief Minister gave me just before the elections, just after the motion of the Honourable Mr Bossano, prior to the election, I think I was given a list by the Chief Minister from which teachers were excluded, of people that he felt could stand for election and they included Senior Clerical Officers, although exceptions would have to be made in respect of certain posts in the grade, Technical Assistants, Assistant Environmental Health Officers, House Parents, Senior Enforcement Officer in the Public Health Department, Fire Control Operators, Enrolled Nurses, we make provision for that, Senior Messengers, Nursing Assistants, Nursing Auxiliaries, Postmen, Telephone Trunk Operators, and a number of people in the list that I was given and which I was not able to agree because teachers were excluded from that list. We have just said that and then we go on to say, and this I suppose is the controversial one as far as the Government is concerned, "any office of emolument under the Government of Gibraltar which is of the grade of qualified or graduate teachers, other than Head Teacher, and Deputy Head Teacher, or of a teacher grade prescribed by Order of the Governor as being a grade equivalent to or below the grade of qualified teacher". The other people we have put in is the grade of nurse and then, again, I make the exception of Nursing Sisters or Charge Nurses or of a nursing grade prescribed by Order of the Governor as being a grade equivalent to or below the grade of nurses. As I said, it is a modest extension of the law but it introduces for the first time since the Constitution of 1969 eleven years ago, the right of some non-industrials to be able to stand for election. Mr Speaker, why do I introduce a teacher, and I think I must go straight to the point because the Minister for Education, surprisingly enough, objected to teachers. He felt so strongly about teachers being able to stand he did not even feel able to give me leave to introduce the motion and said he would abstain as a protest. Why do I say a teacher? Well, Mr Speaker, we have got a good educational system, I feel, in Gibraltar, and as a result of that good educational system there are a number of people who qualify in Gibraltar for further education. Of the people who qualify for

further education a good number, let me put it that way, or a good majority of them, go into teaching and get degrees. A smaller number go into the professions and so forth. They are the cream, the intellectual cream of Gibraltar, not the teachers, all these people who qualify for further education of which the teachers form an important and significant part and I believe, Mr Speaker, that the teacher is teaching in a school, he has got his school politics obviously, they all have, I suppose, but he is not involved in the administrative process of the Government and so we have here a very good basis or a very good force of educated people, intelligent people, who can contribute to the community, they do already within the educational system, but who could contribute rather more to the community by standing for election, if they were allowed to do so and whose jobs do not bring them, because I am excluding Head Teachers and Deputy Head Teachers, do not bring them into the administrative process of the public service. I can understand civil servants saying: "Why should teachers be able to stand, they are earning £9,000, £6,000 or whatever it is a year, and a fellow in the civil service who is earning the same amount he cannot stand, why should that be?" I can understand that sort of attitude but what we are interested in, what the people of Gibraltar are interested in, is getting the best possible people elected into this House so that they are governed well and properly and what I am interested in, equally, is in that process but I am equally interested that people should not be, that we do not exact a penalty from these people. We are exacting enough penalty in making him resign when elected. Because that is what this Bill is all about, Mr Speaker, it is all about the 21 days from nomination to election. The argument may be used that that means that they must be in politics beforehand. Well, Mr Speaker, everybody has got political opinions, and people in Government, in the Service, have been known to be in the committees of political parties whilst they were still teaching. And people have been known to express political views in schools and, of course, everybody expects them to. If, for example, my Honourable Friend the Minister for Economic Development and Trade, his wife is a teacher, well, what do the people expect at school, that she is going to say that the DPBG are great guys? We do not expect it. Of course we expect her to support her husband.

HON A J CANEPA

If the Minister will give way. Having regard to the fact that she teaches children between the ages of 4 and 8 I would hope that she does not waste her time speaking about the DPBG.

well, alright, she is a GLP/AACR teacher, everybody knows that, as well as there are DPBG teachers but we cannot stop that in Gibraltar and in the civil service we know of people who are GLP/AACR and people who are DPBG but it never occurs to us that because they belong to political parties that they are going to do anything in the process of Government to upset it because if you did that, Mr Speaker, it would be impossible, the only way you could do it in that way is to deprive the civil servant from being able to vote at all. That would be one of the answers, do not let them vote, but everybody knows that the civil service vote is a significant vote in an election. Of course it is, it is a significant vote. There is a Union in the Civil Service which goes to the Government and asks for this, this and that and if the Government says no, no and no and there is an election. round the corner, we all know what will happen to that Government as far as the civil service vote is concerned. These are the realities of life they are the realities of a democracy and it should be like that. Why should we be so hypocritical as to think that everybody there is just a face and nothing else. They are people, they are human beings, they are people who are affected by Government policies, they are people who are affected and that is why they vote and they exercise their vote to put us in or to put us out and that is the reality of life. So why this objection from the Government side to teachers standing for election? we have England where they can stand for election as long as they do not stand for their County Council and stay as teachers and they can be very useful Members of Parliament like lawyers and other people. You have in England civil servants who can stand for election and still stay in their jobs. Why in Gibraltar should we have these enormous constraints on our pool for people standing for election? why should we have this very significant body of intelligent and educated members of our community, why must we put a penalty on them if they want to stand for election bearing in mind that they have nothing to do with the administrative procedures of the Government and bearing in mind that you have the safeguard that under the Constitution they will have to resign if elected. In other words, why can we not give them 21 days' leave without pay when the Government spends hundreds of thousands of pounds every year in giving sick leave without certificates and leave without pay to all its civil servants. How many civil servants I would ask, Mr Speaker, take uncertificated leave and how many days a year? It is part of the conditions of service and yet we will deny and we will continue to deny a civil servant the right to go on unpaid leave for 21 days to exercise his democratic right to stand for election, we would deny that even though he has to resign if elected we will deny that because they happen to be teachers and we do not like teachers. Mr Speaker, before I commend the Bill to the House I did say when I asked for leave to introduce the Bill I did say and did make the suggestion that we

should commit the Bill to a select Committee of the House. As I understand the procedure, the procedure is that if the Bill is going to be passed at the second reading, immediately afterwards any Member of the House stands up and moves that the Bill be committed to a Select Committee of the House and a division is taken then without any debate. That seems to be the procedure. I would ask the Government, if they feel that the Bill requires changes, I would ask them to agree with the compromise that I suggest that we commit the Bill to a Select Committee of the House and then let it be discussed among us. Why do I say, Mr Speaker, commit the Bill to a Select Committee of the House? because, really, I am saying that in exercise of what I consider to be the constitutional position of Gibraltar which is that if we feel that more people should be allowed to stand for election, then it should be the House that decides as it is prescribed by the Constitution.

It should go to a Select Committee of the House and we should thrash it out, we, the elected members of the community, should decide who can exercise his democratic rights to stand and not the Foreign Office and not the Governor, and this is a basic constitutional concept which is enshrined in our Constitution. Unless the Gibraltar Government or the Ministers, unless it is their view that there must be absolutely no change in who can stand for election, unless that is their view, if that is their view there should be no change of any kind and we keep the archaic system that we have, then of course they might as well vote against the bill straight away. But if they feel that there is room for improving the position, then it should go to a select Committee of the House. But let me leave the Government in no illusion, as far as this side of the House, because we are interested in attracting the best brains to this House, perhaps I should not say that, because we are interested in attracting as many good candidates as possible to the House, we think that it is important that teachers should be allowed to stand for election, should be given these 21 days unpaid leave and then resign. And I think that we will then have to deal when we extend this, the next question that will have to come before the House but I do not think it should come in this Bill because I think this is a matter of eligibility, I think the question of reinstatement should come into our minds because the Ministry of Defence public sector does have provision for reinstatement at present. In other words, in the regulations of the Ministry of Defence there is a provision for people who become Ministers that if such a person should subsequently be appointed as a Minister, he may either resign or be given unpaid leave from the date of appointment as such and then it says that if such a person resigns, he will be entitled to reinstatement in his previous appointment although not necessarily to the post previously held. The Ministry of Defence does have provision for reinstatement but I do not want to go into that, Mr. speaker, I do not want to complicate this issue which I think is a straight

issue and that is, does this House believe in a furtherance of the democratisation principle of people being able to stand without levying acute penalties on them. If we are, we should support this Bill, if we think the Bill does not go far enough we should move amendments to make it go far enough but we should support the principles of further democratisation of Gibraltar. Mr Speaker, I commend the Bill to the House.

MR SPEAKER

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

HON CHIEF MINISTER

Mr Speaker, I want to deal first on the first point raised by the mover and that is on the Constitutional position. It is up to the House to propose legislation on any subject defined or non-defined but, of course, if precisely under the Constitution on which the Mover has laid so much stress there is provision that when the Governor signifies his decision that the matter is a non-defined domestic matter then, of course, the Constitution itself says that that cannot be done without the consent of the Governor. I am not going to say whether that is right or that is wrong, that is the law in the Constitution. But this is no surprise because it is the same Constitution which was operating in July, 1959, and for two years and 10 months after, with a Government that was as determined to put teachers in as the Leader of the Opposition is today, they had a majority, they were in Government for two years and ten months and surely they, with all the strength of the majority and the new blood that was brought into office, were not able to persuade the then Governor, or the then Administration or the then people at the Foreign and Commonwealth Office that this was a defined domestic matter because if that had been the case a Bill would have been brought. This debate has been going on since those days because that was one of their first aims in their Party and they started to advocate that and I was then Leader of the Opposition and I was consulted and I expressed my views and it is obvious that the Governor of the day was minded or advised the same as the present Governor is, that there is an aspect of non-defined domestic matter because it is not it is an indictment to the IWPB Government that in two years and ten months they were not able to produce a Bill and now, in the Opposition,

they are able to produce one because it is a Private Member's Bill and it has had, as I have said before, it has had that consent. And if that is the case, as my Honourable Colleague reminds me, the fact that we did not support it did not apply. If it is a defined domestic matter it is the province of the Government of the day to do so and the Governor must approve it whether officials want it or not. Why it is that they bring in the Opposition into this matter, alright, for consultation, but if the consultation led to nowhere and the Chief Minister of the day had been convinced and was right in saying that it was a defined domestic matter he should then have made an issue of it with the Governor of the day and brought a Bill to this House which he failed to do despite considerable amount of argument. And we are in exactly the same position now as we were 11 years ago, exactly the same position, to the same extent, certainly, constitutionally. Our view has been consistent in our attitude to the civil service though, of course, we have and we have as we normally do because this is the attitude that has been always the attitude of my Party, that it is a forward looking party and, perhaps, we do not want to go as quickly as other people in some respects but we are more radical than Honourable Members opposite who are described by all visiting people who see them as extreme right, they all find them as real diehard conservatives but, anyhow, be that as it may, I remember very, very long discussions with Maurice Xiberras with whom we argued this at length and we went to the extent of putting in columns what we agreed, what they agreed and so on, in order to put an agreed front so that the Government in the United Kingdom made up their mind whether they would pursue this or not. This was for two years and ten months on a matter which the IWPB had made great stress on the fact that people should stand for election particularly teachers, it is exactly the same now as it was before yet they failed to produce a Bill, they failed to produce a Bill utterly and we may hear interesting reasons from the then Chief Minister why he did not do it, but he did not. That is a fact. Therefore, in so far as that is concerned, the question of who should stand for election or not now comes into what I call the domestic field because we ourselves have our own views, whatever the attitude of the Governor may be, as it was in those days, because in the days in which we were in Opposition we were objecting as we object today to teachers being able to stand for election whilst they were teachers, we were against that and we are still against that. That is fundamental AACR policy and it is not because we have not got a teacher who has done well. We are proud of the one we have but it is not for that, it is because we feel very strongly, and this is nothing new to members opposite, we feel very strongly that there are areas where in a place the size of Gibraltar it is not a

question of whether somebody is up in Newcastle-on-Tyne as a teacher and sitting in the House of Commons, it is a question of having somebody round the corner who hates your guts and your face and who is determined to carry out anything in his profession, anywhere, to try and bring you down and this is typical of Gibraltar, this is typical of Gibraltar if there are people so minded. I do not say that they are, I pay great tribute to the profession. Perhaps the most significant thing about the profession is that all this worry about teachers, the teachers as a body have never come forward and said they want this right that some people are wanting to cast down their throats, None of them have done so, collectively.

HON. P. J. ISOLA

If the Chief Minister will give way. I think I said in the last meeting that this is one of the things the Teachers Association brought up with the Minister for Education and the Minister for Education told them he had consulted the Chief Minister and he told him he was against it. I do not know when it was but the Minister for Education will no doubt be able to enlighten the Chief Minister on that.

HON CHIEF MINISTER

They may have raised it but certainly they have pursued other matters where they have found resistance much more vigorously and have not left it simply because they were told that it might not succeed. In other matters they have taken it as far as they have wanted to and that is their right but the fact is that they have not done it in this case. Anyhow, perhaps we can look at the lighter part of the problem and that is that in so far as the Bill relates to the eligibility for election of employees of the United Kingdom Departments in Gibraltar there has been a significant change in this matter. Perhaps I should preface these remarks, as well as any others that I make, that I do stand for extending the right of people to stand for election, we have always stood for that, and we do stand for amplifying it subject to principles which we hold dearly and which I hope will be as respected as we respect the views of other people. We do stand for extending the right and we have made strong representations as a result of which I am glad to be able to inform the House that a new approach has been agreed with the British Government. The present position is that any non-industrial employed in the United Kingdom Departments in the Clerical Officer grade or in a grade prescribed by the Governor as being equivalent to it, may stand for election and need not resign if elected. The point is that the present Bill would perpetuate this method of regulating the eligibility of these employees, that is to say, it will seek to continue placing on the Governor the responsibility for deciding on the basis of middle managerial

rank or below it, which grades should be eligible. Instead, the Gibraltar Government has proposed and the British Government has agreed, that the United Kingdom Department should be regarded in respect of this particular matter as being very much in the same position as any private employer with regards to any possible clash of loyalty or responsibility on the part of any of their employees wishing to stand for election to the House. That is as a result of our consistent policy.

HON P J ISOLA

It is as a result of the Bill I have brought to the House.

HON CHIEF MINISTER

No, it is not as a result of that, it is as a result of years in which we have been dealing with this and in which the ambit has been increased. If you want to take the credit I do not care, that is what you are here for, to try and get everybody else's credit, the second engine, the first engine, the power station. Everything that we do is due to these wonderful people opposite who when in Government failed thoroughly and those who were not in Government have not got a clue. It has been therefore agreed that no employee of the United Kingdom Departments should be barred by law from being able to stand for election and that it should be those departments in their capacity of employers who should decide on the basis of local establishment code which of their employees should be restricted in their eligibility to stand. This is a big change to something which we achieved after considerable difficulties in the times of Alan Lennox-Boyd of having been able to get the Grade 1 clerks of the MOD, this was done by the AACR. This was the spearhead of this decision which was introduced as a result of pressure which we brought in the days when Alan Lennox-Boyd was Secretary of State for the Colonies. The establishment code proposed would be drawn up by the United Kingdom Departments in consultation with the Gibraltar Government which, of course, has an interest in the matter as some of the employees in question could be involved in or have a direct knowledge of confidential dealings with the Gibraltar Government. It is the understanding of the Gibraltar Government, which has been consulted, that under the proposed establishment code all employees of the United Kingdom Departments in Gibraltar up to the rank of Executive Officers, as well as grades the maximum of whose salaries do not exceed the Executive Office Officers maximum, will be free to stand for election and, if elected, to take their seats without being required to resign except, of course, when such a person is appointed a

a Minister. The effect of the arrangements I have described would be that an anomalous legal bar to the civic rights of the employees of the United Kingdom Departments will have been removed and an additional number of some 100 employees of the United Kingdom Departments who are at present debarred will in future be able to stand for election. Members of the Gibraltar Security Police will, of course, continue to be unable to stand. We do not want any Fejeros round the place. It has also been agreed with the United Kingdom Departments that if an officer at Executive Officer level or below elected to the House of Assembly works in an area which involves sensitive exchanges with the Gibraltar Government, and it is not thought that this is likely to happen often, a transfer to less sensitive work would be arranged. The idea is that if somebody who is of an Executive Officer grade is in a department which deals with matters with the Government, then of course the fact that he is elected would make it possible to change him about in order that it should not be unpleasant or embarrassing, to say the least, to either the Government, his employer or the officer concerned. Any such cases would be discussed between the Gibraltar Government and the United Kingdom Departments at official level. The arrangements discussed and agreed with the United Kingdom Departments fully meet the point raised by the Honourable Leader of the Opposition during the debate on the motion for leave to introduce the Bill, that is to say, that all grades of employees of the United Kingdom Departments below Higher Executive Officer level will be eligible to stand. Because of the new approach which I have described, the whole form of the Bill will have to be changed. In addition, and in any event, the Attorney-General considers that the drafting of the Bill could be improved upon and, finally, our own views as to the substance of the Bill in relation to employees of the Gibraltar Government itself make it necessary to alter the Bill. A new Bill has accordingly been drafted by the Attorney-General and I have copies available here for circulation to Honourable Members. This side of the House will vote against the motion for the Second Reading of the Bill presented by the Honourable Leader of the Opposition. The Government's own Bill will be formally published in the near future. The grades listed in the draft Bill which I am making available to Honourable Members now are those which I proposed in the discussions with the Opposition in December of 1979. This list is subject to review but the draft Bill substantially reflects the Government's views. We have not - and here I will deal now with the areas in which we differ - we have not been

able to see our way to include either teachers or nurses into the areas of those that could stand for election whilst in office. Because if, in fact, it is so important that these grades should be able to stand and it is of very little significance whether they have 21 days leave or not, it is equally easy for them if in fact they want to stand to resign and stand for election and then if they are not elected we have discussed the matter that in most cases there would be no difficulty in returning back to their jobs.

HON P J ISOLA

If the Honourable Chief Minister will give way. In most cases, what does that mean, that if a teacher who stands for election is particularly virulent about the Government in office and they get back he will not get his job back? Why does the Chief Minister say "in most cases".

HON CHIEF MINISTER

Because it is not a matter for us, it would be a matter for the administration because of vacancies and promotions and things like that.

HON P J ISOLA

In 21 days?

HON CHIEF MINISTER

Yes, possibly. In any case that is a matter which I am entirely relaxed about, I would leave that entirely to the administration, I am not concerned with the details of that. I am only saying that if it is too important for anybody to stand for election it is equally possible for them to resign 21 days before and stand for election so that the question of 21 days is equally unimportant one way or the other.

HON P J ISOLA

Well, Mr Speaker, if the Chief Minister undertakes in this House that a teacher who resigns would be reinstated if not elected, and would not be told that he would lose all his gratuity and all his pension rights, if he gives us that assurance then, perhaps, we are getting much nearer.

HON CHIEF MINISTER

I have given way four times, now I will not give way any more. I cannot give that undertaking because employment in the service is not a matter for Ministers, it is a matter for the Public Service Commission and therefore I am in no position to do so and that is one of the points that make clear that there is a considerable element of non-defined domestic matter in this because it effects the administration and the administration is not a defined domestic matter. Incidentally, this Bill provides precisely for the point that is not provided in the other Bill of the undertaking to vacate the seat if he does not resign within the month as is provided in the Constitution. You will see that the form is really much more in consonance with the Constitution, it is the Attorney-General's draft, it is not a political draft but it is on instruction in so far as the Government policy is concerned. It will be seen from the new draft Bill that the Government's views as expressed previously in this House continues not to coincide with the views held by the Opposition. In particular the Government, as I have said before, does not agree that teachers or any nursing officer of the grade of staff nurse or above should be eligible to stand for election. At the same time the Government is honouring its own undertaking not to be negative in this matter and it still prescribes a number of grades and posts the holders of which would be eligible to stand for election under certain conditions and without previously resigning. Altogether, approximately a total of 750 officers would be covered by the Bill leaving approximately 1,000 officers, including some 200 police officers, who would not be eligible to stand. This represents about 7% of the total number of electors on the register. That, Mr Speaker, is the Government's view on the situation which hopes, if the Honourable Leader of the Opposition would not take exception to that, is that the important change which has come about in respect of the Ministry of Defence requires a fundamental change to the Bill, the draft itself from the drafting angle was not reasonably acceptable to the Attorney-General and then it incorporates the matter as we see it. We are prepared, of course, to consider particular grades within the list that we have published as we did before and wherever possible give way in order to enlarge the list as much as possible. There may be some mistakes in the list which will have to be reviewed but, generally speaking, it proposes to re-affirm the Government's policy, the Government's view, which have been somewhat changed from 1969 and 1970-71-72 and even into the time when we went into Government again and then continued to discuss this matter with Mr Ziberras when he was Leader of the Opposition and have moved away as we did at that time the question of industrials, the question of many others which have not been included because of the merger of the

City Council and so on, all those are included there and the Bill gives the required undertaking of the Constitution and whether we enlarge it further or not is a matter for discussion when the Bill is published. I cannot at this stage make any comment on the question of the possibility of a Select Committee, that is a matter that will be considered when the Bill is published and it comes here for Second Reading.

The House recessed at 7.00 p.m.

FRIDAY THE 13TH MARCH, 1961

The House resumed at 10.35 a.m.

MR SPEAKER

I would remind Members that we are now on the Second Reading of the Bill moved by the Honourable Leader of the Opposition.

HON MAJOR R J PELIZA

Mr Speaker, we heard the Leader of the Opposition yesterday making what I thought was a very clear case for the principle that on this question of eligibility for standing for election, as a result of the last Constitution this House has a very definite say provided that the provisions limiting the rights of this House in that respect were adhered to in the sense that if a civil servant is elected he has to resign. That is what the Leader of the Opposition said yesterday very clearly.

MR SPEAKER

Yes, but perhaps one must be very clear as to the interpretation that one gives to the Constitution and I do not want to be misunderstood. Under the Constitution the prerogative to say as to whether the House has the right to deal with any matter which closely relates to a defined domestic matter or a non-defined domestic matter, is exclusively the prerogative of the Governor.

HON MAJOR R J PELIZA

I have no doubt that that is the way it is down in the Constitution but I do not believe that the Governor, whatever discretion he may have, can, in fact, act in such a

way which is contrary to the Constitution, as my Honourable Friend suggested it was, because then he would be acting ultra vires.

MR SPEAKER

Clause 35 (1) of the Constitution is very clear. It states that: "Except on the recommendation of the Governor signified by the Financial and Development Secretary or by a Minister, the Assembly shall not:

- (a) proceed upon any Bill (including any amendment to a Bill) that in the opinion of the person presiding in the Assembly makes provision for imposing or increasing any tax rate or duty, for imposing or increasing any charge on the revenues or other funds of Gibraltar, etc."

In other words, in so far as revenue raising measures are concerned whether any given measure is such, the criteria must be decided by the person presiding over the Assembly which is the Speaker. Paragraph (2) says "Except with the consent of the Governor, acting in his discretion, signified by the Attorney-General or by the Financial and Development Secretary, the Assembly shall not proceed upon any Bill (including any amendment to a Bill) that in the opinion of the Governor, acting in his discretion, signified as aforesaid, relates to or closely concerns a matter that is not a defined domestic matter". If the Governor signifies that any particular matter closely concerns a matter that is not a defined domestic matter then this House needs the consent of the Governor before we can proceed on the matter. I am talking exclusively of ultimate rights and nothing else.

HON MAJOR R J PELIZA

I see that, Mr Speaker. What I am saying is that the case that my Honourable Friend made yesterday, he contends that under the Constitution this House can, in fact, proceed on this matter of the eligibility of the electors to stand for election provided that we abide by the Constitution. Therefore there is, in my view, a clash in that if this is so under the Constitution and the Governor has got at his discretion the right to stop that from being acted upon, then it could be argued, if this was true, that the Governor was acting ultra vires, that is what I am saying. I am sorry that so far we have heard no argument from the Government to clarify that matter. All that we heard yesterday from the Chief Minister was that the I'BP, and of course he was referring to me, when he was in Government did you get on with this, suggesting therefore that I was

recognising that there was this right of the executive in Gibraltar to stop the legislature from proceeding on these lines. I should, therefore, Mr Speaker, explain why I was unable to proceed the way that I wanted to. First of all, one has to realise that in those days the allowance received by elected members was very small indeed, it was a question of a few hundred pounds and therefore it was really a waste of time to go ahead with a Bill of the nature that my Honourable Friend has introduced because even if we had been able to get it through it would have been impossible for people to take advantage of the new facilities that the Bill would provide. Therefore in those days, and I think today I would not be able to get it through, I felt there were a lot of civil servants who could stand for election and still remain in the service, a contention that my Honourable Friend on my left still holds today. And it was on that score, Mr Speaker, that I did not proceed and it is because of that that I had to get the support of the Opposition which, unfortunately, I could not get.

HON CHIEF MINISTER

If the Honourable Member will give way. He is completely incorrect. The question of civil servants remaining in service whilst these discussions were on never arose. It was a question of whether it was a defined domestic matter or not, of whether the Governor was seeking the advice of the Leader of the Opposition on a matter which he thought was much wider than a defined domestic matter. If it had been a defined domestic matter there would have been no need for anybody to interfere, so to talk now about the time when they wanted to keep people in service, it never arose. The fact is that they never did anything and now they want to do it from the Opposition after 2 years and 10 months in the Government and they now say that we have the power that they did not have and the Constitution has not changed.

HON MAJOR R J PELIZA

Mr Speaker, that is not so and this, I am sure, can be borne out by people who were in my Party at the time.

I see no harm in a teacher standing for election and staying as a teacher provided, of course, that he can fulfil the functions of this House and the functions of a teacher. Indeed, I think we have in one or two cases firms in Gibraltar who have allowed their employees to take time off to attend to the functions of this legislature and I still

see no harm that in many instances there are civil servants who could continue to carry on working as a civil servant and still participate in the work of the legislature. Therefore, Mr Speaker, in those days what we did is that we produced a very long list of civil servants, by function, and we decided that there were certain functions within the civil service which could in no way interfere with their impartiality simply by being elected to this legislature. Unfortunately, Mr Speaker, we all know that for reasons which were very serious reasons, this was not just to do with Major Gache, but also to do with the question of the lease. I decided to go to the people. Unfortunately, because of that, I was unable to do what I had wanted to do for a long time. In these 2 years and 10 months, Mr Speaker, we had to do a lot, a hell of a lot. We carried out the biggest development programme that Gibraltar has ever known up to then and we had to do many other things like tackling the question of labour which, as you know the frontier was just closed just before we came in and there were many, many other problems that I think we did very efficiently and effectively. It was just a great pity, Mr Speaker, that we were unable to get that thing through before the election because if that had been possible we might have been able to get candidates of a much higher status and perhaps the whole course of Gibraltar might have taken a different one altogether. I think, Mr Speaker, that it is very important if we want to live in a true democracy, that the people of Gibraltar should not only have the right to vote but also the right to stand for election because so many of the people in Gibraltar are civil servants that that takes away a good percentage of the population who are able to exercise their full democratic rights. If one looks, Mr Speaker, at some nation on the other side of the iron curtain, we will find that they call it democracy. Yes, democracy, the right to vote, Mr Speaker, but not the right to choose candidates that could be representatives of all the classes, the right to vote for the Communist Party, Mr Speaker, but for no other party at all. That, Mr Speaker, is not democracy in the Western sense. I think that we are aiming at democracy in the Western sense and in that respect so far here we may not have half democracy but we only have $\frac{2}{3}$ of democracy and what this side of the House says is that we want full democracy and it is very interesting, Mr Speaker, and perhaps the Chief Minister does not realise this, I know he does not, it is very interesting that by maintaining this sort of closed shop, it is only possible almost for 40 years for one party to get into Government. It is obvious, Mr Speaker, that anyone who knows anything about democracy knows that this is extremely strange because in every democracy there is a swing from one party to another but not in Gibraltar. Why is Gibraltar different to all other places? If Gibraltar cannot have a better

Government than the one we have had for the last 12 months and the one we had in the previous four years, then we are in a very sorry state here in Gibraltar. I am sure, Mr Speaker, that any Member of Parliament knows very well, whatever he may say here, when he goes back he knows something is wrong and, in fact, I have been asked and in fact I have written to them about this and in fact they have had something to do with this business of the Ministry of Defence at least allowing their people to stand for election. I have written very long letters, Mr Speaker, during the last six months because I have had a number of Members of Parliament interested in this topic and of course I will have them even more interested now because it is a Constitutional issue which we have to look into.

I am looking forward to hear what the Attorney-General has got to say on the Constitutional side because this is fundamental to democracy in the Western world and above all, Mr Speaker, all the elected members here are the guardians of the Constitution just as much as the Governor is and if we are given certain rights I am sure that every Member of this House would like to keep those rights and if there is any doubt whatsoever that there is a conflict here between the Constitution and the powers of the Governor I am sure that every Member of this House would like to look into it because the responsibility is ours and above everybody, of course, the Chief Minister. If the Chief Minister can come with a clear case and state that what I am saying is utter nonsense, let him say so. He did not answer, Mr Speaker, the Leader of the Opposition at all and I think the Leader of the Opposition made a wonderful case yesterday, quoting from the Constitution Mr Speaker. In reply we only had the red herring that the IWSP did not do it whilst they were in Government. That is no argument, Mr Speaker, that is no argument at all. Even if I had been wrong then, which I was not, but even if I had been wrong then, even if I had been wrong, two wrongs do not make a right. And if I was wrong then he is wrong now.

HON CHIEF MINISTER

Mr Speaker, the point is that he was right then and I am right now, that is that the Constitution has only got one way of reading it.

HON MAJOR R J PELIZA

That, Mr Speaker, is a matter which will have to be looked

into and I do not think that we can flog that horse any more here now. I am just looking forward to hear the Attorney-General because it would be very interesting, Mr Speaker, to carry on from there if it is necessary to do so. I am pleased that whatever obstacles we are finding and we are going to find both from the elected members on the Government side and from the Executive. I am pleased that the bringing of this Bill to this House notwithstanding the Chief Minister has to give an undertaking to the Governor that he and his Ministers would vote against it, notwithstanding that undertaking, Mr Speaker, I am very pleased that the Leader of the Opposition had the resilience of bringing it forward because already we have achieved something. We made the Chief Minister refer the matter to the UK Departments and perhaps the best thing that I can do here is to quote from the Hansard. Page 155 of the Hansard of the meeting of the 17th of July 1980. The Chief Minister said: "For one thing I have asked that the Ministry of Defence should be asked formally what their views are and not just rely on particular persons who may be in a particular job at a particular time". I do not know what he meant by that, but all I know is that he did make reference because of this, Mr Speaker, otherwise it would not have been done, because of the pressure put on by the Opposition, to approach the Ministry of Defence and get this through and I must say that I have also been working on this at the other end as well. I am not suggesting that what I did carries any weight but I do believe that the fact that we are pressing on this matter, that the matter is coming to a head even constitutionally and that at the last election my Honourable Friend went to see the Minister who was here at the time Mr Hayhoe who got to know what the problem of Gibraltar was and obviously people did nothing there at the time, all those matters that were revolving on this issue I think, Mr Speaker, have produced the wonderful result that at least those civil servants in UK Departments for which there was absolutely no case for being disallowed to stand for election as we see now, for which there was absolutely no reason why they could not exercise their full democratic rights in a democratic place, all those people now will be enjoying full democracy in Gibraltar and this we owe to the courage and, I think, the knowledge of my Honourable Friend the Leader of the Opposition. There is no one that can take that away from him because if he had not brought this Bill to this House that would not have occurred. I do hope that my Honourable Friend on the left who like me feels that more should be done, realises that even if we go slowly we are getting something whilst if we want the whole lot at once we are getting nothing. I think that if we look at the Hansard

he will see that although he thought that it was going to be a farce because of what the Chief Minister had said that he had had to give an undertaking and therefore he thought, well, what is the point of discussing this Bill, what is the point of introducing the Bill to the House, he will now find that at least on the question of the employees of the Ministry of Defence, that has been achieved and that is a great step forward.

HON CHIEF MINISTER

It has nothing to do with the Ministry of Defence, Mr Speaker, nothing whatever to do with the Ministry of Defence. The indication of the Governor that this was not a defined domestic matter has nothing to do with the Ministry of Defence it has to do with the administration of Gibraltar. The Ministry of Defence is a separate matter which he dealt with and the results of which have been seen.

HON MAJOR R J PELIZA

The Ministry of Defence, Mr Speaker, for a long time has not given way on this and the Chief Minister certainly has not tried in the past and this is why we have not had it. Now we have got it because he referred the matter, as I quoted from the Hansard before, he referred the matter to the Ministry of Defence not before - then. Now we are left, happily, with a smaller number of Gibraltarians who cannot exercise their full democratic rights and purely as another red herring the Chief Minister produces a list in a draft Bill which he is not going to introduce now in which he gives the number of people who might be able to stand for election knowing perfectly well that people of that status in Gibraltar by and large are not interested, and, secondly, even those who are interested find it extremely difficult to get in because of the way Gibraltarians think. If one looks at past elections one sees that most of the people who get in are either lawyers, teachers or self-employed people. It has been proved time and again that the professional man has got a much better chance of coming in than other people. Take the example of my friend on my left, Mr Bossano, who has the support of labour in Gibraltar. On two occasions he has carried a candidature and who are the people who have gone in with him? A doctor, a businessman, a lawyer. What about all the others, what about the Secretary of the Union? What about the other people who are with him? Why were they not elected?

HON A J CANEPA

Because they were not good enough.

HON MAJOR R J PELIZA

It is not because they are not good enough.

MR SPEAKER

Order, let us not speak across the floor of the House. I have said this over and over again.

HON MAJOR R J PELIZA

It is a good sign, Mr Speaker, when there is interruption from the other side of the House.

MR SPEAKER

It may be a good sign but it is the good conduct of the House that I am concerned with.

HON MAJOR R J PELIZA

So, Mr Speaker, it is obvious in Gibraltar that if we want to see democracy we have got to allow more people to stand for election and particularly a class of people who we know stand a chance of getting in. I think we shall be able now to get lots of other people who are employed by the Ministry of Defence. I have no doubt that there are very capable people there who I am sure will impress the electorate, so that is a very good step forward. But there are two other professions in Gibraltar, Mr Speaker, who I think could make great contributions. I am referring now to Staff Nurses and above, and the teachers. It has been clear that on two occasions when teachers have stood, they have got in. It is also clear that their contribution to this House has been second to none. It is a great pity that this wealth that we have in Gibraltar within the teaching profession, we in this House should prevent from being utilised for the good of Gibraltar and that the Chief Minister should be the first obstacle towards achieving that and other Ministers who, perhaps, are afraid of more competition, Mr Speaker, which is in fact what happens in one-party states, they do not want competition except, of course, that there they cut their

heads off and here we, I do not think we will ever reach that stage but certainly, Mr Speaker, I think there is nothing to be proud about being in Government if the full functions of democracy have not been allowed to proceed and this is precisely what is happening in Gibraltar today, less in the next elections and, I hope, even less in the following one. Could the Chief Minister not see his way, even at this late hour, to allow teachers and nurses to stand for election? If he were to do that, I would really consider it a great deed on his part. There is nothing more difficult, I think, for a man who has opposed something to agree but at the same time there is nothing greater than that and, therefore, Mr Speaker, my esteem of the Chief Minister would rise considerably if he agreed to it. The Chief Minister must not believe, Mr Speaker, that I do not recognise his ability as a politician, that he has good points and that he has done many good things for Gibraltar. Not because I oppose him must he think at any moment that I am completely against everything he does, that is not my view of democracy. He knows that on many occasions in this very House I have said so, I have agreed with him and I have supported him but not if I cannot. I think, Mr Speaker, that he himself gave to understand yesterday when he said that in the majority of cases if a teacher were to stand for election and not get in, in the majority of cases the possibility was that he would be re-employed. So, really, there is no practical objection to it, it can be done, there is no problem. What the Chief Minister is not prepared to do is to make it easy for them, that is the point. This is why the whole principle falls because we know that it can be done. All we need is for the teachers to take that extra plunge, take the risk and then, of course, he will get in again because there is no question, the Government has said it quite clearly now, there is no question of saying to the teacher: "No, because you stood for election, you will never be re-employed any more as a teacher in Gibraltar". That has not been said and if that is the idea of the Government they better say so now, but I do not think that is the idea. I would suggest to a future candidate that if he sees that the Government is employing 27 supply teachers there is really no risk of his standing for election and then if he is not elected coming in again. So if that is alright what can be the objection of doing it the proper way, Mr Speaker?

The objection can only be either being haunted by the idea that teachers are completely going to revolutionise Gibraltar by belonging to a political party which they belong in any case, is that what they are afraid of? One has to accept that all professions have got their own

etiquette. We have lawyers and businessmen here and there is no doubt whatsoever that we can utilise this for our own benefit if we wanted to. We all know we make a declaration of our interests but we all know that is neither here or there, in the end it is a question of honour. We all know that a lawyer if he knows what is going on inside Government he can advise his client either directly or indirectly about what is going on. We all know that a businessman who is in Government and knows there is a project coming as you know that this is what is going to be required you can start working a little bit faster than others in getting the supplies for that. But there is within the human nature a certain self-respect which prevents you from doing it because you are doing a different job. It is like a lawyer when he is advising a client, he has his etiquette, he has his loyalties, and he is not going to mix one and the other because that has been inbred within you through your professional training and the surroundings in which you are in, it prevents you from doing it. I have no doubt that a teacher who is a vocational teacher will not try to influence his pupils in any way politically, of course not. He will speak his mind here but when it comes to the classroom if he is a good teacher that has nothing to do with it. I would say that if that applies to a teacher it applies even more so to a nurse. What can a nurse influence in a hospital Mr Speaker, what is he going to do there, bring the whole national service down? How can we expect to believe that? In what way is that going to undermine Government? Mr Speaker, I have made my point and it is now up to the Government to think again. I suppose one can assume that one is hitting one's head against a stone wall. Well, I am glad that I did not think so before the Leader of the Opposition decided to bring the Bill in at the time of the motion and I am also glad that he did not think so because if we had then this first step would never have been taken and I do not believe that the people in the UK Departments would have been able to get the full franchise that they have now. The co-operation, Mr Speaker, of the UK Departments is to be praised and admired. They have gone out of their way to suggest to the Government that if any of their members, if elected, has a position in which he is dealing confidentially with the Government, they are prepared to change it. Our own Government are not prepared to do that, they are not prepared to say: "If there is a teacher who is now in a position where he might influence, we are prepared to change him round to another place". They are not prepared but the United Kingdom Departments are prepared to do so. If the Government had a will to see this through they would have come out with suggestions of their own to overcome this great problem that I do not believe exists but that they see as so

ominous for Gibraltar if they were to allow teachers and nurses to stand for elections. This is all we are asking for at this stage. As my Honourable Friend said, we believe in extending the number of people who can stand for election but we are also, I think very realistic, Mr Speaker, and we know that, perhaps, even what we are asking for is going to be very difficult to get. Having got this far, if we ever get it, we will then take another step and get a bit further. I do not think that I can convince the Government, unfortunately, but I do hope that I can convince the gentleman on my left, my friend Mr Bossano, to vote for the Bill because although I understand his feelings, I think he must accept that even a slice of a loaf is better than no loaf at all.

HON M K FEATHERSTONE

Mr Speaker, we have had an exposition of what is democracy a la Major Peliza and I must say that I have never heard such a travesty in my life. It seems that if the electorate, in its perversity continues to elect the same party into office at subsequent elections, then democracy does not exist and I am sure there must be a number of nations throughout the world who, according to the Honourable Major, cannot be democracies, I think France might be one of them. I even wonder if following the referendum, I think it was 1967, in which Gibraltar decided a certain way on its future, a referendum had been held every subsequent year and I am sure in each of these subsequent referenda the Gibraltarians would have voted just the same way, then according to the Honourable Major Peliza they would be a perverse electorate, there would not be true democracy

HON MAJOR R J PELIZA

If the Honourable Minister will give way. I think he is completely confusing everything deliberately in that what I said was not that you cannot elect the same party again, it is that you should have enough candidates in the election to be able to overcome that. As regards the referendum, Mr Speaker, a referendum is not an election. A referendum has nothing to do with an election, in a referendum you are voting for a particular issue and not in any way concerned with the personalities who take part in an election. I think he is completely off the mark.

HON M K FEATHERSTONE

I still maintain that if the electorate in subsequent referenda continue the same way then the Honourable Major Peliza would say this was a perverse electorate and it was not true democracy. After all, have we not had elections with 25 or 27 candidates, I think that was a fair cross-section, there were all sorts of people, there were businessmen who did not get elected, there were lawyers who did not get elected, there was a doctor who did not get elected. After all, the Honourable Major Peliza says that what we want is to widen the scope so that we can get people of higher status. I think that is a pretty good reflection on the people that have stood up to now and perhaps a bit of a reflection on the members of this House. We are not of sufficient status for the Honourable Major Peliza. Perhaps, he is the one whose status might be modified in the light of some of the other people. We want to see, obviously, that the candidature for elections should be as wide as possible. One must accept one's criterion, people in the higher executive positions and people in positions of rather considerable delicacy may not be able to stand. This is nothing new, this appertains in England but we have the very interesting situation in which the democrats, the Honourable Major Peliza, goes even further than in England. We would like people to continue to be civil servants and Members of the House. They do not even do that in England. Of course, the Honourable Major Peliza now living in England, is more English than the English.

HON P J ISOLA

If the Honourable Minister will give way. That is wrong, there are a class of civil servants in England who can stand for election and stay in office. They cannot in Gibraltar. As a Minister they even have to resign directorships in England.

HON M K FEATHERSTONE

Yes, I think the class of civil servants who can stay in office are messengers at the Foreign Office door, etc. One of the interesting things in the Honourable Mr Isola's Bill is the way it makes a rather invidious comparison. It says that people of the grade of clerical officer or equivalent or below the grade of clerical officer should be allowed to stand for election. I presume that is based on the responsibilities of a clerical officer and

the emoluments paid to him. Yet we get in the second clause that teachers, other than Head Teachers and Deputy Heads, should be allowed to stand. This would make, I am sure, a rather invidious comparison, firstly on the question of salaries in which many of the teachers who the Honourable Mr Isola would like to be able to stand would be getting considerably higher emoluments than a clerical officer or a grade below, and many of them would be in positions of responsibility. They may not be Heads or Deputy Heads but they could be Heads of Departments or Deputy Heads of Department and in quite a lot of administrative capacity. Therefore, if the parallel is going to be kept it has to be a reasonable parallel both on responsibility and on salary grades and we have come forward with a possible Bill of our own in which we give quite clearly what we consider are the posts which may be acceptable both on the question of not too great responsibility and not too great delicacy and we do allow enrolled nurses, so we have nothing against the nursing profession as such. What we do have is a qualification that when you get into the higher responsibility grades then the fact that you are more responsible must preclude you from candidature. After all, teachers are civil servants, they often say they do not think they should be civil servants and yet they are quite willing to accept the benefits of being civil servants, perhaps they should also consider the other side of the case. I must admit that the Honourable Major Peliza does keep us amused but it seems rather strange where he says "We had to go to the electorate and we did not have quite time to get this ready". But from our records we did not find any Bill in preparation for widening of the candidature so it appears that his getting the things ready were more a figment of his own imagination than actual practical reality. We are offering a Bill which is going to widen the candidature quite considerably, which is going to give most of the people not in the employment of the Gibraltar Government the opportunity to stand. I say most of the people because there are a few people in the service of the United Kingdom Government who will be precluded and which is going to offer most of the civil servants or the employees of the Gibraltar Government the opportunity to stand if they are not in the upper echelons of management or in a position of delicacy. I would suggest that it would be a more elegant method for the Honourable Mr Isola to withdraw his Bill and to accept our Bill rather than to have his Bill thrown out as he knows it is going to be and perhaps suffer the ignominy of having put forward something which he knew from the beginning was doomed to failure.

RON J BOSSANO

Mr Speaker, as I said when the Motion asking for leave of the House to introduce a Private Member's Bill was debated, I was in favour of the motion because it would give us an opportunity to debate the matter but against the proposals contained in the Bill introduced by the Honourable and Learned Leader of the Opposition and that continues to be my view and has been indeed reinforced by the stand taken by the Leader of the Opposition in introducing the Bill to the House. It seems to me totally absurd to hear the sort of impassioned speech that he made in support of enfranchisement and the extension of democracy and finish up by asking simply for 21 days unpaid leave for Staff Nurses and Teachers. The sort of arguments that were put up were arguments which I believe in myself, which I have put in the House of Assembly on a number of occasions over the last six years, which I put particularly in 1976, prior to the 1976 Elections when the matter was debated in the last time a Bill of this nature came before the House. Those arguments are not arguments for saying that a teacher must be given 21 days unpaid leave because it does not solve anything for a teacher. If there is a case, then the case is a more fundamental one and a more radical one and that is the one that must be argued and to say in defence of that, as my Friend the Honourable and Gallant Major Paliza said, that half a loaf is better than none is, with respect to him, utter and complete nonsense. What the Honourable Member of the Opposition is asking for is not half a loaf, it is not even a quarter of a loaf, it is a breadcrumb. He should understand that he is going about it the wrong way because the arguments that he is putting are weighty arguments but have no relation to what he is asking for because what they are asking for is an insignificant difference, it does not alter anything, it maintains the situation the same. I do not know whether it is really that he genuinely believes that that is the most that can be obtained in which case I cannot understand why so much argument is put in favour of such a small advance or, alternatively, that it is purely a political gimmick to say that you have done something to extend the right of people to stand for election. All that is being asked for is that somebody should give, obtain 21 days unpaid leave and then have to resign at the end of it. The only thing that he gives, apparently, is greater prospect of re-employment because the job is guaranteed at the end of 21 days, that is all. I think, certainly from what I know, that most of the people who are not prepared to put their jobs at risk would not find that they are and in any case I think the whole emphasis is misguided, the whole emphasis that we must extend the list and let me say that in terms

of what is being obtained, as I understand it, the amendments proposed by the Government in their proposed Bill, and I cannot accept that it is due to the courage of the Leader of the Opposition that we are getting a Government Bill which seems to give more than what the Opposition is asking for. They give it to a different category because the Opposition seem to be concerned almost exclusively with teachers, maybe they have got a prospective teacher candidate, I do not know. The list, as far as I am concerned, covers a very large proportion of non-industrial workers. It is not enough for me because I do not want them to be given unpaid leave, I want them to be allowed to retain their employment after election. I want the industrial workers to be allowed to retain their employment after election and I fought for that in 1975 in this House, Mr Speaker, and I was the only member of the House to vote against the Government proposals in 1975 because Mr Xiberras at the time accepted the argument that the Foreign Office has a very substantial say in this matter and said that although they would not be voting in favour of the Government proposals they would not be voting against either because the proposals had been put to the Foreign and Commonwealth Office on the understanding that there was a consensus between the two sides of the House, a consensus to which I was not a party. I was against the proposals then, I am against the Bill that the Opposition has brought to this House because for me the principle at stake is not challenged by this Bill. I do not agree, Mr Speaker, as the Honourable Mr Canepa has said, that the candidates put forward by my Party in the last election did not get to this House because they are not good enough. It may be that the people who had to vote thought they were not good enough but I can assure the Honourable Member that in my humble estimation if the people took the care and the trouble to fill up those benches they might well come to the conclusion that a lot of the people in the House today are not good enough if they heard some of the speeches made in this House all the year round because there is an awful lot of nonsense, Mr Speaker, with all due respect to Honourable Members, spoken in this House. I accept that what one might call middle class intellectuals have got an undoubted advantage in linguistic ability over industrial workers but not necessarily in grey matter. I dispute that because lawyers have got a facility to use language they are any more competent, qualified or intelligent to decide affairs of state than industrial workers because there are industrial workers in nations all over the world deciding affairs of state at a much higher and responsible level than in Gibraltar. We have had people who have come up from the shop floor, national leaders like Jack Jones who

started his life as a docker and finished up heading a Union of two million workers, taking decisions that no member of this House of Assembly would take in 200 years, of more significance in the world than anything that is decided here. They would have no chance of election to the House of Assembly in Gibraltar, a docker in the House of Assembly? It is unheard of he has got to be a qualified nurse or a qualified teacher to make it. I know I should not be so concerned if one is to go by the analysis made by the Honourable and Learned Leader of the Opposition because in his introduction he said that when we are talking about political involvement of civil servants we could not really do away with it, it is a fact of life, civil servants have got political loyalties and it is said they are either AACR or DEBG. I can tell the House one thing that all their proceedings are being recorded by a member of the Executive of my Party and that the tapes are kept on when everybody else is speaking as well as when I am speaking. I do not accept that political commitment is something that influences ones obligation to ones employer. I think that civil servants understand the difference and I think it is particularly absurd of course in the case of the industrial workers which have not formed part of the proposals of the Government and not formed part of the proposals of the Opposition. I would like to take this opportunity of saying to the Government that when the Bill that they propose to introduce, which I will support, comes before the House I will propose an amendment to give industrial workers in the Gibraltar Government the right of retaining their employment the same as industrial workers and now non-industrial workers will have in the MOD. I would remind the Honourable and Learned the Chief Minister that this was something that I proposed in 1976, that the Government was unable to accept it at the time but that he said that part of the reason was because I had given too little notice of it and that the Government could not take what he considered to be a substantial amendment just like that out that in fact he was asked specifically whether he considered that industrials had a conflict of interest and his answer was no. This is on page 203 of the Hansard of 18 May 1976. The Chief Minister then said that the question of the conflict of interests as are as their policy was concerned did not apply to industrials and therefore I shall be moving an amendment to give effect to this when the Bill that the Government intends to introduce comes up at the Committee Stage at the appropriate time but I am giving the greatest possible length of notice before to the Government in the hope that that means that I have got a better chance of getting it accepted. My main emphasis has been in support of allowing industrial workers to retain their employment. I gave the example in 1976 of my own personal experience of being told that if I took a job,

because I was unemployed in 1973, if I took a job as a night telephonist I would be asked to give up my seat in the House because it was not allowed. I have made the point more than once, Mr Speaker, that it is nonsense to suggest that an electrician or a sweeper or a driver would have his professional duties affected by his political ideology or by the fact that he is here in this House. He may have very little chance of getting elected, I am not disputing that, it may well be that the people of Gibraltar will not give their support to an industrial worker and get him elected to the House of Assembly because they may think that the fact that that person is not used to public speaking, the fact that he cannot make as good a show on television or as good a show in a speech on the street in an election campaign means that he is less well qualified to be in the House of Assembly. Perhaps they are not mistaken if all that we are doing in the House of Assembly is making speeches but in fact if we are doing something more important and more serious which is to try and find collectively acceptable answers to the problems that affect our community, and I think this is what the House of Assembly is about and this is what it is for, we are supposed to be here not just to score constantly political points but to try and use our experience of life and our intelligence to resolve Gibraltar's problems in a way that is acceptable to the greatest number of people and we are supposed to be barometers of what people want outside the House. I think in order to be effective barometers the House should be a microcosm, and I use the same words I used four years ago, a microcosm of society at large so that we do not just hear what lawyers think is right or wrong about gaming machines or X-films or anything else, we hear what other people think about it. It is a bad thing, in my view, to have a House of Assembly that is exclusively a reflection of one segment of society. Members of this House have not always had the same employment. It may be that if the Honourable Mr Loddie had been employed as a Health Inspector he would not have been able to stand anyway. I do not think that there is any conflict between his being here and being a trader as opposed to his being here and being a Health Inspector. I think if the conflict is that if you have got a way of earning your livelihood outside the House of Assembly which provides you with a vested interest, then that is going to affect your political activity in the House of Assembly then in fact nobody in the House of Assembly should be allowed to have any other means of earning a livelihood and people here should be paid even more than they are paid today so that they can be totally financially independent. Given that there is only a guarantee of four years employment in the House of Assembly the

incentives would have to be very high indeed to make people willing to stand or else we would only get people standing who have very little to lose, one of the two extremes. We cannot afford to go along that way in Gibraltar. Our democratic system requires the maximum possible participation. I believe that extending simply to people who are in higher paid white collar employment the opportunity to stand would not make a significant difference to this House in terms of the type of people that we get here and consequently the type of viewpoints that the House would see reflected when anything was debated. Members have to recognise that there is a difference in the approach, in the perspective that one applies to a problem depending on one's position in society and the manner in which one earns one's livelihood. It is inevitable that the fact that I am a trade union official as my full-time employment will have a bearing on how I focus any problem in this House and if I was not here, Mr Speaker, if my employer took the line of saying no, that was a particular philosophy within the Union at one time and it caused a lot of trouble. There were people who said: "No, if you work for the Union then we refuse to allow you the right to stand for election".

HON CHIEF MINISTER

If the Honourable Member will give way. Is that not still the case with regard to the Resident Officer?

HON J BOSSANO

Mr Speaker, that is the case in the United Kingdom as regards a full-time official. It is not the case in Gibraltar, as I understand it, because the employer of a full-time official in Gibraltar is Transport House in London and what they have as part of their employment policy is that before somebody takes on a job as an official in Transport House he is told that he is on duty 24 hours a day, seven days a week and he is not allowed to have any outside interests of any description. He is not allowed to have a part-time job, a part-time business or a part-time political activity. That is a condition of employment laid down for full-time officials in the Union in the United Kingdom, so it is not that people are not being told that they cannot be in politics because it is in conflict with the Union, not in Gibraltar, because the position is that in Gibraltar we ourselves decide our own policy locally. If it was a question of standing for the

United Kingdom Parliament then the same rules would apply. In fact, in the United Kingdom there are officials of our Union and of other unions who participate in Local Authority elections and who are Councillors and that is considered to be something that is not taking up sufficient of the time of the union official to interfere with his obligations to his employer.

HON A J CANEPA

If the Honourable Member will give way. Would he clarify a point? Does that mean that in the next General Election the Partido Socialista de Gibraltar are likely to present a candidate?

HON J BOSSANO

I do not know whether they are likely to or not. I can only say to the Member that I know of the PSG policy the same as he does which is what I read in their newspaper and the reason that they gave at the last election for not standing was:

- (1) that there was a crisis in the capitalist system which made it not worthwhile to stand for the House of Assembly in Gibraltar and
- (2) that it would weaken the AACR Government to have a very low poll.

I imagine those two considerations will still apply in the next Elections because I do not see the crisis in the capitalist system having been resolved because they did not stand the last time. In approaching the problem then, Mr Speaker, in terms of numbers I think that extending the franchise downwards instead of upwards would effectively give the opportunity to a greater number of people and makes the argument against doing so less valid and, as far as I am concerned, is a more radical move because we are talking about allowing people to retain employment instead of simply being given unpaid leave. I accept that in practical terms the prospects of being elected for as long as people attach importance as I have said to the performance in an election campaign in terms of being able to express ideas fluently in English, may mean that we will still continue to have a House of Assembly that contains primarily lawyers and businessmen and doctors and professional people and I accept that the electorate does show this what I would call conservative element in its voting behaviour. I think that is a fact of life that has to be accepted by anybody on the left and I believe in

democracy and I believe in accepting the decisions of the electorate even if I disagree with them. I do not blame the AACR for having been returned to power election after election. I blame the people of Gibraltar for doing it and I say the people of Gibraltar must suffer the consequences. Every people everywhere that have got the right to have a Government gets the Government it deserves and what they have not got the right to do, in my estimation, and I have said it inside the House of Assembly and I have said it outside the House of Assembly on more than one occasion, is to spend four years moaning about the AACR and then obviously put them back because they want them back. That is what they have not got the right to do. As far as I am concerned the election campaign of the GSLP was quite a clear one. We said we have got enough candidates to make an impact on the Opposition, we have not got enough candidates to go for Government, we believe that the more of us that you put in the greater the effect that we will have on the decisions taken in the House of Assembly and the greater the influence we will have on Government policy. The response that we had was that they put just one of us in, me. As far as I am concerned for the next four years I shall do my utmost to influence decisions in this House of Assembly so that at the end of the four years I can say to the electorate: "This is what I have achieved in practical progress, in practical results", and then give the electorate the option to either put me back or not put me back or put more representatives of my party in this House which is the right that they have got. If they decide that they do not want me here it is their prerogative not to put me here, Mr Speaker. I do not expect gratitude, I am getting paid for doing a job, a job that I get a lot of satisfaction out of. I like it so much that I would probably do it even if I was not paid for it because I get so much pleasure out of it and I think those of us who get satisfaction out of political involvement have got to realise how fortunate we are to be able to do something which we like doing so much, and on top of it get paid because most people have to do things they do not like to do for money. I think, Mr Speaker, that it is a very good thing that the Bill has been brought to this House because it is a very good thing that this matter should be discussed intelligently and that it should be discussed in depth. Let me make just one final point, Mr Speaker, as regards my own approach to this problem of who is to be allowed to contest an election to the House of Assembly and who is not to be allowed by virtue of his employment. First of all, as I made clear in 1976, where in fact I had some very harsh words to say to the Honourable and Learned the Chief Minister which I will not repeat now because I do not say harsh things as much as I used to in the past. It was a spontaneous reaction to

the impression that he created by something that he said on the general principles of the Bill that, effectively, it was the Foreign Office who had vetoed any attempt to extend the franchise. I think that was corrected by the Honourable Minister for Labour, Mr Canepa, who said that regardless of the Foreign Office policy it was AACR policy. I accept that I have to put up with AACR policies whether I like them or I do not because it is apparently the will of the people that it should be so. I have the right to criticise them but I have got an obligation to accept that that is a decision that the electorate took in 1980. But I do not accept that the same applies to the Foreign Office. I do not have to accept anything at all the Foreign Office says because I have not been elected to this House nor has anybody else been elected to this House to do that. Foreign Office policy has got to be defended by Her Majesty's Government and we are here to defend the views of the people of Gibraltar. Therefore, I agree entirely with the point made by the Honourable and Learned Leader of the Opposition that it is primarily a matter for us to decide how we conduct our own internal affairs and who is eligible and who is not eligible to the House of Assembly. Secondly, I do not think we can have two classes of citizens in Gibraltar. Either we say that nobody can have outside interests if they are members of the House or else we should go the other way and not only ensure protection of employment in the public sector but, in fact, ensure protection of employment in the private sector. People in the private sector can be put under pressure and I think this is something of particular concern, for example, to those of us on the left. It is obvious that if we have a candidate who stands for election on a ticket of nationalisation he is going to have a very rough time with any employer in the private sector. I think that just like we have got protection against victimisation, against unfair dismissal for the exercise of the right to join a trade union in our law, then we should also have the right in our law of protection against unfair dismissal for the expression of political views. I think that is an important thing and therefore we should be looking at it in that light, in having a standard approach which is applicable to all members of our community who have the right to stand regardless of who their employer is. I accept that in practical terms there are bound to be a small minority of jobs in the public service where it would be impossible for a Government to treat the advice as politically free, politically unbiased if that person was also having a prominent and active role in political activities not just as a member of the House but in fact as a member of an executive or political party or as a public spokesman for that party. It would be impossible for somebody that is

involved in assisting the development of policy at the same time to come out publicly criticising that policy but I think that affects only a very small minority. Certainly, it would not affect anybody in industrial employment because they are not involved in policy decisions at all and today they enjoy the right to criticise Government policy quite vociferously and publicly as trade unionists and they do it all the time and nobody considers them as being disloyal civil servants as a result and as far as I am concerned political activity is simply an extension of that, it is an extension in terms of a medium, a forum, an area where matters are taken up in defence of working class interests which trade unionists find they cannot take within the existing machinery and the next step is to try and get the machinery changed, the law changed, the framework changed, and that is a natural extension of their trade union role and if it is accepted that civil servants can be active trade unionists and civil servants and that there is no conflict and it was not always accepted, there were times when people used to be sent letters under Colonial Regulations if they took industrial action, Mr Speaker, but that is something of the past and we now have to take the next logical step in that process and understand that we can only make Gibraltar a better place by encouraging greater participation rather than discouraging it as we are doing with our present framework of law.

HON A J CANEPA

Mr Speaker, I think we should all be grateful that when Major Peliza was a member of the Gibraltar Defence Force and the Gibraltar Regiment he never went beyond the rank of Major. Had he reached the rank of Lieutenant-Colonel I think he might have already staged a coup d'etat in this House in order to prevent the AACR from continuing in Government all these years.

HON MAJOR R J PELIZA

I am not sure whether the Honourable Member has to withdraw that remark.

MR SPEAKER

May I say, to be quite honest, that I was thinking about it. I am sure, though, that it was said in a jocular manner.

HON A J CANEPA

I think we should be thankful for small mercies and I think the House will note that when we had a Lieutenant-Colonel on our side between 1969 and 1976 there were no problems because we chose our candidates very, very carefully and it should be noted that Major Peliza left the AACR some thirty years ago.

I want to continue, Mr Speaker, with the last speaker, Mr Bossano. I share, to a very large extent, his approach and his reasons for being here as a member of the House. This is a job that I myself enjoy thoroughly and I think that Mr Xiberras enjoyed it thoroughly as well and, perhaps, that is one of the main differences between what Mr Xiberras and what I did in 1969 and in 1972 and what perhaps other teachers have failed to do. Maybe they do not love politics sufficiently, maybe they are not convinced of the extent to which they can make the contribution to public affairs in Gibraltar to take the plunge that we did. The Honourable Mr Bossano said that the Bill that the Leader of the Opposition has introduced in the House does not alter anything. My own view is that as far as the IPBG are concerned it does make a lot of difference because it would enable one or two people, a teacher in particular, to play safe. It appears to me that one or two prospective candidates of the Party of members opposite have a lack of confidence in their ability to be elected. I am not going to say that had the IPBG in the past and then the IPBG adopted a much wider approach that their campaign would necessarily have prospered, it might not have done so in any case, but I think that their mistake over the years in their approach has been that their campaign has been on an ad hominem basis. In 1969 it was because of Mr Xiberras and in 1990 it was because of Mr Beltran and when you approach matters in that way I think you weaken the whole basis of your arguments. I want to deal with certain technicalities which my Honourable Friend Mr Featherstone referred to and I would like to enlarge upon them because I think that it will be helpful not only for the present debate but for the debate that undoubtedly will take place when the Government Bill is introduced. This is the technicality as to what the exact status and description of teachers is because in the manner in which the Honourable Leader of the Opposition has framed that in his Bill I think it would have led to problems in any case. Teachers are no longer classified straightforwardly as qualified and Graduate Teachers. If Honourable Members will analyse the Estimates they will see that they are all teachers other than Head Teachers or Deputy Head Teachers. Therefore what happens is that apart from these two categories, whether you are a

Graduate or whether you are a Qualified Teacher, a teacher starts on Scale 1. There are five basic salary scales in the career structure and a teacher starts on scale 1 when he first starts teaching and then moves up along those scales depending on promotion. When they are appointed to what is called a graded post of responsibility they move usually from scale 1 to scale 2, sometimes to scale 3. Heads of Subject Departments are usually on scale 3 or scale 4 or perhaps the scale for senior teachers or we can best call it scale 5 here. Additionally, there are posts of a pastoral nature, such as Year Tutors. These, in the Comprehensive School, are also scale 4 posts. The position is not that straightforward in that you can say that it is only Head Teachers and Deputy Heads who are involved in the administration of the School. I have no doubt that in Comprehensive Schools of the size of the two that we have in Gibraltar, both the Head of Subject Departments and the Year Tutors have got much greater administrative responsibilities in the running of the school and are more involved in policy decisions. I do not mean political policy decisions, I mean policy decisions within the school of an educational nature than is the case of a Deputy Head Teacher in a small primary school. The manner in which the Honourable Leader of the Opposition has framed this piece of legislation would not meet that point. There is also the problem of subsequent re-employment because if a teacher occupies a post as a Head of Department, scale 3 or scale 4 post, and stands for election, under the present state of affairs he has got to resign, I think the likelihood would be, I have no doubt, that there would be a job going for him. That does not mean that he would necessarily get the previous job that he had, that if he was the Head of a Subject Department, he would automatically be able to step back into that post.

HON P J ISOLA

If the Honourable Minister would give way. Is that the same position with civil servants who are teachers or in other employment in Gibraltar and who go on maternity leave for two months, is there a possibility that they get a different job?

HON A J CANEPA

The remark has been made during the course of the debate that re-employment is not a problem. I am saying, regardless of whether you have the arrangement of 21 days of leave without pay, if you do not have that under the

present situation, re-employment in the previous post can mean a problem for some teachers. It is not a problem where a teacher is on scale 1, because then he would automatically come back into scale 1. It is not the terms of employment of the Gibraltar Government alone but it is the Burnham structure of promotion and so on on which our procedures are based that would create a difficulty. I have no doubt that the moment that a teacher stood for election and if he had to resign, there would be other teachers who would be out for promotion and I have no doubt that the Teachers' Association would insist that the promotion post, I am not saying as I say that a teacher could not come back in immediately on scale 1, but I am saying that to get his previous post on scale 3 or 4, he would have to re-apply competitively for a post that would be advertised. This is a technicality, it could be a difficulty, but I thought that it would be valuable if I were to make the point. As I say, the problem insofar as the particular and the specific prospective candidates that we have had is not that alone. Major Peliza said, "What is the problem of going further and allowing the 21 days?" What is the problem, I say, of any prospective candidate from the ranks of the teaching profession standing for election today, not ten or eleven years' ago, standing for election in February, 1980, when even if they are elected to the Opposition Benches they knew that there were going to get a very substantial salary, very nearly as high as what they were getting in any case if they were only a scale 1 teacher. They knew that there was a pension scheme going now for Members of the House of Assembly which did not exist ten years' ago, what is the problem? Or did they not have sufficient confidence in their ability to be elected? Was that the real reason?

HON P J ISOLA

If the Honourable Minister will give way. The problem was that if they did not get elected they were out of a job and without means of maintaining the family and that is an unacceptable sacrifice which this House should not force anybody to make.

HON A J CANEPA

That is nonsense, they would not have been out of a job. They might have been out of the scale 3 post that they held, but not out of a job. They would have come back at scale 1 and their salary would have been more than enough for them to keep their family. They would have lost their pension rights because there was a break in service.

at the time but that is also something which is going to be put right because there is going to be a new pension scheme introduced and there will be provision for pension rights, perhaps, to be preserved.

I think the problem was basically one of lack of confidence. The prospective candidate did not have the confidence in his ability to be elected that Mr Xiberras and I had when we stood for election because we were confident that we could make the grade and that the people felt that we had a real contribution to make. That has been the problem and at the time when we stood the allowance of a Minister was £700 a year, of a Member of the Opposition it was £350 a year and we were giving up pension, gratuity, everything, all prospects of security. That was not the case in February, 1980, and I think a great deal of progress has been made in making it much more straightforward for people to have the courage to come forward and stand for election. Major Peliza spoke about the Government doing what the MOD has agreed to do and moving teachers about; he said. That is nonsense. I am appalled that a man who has been Chief Minister of Gibraltar should suggest that teachers can be moved around that easily. It is impossible, you cannot move around a specialist teacher who might be a graduate in mathematics in the Comprehensive School and because he stands for election, he is elected and becomes a member of the Opposition, say: "I am now going to move into a less sensitive area. I am going to stay here to teach four-year olds in a primary school". What nonsense to say a thing like that and that just shows the lack of care and thought that is given very often in this House before standing up and taking part in a debate. He said that there is no harm in a teacher staying on after being elected. It is impossible in the majority of cases to have a teacher spending, as we are likely to be spending next month, seven or eight days here in the House and neglect the school for seven or eight days. What matters more, that a teacher should be here making a contribution to a debate on the Estimates or to be looking after the children that he is paid to teach? Isn't that point also important? I say that there has got to be a clear-cut decision taken. Either you are a teacher and remain in the schools or you leave teaching, you stand for election and you come into the House and you pack up teaching once and for all but you cannot have both because you cannot be a good member of the House of Assembly and devote the time that politics deserve to be devoted to it, and be a good teacher and prepare the work that needs to be prepared and take the interest in the school that needs to be taken.

The two are incompatible and I know what I am talking about because I taught for ten years and I have been a member of this House for 2½ years. Yes, I will give way to the Honourable Leader of the Opposition.

HON P J ISOLA

First of all, the Minister may care to comment on the fact that the Bill will not permit that situation because the teacher would have to resign. Secondly, the Minister may care to comment on the fact that when he was a teacher he was also a politician and an active member of the Executive of his Party.

HON A J CANEPA

I am going to comment on that in a moment but that has got nothing to do with the Bill. If Major Peliza speaks of many irrelevancies we have to answer them. Let me now speak on the position of myself and Mr Xiberras. I became a member of the Executive Committee of the AACR in November 1963. I remember the date because it was the 21st Anniversary of the foundation of the Party. Between 1963 and 1969 I kept a low profile. I never took part in any public debates, I was just a member of the Executive, I attended meetings and that was the extent of my involvement in political matters. But in 1967, when I was teaching in the Grammar School and there were another two teachers who were members of the Executive Committee of the IWP and a bye-election was held which Major Peliza was a candidate against Mr Emilio Alvarez, these teachers arrived in School in cars which had election stickers and they campaigned openly on behalf of the IWP. That started to change my attitude, if they could get away with it, perhaps so could I. So after 1969, after Mr Xiberras had stood for election for the IWP and came in, shortly after 1969, when I felt the urge to come in and make a contribution, I also started to involve myself openly in political matters. I was appointed Conference Chairman by my Party and I took part in public debates and criticised the Government of the day and I got away with it but that does not mean that that was right. I only did it because other people had been allowed to get away with it and when I had been a member of the Executive Committee of a political Party for four years previous to that I had not done it and I had adopted a very low profile. That is the real reason behind the matter and I have no doubt, and I would agree, that as far as standards of behaviour are concerned, the point which Major Peliza made, that a teacher worth his salt will not bring politics into the classroom and I know that Mr Xiberras did not bring politics into the classroom as

Mr Xiberras knows that I did not, but not every teacher is worth his salt and there are teachers who are politically motivated to a different extent and have been known to use the children for political aims and that happened shortly before the February 1980 General Election. Let us get things clear because if things have got to be said openly they have to be said openly. What I think is not acceptable is that Major Peliza should assume that the majority or all teachers and nurses in any case support the IWBP or the DPBG. If his sources of information are within the Boys' Comprehensive School I can tell him that that is not necessarily the yardstick by which to judge the whole of the teaching profession. There are many teachers, quietly, in other schools elsewhere, who, when the time comes to go to the polls go along and quietly vote for the eight candidates of the AACR or for a majority of ours. Hence the point that the Honourable Mr Bossano made about the acceptability of our party to the electorate. I think, Mr Speaker, that perhaps it is just as well that the AACR in the past took the stand that it did, particularly in 1972. If it was as a result of that stand that the AACR won the 1972 General Election and not the IWBP it is just as well from what we have heard in the House today. What a reflection on the candidates who stood in 1972 to say that unless teachers or nurses could have stood then the IWBP candidature was a weak one. That is nonsense, they had a strong candidature in 1972. People who had come in to Government in 1969 in very difficult circumstances and who had acquired the experience of Government for three years. It was not a weak candidature. I do not think that the Honourable Mr Isola or his close were weak candidates. Nonsense, it was a very close General Election and I do not think that if there had been a teacher instead of Mrs Smith who was a very well-known person in Gibraltar, who had been involved very actively in affairs in Gibraltar, I do not think that it would have made any difference. The fact is that I think that a sufficient number of people in 1972 in a two-horse election had made up their minds that they wanted the AACR in. That is the real reason, not whether teachers or nurses or whether there was more or less enfranchisement, that was not the point at all.

I know that the Honourable Member when he was Chief Minister took a very strong stand on another constitutional issue as regards a certain matter which was considered should not go to Council of Ministers but should go directly to Gibraltar Council and that Ministers collectively should not have an opportunity on the defined domestic aspects of that matter to put their views forward. I shall tell him privately what I am referring to. I know that he took a stand on that constitutional issue. I know that he was vigilant to that extent and if he did on that issue, I cannot accept that on the constitutional aspects of the problem he would

not have taken a stand between 1969 and 1972 because they were too busy, and if they were too busy what about the Honourable Mr Isola? He was a backbencher between 1969 and 1972, we all know how capable he is. Whilst Leader of the Opposition he has been able to find the time to draft this Bill. What stopped the Honourable Mr Isola between 1969 and 1972 from bringing a similar or a more far-reaching Bill? He had the time, he had the ability to do so. That is a very weak excuse, Mr Speaker, and it is not conducive to raising the standard of constructive debate in the House to make weak and irrelevant excuses of that nature. The Chief Minister's Bill is the result of discussions that took place prior to the last General Election when the list that now forms the Schedule to the Bill that the Government will be bringing to the House, when that list was put across to members of the Opposition with a view to allowing those people to stand for election. That is what we have done, what was not accepted prior to the 1972 Elections we are now doing because of the problems at the time, not because the Honourable Mr Isola has now brought the Bill. In fact, the intention was to introduce pre the February 1980 Election but there was not agreement between the two sides because the DPBG members wanted to have their way because they were approaching the matter, I repeat, on an ad hominem basis and Mr Beltran would not have been able to stand for election in any case unless he resigned and the Bill that the Government is bringing to the House is also the result of what I would say, how should I describe it, yes, we could have been caused political embarrassment at the time by the decision that had to be taken by the administration, by the Executive, on the case of Mr De Veras. A matter on which Honourable Members opposite will recall we were not involved in in that we withdrew from that meeting of Gibraltar Council. To avoid a repetition of that kind of thing the Chief Minister, having been returned to office, has done the responsible thing and that is to avoid a repetition of that happening. Not only because it can be politically embarrassing to the party in office but because it is only right and proper that that should be done. Those are the immediate causes behind the Bill that the Chief Minister is bringing to the House. A Bill which Major Peliza has described as a wonderful result, he said. It could have been done prior to last February but he said that much more should be done. If that is his attitude he should not be supporting the Bill of his Honourable Leader if he thinks that much more should be done, because Mr Bossano is not going to support it because he feels exactly the same way, but of course in that case there is a party whip and the Honourable Member is indiscreet enough to tell us what his own views are and does not present the united front with his colleagues of saying: "Well, this is what we are all agreed on". Much

more should be done, he says.

HON MAJOR R J PELIZA

Mr Speaker, if the Honourable Minister will give way. It is clear, even the Leader of the Opposition has said this is a first step and I understand it and I agree entirely. I have expressed what the final aim is and I have influenced my Party as much as possible to get there but I know perfectly well that one has got to be practical and you cannot take the rather impractical stand of my Honourable Friend, Mr Bossano, where obviously he is going to get nothing.

HON A J CANEPA

Mr Speaker, the experience both in the 1976 and 1980 Elections is that there is no shortage of candidates in Gibraltar. That is a definite experience. As far as the working classes are concerned I regret that the position is that unless a member who comes from the working classes has got the benefit of higher education, usually in the UK, or a very good secondary education in Gibraltar to the extent of good GCE's and perhaps A levels, he is not apparently able to convince the electorate that he is a person of sufficient calibre to be elected a Member of the House. It is undoubtedly very much in the nature of things that the training and the experience which teachers and lawyers acquire in the sense that in one case a teacher has to perform, if you like, before a class, a much more critical audience, particularly if it is a sixth form, I may assure members opposite than we are likely to meet in any political campaign, of course he will acquire the expertise and the ability to put things over. Likewise with a lawyer, that is the fundamental issue. But that does not mean that some of us teachers do not come from the working classes. Some of us have been active trade unionists but that is to my mind a fundamental problem. It is not so much one of democracy, it is the educational background and opportunities that people have had. But I feel, to end, Mr Speaker, that democracy not only requires that as many people as possible and, incidentally, I ought to mention that Mr Albert Risso was elected to the First Legislative Council. He was an industrial worker and there was no problem there, he was an employee of the City Council, and the man had a certain charisma with the working classes and that is what took him through but today, because of other reasons, the only man who seems to have the same charisma is the Honourable Mr Bossano, so he is the only grass roots member of the working classes who is

returned to the House. Even to the extent of one of his own candidates who had been a very active trade unionist, Mr Feetham, he fell short, he did not find acceptability. But I was saying to end, Mr Speaker, that democracy does not just require that as many people as possible in a nation should be able to stand for election. I think one of the cardinal pillars of democracy must also be that public servants who serve the Government of the day should be above party politics, that they should be impartial and what is more that they should be seen to be impartial and these views, let me add, are very strongly held by the Party in office today. We hold them as dearly and sincerely and we feel that they are as important to the conduct of public affairs in Gibraltar and I accept that Honourable Members opposite may hold other views. I think they have to give us that much credit in our consistency over the years on this issue because, ultimately, it is a matter for us, I could not agree more, and because it is a matter for us for as long as we have anything to say this is the view that we are going to hold, this is the view that we are going to put across to the electorate and let the electorate decide.

HON ATTORNEY-GENERAL

Mr Speaker, I would like, if I may, to refer to some considerations that I took into account in drafting the Bill which has been referred to by the Honourable the Chief Minister yesterday. It is not always convenient, if one is proposing changes to a Bill, to amend somebody else's draft. In fact, it is generally easier to re-draft a measure oneself. That was a fact that I took into account when I decided to approach the new measure by way of a re-draft. The other fact I would just like to refer to briefly is that the existing legislation has been in force now for five years and in approaching it I did want to look at some aspects of that legislation as having been in effect for that long and to take that into account when I was re-drafting the measure. Mr Speaker, I would like to respond to the invitation of the Honourable and Gallant Major Peliza to comment briefly on the constitutional position. The provisions of the Constitution are essentially permissive and I think this is an important point and in my experience, and I think it would be the general experience of Members, what the Constitution provides is important not so much in its literal effect, in the application of the literal provisions but rather in the practice that is adopted in applying those permissive provisions. The Constitution does provide that the Legislature, and I would not like to be interpreted as commenting on a decision that you have made, Sir, but it does provide for the Legislature of Gibraltar, the

Gibraltar House of Assembly, to deal with both defined domestic matters and non-defined matters and it also contains procedural provisions when a non-defined matter is affected and I do not think that there is any question, if I may say so, of anything being ultra vires, these are different permissive provisions in the Constitution. What seems to me to be important is that in this case and having regard to questions of practice is that what Section 28 of the Constitution says, in effect, is this: "That no person who holds office under the Crown may be a candidate for election or may sit as a member of the House of Assembly unless the Gibraltar Legislature provides otherwise". I take that to be the important constitutional consideration. The section is concerned with the eligibility in law of persons to participate in politics in Gibraltar. The Gibraltar Constitution deals with it. The Constitution provides for the Gibraltar Legislature to legislate to modify that basic rule. It is an important point of emphasis, I think. Action to modify the principle must be undertaken in this Assembly. The fact that matters that are non-defined domestic matters are involved does not, in my view, affect this.

HON P J ISOLA

Mr Speaker, it has been said that I am a powerful arguer but I am afraid I have failed completely in that Honourable Members on the other side of the House and, indeed, the Honourable Mr Bossano have failed to grasp the issues in my Bill, have failed to grasp the Constitutional position. In fact, it is always a pleasure and a joy to listen to the Honourable Mr Bossano in this House but the whole of his speech was irrelevant to the issues that we can argue and discuss here under the Constitution, unfortunately. What I tried to do in my opening was to try and impress upon Members of this House that the only thing that the Constitution of Gibraltar allows us to do is to allow civil servants to go on leave for 21 days and that to try and alter that provision requires an alteration of the Constitution of Gibraltar. It is not possible for the Honourable Mr Bossano to move the amendment that he says he is going to move when the Chief Minister presents this Bill because the amendment that he proposes to move is an amendment that will allow civil servants, a class of them, to stay in office even though they are elected to the House. That would be an unconstitutional amendment to the Bill because the Constitution says that the legislature must provide: "If he undertakes to relinquish or, as the case may be, to cease to act in that office if he is elected as an elected member of the Assembly". Therefore, all the legislature can provide, without a change in our Constitution, is for a civil servant to stand for election

whilst a civil servant but to resign immediately after and that is the essential difference between the Gibraltar and the British position where civil servants or a class of them can stand and if elected can stay in their position. The Honourable Mr Bossano can make an impassioned speech just as well as I can, the only thing is that he speaks always with logic, he likes to feel that people think he speaks with logic and I speak with emotion. I am impassioned, he is logical. Possibly so, but what he says is not possible and his moving an amendment to the Bill will get him nowhere because his amendment cannot be accepted by a Government that is trying to run a Constitution. His amendment just cannot be accepted in my reading of the Gibraltar Constitution Order.

HON J BOSSANO

If the Honourable Member will give way. Does not the argument of the Honourable and Learned Member equally apply to the employment of the Crown in the UK Departments, because this was the same argument and the same case that was put prior to the 1976 amendment and prior to what the Government says it proposes to do in that it will allow civil servants employed in the UK Departments to retain their employment and is it not the case that the Constitution does not make a distinction between the civil servants who are employed by the UK Departments and the civil servants who are employed by the Gibraltar Government and was not in fact the Public Service Commission Ordinance altered a number of years ago to eliminate this distinction and to consider all those people who are employed in the public service equally civil servants whether they are employed by the UK Departments or the Gibraltar Government precisely because the Constitution does not make a distinction between them, is not that the case?

HON P J ISOLA

Mr Speaker, the Honourable Member may be right, I do not know. I have not looked at the position of UK Department employees. He may be right and actually if he is right and if there has not been the suitable alteration then I would imagine they would have to resign. I have not gone into that because as I have seen the UK employer is in a different position and in fact it is quite amenable, as I was told, to changes in the law as far as they are concerned.

HON J BOSSANO

If the Honourable Member will give way. The Constitution, according to the Honourable Member, does not permit us to make provision in our law to allow a civil servant to continue in employment, whether that civil servant is a non-industrial or an industrial, and he has made the point in relation to the proposal that I will move eventually to make this provision for industrial workers. I am saying to the Honourable Member that that provision in the Constitution would equally debar us, if it was true, from doing what we are already doing and from having done in 1976 what we did in 1976. The industrial workers in the Dockyard in 1976 were allowed to stand for election and to retain their employment notwithstanding the fact that in 1976 the Constitution considered the industrial workers in the Gibraltar Government and the industrial workers in the UK Departments equally employees of the Crown. Is this not the case?

HON ATTORNEY-GENERAL

Mr Speaker, if the Honourable Member will give way to me on a point of clarification.

Do I understand the Honourable Member to be saying that Gibraltar law cannot provide that a Crown Officer, whether he is in the employment of the Gibraltar Government or the United Kingdom Departments, Gibraltar law cannot provide that he may continue in employment and sit in the House at the same time?

HON J BOSSANO

Yes.

HON ATTORNEY GENERAL

Mr Speaker, with respect, one of the points of Section 28 (4) is to enable such a law to be passed by this House.

MR SPEAKER

Provided he resigns.

HON ATTORNEY-GENERAL

Not necessarily, Sir. There are two options, as I read this section, the first is to say you may hold office and may also keep your position in employment. You may hold office as an elected member of the House and also keep your position or it may provide for the lesser alternative of saying you may stand for election as a candidate and that one requires you to resign your position as a public officer provided that if you are elected you undertake to resign. There are two alternatives.

HON P J ISOLA

Mr Speaker, I am glad to hear that but that is not the way I read it, I am afraid. That may be so but that is not the way I read it and if that is the case then of course we will support any amendment the Honourable Member puts in but that is not the way I read the section. The first one allows the Legislature to have somebody stand for election. The second one says how he may stand as a candidate but there it says only if he undertakes to relinquish his office.

HON ATTORNEY-GENERAL

If the Honourable and Learned Member will give way again, Sir. I think they are alternatives. I should say my view is that they are alternatives. In the one case a person may be elected, as in the case of industrial grades, in the other case a person may be permitted, if this House passes a law to that effect, to stand but must give an undertaking to resign if he is elected.

HON P J ISOLA

Anyway, Mr Speaker, if that is the case I am delighted but that is not my reading of the Constitution at all. That- ever the position may be, Mr Speaker, the point that I was trying to make on this from the beginning was that the Bill was not saying that people could stand for election and stay in office, that is not what my Bill is saying, and a lot of the arguments that have been addressed to this House by Members of the Government side have been based on their reluctance to allow civil servants to stand for election and stay in office. That is not what the Bill is seeking. Mr Speaker, a lot again has been said as to the history of the question of civil servants standing or being allowed to stand for election. I cannot agree with

the impression that the Government has sought to give that in this matter they have been enlightened or progressive and that thanks to them we are now going to have this legislation. I cannot accept that, as a person who has lived the history of eligibility for election, who has lived it since 1958 when we had the Constitutional Conference and members of the IWPB, and I must ask the House to make a distinction between the IWPB and the DPBG, because there are only two members in this House who were IWPB Party members and we have four members of this House who were never members of the IWPB. With very few exceptions most people have gone through the AACR at one time or another in the history of Gibraltar at the time when we were just a one-party state and if you wanted to get on in politics you had to join the AACR, they decided whether you could carry on political activities as civil servants. When they were one party they could afford to be generous, now it is a different story. The Minister for Economic Development he is being less than fair to Mr Beltran, now that he has mentioned the name, and to the DPBG, to say that the whole purpose of this Bill is that, knowing as he does the history of eligibility and that the IWPB, the DPBG, the Independent Group in this House, ever since 1958 have said that teachers should be allowed to stand as they can contribute so much to public life. The Honourable and Learned the Chief Minister who says that they have now brought this Bill, progress and so forth, forgets that there was a gap of eight years between 1972 and 1980 which he conveniently forgets but let me tell him about those three years. During those three years unfortunately the Honourable Chief Minister of the day was much too in spirit with the Constitution, the idea that you had to get the other side to agree and he was pushed very, very strongly at that time by the civil servants, that this must be a matter of agreement between the two sides and he could never get the present Chief Minister to agree to his proposals. So much so that I used to advise him: "Why do you not just put a Bill in?" I used to push him to put a Bill through by Government majority, but he did not. He thought this was a matter that affected Gibraltar as a whole and there should be consensus and we have been waiting for consensus for eight or eleven years so that in the end just before the 1980 Election we came out as a party in our party manifesto and we said that we considered it shameful that in a democracy such as Gibraltar, where a large majority of the population worked for the UK Departments or the Gibraltar Government that there should not be a more enlightened approach to the classes of people who may stand for election and I, in the opening of the House, said we were going to put in a Bill, in February 1980, to bring matters to a head and it has been brought to a head and to a certain extent, Mr Speaker, I

know it is only breadcrumbs. as my Honourable Friend Mr Bossano says, but to a certain extent it has achieved something. There is now going to be a Bill put before the House which will improve the situation. It is not enough from our point of view and certainly not enough from the point of view of the Honourable Mr Bossano though, again, I cannot accept the logic of his arguments when he says he will vote against it because it does not go far enough. He knows and he must know because he was in the IWPB, he must know the problems facing this, he must know that what he wants is a pipedream, that everybody should be able to stand for election and everybody stay in office, it is a pipedream. He must know he will never succeed in getting that through the way he would like it. If the Honourable and Learned the Attorney-General is right in what he says he will certainly succeed in industrial employees but that was the position before 1974, so he will succeed in that, there is no question about it, I am surprised he was not able to succeed in 1975.

Mr Speaker, I have been longer in the game than he has and this is the basic trouble and I know that it is better to get something and get a go-ahead and get something else until you get into power and then you change it all. Because the first Bill that will come before the House if this Party gets into power, Mr Speaker, will be to allow teachers to stand for election.

HON DR R G VALARINO

Who is going to be the Chief Minister?

HON P J ISOLA

If I am in politics, if I am there then, it will be myself if I am leader of the party.

So that at least, Mr Speaker, we have at last got a new Bill coming before the House. The Bill that has been presented by the Attorney-General, what he has got would have been put into my Bill. In other words, it could be amended to put these things in but I know the Chief Minister likes to be able to say that it was his Bill, fair enough, I do not mind. In fact I prefer it because we will have two bites at the cherry. When his Bill comes in we will be able to move amendments that we think should be made to the Bill.

HON CHIEF MINISTER

If the Honourable Member will give way. I think it is less than fair to the Attorney-General's very honest explanation of why he preferred to draft something afresh than to pass that unnecessary remark about my preferring it to be my Bill. He has explained why he thought in the drafting stage it was better to have a new Bill than to amend somebody else's Bill because then you know exactly the way you are doing it. I could have presented amendments instead of that so this is a sheer prejudicial and unnecessary statement, perhaps, in bitterness at the failure of his Bill.

HON P J ISOLA

No, Mr Speaker, there is nothing about bitterness at all. I am saying that it would be quite simple to put the amendments that are required to my Bill to effect Government policy but I am quite happy that my Bill should be defeated if that is the way the Government want to do it. It does not worry me, it does not concern me in the least but at least we are going to get a Bill, although I was a bit concerned when I heard the Minister for Public Works say that they might refer to it "as a possible Bill of our own". I was just wondering whether the Bill might just be shown to us and then never be put on the Agenda of the House. But I am sure that is not the intention, that would be too much.

HON CHIEF MINISTER

Too much of what? I have suggested it to be published and that is that.

HON P J ISOLA

I am sorry then that the Minister for Public Works referred to it as a possible Bill of our own.

HON M K FEATHERSTONE

If the Honourable Member will give way. Since, obviously, the Honourable Mr Isola's Bill is going to be defeated, this Bill of ours, we may think that some little extras might be added to it and that would make a little change in it.

HON CHIEF MINISTER

I said that myself.

HON P J ISOLA

So that the Bill when it is published may be slightly different to this?

HON A J CANEPA

It may be even better.

HON P J ISOLA

Good. I am grateful for that explanation, Mr Speaker. I have already dealt with the argument of the Minister for Economic Development that this Bill had been put forward on an ad hominem basis because it must be quite clear

HON A J CANEPA

If the Honourable Member will give way. I told him that I do not like him twisting my words and I have got a note of what I said. I did not say the Bill, I said the whole campaign of the IWBP and then the DPB over the years has been on an ad hominem basis. I did not say the Bill, I said the campaign.

HON P J ISOLA

I thought I heard that in connection with his remarks.

MR SPEAKER

In fairness to the Leader of the Opposition, I think you did go on to say that in 1976 it was related to a particular candidate and in 1980 to another.

HON A J CANEPA

I said that the campaign in 1969 centred around Mr Xiberras and then in 1980 around Mr Beltran. I made no reference to the Bill itself in that context.

HON P J ISOLA

The question of teachers, this seems to be the issue with which the Government is obsessed. They do not want teachers to stand for election but in a reassuring sort of way they say but if they resign then they, possibly, will be able to re-employ them but they must take the risk. This is the argument the Government makes. I cannot understand the logic of that argument. If the Government now accepts, as they now accept by the publication of this Bill, that there are a number of civil servants who are going to be able to stand for election whilst in the civil service, they give no good reason why teachers should not be able to stand except to say that the DEBG have a candidate and therefore they are not going to allow it. The only reason I can think of is that the Government do not want the DEBG to produce a teacher as a candidate. It boils down to that, as simply as that. As the Chief Minister said, and I think it was the only time that he got really upset, when he said he was not going to have a teacher somewhere trying to bring the Government down. I do not know, Mr Speaker, how a teacher can bring the Government down unless we have a Colonel Tejero around.

HON CHIEF MINISTER

I think that is a twist of words. I never said anything like that.

HON P J ISOLA

The record will show.

HON CHIEF MINISTER

The record will show but it is not unlike the Honourable Leader of the Opposition to mis-represent what people on this side of the House say over and over again.

HON P J ISOLA

I remember quite distinctly the Chief Minister talking very strongly about a teacher and he pointed that way, and it was in the direction of the Comprehensive School.

HON CHIEF MINISTER

I know what I said. What I said was that it is very different to talk about teachers being in politics in Newcastle-on-Tyne, for example, and sitting in Westminster, than have teachers in Gibraltar who hate the guts of you trying to bring you down. That is what I said.

HON P J ISOLA

Because one teacher is trying to get him down, Mr Speaker, we cannot allow them to stand for election but it does not matter in the case of other people because as far as the Chief Minister knows there is nobody in that sector who is trying to bring him down. If he finds out that somebody in that sector is trying to bring him down then he will scratch him from the Bill, I suppose. There is no logic, Mr Speaker, in the argument of the Chief Minister especially when he says that they can resign and in all probability they will be taken back. It is the obsession of the Chief Minister and it is the obsession of the Minister for Economic Development who has decided that because he took the plunge every teacher in Government service must now take a similar plunge. I would like to examine the plunge he took and the plunge that my Honourable Friend Mr Xiberras took. I would like to examine that for a few minutes. They were well known in politics when they took the plunge because for one reason or another they were able to indulge in political activities. The Minister for Economic Development was actually able to chair a Conference of the GLP/AACR whilst a civil servant. So much for the principle that he advocates that public servants should be impartial and be seen to be impartial. He chaired a GLP/AACR Conference before the 1972 Elections and whilst he was a teacher. And Mr Xiberras engaged, as he said, in supporting my Honourable Friend in a bye-election in 1967 or 1968. These gentlemen, when they took the plunge, were known as prominent politicians. Mr Xiberras as a prominent INWP philosopher and Mr Canepa as a well-known member who had served on his Party Executive Committee for ten years almost. That is the plunge they took but a teacher now cannot be in an Executive Committee, in fact, I thought my Honourable Friend Mr Bossano . . .

HON A J CANEPA

If the Honourable Member will give way.

So now, after all, the sacrifice that Honourable Members opposite have been saying that Mr Xiberras made, he did not

make it. It is now no longer a sacrifice. It has been devalued by a simple statement of the Honourable Leader of the Opposition.

HON P J ISOLA

Mr Speaker, I said let us look at the nature of the plunge they took. The sacrifice was there and the Honourable Mr Xiberras has paid very heavily for the sacrifice he made because he was for most of his public life in Gibraltar earning less than an unskilled labourer's wage. Now he would have been in a different position. His sacrifice was very great as, indeed, was the sacrifice of the Honourable Member but it was a much more limited one because he went straight into ministerial office. Mr Xiberras sat a number of years in the Opposition benches with very little pay and a very menial job. I do not know whether the Minister for Economic Development would have done that but the sacrifice was there, I accept that.

HON A J CANEPA

No, I would not have done that but instead what happened was that my wife carried on teaching and if I am in public life today it is thanks to my wife.

HON P J ISOLA

Well, Mr Speaker, there is another sacrifice. But I was saying before I was interrupted by the Honourable Member that the Honourable Mr Bossano was very unwise to say that there was a member of his Executive Committee actually sitting in this House taking the tapes. I understood that that is not allowed at all, it is against the rules, but in those days from 1952 to 1957 it was not against the rules, it was alright. So when it comes to the plunge, Mr Speaker, and this is what I would like the Honourable Minister to appreciate, that the plunge that he took and the plunge that Mr Xiberras took is very different to the sort of plunge a civil servant today has to take because as we all know one of the members of the party of Mr Bossano, Mr Gomez, who writes in The People, his attention has been drawn that he cannot write letters.

HON A J CANEPA

My wife's attention was drawn that she should never have published the letter she wrote to His Holiness the Pope.

HON P J ISOLA

The Honourable Member has anticipated my words. A letter written by the Honourable Member's wife which somehow came into the hands of GBC and the Gibraltar Chronicle, and she has been rapped on the knuckles for publishing it. So you see, Mr Speaker, the civil service is much more on the qui vive today, it is out to stop every single civil servant doing anything in politics but it did not do that when the Honourable Member and my Honourable Friend Mr Xiberras took the plunge so the sort of risk that the Chief Minister is asking a teacher to take today, the sort of plunge the Minister for Economic Development is asking a teacher to take today is a very different sort of plunge that he took and Mr Xiberras took because they were well-known party political men whilst they were civil servants in Gibraltar. That is the difference that the Honourable Member on the other side do not understand or do not wish to understand. Today a teacher is brought out in an election as a candidate and the only people who know he has a political interest are possibly his fellow teachers at school or, possibly, some of the children. All the children in the Grammar School knew Mr Canepa was ACP and Mr Xiberras was LBP. The general public would not know and that is a fact which the Government must accept. And they tell us that they will not give them 21 days leave but they do give maternity leave, and they say the job might not be there. For 21 days, in the public interest, teachers who are prepared to give up their profession once elected to serve the public of Gibraltar, the Government cannot wait 21 days before shoving somebody into their jobs? What about the system of supply teachers? You see, Mr Speaker, what the Government wants to do with teachers is to put a penalty on them because they know that they are a force of candidates for public office and they want to put a penalty on them and I know now why they want to put it, they want to put it because there is a teacher that they are convinced is waiting for this to stand with the DPBG and might constitute a threat at the next election.

HON CHIEF MINISTER

For exactly the same reason that we have been doing it since 1968 because we think that one thing is incompatible with the other.

HON P J ISOLA

But what is incompatible, Mr Speaker? Twentyone days unpaid leave is incompatible? Because that is all that

the Bill is doing, 21 days unpaid leave. But it was very compatible at the time that Mr Canepa and Mr Xiberras were in public offices. But today it is absolutely taboo. I could understand the arguments of the Government if we were today discussing a Bill under which a teacher could be a teacher and stay in office but that is not what we are discussing and even if that was the case the arguments used against that by the Minister for Economic Development do not hold ground when he says he must be in the school or he must be here. It would be quite easy for the House to meet 5 o'clock in the afternoon to allow that. I know the Government does not agree with it but there was that possibility but, as I say, my Bill is not seeking to do that, my Bill is merely seeking to draw on a source of very eligible people for this House and ask the Government to wait 21 days. A woman goes on maternity leave who is a teacher or, indeed, in the civil service, I think there must be many cases of it, where they go on maternity leave two months and then they come back to their job and their job is waiting and there must be a number of teachers too, of women who take maternity leave, go on leave, come back, and then resign from the service because with the baby they find that they cannot go on working. I think there must be cases of that, in fact, I know there are. It is very proper that the Government should give two months maternity leave but it will not give 21 days unpaid leave to teachers so that they can stand for election. They must take the risk, resign and of course if the teacher belongs to the wrong political party perhaps they may not get back the job that they left 21 days before, if they get elected.

HON A J CANEPA

Would the Honourable Member withdraw those remarks, please? The imputation is that it is politicians who decide who get jobs and who do not. I think he has been in Government sufficiently long as Minister for Education to know that that is not the case and I would ask him to withdraw, otherwise I have no business to be in this House when he is speaking because the imputation is that we do that.

HON P J ISOLA

Mr Speaker, the Minister always misunderstands me. I am saying it is possible that his job will be gone. He has assumed that it is from political direction and I am not ..

HON A J CANEPA

The Member said that if the teacher belonged to the wrong political party he may not get his job back.

HON P J ISOLA

If he belongs to the wrong political party in the eyes of certain people, not necessarily another political party.

HON A J CANEPA

Would he please make clear, Mr Speaker, the fact that politicians, Ministers, are not involved in appointments of civil servants and who gets or who does not get a job. If he does not make quite clear that that is not what he meant I will not listen to him in this House.

HON P J ISOLA

Mr Speaker, I would be very sorry if he does not but of course I accept that Ministers do not appoint people to the public service.

MR SPEAKER

Mr Isola, it is a well known fact and well known to the Leader of the Opposition that all appointments in the civil service are made through the Public Service Commission. Any imputation that has been made must be made as against the Public Service Commission and no one else.

HON P J ISOLA

Mr Speaker, if it would make the Minister happier I certainly did not intend the imputation that Ministers have a hand in appointments. I know the appointments are done through the Public Service Commission and I know that the Public Service Commission is advised by civil servants on reports on the persons in question. I know, too, that it is a possibility that a person who has stood for election and might say things that the civil servant does not like in the course of that election, it is possible that a civil servant might advise the Public Service Commission that he is not the sort of person they want back.

MR SPEAKER

The Public Service Commission is not advised by civil servants. The Public Service Commission receives certain confidential reports and nothing else.

HON P J ISOLA

Precisely, Mr Speaker, of course, and I accept that. The Public Service Commission acts as a Public Service Commission, but the Public Service Commission has information put in front of it and that information comes from civil servants but I do not want to go on labouring this point.

MR SPEAKER

I am sure that you withdraw any imputation that you may have made as against either the Ministers or the Public Service Commission.

HON P J ISOLA

Yes, of course. I never made one, it was my friend who jumped up and imagined it. Mr Speaker, I am sorry that the Bill cannot be acceptable to the Government and I am sorry they cannot accept the principles in the Bill and I think again, before I close, I should say just one bit because the Government has accepted basically everything in the Bill except teachers and nurses, although it accepts certain kinds of nurses, enrolled nurses. We did not ask for Nursing Sisters or Charge Nurses, just nurses. They do not accept that. It is a minor one, again, there is no logic in the Government argument where teachers and nurses are concerned because they are people who are not involved in the administration of the Government of Gibraltar and this Bill is only seeking 21 days unpaid leave, that is all it is doing, but I think the issue now is quite clear. The issue as far as this Bill is concerned, and when the new Bill comes is concerned, the issue is whether teachers are going to be allowed to stand for election or not. Whether the Government insist that they want their pound of flesh from teachers as opposed to other members of the Civil Service whom they are allowing to stand, this is the issue. I hope that the teachers themselves will regard the Government attitude to them as a reflection on their standing in the public service, because that is what it is

HON CHIEF MINISTER

That is what we are trying to avoid and this is, if I may say so, a very malicious statement and an attempt to discredit the Government when the reasons for exempting the teachers are precisely that they can keep to the very important task that they have in teaching and any suggestion or any propaganda that the Honourable Leader of the Opposition wishes to make, he can make outside this House and he is free to do so, but to use this House for that purpose is an abuse of the procedure of this House.

HON P J ISOLA

Mr Speaker, I cannot agree with what the Chief Minister has said. I do not think he knows what an abuse of the procedure of the House is. I can tell the Chief Minister this, that the Government attitude is a reflection on the teaching profession. It is not that they can go on doing what they want to do, Sir, they go on doing what the Government says they must do, that is the position of the Government, because the Bill is only seeking 21 days unpaid leave for a teacher whom the Government say will, anyway, probably get his job back. If he will, why cannot they make his position legal and secure? It is a reflection on the teaching profession that the Government does not trust them to keep above politics but it was alright with certain people who were in the teaching profession and I personally hope that the teachers who can provide as they have done in this House, Mr Xiberras and Mr Canepa, who can be of such great value to the people of Gibraltar in this House, I hope they will make representations to the Government. I hope they will go to the Minister

MR SPEAKER

We must not bring in new things when one is exercising his right of reply.

HON P J ISOLA

No, I am not doing that. Mr Speaker, the issue, as far as this Bill is concerned, has now boiled down to that issue. The Government has come out in their true colours that the reason, for example, if this Bill was ready and they intended to put it forward after the election as the Minister for Economic Development says, I suspect that the reason they did not bring it forward was because they knew

they would be faced with this issue and therefore let us leave them all out. That is what happened, because the Bill has come before the House the Government presents its alternative Bill.

HON CHIEF MINISTER

Because we wanted to do it by consensus and the Honourable Member opposite would not accept it. It was offered to him by consensus in order to accelerate the matter just before the election, in order to broaden it, and he would not accept it so we are consistent.

HON P J ISOLA

Mr Speaker, when the Chief Minister speaks of consensus he means consensus, agreeing to what the Government want. The Government know perfectly well that there can be no consensus if they cannot agree to teachers being able to stand. So that might as well have brought the Bill but they did not because I suspect, as I said, they were not terribly comfortable about the idea of this issue coming out publicly and the public knowing that the Government are determined to keep teachers out of politics because they are unwilling even to give them 21 days unpaid leave, less than the certificated leave, the uncertificated leave and the maternity leave that they give to all their civil servants. They are not prepared to do that and there can only be one answer to that and that is they do not want teachers in politics, Mr Speaker, it does not suit their Party image.

Mr Speaker, I commend the Bill to the House.

MR SPEAKER

Before I put the question to the House I would like to clarify one matter because it is a question of the interpretation of the Constitution I am sure it is going to come up when the Bill is presented again and the Honourable Attorney-General has given an interpretation as to the right of people to stand for election and given an interpretation which I myself cannot agree with. I am saying this in the hope that the matter will be looked into and I may be completely and utterly wrong but we must clarify it for future reference. Is it not the position that clause 28 (1)(d) of the Constitution disqualifies all persons holding public office or acting in a public office? Is it

not then the position that clause 28 (4)(a) bring back into the net those public servants who hold offices which has been specified by the Legislature and is not then the position that clause 28 (1)(d) requires those servants who have been so specified by the Legislature to resign if they are elected? Your interpretation is that Clause 28 (4)(a) brings back into the net, if the Legislature so wishes, part of the civil servants that have been disqualified by 28 (1)(d).

HON ATTORNEY-GENERAL

Mr Speaker, I understand that the general point of subsection (4) of Section 28 is to bring back either wholly or partially into the net people who were previously disqualified by the effect of 28 (1)(d), in other words, it is a modification of 28 (1)(d).

MR SPEAKER

You read (a) and (b) separately but does not (b) say: "a person may stand as a candidate for election as such notwithstanding that he holds or is acting in any public office specified in the manner aforesaid". In other words as specified in 4 (a) by the Legislature.

I say this so that we might study the matter further for future reference.

HON ATTORNEY-GENERAL

I understand also that the present law in the 1976 Ordinance makes the distinction which I take to be the case but I will look at it.

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

The Honourable A J Haynes
The Honourable P J Isola
The Honourable A T Loddó
The Honourable Major R J Feliza
The Honourable G T Restano
The Honourable W T Scott

The following Honourable Members voted against:

The Honourable I Abecasis
The Honourable J Bossano
The Honourable A J Canepa
The Honourable Major F J Dellipiani
The Honourable M K Featherstone
The Honourable Sir Joshua Hassan
The Honourable J B Perez
The Honourable Dr R G Valarino
The Honourable H J Zammit
The Honourable D Hull
The Honourable R J Wallace

The motion was accordingly defeated and the Bill was not read a second time.

HON CHIEF MINISTER

Sir I move that the meeting be adjourned to Wednesday 22 April, 1981, at 10.30 a.m. by which time, of course, Honourable Members will have had the required time for the Estimates and we will start the Budget Session.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Wednesday the 22nd April, 1981, at 10.30 a.m.

The Adjournment of the House to Wednesday the 22nd April, 1981, at 10.30 a.m. was taken at 1.05 p.m. on Friday the 13th March, 1981.