

HOUSE OF ASSEMBLY

HANSARD
OF MEETING

HELD ON 3 JULY 1973

L 9/5 (7)

7 May 1974

No.....

The Clerk to the
House of Assembly
Gibraltar

HOUSE OF ASSEMBLY MEETING: 3 July 1973

May I refer to your Circular letter of the 29 April, 1974.

I have the following amendments to make -

- Page 7 line 11 Delete "put - into a traffic Ordinance" and substitute "put it into the Traffic Ordinance".
- Page 8 line 1 Delete "big" and substitute "fixed".
- Page 9 line 31 Delete "impossible" and substitute "imposable".
- Page 26 Delete lines 23-25 and substitute "Court, he has the expense! Of course he is not taken to Court until the Police know if he was the driver. They will serve him, as they can at the".
- Page 27 First paragraph line 8 - Delete "is, any or" and substitute "is any, and" - also add a comma at the end of the line.
- Page 27 Last paragraph last line - Delete "it does not" and substitute "there is not".
- Page 29 line 2 Delete "motion" and substitute "motive".
- Pages 30/31 Delete the whole paragraph commencing at the bottom of page 30 and the first 7 lines of the paragraph on page 31 and substitute "Mr Speaker, Sir, I have the honour to move that the Bill be now read a second time. As members of this Honourable House will be aware the Application of English Law Ordinance states that there shall be in force in Gibraltar certain United Kingdom statutes and it has long been assumed that when a listed statute ceased to be in force in England, nevertheless it would continue in force in Gibraltar until such time as we chose to say that it no longer applied. Indeed two Acts which have long been extinct in England, the Conveyancing Act of 1881 and the Conveyancing Act of 1882 are the basis, by our own choice, of conveyancing in Gibraltar. Now it has come to light that it may be, but this by no means certain, it may be that when a statute ceases to be in force in England it may cease to be in force in Gibraltar. That we do not want. What we want to do is, if necessary, by our own Ordinance repeal any applied Statute that is not needed here. But to avoid any doubt at all we are now, by this particular Bill, making it quite clear, and thus avoiding any arguments in the Court in future, that the repeal of an".
- Page 37 Top of the page - After "House in Committee" ^{add} and "Assurance Companies (Amendment) Bill, 1973".
- Page 45 (My paragraph) (a) line 2 - add "the" at the end

NO.....


2.

- (b) Delete lines 7 and 8 and substitute "which might accord with the Bank Holiday in one year but in other years the public holiday would not accord with the Bank Holiday. Now a change at this".
- (c) Line 15 - delete "last Monday in August".



J K Havers
Attorney-General

Record
Office copy amended as
above on 10/5/74

 c.w.A.

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Seventh Meeting of the First Session of the Second House of Assembly held in the House of Assembly Chamber on Tuesday the 3rd July 1973 at 10.30 a.m.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES.

The Minutes of the Meeting held on the 15th May 1973 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 (Variation of Dates) Order 1973.
- (2) The Elections Order 1973.
- (3) The Elections (Registration)(Amendment) Rules 1973.

Ordered to lie.

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

The Group Practice Medical Scheme Regulations 1973.

Ordered to lie.

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

- (1) The Conditions of Employment (Retail Distributive Trade)(Amendment) Order 1973.
- (2) The Employment Injuries Insurance (Benefit)(Amendment) Regulations 1973.
- (3) The Employment Injuries Insurance (Claims and Payments)(Amendment) Regulations 1973.
- (4) The Employment Injuries Insurance (Collection of Contributions)(Amendment) Regulations 1973.
- (5) The Social Insurance (Benefit) (Amendment) Regulations 1973.
- (6) The Social Insurance (Claims and Payments)(Amendment) Regulations 1973.
- (7) The Social Insurance (Contributions)(Amendment) Regulations 1973.
- (8) The Social Insurance (Voluntary Contributors)(Amendment) Regulations 1973.

Ordered to lie.

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

The Supreme Court (Amendment) Rules 1973.

Ordered to lie.

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

The Imports and Exports (Control)(Amendment)(No. 2) Regulations 1973.

Ordered to lie.

ANSWERS TO QUESTIONS

STATEMENT BY THE CHIEF MINISTER

At the meeting of this House on 5 October 1972 the Hon the Minister for Labour and Social Security recalled that at the time of both the 1967 and the 1970 Marsh Awards the pensions of retired Government Officers were adjusted in the light of the increases which Government non-industrialists had been awarded. He then went on to say, and I quote:-

"In the same manner, when the current biennial review is concluded for non-industrialists, Government will look at the question of pensions for retired Government Officers and adjust them accordingly."

Sir, the biennial review for non-industrialists in the Government service has not yet been concluded. Moreover, pensions are not a defined domestic matter and hence it is necessary to follow certain procedural requirements before any legislation can be brought to the House.

All this leads to considerable delays before the pensions of retired officers are adjusted and it is fully appreciated that this could give rise to cases of hardship.

The Government are therefore taking steps to divorce the adjustment of pensions of retired officers from the revisions of salaries of serving officers by adopting the practice now being followed in the UK under which pensions are automatically reviewed annually with a view to having their purchasing power restored.

The necessary legislation will now be drafted and submitted for the approval of the Secretary of State as early as possible. The Government should therefore be in a position to bring the legislation to the House at their next meeting when the House will be invited to agree that the law should be made retrospective to the 1st July 1973.

I think Sir, that the House will welcome these measures which should avoid the delays which have been experienced hitherto in dealing with the pensions of retired officers.

STATEMENT BY THE CHIEF MINISTER

At the meeting of this House held on the 22 May 1973 a motion was passed unanimously which called upon the Government to urge the United Kingdom Departments to make an additional payment of 50p a week to all their workers in Gibraltar.

The text of that motion was formally communicated by me to His Excellency the Governor with a request that he should formally make known to the United Kingdom Departments the view of Ministers, and of the House of Assembly as a whole, that urgent and favourable consideration should be given to this additional payment.

As the House is aware, we had tried to persuade the United Kingdom Departments on this matter, before it was brought to this House, at the time when we ourselves were considering the payment of these 50p to our own employees, I regret that we were not successful and that the representations made subsequently, following the passing of the resolution at our last meeting, also proved unsuccessful. It is unfortunate that the United Kingdom Departments, who in the past have been prepared to follow good employer practice, when their conditions of employment have been less favourable than those prevailing in Gibraltar, have not followed this practice on this occasion since not only the Government as an employer but also employers in the private sector have granted this additional payment. At the time I made my statement announcing the Government's decision to pay the 50p from the 1 April I said:-

"I understand, however, that the United Kingdom Departments will be open to receive further representations from the Trade Union Side in JIC when they are aware of the April IRP figure and the likely trend in prices."

The Union has now been informed that the United Kingdom Departments are fully prepared to discuss with the Union the significance of the general index as at 1 July 1973 when this is available and to consider back-dating the 50p addition to 1 April if this should be justified by an exceptional rise in the general cost of living since April. The door has therefore not been closed and there is accordingly still a possibility that this matter may be satisfactorily settled.

We parted company in JIC with the other official employers on this limited and isolated issue at the end of March and made this payment from the 1 April because we were convinced that it was a fair and proper decision to take in all the circumstances.

I should like once more to express the hope that the United Kingdom Departments will be able to see their way of agreeing to this payment. As announced on Saturday, following an approach by the Resident Officer of the Union, members from both sides of this House met with members of the TGWU Executive to discuss this matter and the wider economic and social repercussions and implications. This was a useful meeting and it was agreed that further meetings would be held. If progress is made and the matters to be discussed cover other issues of general interest, then the consultations will have to be broadened by bringing in other representative bodies. Thank you Mr Speaker.

MR SPEAKER:

It has been the practice for some years now when important statements are made I do allow the Leader of the Opposition to express his views on the statement but I must make it very clear that no debate is allowed on the statement. But of course the Leader of the Opposition is entitled to reply and express his views on the statement.

HON M XIBERRAS:

Thank you Sir. Sir, I think there is no need for me to stress how strongly the Opposition has felt on this issue of the 50p since it was the Opposition who brought this matter to this House and as a result secured the support of the Government not to let the matter rest where it was. That there should be unanimity on this question in the House is something which the Opposition very much welcome and we all knew that by taking this step we were in a sense going out in the limb since the matter was not one which came directly within the competence of this House to decide. The fact that whatever hopeful signs can be now seen, the fact that the House is at loggerheads with the United Kingdom Departments can scarcely be welcomed by any member of this House. Nor do I think any member of this House has considered the matter in such a rash manner as to at this stage go back on what has been said by members on either side. Therefore, Sir, the issue as far as the House is concerned, remains unresolved and it is a situation which is a matter of the gravest concern for this House and for the community generally. This side of the House sees a definite political implication in the disagreement that has taken place in the JIC and this view has been made clear to both the Chief Minister and his colleagues and to the Union at a meeting to which the Hon and Learned the Chief Minister referred to just now. It is a matter for great concern, bearing in mind the importance of the United Kingdom Departments for the economy of Gibraltar, that on a small issue of 50p they should not be prepared to adopt the good employer practice which the Hon and Learned the Chief Minister has referred to or as this side of the House sees it, should be willing to support and sustain Gibraltar to this limited degree. I must say, Sir, that insofar as the political implications as we see it of this issue are concerned, the Opposition shares many of the views expressed publicly by the Unions in the recent communique and explained to the three-sided meeting that took place last Friday. We are not prepared to take issue with other statements that have been made by the Union either to support or to oppose them, but we will say this, that any disagreement which takes place in JIC in relation to wages on matters which fundamentally affect not just one employer but all employers in Gibraltar such as the cost of living increase, is a matter which the Opposition will see a political implication in and a matter which by its very nature we feel if necessary should be taken to the highest authority including the Secretary of State. I have suggested to the Chief Minister in the presence of the Union various courses of action which the Opposition is prepared to support. We appreciate that the Government's position is such that they would not like to risk anything unnecessarily, but the Hon and Learned Chief Minister and his Government and the Transport and General Workers Unions can be sure that the Opposition and the Integration with Britain Party will give full support to any of the proposals which were discussed in the meeting last Friday and that we would as I say be prepared to take the matter as having political implications to

the Secretary of State. We would like to have unanimity, not only in the substance but also in the presentation of this issue. I have said that it is something arising from the cost of living, increases which are consequent upon our entry into the Common Market and in a sense as to our being British Subjects. Now, it is quite clear that this issue is going to come before Gibraltar once again and we do sincerely trust that the United Kingdom Departments and Her Majesty's Government are not going to be at loggerheads with what the Government of Gibraltar feels is necessary to maintain the standard of living of the people of Gibraltar and we do hope that this disagreement is not going to arise again. However, hoping as the Chief Minister has done, is in our view not right enough. We must prepare against any likelihood that there should be a repetition of such a disagreement, and because of this I place great store by the possibility that in the first instance Government and Opposition and the Transport and General Workers Union through which this issue has come to the fore will be able to agree on a basis or a base from which any future disagreement of this kind within JIC can be resisted effectively by Gibraltar and, secondly, on the putting forward the setting of objectives which are shared, objectives concerning social and economic standards of the people of Gibraltar which are shared in the first instance by the Government of the day and the Opposition of the day and the Transport and General Workers Union. I will end up by saying, Sir, that the issue of the cost of living and of the standard of living of the people of Gibraltar is one from which this House can not shy away. It is something that must be kept very much in the forefront by both Government and Opposition and all representative bodies and therefore, Sir, I would rather discuss these matters coolly and calmly in the meetings that we have been having and I am sure that with good faith on the part of everybody concerned, we can have a genuine agreement about this issue which will be effective in the defence of the legitimate interest of the people of Gibraltar as British subjects and members of the Common Market.

The House recessed.

The House resumed.

BILLS

FIRST AND SECOND READINGS

(1) The Traffic (Amendment) Ordinance 1973.

A Bill for an Ordinance to amend the Traffic Ordinance (Cap.154).

The Hon the Attorney General moved that the Bill be read a first time.

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

The Bill was read a first time.

SECOND READING

MON ATTORNEY GENERAL:

Mr Speaker Sir, I have the honour to move that this Bill be now read a second time. If I might deal briefly with clause 2 of the Bill. As members will see there is one new definition and one amended definition. Now, throughout the Ordinance there are numerous references to the term "road". At the moment "road" is defined in section 2 and it starts off as follows: "Road" means any highway and any other road to which the public has access etc etc". Now, it is all very well saying "road" means any highway. But there is no definition in the Ordinance of highway and so it doesn't help us very much, it doesn't help of course when it comes to construe and decide what is a road. And so I have taken the definition of highway which at the moment is included in the Motor Vehicles (Third Party) Insurance Ordinance and put it into the Traffic Ordinance. This is purely a measure to give the ordinary man in the street the opportunity of knowing what we mean by a road. The second and the amending definition is that we have increased the maximum weight of motor cycles. At the moment we can't have a motor cycle above 5 cwt we are now increasing this to 8 cwt. My technical advisers tell me that with the march of progress bigger and heavier motor cycles are being built and there is no valid reason why we shouldn't allow these heavier motor cycles into Gibraltar. For that reason we have increased the maximum permissible weight. May I now turn to what is obviously the main and important part of the Ordinance - clause 3 which puts in a fairly new section 96 and which I think can briefly be described as bringing the parking ticket to Gibraltar. Now, if Members would bear with me, I would like to go in a fairly detailed way over the law on this matter. As members will be aware there is a general provision in our criminal law - not just the traffic law or criminal law - whereby when a summons alleging an offence is issued it can either be sent by registered post to the person who is alleged to have committed the offence or it can be served upon him personally. In due course the case comes to court and either the person charged pleads guilty or there is a hearing and he is either acquitted or found guilty and sentence passed. Sometimes the sentence may be imprisonment and sometimes it may be a fine but the point that must be stressed is that at the moment - and this will be the case in the future - no penalty can be imposed except by a court. Now, in 1964 following United Kingdom practice we introduced a new procedure in Gibraltar with effect from the 1st February 1965 and that procedure was that where certain traffic offences were committed connected only with parking, an inspector could cause to be served on an alleged offender or send him through the post a notice giving him an opportunity, if he chose to take it, to pay a fixed penalty. The maximum fixed penalty being £1, or half the penalty which a court could impose if it convicted. In fact I don't think there are any offences which the penalty is less than £2 and the maximum is the £1 which can be charged for a parking offence. Once the notice is sent, either by registered post or served, the alleged offender has a choice. He can either say "Right, I appreciate what I've done, I have committed an offence. To avoid the necessity of going to court I will pay the penalty." He pays £1 to Court and there are no proceedings and no conviction is recorded against him. If however he decides "Well I can't remember whether I was committing an offence which is alleged" or he says "Damm it I wasn't committing an offence. I remember perfectly well." Then the case goes to Court and it is adjudicated upon there. The ball is entirely within the alleged

offender's court. Because he has got a chance to pay a ^{fixed} big penalty he is in no worse position if he doesn't do so. It is a very simple, reasonable measure which takes away a lot or a considerable amount of the work of the court of the petty cases. It enables the man to admit and pay beforehand and so avoid going to court and being convicted. Now, as members will appreciate from what I've said, we either had to send the notice giving the chance to pay a fixed penalty by registered post or serve it upon the offender personally. In practice this entails a lot of work for the police. They find a vehicle, wrongly parked and nobody there to indicate who is the owner. In many cases the police officer will wait around hoping that the owner will come back so that he can inform him that he has committed an offence and get his name, but very often an owner seeing a policeman hovering around his vehicle goes back and has another couple of pints of beer in the hope that the policeman will go away. Even then that is not the end of the matter. The police can't find the owner so they go back and look up their records. They discover from the records who is the registered owner and they decide to serve on him through the post, a notice giving him a chance to pay a fixed penalty. It could well be a week before the owner gets the notice. Now, what is the case then if the owner wasn't in fact driving the vehicle on that occasion? He has committed no offence. There is no reason why he should pay the fixed penalty and so he sits tight. Once the notice is served the law says he has 14 days within which to pay if he chooses and only thereafter can the police issue a summons and prosecute. In this case the police will find out who the owner is, issue the notice and for 14 days nothing happens. Then, of course, the police have got to find whether the owner was driving on that particular occasion because it is not an offence to be the owner of a vehicle which is parked wrongfully; it is the actual person who is parking. Now, in our Traffic Ordinance as in every other Traffic Ordinance of which I know, there is provision allowing the police to call on the registered owner of a vehicle to give them information as to who was driving on a particular occasion. I think, if members look at this, they will see that it is no less than common sense. Let us take the case of a car which is going along the road quite fast; it knocks down a child perhaps and carries on without stopping. Bystanders get the number of the car but almost inevitably they can't recognise the driver. These things happen pretty quickly. The case is reported to the police and the police then decide having gathered the evidence, that there was a case of careless driving and action must be taken. Unless there is provision enabling them to call upon the owner to say who was driving on a particular occasion there is nothing they can do. If they go to court, with proof that the car did knock down the child and the owner is charged, all he has to do is say "I wasn't driving on that occasion". And so we are given a statutory power to demand of the owner to say who was the driver. Now, translating this to the particular case of a parking offence, if a car is wrongfully parked and nobody knows who parked it, the owner is given the chance to pay a fixed penalty - he didn't park it himself - and therefore he does nothing. Thereafter the police must require him under the relevant provision of the Traffic Ordinance to say who was driving on the particular occasion and the owner then in accordance with his duty says it was Mr X. So the police, now knowing who parked the car on that occasion, can give Mr X the chance to pay a fixed penalty. But by this time as you will appreciate three weeks or more will have elapsed and it is very

hard on Mr X to be able to think back to the occasion some three weeks ago and to remember whether in fact, he had parked wrongfully or whether the police to use common terms had got the wrong end of the stick. The process which we are adopting is this. Let me say this straight away and make this absolutely clear, we are not creating any new offence. We are following a United Kingdom practice which was adopted in 1967 but the mere fact it was adopted in the United Kingdom is no reason why we should adopt it here. However, I do feel that this is a good system. It doesn't create a new offence, what it does is it enables a police constable to place on a car either which is wrongfully parked or which is not carrying the proper lights, a notice giving the driver of the car on that particular occasion the opportunity to pay a fixed penalty. It is therefore, bringing to the notice of the driver at a very early stage the fact that he is alleged to have committed an offence and that he is being given the opportunity of paying to the Court, not to the police because there is no right for the police to accept any money at all, giving him the opportunity to pay to the Court a sum in lieu of being taken to court and charged and possibly being convicted. To a very large extent the new section 96 follows the existing section. There are certain minor differences which I should point out. The first is that the existing section does not refer to or can't be employed in the case of persistent offenders. The reason we have done away with that provision here is that your police officer on the beat will have no idea whether when he sees a vehicle the driver is in fact a persistent offender. He has no idea whether the man has been to court three times in the past year or twice in the past two years and so that restriction is removed. The second difference is that we have increased the amount of the fixed penalty from £1 to £2. Between the time the old section 96 was enacted which made it £1 and the now the possible penalty for a parking offence has been increased from £10 to £25. That may come as a shock to some members of this Hon House but as I am sure the members of the legal profession in the opposition will be able to confirm with their brethren the maximum fine ~~impossible~~ *impossible* for a parking offence is £25 and so to a certain extent by increasing the fixed penalty payable we are not really differentiating from the relation it bears to the maximum payable for the fine, if convicted. The new section will apply not only to parking but to certain offences committed by vehicles which are not carrying the proper lights. I don't want to go into the technicalities of the lights which are required to be carried both for the front and behind the vehicles. It will only be used where the vehicles is found parked where there are no lights and it is not showing the proper lights, but again there is no reason why this not very serious contravention of the criminal law should not be dealt with in this particular manner. And the last difference which I would mention is that under the existing section the right to cause to be served a notice of opportunity to pay a penalty or to send the notice through the post was conferred on a police Inspector. In fact virtually in practice that the matter was reported back to police headquarters and a police Inspector decided what was the appropriate thing to do. Now because there is an opportunity to put the ticket on the car obviously the power must be given to the man on the beat. There is no point in a constable on the beat finding a car wrongly parked, having to go back to police headquarters and getting authority from the inspector to put the ticket on the car. I don't think there is any more at this stage which I can say to expound, comment or help Members of this House and I do very warmly commend the Bill to the House.

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

HON W M ISOLA:

Mr Speaker, the Hon and Learned the Attorney General has put forward his bill quite simply and quite succinctly and made it terribly simple, but unfortunately on this side of the House we see absolutely no reason at all, at this stage, why this traffic amendment Ordinance should come into force in Gibraltar. Except, as it says in the explanatory note, that it is envisaged that this will save a considerable amount of valuable police time. No reasons at all, except that this Bill or this type of bill is enforced in Great Britain has been put forward, fair enough, but no reasons at all have been put forward why this Bill should be necessary in a small place like Gibraltar and at this stage of time, where we have no garage space. Mr Speaker, there is at present a law which allows a police inspector and I believe, a Sergeant and not just a police inspector to put a ticket on a car. I would be very interested to know how many times has a police sergeant or a police inspector put a ticket on a car in Gibraltar over the last six or seven years. Is it that the Sergeants or police inspectors have so little time that now they have to delegate because they are so busy putting these tickets on cars that is now going to be passed on to the ordinary policeman? I don't know. In Great Britain Mr Speaker, they have what is known as traffic Wardens, and one of the objects of these fixed penalties was because there were so many cars parking in places and causing obstructions in main roads and in many places like that, but as yet I see no justification or no real reasons being brought forward to this House why these strong, very strong because this gives enormous powers to a policeman or one who is over enthusiastic, or one who doesn't like Mr X or Mr Y. Mr Speaker, we must remember that Gibraltar is a very small place and we all know, everybody knows everybody. Now, let us be basic only a year ago now or just a year ago, we did the decongestion of Main Street which took a great burden off the policeman in Main Street, as all traffic had been virtually stopped around Main Street. Now there is one thing I am not perfectly clear Mr Speaker, on this question of the ticket, I was under the impression that the offence is committed by the registered owner of the car. Is the Hon and Learned the Attorney General suggesting that, for instance, if Mr A lends his car to Mr B and then Mr B gets a ticket or a fixed penalty on the car, does that mean that Mr A must now therefore go to Court and prove that he was not the driver of the car? Because if that is so in such a small place like Gibraltar it would create great hardships on people having to go to court and if they feel strongly about this matter, having to obtain the services of a lawyer to which he, would not be entitled to legal aid and to which he would have to pay out of his own pocket. What was the object Mr Speaker, in 1964 when this fixed penalty came in for inspectors and sergeants why was it extended in those days to the ordinary policeman and why is it being extended to them now? Is it really necessary, what has His Majesty's Attorney General said to this House why this should come about to Gibraltar today? What justification has he put forward except that it is a very simple bill and it gives a personal opportunity to paying £2. What is wrong in staying status quo. I see

absolutely no reason at all why at this stage when the Government or the previous administration doesn't matter which, there are no parking places except a couple of bays in Gibraltar, there are no places where people can park a car and yet you are going to have an over zealous policeman who is sent to that particular area just to plant tickets, if he doesn't come back with results, his superiors may say "you are not doing your duty properly." Or he sees his friends, after all Gibraltar is, as I said before, a very small place and people know each other too well, and I think one is putting a policeman or the public in a very invidious position. As I said before, and I repeat myself, at the risk of becoming a bore, Her Majesty's Attorney General has not given us any reason why this bill should come into effect, except that it will save a lot of the policeman's time. But what about the public. Is no consideration going to be given to the public? Has this bill come to the Transport Commission at all for their comments? I would like to know I have a feeling that this has not come to the Transport Commission who is the body responsible to advise the Government. I would also like to know that, Mr Speaker, whether in fact it has gone to the Transport Commission for their comments and what their views are or is it that this Government is again, on matters of traffic, side stepping the Transport Commission. Mr Speaker, I may be wrong on this because after all I have not drafted this bill but I would like to know definitely because I really can't see this. Is it a defence in law, that a man who is the registered owner of the car should go to the Magistrates' Court, and say "I was not the driver at that time, it was Mr B"? Is that a defence in law? And then if Mr B comes along and says "I am sorry but I lent it to Mr C" Who pays for the expenses of Mr A's fees in Magistrates Court? Who pays for Mr B's fees? Only to save, as Her Majesty's Attorney General has said, a considerable amount of valuable police time when after all, Sir we are paying something like £301,438 to the police a year; when we have now decongested Main Street which was the habbub of traffic and where cars used to park regularly even though they weren't entitled to; and yet this bill was not brought forward at the time. Now that we have decongested Main Street, and working very well, we now want to save more time; but at what expense, at the expense of the public? At the expense of an overzealous policeman? Besides Mr Speaker, all this would be very well if Her Majesty's Attorney General had come forward to this House and say, the police can't cope at present with the traffic, there are jams everywhere there are obstructions everywhere some stronger steps must be taken to stop the traffic jams or whatever you want to call them. But not a word of that has been said, the Transport Commission has pushed the Government, or has advised the Government to bring this forward, nothing of that has been said. All that Her Majesty's Attorney General has said - and very well "this is a very simple bill". Of course it is very simple, and of course it is being used in Great Britain, and of course it is the Traffic Wardens in Enland who put on these tickets - in fact I got about half a dozen when I was there in my last two weeks. But that is neither here nor there. In Gibraltar no good reason has been put forward to this House why this particular amendment should come forward. It would be different, Mr Speaker, if as Her Majesty's Attorney General has said that in actual fact a Police Inspector could do it, or has power to do it under the 1964/65 - I forget

which law of the Traffic Ordinance. And Mr Speaker, Her Majesty's Attorney General would say "I am terribly sorry but the Police Inspectors are so busy doing other things that they cannot possibly cope with all these various tickets that they are pinning on cars". But not a word of that has been said, in fact I am sure that over the last six or seven years a Police Inspector has not put a single ticket on a car, and now, Mr Speaker, Her Majesty's Attorney General comes along and makes a sweeping change of the law - because it is a very deep change - and it is not as simple as Her Majesty's Attorney General thinks it is. I think it could work, and it could be disastrous, because you could get a very over-zealous - and to repeat myself again - policeman sent up to Hospital Road, or whatever area it may be, have a look up there, and starts putting tickets on.

MR SPEAKER:

We mustn't start all over again.

HON W M ISOLA:

I appreciate that, Mr Speaker, but I am coming to another point. And what happens? You get the other policeman going to that same area and the Police Inspector or Sergeant will say "Well, he managed to get six and you have only got one. Have you done your duty properly?" Gibraltar is a very small place Mr Speaker, terribly small, where every policeman knows everybody and everybody knows a policeman or is a cousin or a brother of a cousin, I think one is putting a great burden, not only on the public but on the ordinary policeman in the street. Besides Mr Speaker, no case has been brought forward, none at all to give any good valid solid, strong reasons why this law should be changed so dramatically but merely because it is in force in the United Kingdom. It is quite impersonal in London, it is quite impersonal in big cities, quite impersonal, but go to a village of 20,000 people; you won't find any Traffic Wardens there. You find them in big capitals, big cities and now we are going to bring this into Gibraltar merely, and only because it is simple and it is easier for the police. I am sure that a policeman in Gibraltar is quite capable of doing his work correctly without making it easy. And all this business of sending it by registered post, by giving them 2 weeks, you might find the ordinary man in the street, Mr Speaker, who receives a notice gets scared and pays the £2 and yet he may be innocent, but he may not want to go to Magistrates Court and fight a case. He has never been to a Magistrates Court, he may be afraid to go to a Magistrates Court and you are putting that burden on him, that threat "pay the £2 everything is forgotten; don't pay the £2, get a lawyer, go to Court and you may not be believed". And Mr Speaker, all this may be very well, very well indeed, if Her Majesty's Attorney General had brought forward figures and reasons for this bill.....

MR SPEAKER:

You are repeating yourself.

HON W M ISOLA:

It is very important.....

MR SPEAKER:

I have no doubt, but we mustn't repeat ourselves.

HON W M ISOLA:

I must say this, with respect Mr Speaker, two or three times so as to put into people's minds and heads that it is a very important measure and interfere with people in Gibraltar unnecessarily and not merely because we have to. Another small point, Mr Speaker, which I again repeat, but I will put it another way. I think again one is putting the burden on the policeman, an unhappy burden, because you are going to find that policemen are going to fight each other for promotion. (laughter) Yes indeed Sir, promotion based on how many prosecutions they can get on these matters. And we also must remember Mr Speaker, that now I believe, if a policeman goes to court he gets an allowance for attending, so you may find that overzealous - I am not saying all but some - overzealous policeman may be very interested in putting a lot of these tickets over. But you see all this, Sir, may be necessary in London, in Coventry, in Birmingham, in big cities, but we have had no reason given why this is so necessary in Gibraltar. Mr Speaker, we may be proposing some amendments to the Traffic (Amendment) Ordinance as it stands at present - I have already convinced my members of the Opposition - we will be voting against it as something which is not necessary at this stage in Gibraltar. (hear, hear).

HON MAJOR R J PELIZA:

MR Speaker I would like to say something. I am absolutely convinced by the very sound and solid arguments used by my colleague Mr Isola, but I think that Government should reflect on this very carefully, in that, in my view it is immoral to introduce this kind of legislation when the Public is not being provided with adequate parking spaces, we will find considerable numbers of car users, inevitably having to pay the penalty for something which is due to lack of policy or the Government itself. Up to now, one would

say, it is possible to a large degree, and I think this is being done by the Police today, to take into consideration the lack of parking available. The inspector obviously who finally decides, who should be taken to court and who shouldn't, is obviously a very responsible person who is fully acquainted with all the circumstances that may be causing this over parking in places due to events. For instance we have at the moment, the fair, I don't know how many number of cars are usually parked in the Grand Parade, but that is quite considerable. I would say, those cars already are probably parked in "no parking" spaces which in any ordinary circumstances they would have been taken to court already. But naturally, the police must somewhere along the line, someone, in the Police Force must have the common sense to realise that under the present circumstances the strictness of the law must be weighed to some extent. This is being done now by an inspector, but is it fair to place that burden on the ordinary Constable who is doing his beat, and who is not supposed to know, he is there to do what is proper as far as he is concerned, and to see that the law is observed, he cannot, I mean it would be most unfair that the judgement should be left to himself. Therefore, it seems to me, that before ever trying to introduce this Bill of instant justice, and it is a pity that we haven't got the Minister for Labour who is always against instant Government into this House without first enabling the cars users a fair degree of margin of parking spaces so that they are not compelled to act against the law. Gibraltar is very peculiar, in that, people do not have as it happens in most of other places, and certainly in Great Britain, plenty of parking space next to their residence. It is all very well to talk about this law being applied to England, but in most cases in the United Kingdom people are not living on so over populated areas that we are, and in most instances they have their own little house, with their own little garage, or if they haven't got a garage, plenty of parking space areas. This as we know is not the case in certain places in Gibraltar, and they would be heavily penalised because of that. I would like to see the Government taking drastic action, to ensure that parking space was provided. That should be the first step, in the meantime I would suggest to the Government that perhaps they could introduce amendments as to the definition of highways which I think is obviously highly overdue and perhaps other things, like the weight of motor cycles, and a few other things that they might think is pertinent at this stage to introduce, but as a matter of policy and in the name of Justice, I would say even common sense I would defer this bill until adequate or semi adequate parking spaces have been provided.

HON LT COL J L HOARE:

Mr Speaker, there have been quite a number of arguments put across from the other side and I am a little bit ~~set~~ for the reasons. I think a lot of their arguments are valid but for the wrong reasons. Somebody questioned whether

any inspector had set on cars any ^{ticket} notice up to date. Of course they haven't: there has been no authority to do so. But ~~they~~ have been issued with notices of infringement in the proper way as allowed at the moment. I am rather surprised that the question of saving valuable police time is taken so lightly when one hears constantly all around us that there aren't enough policemen to do all the jobs properly; ~~but~~ I would think that any saving of time is a step in the right direction. As for the emphasis on the over zealous policeman: surely we would welcome an overzealous policeman in other matters when dealing with other offences, out in the streets, ^{such as} insulting behaviour, loitering, obstructing the highway, yet when it comes to parking offences, this ^{zeal} makes him a bad policeman. ^{Any} other policeman is good irrespective of what job he happens to be on at the moment. I am also, a little amused by the ^{fact} statement that there are no traffic wardens in villages. I could say there are no cars in villages either. ^{First} Finally there is a great deal of, I think, lack of appreciation of the police. What reasons are there to believe that the policeman being himself a motorist, being himself involved, knowing the people around him, is likely to be less tolerant ~~than~~ when dealing with minor traffic offences than he is at the moment? I have an open mind on this, at the moment, and so far, I think there have been objections but certainly for the wrong reasons. ^{The main} Reasons as I see it, is to save police time who have got a tremendous job on their hands, and which from all sides one hears, they can't do because there aren't enough of them.

HON J CARUANA:

I am not concerned at this stage very much with zealous, overzealous policemen or otherwise. There are all kinds of people in every branch of Government. What I am concerned about are three things. Firstly, the facilities made available to the motorist, secondly the burden placed on motorists and thirdly and foremost that the Hon and Gallant Minister for Public Works should stand up and not give a kind of explanation or otherwise on the parking problem of Gibraltar, which is behind our objection to this law. It is precisely because the Public as everyday go by lose more and more parking space that we object to this law in principle. My Hon Friend mentioned pedestrianisation of Main Street that is diverting traffic and parking not only from Main Street but from adjacent streets elsewhere. Works all over town affects parking everyday continuously, and this problem, because it is recurring would be perpetual, and we object to this because earlier on in this year the Government stated that they had postponed indefinitely the construction of car parking planned by this Government at Fish Market Road.....

MR SPEAKER:

We mustn't go into car parking now. You can refer to the lack of car parks and, whether in the circumstances the Bill should go through, but we are not going to go into car parking.

HON J CARUANA:

No Mr Speaker, what I am trying to say in relation to the law is the burden put on the motorist, and as the law is going to apply, and the lack of space. Governor's Parade, whilst not wishing to run down what is being done there.

MR SPEAKER:

No, no, we must not go into specific parking places, we can refer to the lack of parking facilities in relation to the specific legislation that we are discussing, but let us not go into the parking facilities available in Gibraltar now.

HON J CARUANA:

Mr Speaker, it was never my intention to go specifically into any one of those I just wanted to mention a few of the areas where the problem is not being helped.

MR SPEAKER:

We mustn't go into the problems of parking facilities. We can refer to the whole problem of parking as it touches upon the legislation.

HON M XIBERRAS:

Sir, I was just going to mention the point that we have consistently said on this side of the House, that this bill in different circumstances, might be acceptable, but the circumstances are not here, and my Hon friend is trying to point out why it seems inconsistent, that the House should discuss this particular bill, or have it so introduced when on other occasions the Hon Member opposite has not supported the extension of car parks which my Hon Member was always eluding.

HON J CARUANA:

What I was trying to arrive at, Mr Speaker, is precisely that my colleague the Hon the Leader of the Opposition used to work the inconsistency of policy,

in one breath during this year, the Government by its policy has reduced, or decided to postpone, or delay what we estimate to be in the region of 250 or 300 car parks in town, generally, I could be more specific because I did make a statement on this House at budget time last March, not this year, in 1972, and on the other hand, they deprived the motorists from parking facilities all over, and on the other/they are burdening the motorists with penalties. As my Honourable Friend the Leader of the Opposition has said under different circumstances if the Government were to show that it is helping the motorist by creating bigger and better car parks then we on this side of the House would see the logic behind it, but we can't see any logic, we can't see any progress, any statement of fact of any innovation in car parking otherwise, and the statement is not made lightly, it is not made generally, I could be more specific on each one of those parking spaces mentioned, and therefore Mr Speaker, this is precisely one of the reasons why we are against this. The motorist is not being given more facilities, in fact it is being put, against the wall even further with regard to the ever increasing traffic problem in Gibraltar.

HON L DEVINCENZI

Mr Speaker I think the Hon Attorney General has dealt, not unlightly, with what it is to my mind a very serious bill. It is very serious, because it is bound to have I would imagine serious repercussions on a great number of people. We all know Mr Speaker that parking is a great problem in Gibraltar, perhaps, I am being biased when I speak on this subject, but I would say, that, as has been mentioned before there is a very great lack of space available, and because there is this lack of space, I venture to suggest, Mr Speaker, that it is somewhat irresponsible to bring this bill before this House at this point of time. I think that the Government is taking advantage of the lack of facilities, in order to impose, not only fines, but I would imagine even greater frustrations on the people of Gibraltar at this point of time. It is a well known fact, Mr Speaker, that the Police are somewhat lenient when it comes to parking offences, and perhaps if this new bill comes into being, this might not be the case, because the powers that be, might be able to, perhaps exert an even greater influence on the ordinary policeman to ensure that he does bring in as many parking offences as possible. I think, Mr Speaker, that it is immoral, because, unless the Government does something very drastic about improving parking facilities, they should not bring this rather serious bill to the House. I think Mr Speaker that as we all know not only is it difficult in many many places to find a parking place, it is even very difficult to find a "no parking" place. And this I say with all seriousness. I find, if I may just say this for the moment, from

experience that in one particular area that I am thinking about on the Castle Road area I have looked for half an hour for a "no parking" place and have been unsuccessful. Now, Mr Speaker, I would ask the Government to really take a realistic approach to this problem, and in fact to very seriously investigate whether a lot of "no parking" areas could be converted into parking areas, and only leave those "no parking" areas, at present, which seriously would cause obstructions to remain as "no parking" areas. I think at the moment Mr Speaker, it is a bit of a farce, where you are left alone for perhaps a month, and then all of a sudden you are pounced upon. I think it is the responsibility of the Government, that if a place is designated as no parking, it should be no parking all the time. By not reporting perhaps, for a period of a month or so, in a way they are encouraging people to keep on parking in that area, and this^{is}/something which at the same time as I said before that the police were lenient, it is perhaps not the right course of action to take. I do realise that one cannot produce parking areas overnight, but I also realise that the problem is there if it is known to everybody including the Attorney General, and I would say once again that it would add to the frustration of people and we have enough of that already. If this bill had been brought to the House by the Financial Secretary it would be understandable, when it is bound to produce a lot of extra Revenues, but to have it brought to the House by the Attorney General is surprising, and what is even more surprising is, that members of the Government who should be fully conversant with the difficulties that we are going through, should not have done their very utmost to discourage the Hon and Learned the Attorney General from bringing this bill to the House. Thank you Mr Speaker.

HON CHIEF MINISTER

Mr Speaker unlike most times, this time the last speaker has said a lot of common sense, and I must say that he has touched on the point which is really in our mind, and that is, the question of obstruction of traffic. Now let me say that we accept anybody would be blind not to realise that we have a huge traffic problem in our hands, and that it will become worse and worse, unless something very drastic is done in a general way. And I can assure members that is certainly occupying my mind very much, because looking ahead one can see all sorts of difficult problems arising out of traffic. And I think with respect that half of the things that have been said about the police are completely irrelevant, all these overnight misgivings, and all these dreadful acts on the part of the Police, simply because of this new ordinance: if the police were bloody minded, if I may be allowed the word, in respect of parking generally, there would be no references as the last speaker has

to the fact that the police are lenient. The police are lenient with those they don't book, but those who are booked never think that the police are lenient, and therefore they have a very hard task, and I saw this Bill, which has been brought to us on the advice of those responsible for traffic, as a possible way of avoiding two matters which have been raised by the Hon Mr Devincenzi, perhaps in one, but I distinguish them in two. One is parking in such a way that it obstructs the traffic, and I entirely agree that it is no use having fictitious "no parking" signs which are not respected, because then those that have to be respected are thrown into contempt, and in that respect I am glad to say that my Hon and Gallant friend Col Hoare has done a lot to decontrol some of the "no parking" areas which were unnecessary before. Parking which is an obstruction, and double parking which is also no parking and an obstruction. These are the two things which unfortunately the more selfish motorist imposes a hardship on the more sensible motorist who cares not to obstruct traffic with their cars. Now this has been put to us as a possibility of being able to go some way in ameliorating this problem. We are not asking for this Bill to be taken through all the stages now, precisely because I would hope that this debate would spark apart from the wisdom that normally doesn't come from the other side, would spark some comments from the Public so that we would be able to have a guidance, and if necessary introduce any amendments that might make the Bill more or rather generally more acceptable, and even if we have to pass it it would be under review. We hold no solution, no absolute solution, with this little Bill for solving the problem of parking at all. It has been represented to us that it might be a much more expeditious procedure when dealing with a lot of time wasting, but it would certainly not have been allowed, I am sure that the Attorney General, who is responsible for these matters would not have allowed, or would not allow, this or any Bill when it comes into effect, to be used as a vindictive weapon by the Police in order to irritate the long suffering frustrated people who have to look for a parking place and don't find them. Perhaps, in the general context, traffic legislation reasonably and properly administered is likely to give a little more comfort to the reasonable driver and more discomfort to the unreasonable one. But the point, is, we believe that this is a good measure, we don't think that this is going to solve all the problems, we are open to discussion in committee stage for any amendment that might be put forward that could be looked at, and it is in that spirit that we are putting the Bill to the House and not in order to be able to say that we have the solution of the traffic problem, because when somebody is found to find the solution to the traffic problem in Gibraltar I think we ought to put him in a little glass case and keep him for ever.

HON P J ISOLA

Mr Speaker, the reason why the Opposition is opposing this Bill is precisely because it doesn't seek to offer any solution to the traffic problem, but seeks to offer easy prosecution methods for dealing with people who contravene, mainly, the parking laws, the light on motor vehicles that are stopped - I never see a motor vehicle with any lights in Gibraltar when it is stopped or parked but now it appears it will be possible for a policeman to stick a ticket on it when it has no lights or reflectors. Mr Speaker, the Opposition case here is, I think, fairly simple and has been put by the different speakers, and with different emphasis on the various points. The first is that you cannot introduce this sort of legislation, or accept the discretion of a police constable, because that is what it boils down to or whether to prosecute or not in circumstances when we know that 50% of the cars at the moment parked in Gibraltar are parked in contravention of Traffic laws.... Alright, 25% or 30%. Oh, I see, then my Hon Friend Mr Devincenzi obviously doesn't look hard enough when he looks for "no parking" places to leave his motor car. We have been told there is a problem, and the Hon Chief Minister has told us that the person who finds the solution of the traffic problem in Gibraltar will live forever in the annals of Gibraltar, and now, I am told by members opposite that nobody at the moment or a very small number of people only are parking in contravention of the parking laws. May I suggest to the Government, that they take the advice of the Transport Commission on this matter. The Commission that is set up under the Traffic Ordinance, precisely to look into these questions, and I certainly would like to hear from Her Majesty's Attorney General when replying to this debate whether the Transport Commission has been consulted on this Bill at all, and if not why not, because certainly if I was a member of the Transport Commission, I would resign if I saw a Bill concerning traffic being brought to the House of Assembly without them being consulted in the matter at all. After all it is the Transport Commission who set up the, whatever you call it, scheme in Main Street and it is to the Transport Commission that people seem to go when they want problems solved and it is to the Transport Commission that they should go if they wish to introduce legislation of this kind. Certainly on this side of the House we would like to know whether the Transport Commission has been consulted, what has been the purpose of their advice, and if they have not been consulted, why this has happened, I know our Constitution has - which has been referred to by Hon Members I think on both sides of the House as a bit of a policing Constitution does give certain discretions to certain authorities in Gibraltar, but I do hope that on questions of legislation the elected representatives of the people do have the final say, and if the elected representatives of the people

have got a Commission set up under an ordinance passed by this House then that body should consider the Legislation any Legislation to do with traffic before being brought to this House, and I certainly as I have said before ^{would} take great objection if I was a member of the Transport Commission, and I certainly as a member of this House take great objection if this particular Bill has not gone to the Transport Commission for their advice and the recommendations on the matter. That is the first point, the second point Mr Speaker, that I would like to make on this Bill, and has been made already, and that is the question that by introducing this measure ^{you} give the discretion to prosecute to an individual police constable. The present position is that the decision to prosecute is with an inspector, he is the man who sends the notice, therefore, it is the inspector who looking at the whole problem broadly decides whether somebody should be prosecuted or a notice should be sent under the Traffic Ordinance. This Bill will devolve that responsibility onto the ordinary Police Constable who I am sure today must be very perplex as to what policy is, what is his Commissioners policy, let me put it that way, on parking offences and so forth when he sees how cars are left all over the place and probably told by Inspectors, don't bother they are at a party, and you know it is alright here and it is alright there. And I think to my mind it is all wrong. That now a Police Constable should be expected to decide who gets the ticket, should be expected to decide who gets prosecuted, in a situation such as Gibraltar with its intimate problems of parking, and the use of its discretion. Now we have been told that we must take seriously the question of saving Police Officers time, with that we entirely concur, But at what price? We do not agree that we must make the policeman's lot altogether a happy one, I mean he is there to do a job, and it is hard work for him, but we do not consider that it is right to give an ordinary Police Constable the discretion to prosecute in a matter like this when we know, and all members of the House know, that these decisions are taken at a higher level having regard to the wider problems of parking, and other offences of this nature envisaged in this Bill in Gibraltar and therefore it is not a question of making the policeman's task a lighter one, it is a question of balancing the policeman's task with the general interest of the public, the general convenience of those who pay road licences for their motor cars, and get no parking spaces in return, in fact the whole question of parking. And on this side of the House we certainly would like to see proposals on this, before we go forward to allow legislation of this nature to get on our statute book, and accordingly Mr Speaker, we would certainly ask the Government seriously to reconsider their attitude on this Bill in view of the objections that have been put to the Bill on this side of the House, and in view of the fact that no real arguments have been brought to support this system in Gibraltar, other than making the Police

saving time for Police Officers, And although in a lot of circumstances we would go along with that, we do not think that in the circumstances of parking, and the problems it presents in Gibraltar it is a good thing to go along with making the Police Officers task an easier one in these circumstances. Accordingly Mr Speaker, as has already been mentioned we would certainly on this side of the House oppose the passing of this Bill at this period of time.

MR SPEAKER

I call now on the mover to reply.

HON M XIBERRAS

Sir, my colleagues on this side have given a good number of reasons why we on this side of the House must be willing to support the second reading of this Bill. I would like to add one or two myself. The first one is Sir, that at the second reading of the Bill it appears that only the Attorney General of all the members in this House, has spoken in unmistakably positive terms in favour of this measure. The Hon and Learned the Chief Minister has talked about sparking off public comments, and the Hon and Gallant Col Hoare has said that arguments have been put forward against the Bill but not for the right reasons he felt. Then he did not go on to elaborate what he considered to be the right reasons, but left the matter at that, for what the records of this House will show, will be in fact one speaker positively in favour of the Bill and a number of speakers having doubts about the Bill, and an even greater number being quite clearly opposed to the Bill. Now Sir, I don't for a moment, doubt that the intentions behind the Bill is a good one. The intention must come from the person or persons who have the difficult job of keeping traffic in check in Gibraltar, and I don't for a moment doubt that many of us in this House have had bright ideas, as to how to deal with the particularly intractable problem from time to time. But no doubt we have considered where the measures that we would have liked in our narrow ambit of our duties were justified at the level in which society had reached at any particular point, and what this side of the House has been saying is that Gibraltar is nowhere near ready to accept this type of legislation if ever it will be ready at all. If sufficient evidence had been produced to show that the police would be relieved of so much of their unnecessary or unwanted work, that their duty in other direction would benefit, their work in other direction would benefit considerably, then fair enough, provided that no big principles were being breached thereby. But I take it in England the experience has been, that this type that

of legislation creates more work than it removes; because undoubtedly if the number of people today who are in breach of Traffic Regulations is great, this type of prosecution is going to increase the number of cases on which there is going to be a prosecution, and there is no doubt at all in my mind, that a good number of people will object, and will take up their right to go to the Courts. So there is by no means any guarantee that the Hon and Learned the Attorney General is correct in saying 'would be proved right' that the work of the Police will be alleviated by this Bill, it may very well be the converse. Sir I believe that in the United Kingdom the figures are that many people, the unscrupulous persons who ignore the parking tickets, that a good percentage of these get away with it, that the cost of prosecuting them is such, that often the matter is allowed to be left in abeyance. And we would hope that this situation would not come about, as a result of this Bill becoming law, and we are rather worried that in fact this situation might very well increase the work of the Police, to such an extent, that some people who have been in breach of the law will not have their case followed up. And the unscrupulous person is going to get away with it, whereas the scrupulous person who goes to Court subject to all the difficulties which my Hon Friend Mr William Isola mentions of who is going to be prosecuted, giving evidence, who is going to pay the cost, and so on - that those people are going to be penalised unduly. Sir, the Hon and Learned the Chief Minister has spoken about "sparking off comments" and there is nothing that we agree with more than the provision in many of our laws to allow the public to react to a measure, but equally I remember the Hon and Learned the Chief Minister talking about "exercises in democracy", in which there is a sounding of opinion before the measure is taken in this House. And, therefore, it is a matter of deep regret on this side of the House, that the Transport Commission has apparently not been consulted and I repeat what my Hon and Learned Friend Mr Peter Isola has had to say, that this House must know, or should know, from the Hon and Learned Attorney General whether in fact the Transport Commission has been consulted on this matter, and if so what their views have been as notified to the Government. I would also Sir, ask myself whether the Police Association has been consulted on this matter. I believe that the Police Association consists of Management, if I may put it that way, and representatives of policemen. Now, has there been any great desire on the part of the Police Association to have this rather strong piece of legislation brought to this House. Police Associations in my time used to be consulted in a good number of things, and was used now and again for the promotion of certain measures which were beneficial to the Police as a whole, Ordinary policemen, the Constable, the Sergeant and the Inspector right up to the Commissioner. Now, would the

Hon the Attorney General give this House some indication as to whether the Police Association has sought to promote over a period of time this piece of legislation or does it come from only a part of the Police Association, does it come only from those whose duty it is obviously, and responsibility it is to give efficient service to the public but not from the whole of the Police Force. Because it seems to me Sir, that it would have been much better if the Hon and Learned the Attorney General had come on to this House with this evidence, that people in the know of the traffic problem really wanted and advocated such a course of action, because he must have been under no illusion whatsoever that this type of legislation is the type which the House would certainly debate and most likely oppose, at least a good number of members. As I recall in the lifetime of the last Administration, similar measures were proposed from a certain quarter, and the last Administration did not see it fit to carry on and bring them to this House. And therefore Sir, I wonder what has changed, in the meantime, to all but convince the Attorney General that the time is ripe to bring these measures before the House. Sir, we would like to see evidence from the elected members of the Government at some stage, that they genuinely support this type of measure. We know that the Police is not the responsibility of members opposite, even the Chief Minister, but obviously a measure that comes before this House, if it is going to affect Gibraltar in a very civil sort of sense should have the whole hearted support I feel of this House, and I doubt very much whether at this stage it has it. I would also say Sir, that this is the type of issue which affects individual persons also. I think that members on this side of the House for instance, my friend the Hon Mr Bossano who doesn't have a car is quite capable of arriving at an impartial opinion on this matter. But each of us as motorists, and there are as many minus as there are motorists, I appreciate that, will have his own view of this and also of the principle involved, the principle to which my Hon friend Mr Isola referred, the principle of putting the burden of proof on the offender, or alleged offender rather than on the Police. These are matters which individual members of this House must hold sincerely, this is a matter on which all of us practically have personal experience, and this is a matter therefore, which to my mind, bearing in mind that this is not the responsibility of any elected member of this House, and bearing in mind the fact that everybody appears to have a personal involvement in this, I think that this would lend itself to some sort of free vote arrangement in the House. Now Sir, I doubt whether the Bill can be termed in such a way that the principle is not accepted but we get some sort of improvement of the measure. If this were possible, and if this is possible in the future the Opposition through amendments will try to bring about such a situation to make the Bill more acceptable. But I doubt it

because it is a question of whether the parking ticket comes to Gibraltar or does not come to Gibraltar, and this is a pretty clear issue, and I would very much advise the Hon and Learned the Attorney General, for he is the word of the Chief Minister, to listen carefully to what the Public has to say on this, pedestrians as well as motorists, and I do hope that it is not through one or two letters in the press, that this House makes up its mind but by what the elected representatives of the people have had to say in this House. Or by what the Transport Commission may have had to say, or by what the Police Association may have had to say and the bodies who really know and have taken the trouble to find out how it will affect them. I am not for a moment suggesting we should not listen to common sense from the Public at large, but let us keep in proportion the views that are expressed. And at this moment Sir, I may end by saying that I do not see this House happy about this particular Bill and I urge the mover of the Bill to withdraw this Bill forthwith.

HON ATTORNEY GENERAL

Mr Speaker Sir, let me say straight away, I am unaware whether the Transport Commission has been consulted. This Bill is a defined domestic matter, I as Attorney General received instructions to draft and produce, and this was done. I have not the slightest doubt that the appropriate Council of Ministers took the appropriate views in coming to this decision. Now, I must admit I haven't heard so much nonsense talked for a very long time, let me take first the Hon Mr W Isola. With great respect he made some absolutely completely foolish statements. He stated at the moment, that Police Sergeants and Police Inspectors have a right to put tickets on cars. Nonsense, of course they haven't, no right at all, He went on to state that, 'what about the wretched man who receives the ticket, is so frightened and hasn't been to a Magistrates Court, doesn't want to go to Court, so he pays the fixed penalty'. But he is in no different position after this Bill has been passed than he is before, he can still and does get a notice through the post or served on him personally to pay a fixed penalty. What difference is this going to make? Now let me deal with the point of his, about the over zealous policeman sent up to Hospital Road and so on to nail half a dozen cars. Another policeman...

HON P J ISOLA

That is precisely, I understand, where Police Inspectors park their cars.

HON ATTORNEY GENERAL

Well, that shows the complete impartiality of the Police, doesn't it? Anyway another constable comes in, you have only put tickets on five you aren't doing very well! Members of this Hon House if that were the case, if that were the attitude of the Police that would be happening now, a Police Inspector when a constable comes back off the beat says you have only reported six cars, why? Gentlemen this does not happen the Police do exercise leniency, common sense, and discretion. We all know the great difficulties of parking in Gibraltar, nobody is going to shut his eyes to that, and for that reason the Police do not, repeat not send either a notice through the post or prosecute in a great number of cases, the senior officers keep a watchful eye over this, do you think they are going to do any less when the Police Constable have got a right to put on a ticket? If they find a man being over zealous they would say look there are difficulties, don't do it and forget this lot. If there is no payment or opportunity taken to pay the fixed penalty the Police if they think it is case on which there should not be a prosecution, perhaps the officer was over zealous they won't prosecute. Now, going back again to my friend the Learned Mr W Isola he talked about the case if A lends the car to B and there is an offence, A is taken to Court, he has the expense! Of course he is not taken to Court ~~he won't be taken to Court~~ until the Police know if he was *the driver* driving or not, ~~They won't~~ ^{will} serve ~~on~~ him, as they can at the moment, with a notice to say who was driving the car on a particular occasion. He won't go to Court unless there is evidence that he was driving he won't be taken merely because he is the registered owner, he can't be now, and he won't after this Bill has been passed. Now, I do think that the Hon members of this House are not giving credit to a very sensible, hard working, body of men that is the Police Force. There have been many suggestions that they are going to abuse this privilege. Well, from what I have seen I do not think this is so, and I have no doubt that the most careful watch will be kept on this particular matter. But, what we must do, Sir, let me go back a little. The Hon Leader of the Opposition suggested that this might have the effect of encouraging people not to pay the fixed penalty, to chance being taken to Court, I see he is nodding his head, I am prepared....

HON M XIBERRAS

Referring to this situation in the United Kingdom of which I am advised that this does happen in the United Kingdom,

HON ATTORNEY GENERAL

I understand the position, I am sorry, I will put it this way, I have no idea whether the position is worse in the United Kingdom since they introduced parking tickets than it was before they introduced parking tickets. It has always been a problem of people not paying, whether they receive their tickets through the post, or whether they receive their tickets actually banged on the car, people are prepared to take a risk. I don't think there is any ~~and~~ I have never come across any evidence that it has become worse since the parking ticket system was introduced, and I can't think that it has.

HON W ISOLA

On a point of order. Her Majesty's Attorney General referred when I mentioned that these tickets existed before and he said, "absolute nonsense". I would like to refer Her Majesty's Attorney General to the Traffic Ordinance Section 96 (2) which reads, "where a Police Officer of or above the rank of Inspector has reason to believe that a person to whom this Section applies has committed an offence to which this Section applies he may cause to be served on him or send to him by registered post the prescribed notice in writing, offering the opportunity of the discharge of any liability," etc. It did exist and if Her Majesty's Attorney General referred to my statement as "utter nonsense," it is not, because it does exist.

HON ATTORNEY GENERAL

The Hon Member said that a "Police Inspector or a Police Sergeant could slap a ticket on a car".

HON W ISOLA

Mr Speaker, I did say an Inspector and I think a Sergeant but he referred to this as if this section did not exist at all, it does exist, but only for an Inspector, but Her Majesty's Attorney General described my statement as "utter nonsense", that is not correct.

HON ATTORNEY GENERAL

Who said correct? I said quite clearly "I explained the position as it was at the moment, I dealt with 96 very clearly. Then in your speech you stated, that there is a law which allows a Police Sergeant or Inspector to put a ticket on a car, well, that is not true, of course ~~it doesn't~~. *there is not.*

HON W ISOLA

Mr Speaker, on a point of order. This practice did exist for an Inspector, and my argument was based on an Inspector.

MR SPEAKER

You are talking at cross purposes. The powers that existed before was to serve a notice on the individual and not to place a ticket on a car, and no Inspector or Sergeant could place a ticket on a car. There is no doubt about this. I am just clarifying the position.

HON M XIBERRAS

I am not going to suggest Sir, that the difference is that the Inspector can now send a summons without placing the ticket and then a constable can now put a ticket which will mean that the chap will get a summons.

HON ATTORNEY GENERAL

One point which my Hon Friend Mr Peter Isola mentioned was the question of cars with light or reflectors, I tried to explain perhaps I didn't do so clearly, that where a car is parked in a place where there are not street lights it is required by law to have an certain lights or reflectors, obviously in the majority of streets in Gibraltar it is not necessary to have these lights on and if there are however streets where there are not street lights then clearly for public safety you must have lights so that other traffic can see what is happening so that they do not run into you. There won't be many cases but we have made that an occasion when a parking ticket can be put on a car. Again the Hon Leader of the Opposition: he talked about putting the burden of proof on the offender. This is just not so, this doesn't change the burden of proof at all, it does not even remotely touch the burden of proof. The police always have to prove who was driving a car on a particular occasion. They can call on the registered owner, both now and after the passing of this Bill, this has nothing to do with that. They can call on him to say who was driving and as I explained that is absolutely essential in a community where you wish to protect the public, but this doesn't shift any burden whatsoever. An owner is not going to be liable merely because a ticket is put on his car when somebody else has parked it. If there is this ticket, he may not know about it because the person to whom he lent the car takes it away, tears the ticket off, he will learn in due course and be given a chance to say whether he was driving or not, just as is the case at the moment. There is no shift of the burden of proof. Let me summarise the thing: it is sad for me to see that seven

gentlemen on the other side of the House do read into this Bill some Machiavellian Motive. I doubt whether this will lead to more tickets being issued or more charges laid, The Police are human, but what it will do is that it will in those cases where the parker of the car is acting completely irresponsibly - and there are many cases - this will ease the burden of the Police, and this is the matter at which this Bill is aimed. Mr Speaker, Sir, I commend the Bill to the House.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

MR SPEAKER

There are ten votes in favour of the motion and seven against. The Motion is therefore carried.

HON ATTORNEY GENERAL

Mr Speaker it is proposed to take the Committee Stage of this Bill at a subsequent meeting of this Honourable House.

MR SPEAKER

Then I think perhaps it would be a convenient time to recess till tomorrow Wednesday, the 4th day of July at 3 p.m.

WEDNESDAY THE 4TH DAY OF JULY 1973.

HON M K FEATHERSTONE

Mr Speaker Sir before we start Sir, I was asked yesterday for certain information with regard to the Graduates who will be coming into the service next year, I couldn't give the full details at the time, I have them now, if I have your permission I'll give them Sir. Sir of the 14 Graduates, 9 are Gibraltarians who are all under contract of service to the Government, 7 of those Sir, by the way, Sir, they are all Honours Graduates, 7 of them Sir, are straight from their studies, the 8th one has had three years teaching experience and the 9th one has had 10 years teaching experience, the other five persons are UK persons again Honours Graduates, one of them is a person straight from his studies, two others are a married couple, one of them with 30 years experience and the other one with 20 years experience, the other one has five years experience Sir. So there is a mixture of fairly new persons plus people with quite a considerable experience and they are all Honours Graduates some of them 1st class MA Honours Sir.

THE APPLICATION OF ENGLISH LAW (AMENDMENT) ORDINANCE 1973.

HON ATTORNEY GENERAL

Mr Speaker Sir, I have the honour to move that a Bill for an Ordinance to amend The Application of English Law Ordinance (Cap.5) be read a first time.

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

The Bill was read a first time.

SECOND READING

HON ATTORNEY GENERAL

Mr Speaker Sir, I have the honour to move that the Bill be now read a second time. As members of this Honourable House will be aware The Application of English Law Ordinance states that there shall be in force in Gibraltar certain ^{U.K.} statutes which are or have been enforced in England. ^{but} It has long been assumed, that when a statute ceased to be enforced in England, nevertheless, it would continue in force in Gibraltar, until such time as we chose to say, that it no longer applied. Indeed two Acts which have long been extinct in England, the Conveyancing Act of 1881 and the Conveyancing Act of 1882 are the basis, of our own choice, of conveyancing in Gibraltar. Now it has come to light that it may be ^{but} this is by no means certain, it may be, that

when a statute ceases to be ^{in force} enforced in England it may cease to be ^{in force} enforced in Gibraltar. That we don't want, ^{Ordinance} what we want to do is, if necessary, by our own ^{Law} repeal the English ^{any appli} Statute that is not needed here. But to avoid any doubt at all we ^{are} have now, by this particular Bill, ^{making} made it quite clear, and thus avoiding any arguments in the Courts in future,

~~we made it quite clear~~ that the repeal of an English Statute does not mean per se that it ceases to be in force in Gibraltar. It continues to be in force here until we ourselves decide to repeal it. This is what you might really call a "belt and braces provision", doesn't change anything, it just makes quite certain that the position is as we want it to be, and believe it to be. Mr Speaker Sir, I commend this Bill to this Honourable House.

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

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

The Bill was read a second time.

HON ATTORNEY GENERAL

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

THE BANKING AND FINANCIAL DEALINGS ORDINANCE 1973.

HON FINANCIAL & DEVELOPMENT SECRETARY

Sir, I have the honour to move, that a Bill for an Ordinance to make new provision for Bank Holidays in place of provisions therefor been made under Section 55 of the Interpretation and General Clauses Ordinance, to confer power to suspend financial and other dealings on Bank Holidays or other days, and to amend the law relating to Bills of Exchange and Promissory Notes with reference to the maturity of bills and notes and other matters affected by the closing of banks, and for purposes connected therewith be read a first time.

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

The Bill was read a first time.

SECOND READING

HON FINANCIAL & DEVELOPMENT SECRETARY

Mr Speaker Sir, I move that the Bill be read a second time. Sir, the Bill is based on the Banking and Financial Dealings act 1971 in the United Kingdom which deals with the declaration of Bank Holidays and other non business days, and other matters concerning Bills of Exchange and Exchange Control. It affects certain changes in the existing legislation. At the moment, the powers to declare a Bank Holiday or a Public Holiday is contained in Section 55 of the Interpretation and General Clauses Ordinance; except for Easter Saturday, all holidays under this section have been declared Public Holidays. Now a Bank Holiday does not necessarily have to be a Public Holiday also and clause 2 of the Bill specifies which days are to be Bank Holidays; these are four, they are contained in the Schedule and are Easter Monday, the day appointed by the Governor to be the Spring Bank Holiday, the last day of August if it falls on a Monday otherwise the Monday nearest thereto whether before or after such last day, and either the 26th of December, if it is not a Sunday, or the 27th if either the 25th or 26th falls on a Sunday. The clause also provides that the date of an existing Bank Holiday may be changed by order of the Governor,

and that where an act or payment is required to be made on a Bank Holiday the obligation is complied with, if the act is performed or the payment is made, the following business day. Clause 3 empowers the Governor, when the public interest so requires, to issue directions restricting dealings in banking, gold, foreign exchange, silver bullion and in a commodity market or the stock exchange on such day as may be specified in the direction. Such powers are seldom used, but if they ever had to be used, it would be essential that in the conditions of the world today there should be no delay in giving effect thereto. The last and as far as I can remember, the only occasion which steps of this kind or the kind envisaged by this Section had to be taken was at the time of the inflow of dollars into the scheduled territories. When the day had to be declared a Bank Holiday to allow the necessary directions to be issued. The section enables directions to be issued in respect of specific transactions without declaring the day a Bank Holiday and thereby affecting prices of transactions which there may be no need to restrict. Clause 4 is consequential on the other provisions of the Bill. Clause 5 amends the Bills of Exchange Ordinance in a number of ways. In the first place, the three days of grace at present allowed in the case of bills payable otherwise than on the band are abolished, secondly it fractionalises the day on which payment of a bill has to be made. At the moment,

when the bill falls to be paid on a Sunday, payment must be made on the preceding day, while if payment falls to be made on a Public or Bank Holiday, it has to be made the following day. The amendment does away with this distinction, and provides that in all cases the day of payment shall be the next business day following on a non business day. Lastly it predefines the non business day which are excluded from the computation of a pound for the making of payment or the doing of any other act under the Bill of Exchange Ordinance. Notably it provides that Saturdays are to be non business days, thus making it possible to banks to introduce a five day week. Finally clause 6 is a consequential amendment to the Interpretation and General Clauses Ordinance. Sir the banks have been consulted at all stages, and I am glad to say that they are all in favour of the Bill. I therefore commend it to the House.

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

HON J BOSSANO

Mr Speaker, we welcome the introduction of legislation which is based upon the Banking and Financial Dealings Act 1971 of the United Kingdom. Because in this particular respect it is obviously something that is of benefit to Gibraltar, and it is only when measures that we find are in use in United Kingdom, and not of benefit to the people of Gibraltar, that we oppose them as the Honourable and Learned Chief Minister just remarked in the case of parking tickets. The only omission to this Bill that is difficult to understand, seeing that the Bill is promoted by the Gibraltar Labour Party in Government, is the absence from the schedule of May 1st as a Bank Holiday. An omission which we are sure is an oversight and which I shall be putting right Mr Speaker by moving an amendment at the Committee Stage, and no doubt we shall gain the whole hearted support of the Government composed as it is of the Gibraltar Labour Party, and will be delighted to have this opportunity of enshrining their commitment to the cause of the working class by making Workers' Day the 1st of May a Bank Holiday.

HON MAJOR FELIZA

Mr Speaker, I would just, perhaps, like to ask the Honourable the Financial & Development Secretary whether he could explain the question of the three days grace, which to me is not quite clear. At present as you quite rightly stated in the Bill when a bill is presented, one has three days in which to meet the commitment, and since this is now obviously being deleted from

the Ordinance I wonder what the position is? Will it mean that cash will have to be produced immediately on that date, or does it mean that in fact we have longer period in which to settle or people in trade will have longer period?

HON FINANCIAL & DEVELOPMENT SECRETARY

I stand to be corrected by the Hon the Attorney General, but I think that the position is that the three days grace only applies to bills which are not payable on sight or demand, that is usance bills; that is where you have to compute the number of days and then you add three days. Well, under the new legislation those three days are done away with, and therefore it will fall due, I mean if it is 90 days on the 90th day and not the 93rd day, I think that is correct. It is not law.

HON P ISOLA

Mr Speaker, there was another minor point that I would like to raise on the Bill, I would like to know why another Bank Holiday mentioned in the Bill, the August Bank Holiday, why it has been drafted in the way that it has? The August Bank Holiday used to be the 1st Monday of August and then it was changed to the last. As I understood it, it used to be the last Monday in August. I think it is important that the August Bank Holiday should be in August and not September. As it is drafted it says "the last day of August being a Monday or if that day is not a Monday, the nearest Monday, whether before or after the last day." We would certainly be happier on this side of the House if the August Bank Holiday were to be the last Monday of August, because once you get into September, as far as people are concerned, it is back to work in most cases, and the idea of having a holiday in August, especially on a very hot month, is giving people a holiday during that time, unless there is some special reason for having it in September we would move an amendment suggesting the last Monday of August to be the August Bank Holiday.

HON MAJOR FELIZA

Mr Speaker, if I could just stand up again, I know that I have had my say, but the point is that my Hon Friend on my right stood up before. I had time to stand up....

MR SPEAKER

That will be gone into at the Committee Stage.

HON MAJOR PELIZA

Well, It is just to say one word. What I was going to say, is that this is something that we reserved the right to bring up at the Committee Stage, the question of the 3 days grace, because I think it is very convenient to traders to have that margin. It would be a pity, I think, to take it away unnecessarily.

MR SPEAKER

Does the mover wish to reply?

HON FINANCIAL & DEVELOPMENT SECRETARY

I think that the Hon Member really means that he would like the day to be declared a public holiday under section 55 of the Interpretation and General Clauses Ordinance, not under this Ordinance.

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

HON FINANCIAL & DEVELOPMENT SECRETARY

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

This was agreed to.

THE DEVELOPMENT LOANS UNITED KINGDOM GOVERNMENT (AMENDMENT) ORDINANCE 1973.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that a Bill for an Ordinance to amend the Development Loans (United Kingdom Government) Ordinance (Cap. 167) 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 & DEVELOPMENT SECRETARY

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

Sir, the Development Loans (United Kingdom Government) Ordinance authorises the Government of Gibraltar to raise

loans from Her Majesty's Government in the United Kingdom up to an amount of £565,000 to finance the schemes covered by the Gibraltar Development Programme 1967 to 1970. Since the Ordinance was last amended further schemes have been approved and the period covered by the programme has been extended to 1976. Moreover the ceiling set out in the autumn has already been exceeded, accordingly it is now necessary to increase the borrowing powers under the Ordinance to cover this excess and to enable further loans to be raised to finance the schemes covered by the programme, notably the Varyl Begg Estate, to the extent that their cost may not be covered by grants from Her Majesty's Government or from the proceeds of local loans. The amounts set out in the Bill provide for a balance of approximately £340,000 to provide for possibly future commitments.

Sir, I have to draw attention to a printing error in clause 5 of the Bill. The amount in line 2 of the proposed new Section 6 should read £2,500,000 and not £2,000,500. I shall move the necessary amendment at the Committee Stage.

I commend the bill to the House.

Mr Speaker then invited discussion on the merits and principles 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 FINANCIAL & DEVELOPMENT SECRETARY

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

This was agreed to.

COMMITTEE STAGE AND THIRD READINGS

HON ATTORNEY GENERAL

Mr Speaker, Sir, I beg to move that this House should now resolve itself into committee to consider the following bills, clause by clause:

The Assurance Companies (Amendment) Bill 1973, the Acquisition of Lands Bill 1973, the Maintenance Orders (Reciprocal Enforcement) Bill 1973, the Banking and Financial Dealings Bill 1973, the Development Loans (United Kingdom Government) (Amendment) Bill 1973.

to

This was agreed/and the House went into Committee.

House in Committee
ASSURANCE COMPANIES (AMENDMENT) BILL, 1973

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

Clause 2.

HON ATTORNEY GENERAL

Mr Chairman, Sir, I have given notice of an amendment to clause 2, which is to replace the clause in the Bill as it stands with a new clause, the reason being that in the existing Section 4 of the Bill, Subsection (3) creating an offence says "Any person who contravenes the provisions of subsections (2) of this Section shall be guilty of an offence allowed to a summary conviction to a fine of £1000." The amendment is to change Subsection (2) to Subsection (1). There is no longer a Subsection (2) as members will be aware. We are proposing to delete both Subsection 1A and 2 and therefore this is a consequential amendment to Subsection (3) so the offence is committed under Subsection (1).

MR SPEAKER

May I then perhaps for the purpose of the record say that the amendment should read "that Clause 2 should be deleted and substituted by,..." Otherwise we have not deleted Clause 2. Am I being fastidious?

HON ATTORNEY GENERAL

No, I would accept that.

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

Clauses 3 to 5 were agreed to and stood part of the Bill.

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

The Acquisition of Lands Bill 1973.

MR SPEAKER

There are 35 clauses and I do not intend to say "stand part of the Bill" 35 times. We will definitely call each clause and unless there is an amendment moved it will be taken as accepted and read.

Clauses 1 to 35 were agreed to and stood part of the Bill.

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

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

The Maintenance Orders (Reciprocal Enforcement) Bill, 1973.

Clauses 1 to 22 were agreed to and stood part of the Bill.

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

The Banking & Financial Dealings Bill, 1973.

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

The Schedule.

HON J BOSSANO

Mr Speaker, I beg to move that the Schedule of the Bill be amended by the insertion of the words: "Workers Day, 1st May" immediately following the words: "Easter Monday" where the same appear in the Schedule.

MR SPEAKER

You can speak in favour of the motion now, and then you have the right of reply.

HON J BOSSANO

Mr Speaker, on the basis of the remarks made by the Hon Financial & Development Secretary on the general principles of the Bill, that there is a distinction between a Bank Holiday and Public Holiday, there is not sufficient argument to reject the amendment because we have before the House an Ordinance that is concerned with Bank Holidays and the first of May, Workers Day, ranks equal in importance, in the estimation of the workers, to that of any other holiday of the year which this Ordinance makes a Bank Holiday. Consequently, there is no more justification for the days mentioned in the Schedule to be made Bank Holidays, as well as public holidays, than there is for the 1st May. The justification, the strength of it, is one and the same, if one is equally committed, of course, to the days that enshrine the traditions of the working class movement. And the 1st of May is an extremely important part of the tradition of working class culture. Consequently, a progressive community would wish to accord the stature, the importance, to the 1st May that they accord to other public holidays. The absence of such a date from any legislation that requires, as this legislation does under Section 2, that

no person shall be compellable to make any payment or do any act on a Bank Holiday under this ordinance, which it would not be compellable to make or do on Christmas Day or Good Friday, the absence of Workers Day from there, from that Schedule, suggests that these other days are considered to be so important that persons should not be made, for example, to make payments or attend a place of work, namely a Bank, but that on Workers Day it is quite legitimate for workers to be compelled to do so. Therefore, by including this day in the Schedule, as my amendment seeks to do, the Government will be giving protection to bank employees, who would be entitled not to be compelled to attend the place of work, and they will be giving protection to individuals who wish to enjoy the same freedom from being compelled to be involved in financial transactions on the 1st of May as they are on other days specified in the Ordinance. In addition the Government would be continuing in its struggle to convince the working class of Gibraltar that the label Gibraltar Labour Party does really mean something. I commend the amendment to the House, Mr Speaker.

MR SPEAKER

Well I now propose the question which is that the Schedule to the bill be amended by the insertion of the words "Workers Day, 1st May", immediately following the words "Easter Monday" as the same appears in the Schedule.

HON CHIEF MINISTER

Mr Speaker, Sir, I have been sitting in this House for 23 years, and I have seen many red herrings but this one and not even a price controlled red herring - is the biggest that I have seen. In the first place it is another example of what my Hon Colleague the Minister of Labour calls "Instant Government" so much in the minds of the members opposite since they have been opposite, otherwise they used to take their time too and had to be reminded about many things. But it is ludicrous to attempt to give this aura of sanctity to a day which is also celebrated in fascist countries where workers are oppressed, as the day of the worker. It is farcical to pretend that the 1st May has got any mystique alone because it is celebrated quite near us and they haven't got a House of Assembly where they members can tell each other that they are putting in red herrings. And if they did they would find themselves in the shade very quickly. So really, let the Unions, which is the right and proper function, negotiate and succeed if they can in matters like this. They did compromise last year by swapping a holiday to celebrate May Day; whether the deprivation of the day they would have had on the first week of the fair is now remembered with some nostalgia or not because they had already had the first of May, is another matter. It is a matter for them.

They are entitled to decide what they want. But in any case it would not make this a public holiday, it would mean that only Bank clerks might be on holiday, but everybody else would have to go to work, and that does not make any sense at all. By all means let us try and see whether in the context of our membership of the European Economic Community we can standardise the numbers of holidays which on the continent, despite everything are in most places, more numerous than they are in England, and then of course we will have the benefit. But to try and bring it along here in order to show that in this way what the people decided on the 23rd June in no uncertain manner should be or not be confirmed is neither here nor there. This Government is a Government which is prepared to carry on with a progressive policy in favour of all classes and in particular those who need more protection but this is not the way of showing it, this is just a big, stinking red herring.

HON P ISOLA

Mr Speaker, when the Opposition makes an amendment, proposes something, depending on how strongly the point is made, it is referred to as a red herring or as nonsense. Yesterday the Hon and Learned the Attorney General had the last say and he referred to something that was nonsense and we had no opportunity to reply. We will do so possibly in the Committee Stage of that Bill, but at this stage when something is said to be a red herring, at the Committee Stage we do have an opportunity to reply and I would certainly like to examine the allegation that this is a red herring. We have been told: "Well a bank holiday doesn't mean that it is going to be a public holiday". Well, I would like to be given one instance of a Bank Holiday that is not a public holiday. There is not one instance, there never has been. I said I would like to be given an instance of a Bank Holiday that is not also a public holiday, not a public holiday that is not also a Bank Holiday. I am saying I would like to be given an instance of a Bank Holiday that is not a public holiday, and there is no question.....

HON FINANCIAL AND DEVELOPMENT SECRETARY

Yes, we have to do that in connection with the time of the inflow of dollars into the Scheduled Territories where, in order to take the necessary steps to protect the Scheduled Territories the Saturday in question was declared a Bank Holiday without declaring it a public holiday. That was not a red herring.

HON P ISOLA

I am obliged to the Financial & Development Secretary for recalling this. I was well aware of it but of course that required an Order from the Governor. I am talking of a Bank

Holiday in the Schedule to an Ordinance. There isn't a single example of a Bank Holiday in the Schedule of the Ordinance that is not also a public holiday, and I think the point that the Hon Mr Bossano was trying to make was precisely to take the first opportunity to make that particular day, of which he feels so strongly, a Bank Holiday, and if the logical results of making it a Bank Holiday by this House it will be made automatically also a public holiday. This is just a thing that would follow, whatever Hon Members opposite may say, so what is at issue here today, & the point that is at issue - and it is not a red herring in my mind, it is not a red herring at all - is whether the House feels that May 1st should be a Bank Holiday and a public holiday because of the particular occasion that it is. That is the issue to be decided; not a question of saying: "Let the Union negotiate it and the Government will think about it", or: "Let the shop-keepers negotiate", or: "Let somebody else..." No, it is a question of whether this House feels that such a day should be a public holiday and a Bank Holiday. By making it a Bank Holiday we know that certain results will follow automatically. That is the point that has been raised by my Hon Friend, Mr Bossano, and we on this side of the House are certainly prepared to commit ourselves to the principles that the 1st of May should be a Bank Holiday. The only question my Hon Friend was putting is whether the Government side are prepared to make such a commitment. We are: but let's not talk about red herrings, there is no red herring about this at all, rather than in the same way, if I may so, possibly out of place, as there was no nonsense in what was said by this side of the House yesterday, but we shall put that right in the Committee Stage.

/By making
it a Bank
Holiday we
know it
will be
made a
Public
Holiday
and..

HON SPEAKER

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

HON J BOSSANO

Mr Speaker, the outburst from the Honourable and Learned the Chief Minister suggests to me that he will dictate to his side of the House that they should all vote against my amendment regardless of their feelings on the matter, because I have come to the conclusion that the suppression of feeling is something...

MR SPEAKER

That is not in order.

HON BOSSANO

Well, Mr Speaker, that is an impression that I have gained. It may be an incorrect one and time will tell whether I am right or not. Nevertheless, that is a feeling that I have. The Chief Minister has stood up; he has given the line that is going to be followed; nobody else on his side has had anything to say either in favour or against and when the time comes to vote then I expect they will all follow in their masters footsteps and vote against the inclusion of this day in a Schedule that would have made May 1st a Bank Holiday. It is not a red herring to wish to have the 1st May accorded to it by us, by this House of Assembly, regardless what our neighbours in fascist Spain may do. The fact that they do it doesn't mean we can't do it. The fact that they are fascist - and I don't have to make vague references I think that our neighbours are fascist and the sooner...

MR SPEAKER

That is out of order. Your opinion on this is perfectly in order, but let's not go beyond that.

HON BOSSANO

Thank you, Mr Speaker, I have no compunction about making my feelings known about Spain, and the fact that they celebrate the 1st May is not deterrent to my wishing to see it enshrined in our legislation in Gibraltar. I would strongly commend my amendment to the Government, I would strongly urge them to disregard momentarily the label the Hon and Learned the Chief Minister has chosen to attach. It has nothing to do with herrings red or otherwise - the colour is attractive - but nevertheless it has nothing to do with herrings. And, Mr Speaker, to accept that by making May 1st a Bank Holiday, and by making it a public holiday for bank employees, it may make the task of the Government easier when they come to negotiate with the unions - and I have no doubt they will be as concerned to make May 1st a public holiday as the unions are. They will have the additional strength - when they come to argue since they are not the only employers and they often wish to go out of their way to give a lead as to employers in Gibraltar, they will have the additional strength of being able to point to the Banking and Financial Dealings Ordinance and say to other employers: "We as good employers are going to give May 1st as a public holiday because it is already a Bank Holiday and it is already a public holiday for bank employees". So what better opportunity, Mr Speaker, to do that which they desire so much: to be the shining example of good employers in Gibraltar. I commend my amendment to the House.

Mr Speaker put the question and division was taken.

The following Hon Members voted in favour of the amendment:

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

The following Hon Members voted against:

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

The amendment was accordingly defeated.

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

HON P ISOLA

Mr Speaker, could I move another amendment to the Schedule.

MR SPEAKER

Most certainly, yes.

HON P ISOLA

It is just on the August Bank Holiday. It is quite a simple amendment. Mr Speaker, may I read the amendment.

MR SPEAKER

Yes, of course.

HON P ISOLA

I beg to move that the words "the last Monday in August" be substituted for all the words between "Spring Bank Holiday" and "26th December" where the same appear in the Schedule.

MR SPEAKER

Would you read it again, please, I am not quite...

HON P ISOLA

I beg to move that the words "the last Monday in August" be substituted for all the words between "Spring Bank Holiday" and "26th December" where the same appear in the Schedule.

MR SPEAKER

You are doing away with the two holidays then.

HON P ISOLA

No, no, I do away with all the words: "the last day of August being a Monday, or if that day is not a Monday then the nearest Monday thereto whether before or after such last day", do away with all that.

MR SPEAKER

Yes, but perhaps for the purpose of good order, since they are paragraphs in themselves, I would prefer that you say that the words "the last Monday in August" be substituted for the words "to the last day" in the 3rd paragraph of the Schedule.

HON P ISOLA

Yes, it does away with all the words between.

MR SPEAKER

It is not a complete sentence, or a complete paragraph, and therefore...

HON P ISOLA

Well, perhaps we could put in substitution for all word in the third paragraph of the Schedule.

MR SPEAKER

You may speak on the motion now.

HON P ISOLA

Well, I have very little to say really, Mr Speaker, except that bearing in mind of the history of the August Bank Holiday which

then

used to be at the beginning of August and it was put at the end of August, towards the end of the summer season, it seems to us that it is more sensible to keep it at the last Monday in August rather than to have it as late possibly, as the 6th September. I would recommend to the House that in September - from the 1st September - some people are going into the winter season, or the autumn, and that the August Bank Holiday should be in August, and obviously the appropriate day at the end of August is in fact the last Monday in August. Nobody would then have any doubt as to when the August Bank Holiday was in every year.

MR SPEAKER

I now propose the question which is: that the Schedule to the Bill should be amended by the substitution of the words "the last Monday in August" for all the words appearing in the 3rd paragraph thereon.

HON ATTORNEY GENERAL

Sir, in fact the definition, perhaps not so much the definition as the method of designating or finding out the Bank Holiday, the late August Bank Holiday, is the same definition as we have at the moment under the Interpretation and General Clauses Ordinance for a public holiday. If, therefore, we were to change this to the last Monday in August, then you would have a public holiday which might be any time in 3 possible days. It could accord with the Bank Holiday, ~~in one year but in other years the public holiday~~ wouldn't accord with your Bank Holiday. Now, a change at this stage would produce a conflict. Whether in fact it would be possible to change, in due course, the public holiday under the Interpretation and General Clauses Ordinance is another matter, but I would suggest to members of this Honourable House that in view of the specific provision for a public holiday being ~~the last Monday in August~~, the last day in August, or if that be not a Monday, the nearest Monday thereto whether in August or September, I would suggest we retain this as it is, with a possible amendment in the future if the public holiday is amended.

MR SPEAKER

Is there any other member who wishes to contribute?

HON COL HOARE

A statement was made by the mover that it could be any day up to the 6th September: this is not possible. It can be no later than the 3rd September under any circumstances.

HON CANEPA

Mr Speaker, apart from the reasons adduced by the Hon Attorney General, which are cogent, for not accepting this amendment, I myself am against the amendment because it means that now and again school children and school teachers, who enjoy the benefit of an extra day's holiday at the beginning of September (namely on those occasions when the Monday falls in September and is a Public Holiday) would be deprived of that extra day's holiday. And I know how much they look forward to it. Now Sir, being the first of the elected members on this side of the House to oppose this amendment, I am sure that I will not change my mind if other members on this side of the House speak in favour of the amendment as the Hon Mr Bossano did on a previous occasion in connection with the ~~electricity~~ increases in electricity charges.

HON CHIEF MINISTER

Before there is an answer I would just like to say one thing: that it shows, if I may say so, this attempt on the other side of being original at "instant Government". The anachronism that can arise by thinking about these matters when one comes into the House. If these amendments are really worth it and have got a lot of substance behind them then let us have information, let us look into it and let us explain. If they choose to bring these amendments on the spur of the moment they are bound to suffer the defeat they are bound to suffer unless it is withdrawn.

HON CARUANA

Mr Speaker, all this talk about "instant potatoes"...

MR SPEAKER

No, no, it is the amendment...

HON P ISOLA

Public holiday

MR SPEAKER

No, no, it is on the amendment.

HON CARUANA

I would like to support this amendment precisely because it is a sensible one and I don't think that the fact that it will have consequential amendments on existing regulation should deter us from not introducing an amendment at this stage.

The lie is given to what the Chief Minister has said against this amendment, and the Hon Minister for Labour's statement against this amendment. The lie to that was given by the Hon and Learned the Attorney General when he left the door open to look into the matter further on, but certainly not because it is not a sensible amendment nor because teachers or school-children who have been enjoying six or seven weeks holidays already are going to be deprived of one further holiday. I think the mums, you know, are probably longing for their children to go back to school, never mind one extra day at school. So, Mr Speaker, the fact that it has consequential effects on an existing amendment should not deter us from going ahead with this one and this House, however the regulations are modified or altered where they appear in the laws in Gibraltar, should be modified consequentially afterwards, as has happened on many occasions in this House with many other laws. We had this time and time again with the laws concerning the Common Market, where we altered one law and two months later we came back. This had the effect because we changed the law two months before on the Common Market and it had this effect, so it is a poor excuse. The reason is a good one, i.e. a holiday in August, a Bank Holiday in August, is far more preferable to a holiday in September and therefore unless the Hon Member withdraws the question for his own reasons I would support the reasons for such an amendment.

HON FEATHERSTONE

Sir, I would support the Hon the Minister for Labour. I don't see why we should cheat the local schoolchildren of the chance of a holiday in September occasionally; put them all to the strain of becoming psychological wrecks; perhaps talk of class distinction when they see the children who go to school in England benefitting from such a Bank Holiday - because it will still be one in England in September. Why should we put our poor children to all these difficulties, Sir, I think the working here is excellent.

HON XIBERRAS

Sir, we are delighted on this side of the House to see that the Hon the Minister for Education has suddenly had the idea that the school children are going to suffer. We believe in instant communication as well and I am sure that in his great wisdom he will be able, in consultation with his colleague, the Hon Mr Canepa, whose experience of education is quite as good as his, be able to devise ways and means - broader I agree - be able to devise ways and means of not depriving school children of this extra day if it is considered that the educational system we now have makes it necessary that they

should have the full quota of days holiday, by adding a day to the beginning of the holiday rather than at the end of the holiday. So, I cannot very well agree either with the Hon Minister for Education or for his equally Hon Colleague Mr Canepa. As to instant Government, or instant Opposition, I would remind the Hon and Learned the Chief Minister that more than once he has been saved in this House from incurring the displeasure of the public and I would mention one point in particular, or one instance in particular....

MR SPEAKER

No, no we are not going to depart....

HON XIBERRAS

and that is - if I may finish the sentence, Sir....

HON SPEAKER

Yes, but we are not going to depart from the question before the House, which is the amendment to the Schedule.

HON XIBERRAS

And that is, Sir, the question of Income Tax. We hope that equally on the ticket question he will be equally amenable to instant Opposition and equally ready....

MR SPEAKER

You must not speak on instant Opposition now, we are going to speak on the amendment.

HON XIBERRAS

Therefore, Sir, I have no hesitation at all in supporting my Hon and Learned Colleague, Mr Isola, in his amendment and perhaps we could have a bit of better thinking on the side of the Government and more realistic arguments brought forward to combat something, to pull down something, which obviously they did not think of themselves.

HON MAJOR FELIZA

Mr Speaker, I have no doubt that the suggestion, or the amendment proposed by my Hon Friend Peter Isola, is a good one. I can't understand why suddenly, and once again I would say, the Minister for Education tries to find a reason which is completely unconnected, I would say, with the educational requirements for recreation of the children, on any issue connected with this House. The last time, I remember, when he wanted to make

another holiday for the sixth formers it was for them to attend the House of Assembly, when in fact the answer was, if he feels that the children need more recreational time....

MR. SPEAKER

I think it was not the Minister for Education but the Minister for Labour....

HON. MAJOR PELIZA

And the Minister for Education....

MR. SPEAKER

Yes, but we are not going to go into....

HON. MAJOR PELIZA

Well, all I am trying to say is that if he feels so strongly that the children should have more holidays he should do that automatically, he has the powers to do it. There is no need for a Public Holiday to satisfy those requirements. I think it is a sensible amendment, and if in fact the Bill had been left to be read later on, as I think should have been done in any case, then of course this instant amendment would not have needed to come forward. The Chief Minister would not have had any reason for suggesting that we were again trying to plug instant Government. So, I think if there is any "instant" about this it is due to his initiative and certainly not because of the Opposition. We are trying to be constructive on this, there's no "red herring", there is obviously no political motive behind it other than a reasonable one: that in September in fact it does begin to rain. This is... Well, I can assure you, the Minister for Education may laugh but you do get the first showers early in September and, therefore, if this can be avoided by a few days earlier I really don't see why not, however much the Government may laugh about this. However, unfortunately, on this occasion it so happens that if we were to carry on with our amendment and it were to proceed, it would clash with the Public Holiday, so, therefore, I think that my Hon. Friend would probably have to withdraw the amendment, but the suggestion has been made in this House.

MR. SPEAKER

If that is the case there is no case for a debate.

HON MAJOR PELIZA

Well, except one point I would like to make, Mr Speaker. Since we are talking in Committee, and the whole idea I think is to be constructive - which we are trying to be - in this case as always I would put it that perhaps it will be an occasion for the Government to take note of the suggestions being made by the Opposition and when the time comes perhaps to amend the Public Holidays Ordinance, not only this amendment to be taken into account but also the first of May, and perhaps some good may have come out of our discussion here today.

HON CHIEF MINISTER

Mr Speaker, Sir, there is one point I wish to make and that is that I hope the last speaker will consult more frequently with his leader to realise why all the stages of this Bill have been taken. First of all I gave his Leader full information; secondly, the Danks are pressing for this to be done in order that they can start the 5-day week, about which we had a question from that side of the House earlier on in these proceedings; "what are we doing to accelerate the 5-day week, in the private sector". This is one of the things. And in comes Mr Peliza and says: "Ah, but you are breaking the rules of the House, if we didn't take it all so quickly we would have had time". First of all we could have taken it tomorrow, and secondly this is a thing which was done in consultation with the Leader of the Opposition and I hope that next time he asks him before he says anything that might reflect on something that has been arranged.

HON XIBERRAS

Except Sir, that however few words I have said on this question now are not going to invalidate the general proposition of the House as a whole, is willing to give a quick passage to this Bill. What we do want is that the Bill should be as good as possible. And nothing which the Hon and Learned the Chief Minister can bring forward now by way of veiled threats that people are going to think that we are delaying this Bill on purpose is going to move this side of the House one iota. Perhaps reasonableness on the other side of the House, and a willingness to compromise as in so many other occasions, would enable the Bill to be passed rather quicker than it is being passed now.

HON MAJOR FELIZA

Mr Speaker, if I may reply, just reply to the Chief Minister. I think quite honestly that his attitude is completely wrong. I always come to this House with an open mind and it doesn't

matter for how long I may have been considering a question, it may so happen that at the last moment somebody comes out with an idea, and I think it is the proper attitude of every member of this House, including the Government, to give it careful consideration. And not because it is brought in at the last moment is it going to be called instant Government. If it is a good idea it is a good idea and this I hope is the spirit of cooperation and participation that we should have in this House.

HON CHIEF MINISTER

Of course there is participation. I was purely replying to one suggestion that this was not evident because we were taking all the stages today, and that is all. On the merits we have said what we feel about it.

MR SPEAKER

Mr Isola do I hear that you intend to withdraw your amendment.

HON P ISOLA

Well, I want to say something before I do so.

HON FEATHERSTONE

First, Sir, I would apologise to the House for my earlier remarks, I thought the Opposition did have a sense of humour. Sir, in England they have a Bank Holiday usually sometime in May which is the Whit Monday, they don't have another one, Sir, until late August, and the idea was to space these holidays through the year. Sir, here we have a holiday on the 24th June; it is only two months to August, whereas if one has it early in August you have a very long time for the next holiday period which is December. So, perhaps putting it a little later may be preferable rather than a little earlier. Therefore, Sir, I think that it is perhaps better that it might be on occasions the 3rd September, or the 2nd September; you don't have such a tremendous long time then. It seems that you are getting closer to Christmas by September, there may only be a week in it, but this was the real principle why it went up to that. If you bring it forward you are lumping all your Public Holidays into a rather short period and then you have a very long period the other way. This was the main reason behind it Sir.

HON FINANCIAL & DEVELOPMENT SECRETARY

I stand to be corrected, but perhaps I can clarify a particular point. If my memory doesn't fail me I think that we have the last Monday in August as a Bank Holiday, and I think it was in JIC, really, where it was decided that it should be either the last Monday in August or the 1st Monday in September, whichever was the nearest to the 31st of August. As the years went by confusion arose in the sense that working under this agreement in JIC - and as I say I stand to be corrected but that is my recollection - we found that the Public Holidays for the workers, for the Industrials, was being declared on the first Monday in September and the Public Holiday for the non-industrials was being held on the last Monday in August and the Banks were the first to raise the point and say, for goodness sake, rationalise the whole thing and stick to one particular day. That is how this has come about.

HON P ISOLA

Mr Speaker, I am grateful to the Minister for Education for arguing against the amendment, I would say, on merits: and I am grateful to the Hon Financial & Development Secretary for attempting to give us some background to this: and I am grateful to the Hon and Learned Attorney General for giving sensible reasons, and practical reasons, against the amendment at this stage, having regard to the fact that the House will not have another meeting till October and we will be faced with the problem immediately. But there my gratitude ends, Mr Speaker. No, I am sorry, I am also grateful to the Hon and Gallant Col Hoare for reminding me that it cannot come later than the 3rd September about which, of course, he is absolutely right. But that, as I say, is where the gratitude ends Mr Speaker. Apart from that of course there were no arguments, so the Hon Minister for Labour to start talking about school holidays and having an extra day after two months of holiday, because I don't know of a school term that begins much later or much earlier, ever than the 3rd September; I don't know if it has ever occurred. I don't know saying that they need another day after two months. Even the teachers, who obviously do need quite considerable amount of rest, and I am sure that that to a very great extent colours the attitude of the Leader of the House and the Leader of the Opposition, even when the roles are reversed, in deciding how long this House goes on vacation during the summer. Even allowing for all that I think even the Hon Minister for Labour will agree that he has hardly given a cogent reason. Sir, on the allegation of instant Government: what is it that the Chief Minister wants? one months notice... Well, Mr Speaker, one of the reasons why the amendment has been opposed, and by no less a personage than the Chief Minister, is the complaint of instant Government. You can't come with an amendment on the day; this is not done as I understand it. Of course it is done regularly, and it has been done very often, and it is being done by the Government as recently as the Income Tax Bill where it was done at the 3rd day of the Committee Stage....

MR SPEAKER

Order. That is what I am not prepared to have.

HON P J ISOLA

Well, Mr Speaker,

MR SPEAKER

Order, that is what I am not prepared to have. You can refer to instant Government as it affects the bill. We will not go into other instances of instant Government.

HON P J ISOLA

Mr Speaker, with respect all I am...

MR SPEAKER

You can refer to the other instances but let's not have particular...

HON P J ISOLA

All I am trying to tell the House, Mr Speaker, is that to throw an allegation of instant Government in circumstances such as this is nonsense when taken against the background of as recently as the Income Tax Ordinance, of examples of instant Government by the other side of the house. To that extent those remarks in my own humble opinion are nonsense, in that context. Now, Mr Speaker, it is our view that the last Monday in August should be the Bank Holiday, the August Bank Holiday, because it is called the August Bank Holiday. I can understand the arguments adduced by the Minister for Education of trying to spread it out, and there is sense in that, but I think spreading an August Bank Holiday beyond August is not necessarily sensible. By all means let's not have an August Bank Holiday, let's have a September Bank Holiday bringing it nearer to Christmas - middle of September, end of September - but I think that most people in Gibraltar would want to have their holiday sometime in the summer, to have a bank holiday in the summer months. That's why you have a Spring Bank Holiday when the summer is coming in, and then a Bank Holiday towards the end of the summer. I would certainly urge the House to consider seriously this in later legislation, of having the last Monday of August as a Bank Holiday. But, Sir, the Opposition is a responsible Opposition and we have got, unfortunately, the problem that if this amendment is passed there is no time for the Government to change the Public Holiday within the Interpretation and General Clauses Ordinance before the August Bank Holiday this year because presumably we shall not be sitting again until October. Therefore, if I press this amendment we expect that we will be in the position this year of having the Bank Holiday on the 27th August, which is a good day in my view, and having the Public Holiday

under the Interpretation and General Clauses Ordinance on the latest possible day, excepting the Hon and Gallant Col Hoare's argument which is the 3rd September, so that this we accept would bring a big practical difficulty unless all Hon Members of the House would be prepared to come back and change the other Ordinance to bring it into line. In those circumstances, Sir, I think I would ask the leave of the House to withdraw the amendment, but we will certainly take the opportunity, perhaps starting with the Interpretation and General Clauses Ordinance, to make this amendment as soon as a Bill is brought before the House amending the Interpretation and General Clauses Ordinance. Sir, I do ask the leave of the House to withdraw that amendment.

Mr Speaker put the question and on leave of the House being given the amendment was withdrawn.

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

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

(5) A Bill for an Ordinance to amend the Development Loans (United Kingdom Government) Ordinance (Cap. 167).

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

Clause 5

HON FINANCIAL & DEVELOPMENT SECRETARY

Sir, I move that Clause 5 be amended by substituting the words: "Two million five hundred thousand pounds" for the words: "Two million and five hundred pounds" in the line two of the proposed new Section 6.

MR SPEAKER

Is there anything you wish to say on the amendment?

HON FINANCIAL & DEVELOPMENT SECRETARY

Mr Speaker, it is just a printing error.

MR SPEAKER

I am well aware of the reasons, I am well aware that you made reference to it on the Second Reading, but when you move an amendment you are still entitled to speak in favour of it. I am asking you whether you wish to exercise your right. You don't have to if you don't want to but I am asking you whether you wish to.

HON FINANCIAL & DEVELOPMENT SECRETARY

Well, the reason for the amendment, as I explained when I introduced this Bill, is that there had been this printing error, and in fact if one compares sub-clause (1) of clause 2 you'll find that there is this discrepancy between these two figures. In one place you refer to £2,500,000 and in the other one to £2,000,500, therefore, I move the amendment.

MR SPEAKER

I now propose the question which is that Clause 5 of the Bill be amended in the terms moved by the Hon Financial & Development Secretary.

HON J BOSSANO

/and this
side of
the House

Mr Speaker, we welcome the amendment. It was in fact an omission that had been noticed by this side of the House/had been preparing to make such a move had it not been noticed in time by the Government side. But at the risk of being accused of "Instant Opposition", I must point out, Mr Speaker, that the amendment proposed by the Hon Financial & Development Secretary does not go far enough in correcting the errors because it appears to me that there is an additional typographical error of the same nature appearing in the last line of the Section, where the section reads: "exceed £565," instead of "£565,000", and consequently I would suggest, Mr Speaker, that the amendment be further amended - provided the Hon and Learned Chief Minister is convinced that this is not another red herring. Rather than be in the bad books of the Hon and Learned Chief Minister for bringing red herrings to the House I will withdraw my amendment to the amendment and let it stay like this. If I can be assured of this, Mr Speaker, then I would suggest that the amendment be further amended to read: "that section 5 of the Bill be amended by the insertion of the word "thousand", between 5, and the word "pound" where the same appear, on the last line thereof".

MR SPEAKER

May I suggest that the Hon the Financial & Development Secretary withdraws his amendment, and that he proposes the new amendment in the terms proposed by the Hon Mr Bossano.

HON FINANCIAL & DEVELOPMENT SECRETARY

Yes that is so, I am prepared to do that.

Mr Speaker put the question and on leave of the House being given the amendment was withdrawn.

HON FINANCIAL & DEVELOPMENT SECRETARY

I now move that the word "thousand" be added after the word "hundred" in line two of the proposed new Section and after the word "five" in the last line of the same Section.

Mr Speaker then put the question which was resolved in the affirmative and the motion was accordingly carried.

Clause 5, as amended, stood part of the Bill.

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

HON ATTORNEY GENERAL

Mr Speaker, Sir, I have the honour to report that the Assurance Companies (Amendment) Bill, the Acquisition of Lands Bill, the Maintenance Orders (Reciprocal Enforcement) Bill, the Banking and Financial Dealings Bill, and the Development Loans (United Kingdom Government) (Amendment) Bill, have been considered in Committee and agreed to, with amendments in the case of the Assurance Companies (Amendments) Bill and the Development Loans (United Kingdom Government) (Amendment) Bill. I now move that they be read a third time and passed.

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

The Bills were read a third time and passed.

PRIVATE MEMBER'S MOTIONS

HON L DEVINCENZI

Mr Speaker, I beg to move the motion standing in my name, namely: "that this House consider the Government's policy, as announced by the Minister for Education at the last meeting of the House, to introduce co-education in the Comprehensive Schools in September 1974, to be detrimental at this stage and therefore calls upon the Government to defer the implementation of this fundamental change to a more suitable time".

Mr Speaker, there are a few reasons why this motion has been brought to the House and I shall mention at least two of them; two important ones. The first one is, Mr Speaker, that as we all know there has been for some time, and there still is, confusion in the minds of the people because of the consistent way in which the minister for education has acted inconsistently. He has said many things at different places, at different times, and if one looks at the record they do not seem to tally. One of the things which the Minister has said, he in fact said so in this very House at the last meeting, was the intention of the Government to introduce co-education in the Comprehensive Schools. As far as I can see, talking to many sections of the public and different bodies, no one seems to have a clear-cut conclusion, they don't seem to have made up their minds as to when, in fact, the Minister for Education intends to bring this about. They have all heard that it will be in September 1974, and although I would accept that the Minister might have consulted some people, some bodies, I would like the Minister in his reply, to tell this House what has been the result of this consultation.

I will later on touch upon those different bodies, let me tell the Minister straight away that the Opposition is in fact in favour of co-education: this is not new. The Opposition is in favour with anything that is reasonable, and I am sure that co-education, at the right time, would be a good thing, but we must make absolutely certain that all the people concerned, or at least the majority of the people concerned who will be affected by this very vital and important change, should be in agreement to this change. I would say, Mr Speaker, that to introduce co-education so soon after the implementation of the Comprehensive System, which as we all know is going through more than "teething" troubles, would be unreasonable, would be ill-timed, would be ill-considered.

Has the Minister considered whether he has adequate staff of the type required to deal with co-education? Has he not realised that at this early stage - in fact even in September 1974 which is the time by which the Minister has said he would implement it - we would not have people sufficiently trained in this particular sphere, and if this were to fail, if the teachers concerned because of their lack of experience and know-how at this particular point of time were unable to attract the full attention of the children in mixed classes, then I would dare to suggest that it would be the boys and girls who would be attracting each others attention to the detriment of education generally. Mr Speaker, from the last meeting: I think the Minister himself taped it and has produced what he said here at the last meeting of the House. He said: "I have consulted many people on this", then he goes on to say what sort of people, what sort of bodies, he had consulted. He says "I have consulted the teachers although I know their feelings, Brother Hopkins even agrees with me that perhaps September 1974 is the best time". Then he goes on to say that he has consulted the parents, the Loreto Nuns, the Provincial of the Loreto Nuns, the Provincial of the Christian Brothers. Now, Mr Speaker, I have also consulted these people, and those bodies, and I would like the Minister, in his reply and I hope he can do so, this is very important to this debate, to say whether he can tell me whether he can tell the House, what has been the result of these discussions. To discuss something with somebody doesn't mean to say that those people have agreed, and in spite of that, the Minister still proposed to introduce co-education in September 1974.

I am particularly concerned, Mr Speaker, among other, with the Christian Brothers. He mentioned the Provincial: can he say in this House, categorically, that the Provincial of the Christian Brothers was prepared to accept co-education in 1974? Can he also say whether the expert which the Government brought to ODA also agreed to introducing co-education in 1974? I think the House requires answers to those questions, and I am sure that the Minister - who is taking some notes of what is being said - will be good enough to give us his reply.

Mr Speaker, the reason for bringing this motion, I can assure the House, is certainly to be constructive because we do feel that if co-education were to be introduced in September 1974 the repercussions would be far reaching. I do hope that the Minister, since the last meeting of the House, has held further consultation with all the bodies concerned and is now in a position

to judge more clearly which are the views of these bodies. I do sincerely hope that these consultations, together with this motion, will convince the Minister that September 1974 is not the appropriate time to introduce co-education and that he will seriously consider postponing the introduction of co-education until such time as a Committee is appointed to study this over very clearly. In fact this Body can advise the Minister in no uncertain terms how they feel and I do hope that the Minister will certainly for the time being without giving any specific dates, though I would imagine that at least two or three years would be required - postpone introducing co-education in 1974.

Mr Speaker, there are a few other things one could mention, and of course being the mover of the motion I will be given the opportunity to speak once again. I would, therefore, suggest that perhaps the Minister would like to have his say now and I shall have the honour of replying. Thank you, Mr Speaker.

HON SPEAKER

Well I now propose the question which is: "That this House considers the Government policy, as announced by the Minister for Education at the last meeting of the House, to introduce co-education in the Comprehensive Schools in September 1974 to be detrimental, at this stage, and therefore calls upon the Government to defer the implementation of this fundamental change to a more suitable time."

I have given ample time for any contributors who wish to take part in the debate to rise....

HON CHIEF MINISTER

Mr Speaker, Sir, I am not going to take any part in the debate so I will forfeit my right to speak by getting up now. The position is that motions from the opposite side are no doubt well intended to try and influence policies, and I think some of the remarks that I have heard from the Hon Mover, on the loudspeaker, are certainly worthy of greater respect and consideration, but under the Rules of our House once a speaker makes his speech he cannot speak again. Last time when there was a motion of censure on the Minister for Education he naturally answered first and then a whole series of speakers, attacking the Minister followed. The Minister was not able to reply. Normally, speeches are made in such a way that at least the person who has to answer is given the last opportunity before the mover replies, as is his right. Attempts, in the past, to work in this way have not proved successful and therefore it would be desirable if the Minister could hear any other views from the opposite side before he replies. Of course I am not suggesting that people should speak in the order in which they should speak, that is a matter for members, but certainly unbalances the debate if all members want to speak on this motion on the other side. We, whether it is I who is speaking on the behalf of the Government or

any Minister on behalf of the Department, don't believe in repetition and, therefore, it is not a question of taking one at a time, one against the other, because we leave that to the Minister who is able and competent to do it. So, on that basis I would expect that perhaps the Minister might have a better opportunity of replying and if not, certainly we are not going to take any further part in the debate after the Minister speaks.

HON XIBERRAS

Sir, is it the intention of the Government that only the Minister for Education should speak?

HON CHIEF MINISTER

That is correct.

HON M XIBERRAS

Mr Speaker, the motion moved by my Hon Friend Mr Devincenzi, is one of the more important motions that have been placed before this house, in so far as it calls for the reversal of a Government policy announced by the Minister responsible as late as the last meeting of the House, and because the subject of the motion, namely co-education, is not only important in itself in so far as it affects the whole Secondary structure of education, but also important insofar as it would affect, or could affect, education through and through. If the right decision is not taken by this House, I forecast that there will be a considerable upheaval in education, and it is for this purpose that the Opposition is bringing the motion to the House: to enable the Government to reconsider its position and to adopt a fresh one which is in conformity with the wishes of the majority of the people. Especially those who are closely involved with education. As regards my first statement, that this motion calls for a reversal of Government's policy, I can do no better than to quote what the Hon the Minister for Education had to say in the course of the censure motion brought against him at the last meeting of the House. This was clearly no ordinary occasion, it was not an occasion in which education was touched upon but one in which the Minister and his responsibilities were coming directly under fire of the heavier sort from the Opposition. The House may recall, before I quote the Minister, that I myself stressed, in the course of that censure motion, the crucial nature which was held by the issue of co-education in the event which the House knows have resulted in the resignation of Brother Hopkins. A resignation which this side of the House laments and one, Sir, about which we will have to say something public also outside the House.

The Minister said, Sir, on that occasion, after he had been invited to reconsider two previous statements he had made on co-education in the course of the sittings of this House, he was invited to state definitively by what date he intended to introduce co-education. The Minister could not

plead ignorance at all about the importance which the Opposition attached to his decision as to the date of introduction. He had also been advised, not only in this House, but outside it, that whatever conclusion he came to on co-education would have a decisive effect on the form which the Comprehensive System would take. He was advised that whether there was to be one school only or two schools co-educational, or two school single-sex, depended obviously very much on his views and his policy on co-education. Moreover, he has been advised as recently as this meeting, as to the importance that his policy and the need for a definite and right policy on co-education would have in the obtaining of funds for the next stage of Comprehensive Education, and I refer to funds from Her Majesty's Government. It seems inconceivable to this side of the House that after the Minister for Education has visited Britain to try to obtain funds for a second Comprehensive School, or for the extension of the present Comprehensive, this side of the House should find it necessary to bring the matter to the House's notice once again and ask the Minister to reverse his policy, to reconsider and to formulate another policy which will suit Gibraltar better. I hinted in the course of a question which I asked that it is the Opposition's view that it could not have been otherwise, but that Her Majesty's Government must have been in difficulties about granting money for the extension of Comprehensive System in Gibraltar bearing in mind the difficulties, the genuine difficulties, and widespread difficulties which we on this side of the House know the Minister is facing as a result of his hasty statement in respect of co-education. We speak, Sir, on this side of the House, with a thorough knowledge of the subject. We have taken the trouble to be informed because, as the Minister should know from the censure debate, we know that co-education was central to the whole issue that has been debated in that censure motion. And, therefore, whilst not wishing to embarrass any party outside this House by any disclosure the Opposition might make, we ask the Minister to bear in mind that we are, as I say, completely informed about the situation.

Sir, let us make it clear, as my Hon Friend has done, that the view,... Or perhaps, Sir, before I do, may I say that there is evidence that the Minister himself was aware from long ago, as indeed anybody in this House would be, that co-education would raise difficulties, important difficulties, in its implementation and particularly in the date of its implementation. I recall the minister appearing on television when he was the Member shadowing Mr Devincenzi, then Minister of Education; I recall the Hon Mr Featherstone appearing on television and asking "What did the Minister, Mr Devincenzi, have to say about co-education" and reminding the public that there were certain difficulties as regards the implementation of co-education arising from the position of the religious orders in Gibraltar. And this is what a very long time ago. Sir, the Minister himself was in no doubt, even before he came to office, that such a statement as I shall presently quote was a most serious statement and, therefore, a statement that he should not have made, unless he had agreement all round, as to its soundness and as to its feasibility. We are not talking, Sir, of £10,000 for extra books, we are not talking about a number of

teachers, we are talking about more than that. We are talking about how, parties intimately involved in education in Gibraltar would react to the sort of statements that he considered he should make in the course of a censure motion; we are talking about the Gibraltar Teachers Association; we are talking about the late Bishop; about Monsignor Rapallo; about the Provincial of the Christian Brothers; about the Community of the Christian Brothers here; about the Mother Superior; and obviously about ODA; And I would have thought that when the Minister chose to mention, in the statement which I am about to quote, chose to mention almost every single one except ODA; I think, of those persons or bodies that I have mentioned, when he chose to mention them in the course of his statement in a censure motion against him, that he would do so in a manner in which the views of these parties would not be put forward in such a way as to risk that they should be misinterpreted, or to risk that a support was forthcoming from anyone, from all of these bodies, which was not really there. I have reason to believe, Sir, that in the case of two of these bodies there is very definite opposition, very real opposition to the introduction of co-education in September 1974. Sir, the Minister said at the last meeting of the House: "My thinking on co-education for many years, is to introduce it at the soonest possible reasonable opportunity and I am quite willing to state here and now, in this House, that I consider the most reasonable time to be September 1974." That is a statement from the Minister of Education in a censure motion against him and it could not be clearer that it is a definite policy statement. The Minister went on to say: "and I have consulted many people on this, I have consulted the Board of Education, which never met once during the Hon Mr Devincenzi's time", - however accurate that might be. "I think never met once. Look how he ruled the roost all by himself. I have consulted teachers, although I already knew their feelings; even the Reverend Brother Hopkins agrees with me that perhaps September 1974 is the best time. So, I am not changing thinking in the slightest, and I have reasons why I think it is the best time and in due course I will be telling them, so I don't intend to do it at the present moment." I would suggest to the Minister that if he does not intend to change his thinking on this issue he should produce those reasons at this meeting of the House. Quotation: "His complete disregard and ignorance of the problem affecting same", the minister was quoting from the motion of censure against him. Now, was this substantiated by Mr Devincenzi? Where was the disregard? Can he substantiate that I didn't discuss it with anybody? Discuss it with anybody? Obviously it is one thing to discuss this - this is my comment - and another thing to carry out a genuine consultation, and yet another thing to get the assent, the approval and the support, of these Bodies which he mentioned. But the Minister used the word "disgusted" "I have discussed it with the Provincial of the Christian Brothers, I have discussed it with the Provincial of the Loreto Nuns, I have discussed it with the Board of Education and I have discussed it with the Bishop, the late bishop, with Monsignor Rapallo, with my colleagues, with all sorts of people, but he knows everything" - referring to my Hon Friend - "he is a genius and he puts his brilliance down in writing. "His complete disregard and ignorance of the problem" another reference to the censure motion before him. "I must be ignorant of all

these problems when I discuss with the very people who are intrinsically concerned with the introduction of co-education." - the Minister's words - "I have even discussed it with the parents and I will be discussing it again with the parents on Friday."

Sir, will the Minister himself disagree that the quotation, the invoking of these names, in support of a statement to introduce co-education by September 1974, could be construed otherwise than as support, at least conditional support, for such a proposition. Clearly the Minister was quoting names in support of this proposition. Now, I know that it is a fact, as expressed to me, that not all these Bodies or persons are in favour of the introduction of co-education by September 1974. I know that some, at least two, are completely opposed. They are important Bodies and persons and it is astonishing that the Minister should quote the very persons who now inform me that they are opposed to the introduction of co-education by September 1974 in support of his own idea. I now....

HON M K FEATHERSTONE

Could the Honourable Member say who these people are because it is going to be very difficult for me to answer when we hear vague things. Can we have specific names of these people.

HON XIBERRAS

Sir, I would have hoped, Sir, that the Minister would not have put the question to me in that fashion. I shall give him time to reconsider whether in fact he wishes me to mention the names, and if he still wishes me to mention the names of the persons concerned, then I am at liberty to do so. Sir, I will continue with my speech and when I am nearing the end I shall put the question to the Minister again.

MR SPEAKER

Can you give any indication how long you will be?

HON M XIBERRAS

Sir, there are one or two things more which I should like to say. I will stay on for another ten minutes, possibly a quarter of an hour Sir.

MR SPEAKER

Then I think we will recess now for a quarter of an hour and then go on.

The House recessed

The House resumed

HON XIBERRAS

Sir, from time to time, I would imagine that all of us in this House could make mistakes and put forward views that are not completely accurate, and I imagine that if, as we have had examples with the present Government and in the previous Government, someone inadvertently, on the spur of the moment, makes a statement which later is proved to be misleading, then the House is indulgent about it and everything is forgotten. The reason why we have felt it necessary to bring a motion of this kind is because of what can happen if the Minister and the Government persist in their stated policy, and I would suggest that it is more than probable that the repercussions of going co-education in September 1974 would affect not only things which Gibraltar as a whole holds dear, but also the starting situation in schools. I think, Sir, that I am not trying to do other than to remind the House that there are certain things which the House considers important, and which the public generally must consider important, and that is that the Ministerial statement must be taken seriously because what is said in the House goes outside the House and repercussions follow. There is no doubt in my mind or in that of my colleagues, that in fact repercussions have already ensued from the views, the policy, of the Minister of Education in this matter. I asked the Minister earlier exactly what plans concerning co-education he had taken to London when he was arguing Gibraltar's case for more funds from Her Majesty's Government for the extension of the Comprehensive. And the House will recall that the Minister did not answer the particular question, although he was pressed. I invite him now, when he has more time, to do so because, as I see it, rightly or wrongly to have taken to London the proposition that we should go co-education in September 1974 has extremely weakened the Minister's case in the extreme since it must have been known in London that there were quite considerable difficulties in the introduction of co-education by that date. I leave it to the House to think, to imagine, whether the Government could have been more successful had the Minister's views been clearer on this subject. I am not saying for a moment that Her Majesty's Government should go over the Head of the Government of Gibraltar in the question of funds, in other words to find support for a proposition with which the Government of Gibraltar is not in agreement. It has been the practice of this side of the House not to be used against the Government of Gibraltar especially in this important area. And this side of the House will not let down the Government of Gibraltar, whichever that might be, in order to make capital out of it, but we cannot conceive now that there would have been ready agreement by Her Majesty's Government to an extension if the excuse would be brought

forward that there were difficulties in the way of the next stage of the Comprehensive. I would remind the House of what has been said by several members engaged in the negotiations with the Rowley visit of ODA - the ODA team - in 1970 in which it was stated, and it is recorded, that the Viaduct would be the major scheme in the 1973/76 Development Programme, but not the only one. I can assure the House that the main project, other than the Viaduct scheme, which this side of the House had in mind, was the second Comprehensive School, I can assure the House that this was brought forward in no uncertain manner by this side of the House with the Rowley team and we did not get a refusal from them. I appreciate that there has been a change of Government in the United Kingdom....

MR SPEAKER

I am afraid I have to intervene to the extent that we are not speaking on whether the Government is in the Comprehensive School but as to whether the co-educational system should be implemented in Gibraltar as early as September 1974.

HON XIBERRAS

Sir, if I may explain the relevance of the point. I am trying to make due allowance for the failure of the Government to get what we thought was a reasonable commitment by Her Majesty's Government at that time, at the time of the Hon and Learned the Chief Minister's visit, and I am making various points about the difficulties which I think the Gibraltar team must have encountered in their visit. But nonetheless, Sir, it seems to me that if we were not clear on the question of co-education, or if ODA thought that there was not universal and strong support here for a particular type of Comprehensive System, then an argument would have been provided for turning down the application or representations of the Gibraltar Government. I am putting these things, Sir, to be as fair as possible. Therefore, Sir, I feel that the Minister should explain what views he took on the question of co-education, which is intrinsically linked with the extension of Comprehensive, and to explain to the House whether this was a factor of the failure to bring back any good news such as that which this side of the House very much expected at the time of the Rowley visit: a commitment in principle to the extension of the Comprehensive School in a manner which this side of the House intended to put it forward. Sir, the standards of the House required that the Minister should answer these points in themselves. In ending, Sir, I would like to come back to the long quotations which I put. The use of name, such as the Minister made in his statement, is, so far as this side of the House can see, a wrong view, I think that anybody reading the transcript of this debate could be in no doubt that though the Minister measured his words and said that he had discussed the problem or the question, with all these persons and bodies

which are listed earlier, he said so in the context with anybody would say implied support for the proposition. And I think that even though this did not get supported at the time, it is in the records of the House and the Minister owes it to the House to say exactly who was in favour, and to what degree he was in favour. If he is prepared, however, to say that not everyone was in favour, or that some were opposed, or that some said go along with your idea, your policy, if you like, but you cannot take us with you, then he should make this quite clear. Otherwise, Sir, we will not be able to take the Minister seriously when he quotes in support of his policies other persons or bodies.

Sir, the Hon Minister asked me to mention who was opposed, to my knowledge, to the introduction of co-education in September 1974. I really do not think that any useful purpose would be served at this stage in my making that statement any clearer. I think my argument stands, the argument on this side of the House stands without my doing that. Therefore, Sir, I do not propose to do this unless he thinks it is vital that I should do it, but I asked him to bear in mind his own attitude to this motion and the good of education generally, and that the matter should be kept that level.

HON M K FEATHERSTONE

Sir, I have nothing to hide in this and I would like these names if they can be given.

HON XIBERRAS

Sir, I was referring to the Provincial of the Brothers, Brother O'Brien, and Brother Hopkins, who are, as I have been informed by them, not prepared to support the introduction of co-education in September 1974. Further, Sir, even if the Minister decided to go along with the introduction of co-education in September 1974, then to my knowledge, to my information, he would have to do so without the Brothers. I was hoping, Sir, that I would not have to say that, and I have given the Minister ample time for consideration. Now I must add, therefore, since I have mentioned it, I must repeat that the Opposition is in favour of Co-education at a more suitable time and it is my hope that the Brothers themselves will be able to accept co-education in the future, but we consider it very ill-advised to push this matter now, in the terms which the Minister did, at the risk, as we have been informed, of losing the Brothers. The Brothers are a Religious Order, and my experience of the Brothers in that particular Order, both as a pupil, as a teacher,

and as a member of the Gibraltar Teachers Association, is that Religious Order do take time to adjust. I appreciate entirely that there is not unanimity in all Religious Orders about all question, but when it comes to a Religious Order which has been in Gibraltar for a considerable amount of time, and for whom the people of Gibraltar generally have strong feelings, then I think that one should be as tactful as possible and I think one should allow time for re-consideration and for change. Moreover, one should be aware of the immediate staff repercussions which this would have. And as I say, Sir, I added that very much in regret. It is my hope, Sir, that nothing that is said in the House will add to the difficulty which already exists and I hope that the Minister in reply will be able to strike a note which attempts to reunite and get on the way the educational system for which he is responsible in a manner which all persons in Gibraltar will be able to support.

HON M K FEATHERSTONE

Mr Speaker, Sir, I didn't want to get up earlier partly because I think it is a little difficult; the Minister has to almost follow the initial mover of the motion and then, of course, he never gets an opportunity again to comment on all the other new points that might come up and really should be answered. I also didn't get up, Sir, because last time I did get up, which has in the past been the normal procedure, and I was accused of being arrogant for having got up straight away. I didn't know quite what to do.

for

Sir, far be it/me to question the Standing Orders of this House because I am sure a lot of thought went into them, but as you well know, Sir, I did approach you to ask whether it was possible for me to make a statement on co-education and you informed me - and quite rightly of course, Sir - that since it would anticipate a debate then it could not be done. But had I made that statement, Sir, then perhaps this House would have been saved a certain measure of time. We would have lost the opportunity Sir, of hearing the Hon Mr Devincenzi making a very good a very reasonable a very convincing speech, Sir. We would also have lost the opportunity, Sir, of having once more the Hon Mr Xiberras pouring his invective on me as I seem to be the general item that he likes to beat whenever he gets a chance.

Sir, If I were Oscar Wilde, as a playwright not in any other aspect, I would perhaps write a play about all this called "Circumstances Alter Cases" and this of course, Sir, is the whole theme of what is happening today. I made a statement, a reasonable policy statement, Sir, on the 15th May, being

read out by the Hon Mr Xiberras there was one little error in it - of course he got the first draft and of course it normally comes for correction of any typographical errors but I won't pick that one out, Sir.

HON XIBERRAS

I had been assured, Sir, that this is an edited copy of the....

HON FEATHERSTONE

Yes it is edited, Sir, but normally when it is edited, I think, hansard goes to all the Members and thereafter, if they have any slight mistakes, they bring it to the notice of the Clerk. I have not yet done so but it is nothing of significance at the moment.

Sir, I said: "My thinking on co-education for many years is to introduce it at the soonest possible reasonable opportunity". Now, I may say that, Sir, I would like to introduce co-education at the soonest possible reasonable opportunity, and on May 15th, Sir, I said: "I am quite willing to state here and now in this House, I consider the most reasonable time is September 74" I sincerely thought that in May 15th. Sir, we are in July and in between that time certain events have occurred which definitely present new circumstances. One of them - I would not like to say not least, but one of them - is the resignation of the Reverend Brother Hopkins. This came a fortnight after this, and had I known he was leaving then perhaps I wouldn't have said 1974 was the most reasonable time. I did say, Sir, I was going to say why I thought this was a reasonable time, and I think the House might like to learn what those reasons were. Sir, firstly, we do have a form coming out of Middle School who will have lived a life of co-education, and doubtless they would have been just the right people to continue. It would also have come in on a very limited basis, Sir, so that the amount of staff involved would not have been great, and I am assured by people to whom I apply, and to whom they tell me that they know - I bow, of course, to the educational ability of the Hon Leader of the Opposition - My Director tells me that he thought the staff situation could have been coped with, and I do feel I should offer a little more credence to my Director, Sir, and of course this would have been something that would have ameliorated, to a very great extent, the situation we are going to have now for the next two or three years with the Girls Comprehensive, because they are going to be in a pretty difficult situation with regard to space. Had we gone a little bit co-education in 74 it would have reduced the pressure. I don't think, Sir,

with the greatest respect to the Hon the Leader of the Opposition - I am wrong in this idea because an ODA Adviser, a certain Mr Collister who came out at Governments request, looked into a lot of the situations here very thoroughly and he did comment that this limited development, this is the question of going co-education in 1974 on a limited basis, would have provided a natural progression for the pupils from the existing co-education Middle Schools. In logistic terms it would have eased some of the problems faced by the Director of Education. So we had a fair measure of reasons for it, Sir, it wasn't just done out of the cussedness of the present Minister, it was considered to be a reasonable time and things would not have been so difficult. Sir, when I made my statement on the 15th May, and I have been challenged to comment on this, Sir, I said that I had discussed this with many people. I did have discussions with the Reverend Brother Provincial and he had given me to understand very clearly - and I am quite willing to write a joint letter to him with the Hon Leader of the Opposition - if so requested - that he thought the Christian Brothers might be able to fit in with co-education, in spite of their Chapter having stated that, in general the Christian Brothers could not fit in with co-education. The Reverend Brother Hopkins said the same thing, in fact, the Reverend Brother Hopkins went further and he agreed that the natural progression to go co-education in 1974 for youngsters coming out of Middle School would possibly be the most reasonable time. There was no misleading of the House, Sir. If the Reverend Brother Provincial and the Reverend Brother Hopkins did not, or if I did not fully understand then, make it clear that their possibility of going co-educational was limited in time, this is different circumstances. Because this is another circumstance that arisen since the 15th May, Sir, in which the Reverend Brother Provincial, who was out here recently, told me that again he felt that under certain circumstances, he thought that the Brothers might be able to fit into co-education but not in 1974. It would take longer to get it through the mill. I was not aware of this point, Sir, and he had never put this point to me when I made my statement in May. If I had known, Sir, that they could not fit it in 1974, then, of course, I would never have made the statement on this basis. And again I would quote from Mr Collister, Sir. He does apparently have the same impression himself because he comments: "Although the existing statutes of the Christian Brothers would preclude them from participating in 1974 there is, I understand, some possibility of dispensatory provision which would enable them to participate in co-education in 1976." You see, all this debate would have been saved, Sir, if I could have made a statement to this effect. I had a statement prepared. I would then have hoped that they would have

withdrawn the motion but, perhaps, the Hon Leader of the Opposition would have loved to have had his say anyway, so he wouldn't have withdrawn. So there you see, Sir, we have two changed circumstances. We have a change in Headship, and at first it would be a little more difficult for a new person to have to suddenly be thrust into not only Comprehensive, which is still in the throes of getting going - It is a difficult task and it has taken schools in England several years in some instances - but to be thrust into even a limited measure of co-education at the same time. Mr Collister....

HON M XIBERRAS

Sir, if the Hon Member will give way. Mr Devincenzi and myself had a confidential meeting with Mr Collister when he was here recently, and I have deliberately refrained from making any reference to Mr Collister's views as expressed to Mr Devincenzi and myself. I think, Sir, that quoting from Mr Collister's Report is rather unfair in that this side of the House has not got that information available, and this side of the House would not like to quote what took place in that confidential meeting.

HON M K FEATHERSTONE

Sir, Mr Collister came out at the instigation of the Government, myself in particular, and he sent a report to me. I think it is only fair that I should use it, otherwise, why do I ask for these advisers. I know he saw the Hon Mr Xiberras, Sir.

HON M XIBERRAS

Sir, does the Hon Member intend to publish this report or make it available to the Opposition?

HON M K FEATHERSTONE

Sir, I do not intend to publish this report at all. On the other hand, on a confidential basis, it may be possible to make it available.

MR SPEAKER

only
It is right for Members who quote from reports to make such reports available otherwise you don't quote from them. Parliamentary practice requires this.

HON M K FEATHESTONE

Well, I have no objection in due course to make it available, Sir. However, I don't think it would be advisable to publish, Sir.

Perhaps, Sir, I will not quote word for word. I will paraphrase. Sir, as I say the Hon Brother O'Brien when he came out just recently to consult with Government with regard to the replacement of Reverend Brother Hopkins, did bring more details on this question of co-education and did state then categorically that, although again he felt that co-education was perhaps the best solution for Gibraltar, because their Order had restrictions against joining in co-education and in spite of the loophole by which perhaps they could join in, it could not be done by 1974, although he felt, as I have stated, quite possibly it could be done by 1976. So there you have, Sir, two circumstances which have arisen, which have changed considerably the whole position of whether 1974 is a reasonable time to go co-education. I was challenged, Sir, this question of discuss, consulted; this is rather a hair-splitting of words, Sir. Some of the discussions I have had with some of the people have been over several days and a fair number of hours and if that is not a reasonable discussion, well, I don't know. I discussed it with the late Bishop, I can tell you point blank, he was dead against the idea, he was dead against it. I am not putting him down here in support of going co-education in 1974, I am not ashamed to say that he was against it, we had a lot of discussions on it.

I may paraphrase again from Mr Collister, Sir, I do see that he comments later on that the church would approve this scheme. Is being studied by somebody in the church, that possibly the church would approve this scheme. I discussed it with the parents, Sir, the Parents Association Committee. There were one or two weren't in favour, one of them had certain misgivings, perhaps in time he would change those misgivings; there were odd words thrown around such as a "sex jungle" and things like that. Well, Sir, again I think many other places have had this also very much in their minds before they've gone co-education and afterwards they have found that all their fears have been very quickly allayed. But the fact that I did discuss it with quite a lot of people, Sir, doesn't mean to say that I am saying point blank that all these people were in agreement with me. Just that the general consensus was that the suggestion at the time, before the 15th May, was quite reasonable. Sir, I was very heartened by the Hon Mr Devincenzi where he said quite categorically that the Opposition is in favour of co-education, in favour of everything that is reasonable.

If they are in favour of it they must accept that it is reasonable, and they were, and I think rightly so, worried about the time. I would be worried in their position, Sir, with these new factors that have arisen in the last three or four weeks. He did mention as I say, Sir, the adequate staff situation. Well, I think that one has been reasonably dealt with - not having people sufficiently trained - well, I think that my advise to that was that it could be done. Perhaps it might be fairer to let the House know what is the thinking at the moment, and this is not a change of policy, it is not confusion, but it is necessitated, as I say, by these changed circumstances. We are not, Sir, going to implement co-education, even on a limited basis, in 1974. This of course will bring difficulties. As I have said the Girls Comprehensive are going to have a very very hard time over the period September 74 September 75. They are going to be very very jammed for space, and I may have to come here asking for money to build them some temporary accommodation. I don't know yet how we are going to get out of this extremely difficult situation that they are going to suffer. It is rather a pity because at the same time we are going to have a school down there half empty. What we intend to do, Sir, is that my Director will start working out two schemes; one scheme based on two single-sex schools and one scheme based on co-education schools. These plans, these schemes, we hope should be prepared some time by the end of September. Then we are going to get a Working Party to look at these two schemes, to look at them in every aspect. Not only to amend the schemes as such, but to look at them in every aspect, and this Working Party will be a pretty wide one. It will be a professional Working Party, it will have, I should hope, teachers, parents, members of the Church, Religious Bodies, etc. When they have come to a decision as to which of the two schemes is preferable then the Director will put back to me the one that they have advised should be effected and I will then, with my colleagues, have the ultimate say. This we hope should be ready very early in the new year. Then ODA will send out - and this is a commitment, Sir - a team to actually plan the school based on the decision we have come to. But I was challenged as to what asked for at ODA. Well, Sir, I think ODA know very well even before we went what we were going to ask for, because Mr Collister started on his report - the purpose of his visit, he said: "following the recent decision of the Gibraltar Government to accept the recommendation of my colleague who visited Gibraltar in July 1972 to develop a single co-educational Comprehensive School on two sites". The ODA Adviser who came out in 1972, Sir, advised that we should have a co-education school on two sites, a single school. There was no question of going to ODA and trying to convince them:

"can we have a co-education school", and because I couldn't convince them, or because the Hon Chief Minister couldn't convince them, or anybody else couldn't convince them, they weren't going to give us anything and just get on with it. The Hon Chief Minister stated here quite clearly, Sir, that we came back with a commitment that they would help us in this, that they would be sending out people to help us with this. Here we have it reiterated, by a subsequent ODA Adviser, that people will come out soon after the new year, when we have a definite plan to put to them, and say: "now this is the school we want, this is what we want you to design etc.," and it is his hope, Sir, that this school could be finished by 1976. He says it must be finished by 1977, but we will try to bring it as far forward as near 1976 as we can because, that, Sir, is a rather crucial date. By that time both the schools are going to be - both the Northern Comprehensive and the Girls' - are going to be in a situation that is going to be almost untenable if we want to have Comprehensive Education at all. They will be so cramped for space that it will be almost an impossibility to do anything.

I could not accept, Sir, that the fact that I had stated on the 15th May, that I thought September 1974 was the most reasonable time to go on a limited way co-education was the reason for the resignation of the Reverend Brother Hopkins. This perhaps is a figment of the imagination of the Hon Leader of the Opposition because the Reverend Brother Hopkins has not said this to me, did not say it to the parents - he is pretty good at putting out leaflets to parents at what he feels is better - but he has not mentioned this at all. So perhaps that is just one more red herring. The situation therefore, Sir, is quite clear: Christian Brothers have stated, and it has been accepted by Government, that they would find difficulties to go co-ed in 1974, that they feel there is a very good chance that they can fit it in 1976, and if they couldn't, well, there would be an opportunity for them to withdraw etc. This I think would be a great pity, one would like to have the Christian Brothers who have given so much service to Gibraltar, continuing here and, I feel, Sir, that they will manage to get this dispensation if it is presented to them with ample time, because perhaps the same as sometimes Governments take time to get things done, Religious orders also need a long time.

When we have got this plan drawn up and worked on by the Working Party there will still be people against co-education, there will always be, Sir, but we will then be, I think, even more in a position to say that Gib is in favour of Co-education. I think, already there is a strong element in favour; I think the majority of the Gib Teachers Association favours Co-education; we hear that the Opposition favours it, so all we are already arguing about now is the time factor. I would, therefore, suggest, Sir, after the information that I have imparted to this House, that the Hon Mover might like to withdraw his motion because he now knows that we are going to defer it. We are not even going to say that 1976 is the date, we are leaving an ultimate decision to the report that will come to me from my Director after this Working Party has looked at the two possible plans. I feel, Sir, in my own mind, that of the two possibilities only one is going to be really tenable, but I am sure that

the Opposition will be happier to know that more people than the ones that I have already consulted will have an opportunity. And I consulted a fair measure and I am not ashamed to say that a good 80% did agree with me. So, I would suggest Sir, that the Opposition has had a good run on this; they may like to withdraw their motion which would be perhaps a very elegant way to terminate this, and they have as I say the fact that it will not be 1974, or 75, may possibly be 76, but it may not even be that. Thank you, Sir.

MR SPEAKER:

Referring to my ruling before on quotations from unpublished reports, I will quote from Erskine May to make the position clear as to the ruling. It states as follows, at page 421: "Another rule or principle of debate may be here added: A Minister of the Crown is not at liberty to read or quote from a despatch or other State Paper not before the House, unless he be prepared to lay it upon the Table; this restraint is similar to the Rules of Evidence in Courts of Law which prevent counsel from citing documents which have not been produced in evidence. The principle is so reasonable that it has not been contested, and when the objection has been made in time it has been generally acquiesced in." I thought I would make the position clear and nothing else.

HON M K FEATHERSTONE:

Sir, I can assure you that I will make copies available to the Leader of the Opposition.

MR SPEAKER:

Fair enough. This is the general ruling which must be observed.

HON P JISOLA:

Mr Speaker, whether members on this side speak or not on a particular motion very often depends on what is said, and in this particular case, in this particular motion, although it is true, and perhaps it is unfortunate that the Standing Orders do not permit a member to speak twice in the same motion to be able to deal with points raised by speakers who speak subsequent to the Minister, equally it must be borne in mind that there are members who want to hear what the Minister has to say on the motion, to see whether they can usefully contribute to the debate. And this of course is the attitude on this side of the House that we have to take, so long as the Standing Orders are what they are. The only suggestion I can make on this problem, as far as the Government is concerned, and it is only a suggestion, is that some other Minister makes himself acquainted with the problems of another department and deals with the Government policy, and leaves the Minister of Education, to speak last, or the particular Minister to speak last, on this side of the House. There is nothing unusual in this, certainly not in the life of the last Government. I would have thought it could be done in the life of the present Government. After all the Hon and Learned the Chief Minister, as I understand it - certainly from the

communiqués that have come from time to time on the question of education - has in fact made statements on the subject, has intervened, and there is no reason at all why the Chief Minister could not have dealt with some of the arguments that the Minister for Education has in fact dealt with and let him then speak at a later date. But we of course haven't made Standing Orders, we have to abide by them.

MR SPEAKER:

I have allowed you to make a comment but let's not expound on that.

HON P ISOLA:

Mr Speaker, that is what I was going to say, perhaps in defence of Standing Orders and speaking after a Minister for fear that we shan't be accused of doing something wrong in this respect. Mr Speaker, the Minister has dealt quite low tone on this matter judging from other statements that he has made in the past in this House and categorical statements that he has made in the past in this House. It is not surprising that when he makes the statement that he has made on Co-education in July, the first week in July, it is not surprising that he should see fit to make it in such a low tone because it does represent a pretty severe reversal of the Government policy announced only at the last meeting of the House. In substantiations of the Government reversal of policy we are being told that new circumstances have arisen although these have not been very clearly put.

Mr Speaker, what is worrying about this change, and we do welcome the change in the Government position, we do welcome it because we do think that it is a sensible change, and we do think it is a reasonable one and a proper one, but it is nevertheless worrying that a categorical statement made in a censure motion that we will go Co-education in September 1974 should be so speedily reversed. Now, this must inevitably....

HON FEATHERSTONE:

I don't think that anywhere in my statement we say "we will go." I said this was the most reasonable time, in my opinion, not that "we will go." I have a copy if the Hon.....

HON P ISOLA:

Yes, I have been handed a copy and certainly my recollection of the debate was of quite a categorical statement, because you will remember, Mr Speaker, that one of the points that we recalled with concern in that motion was in fact changes in thinking, in policies of the Ministers as regards Co-education. When he was in fact telling the House, or speaking to the House, on this particular thing he said: "I consider the most reasonable time is September 1974, and I have consulted many people on this; the Board of Education" and so on; the whole list of people have been consulted about this. He didn't tell us, actually, that a lot of them were against it. The Government in a censure motion, the Minister for Education, put forward the Government policy on Co-education. Now, when the Minister for Education says in this House "September 74", it is not unreasonable for people to assume - they have still not got to know that this is a Government of broken promises, this still has not filtered through - it is reasonable for people to assume that when the Government says: "we will introduce Co-education in September 1974," it is reasonable for people to assume that the Government policy.....

HON M K FEATHERSTONE:

The Government never said "we will do this." You are putting words that aren't true, Sir.

MR SPEAKER:

I have got a copy of Hansard, here, and it does not say "we will go". I think it says "my thinking on Co-education for many years was to institute it at the soonest possible opportunity, and I am quite willing to state here now in this House that I consider the most reasonable time is Sept 1974." That is the record of the House.

HON P ISOLA:

I am very obliged to you, Mr Speaker, but I was saying that it is reasonable that people who read that statement, categorical statement; "I am quite willing to state here and now in this House that I consider the most reasonable time is September 1974," it is reasonable for people, especially people in the educational world, to assume from that statement that it is the Government's intention to go Co-educational on September 1974. That, Mr Speaker, is a substantial change in our present educational system a substantial and a serious change from a selective system of education to a comprehensive system of education, and when people hear that, it is reasonable for people to assume that that Government has done all its homework for this and is ready to start the planning and implementation. After all that was only in May, Mr Speaker, barely one year and five months later. I remember that the Hon Mr Devincenzi, when he was Minister for Education, announced the abolition of the 11+; I remember when the Minister for education announced his change abolishing the 11+ and going comprehensive, I remember the tirade he received from this side of the House, then at that time, of rushing into things and all that: lack of planning and so forth, so one assumes that those who laid those accusations would have done their planning, would have done their consultation before making a statement of such profound significance. That is, of course, why we welcome the change in the Government policy. We are alarmed and concerned that a statement a categorical statement, made in May should be so speedily reversed and one is, therefore, very concerned at the answer given to a question by the Hon Leader of the Opposition by the Minister for education/ Now, Mr Speaker, put yourself in the position of a parent, of a teacher not in the know, not in the higher echelon, who is told in May 1973 that the most convenient time for going Co-education is September 1974, and exactly one month and 16 days later he is told; "I am sorry, it is not the most convenient time, it certainly may not be in September 1975, from what I see it won't be till September 1976 and even then it may not even be September 1976." Well, Mr Speaker, if that is not confusion, if that is not likely to bring confusion, I don't know what is. Obviously I can understand the position of the British Government - perhaps I should not say that because we do not often understand the position in many occasions - but one can understand if they are reluctant to commit themselves in respect of buildings, when they see that the proper homework on the subject has not been done. Surely, Mr Speaker, surely it must have been abundantly clear to the Minister as far back as September 1972,

/earlier in this meeting that he said that there was no confusion as to co-education.

make it appropriate to introduce it. I distinctly remember him using similar arguments outside the House when he addressed parents on the matter and when he said quite categorically that the building at Bayside would be able to accommodate incoming classes which would consist of Boys and Girls. He was quite clear that he thought he was doing the right thing at the time and now he doesn't think so. Well, Mr Speaker, if of course it was quite clear he has doing the right thing at the time, then it must be equally clear the those of us who heard him were convinced that he was going to go through with it. Consequently, since we thought he was going to go through with it because it was quite clear that he was convinced he was doing the right thing and since we were not convinced that he was doing the right thing, we are here now to try and argue him out of this conviction. We find that the job has already been done!

Mr Speaker, the Minister told us that if he were Oscar Wilde he might be writing a play called "Circumstances Alter Cases." his performance today reminds one more of Houdini trying to wriggle out of a corner rather than Oscar Wilde. A rather ineffective Houdini at that!

I am sorry that I shall not be able to hear the Minister accusing me of pouring my convective on him afterwards because he won't have a chance of saying it on this occasion. Perhaps he can store it for a future occasion. But the point is, Mr Speaker, that until now we were not in a position to be sure that the Minister had had second thoughts about the moment for introducing Co-education. The arguments in favour of Co-education, the educational arguments, are strong, and therefore the House is completely in unanimity about the desirability of the change, but, as with other matters that we have discussed in this meeting of the House, the important point, as the Minister himself recognises, is the question of timing and, therefore, although the principle is one that we can all agree on what we want to do, what we want to influence the Government on, is that when they introduce something that is desirable because it is beneficial, it is introduced in such a way that it causes the least amount of dislocation and disturbance to education, because, Mr Speaker, anybody who has had anything at all to do with education is fully conscious of the fact that dislocation and disturbance in an educational system is one of the most dangerous things that one can have in terms of sound progressive education. When you have people not being sure where they are going to go next, when you have people not being sure what purposes buildings are going to be used for, then there is an atmosphere of uncertainty created which is bad. It is an atmosphere of uncertainty which is bad for the continuity of teaching. If people don't know whether they are coming or going then they go, and we lose our teachers, and we don't get them back, so it is bad for this reason. It is bad for the children themselves who are the main consideration when we are discussing educational policy.

It is for these reasons that we wish to impress upon the Government our own misgivings about the date that we had been led to believe it was proposed to introduce Co-education. And of course, the use to which the particular building is going to be put is a basic factor in the design and construction of the building and the decision cannot be put off indefinitely because until the decision is made the design of the building and the construction of the building cannot follow. Consequently the decision cannot be put indefinitely into cold storage nor can it be rushed into. The Minister today has been particularly reasonable, he has gone out of his way to explain the circumstances which have occasioned a change in his views. We welcome the fact that he was so committed to Co-education that he wished to introduce it so soon, and we welcome equally that he has not allowed his commitment to blind him to the very real obstacle which exists in the

circumstances of Gibraltar, and we welcome, Mr Speaker, that he has been honest enough and.....

Courageous enough to admit that he was wrong when he said that he wanted Co-education to come in in September of this coming year.

MR SPEAKER

I now call on the mover to reply.

HON L DEVINCENZI

Mr Speaker, the Minister for Education, has naturally tried to defend himself from the accusations levelled at him. He started off by saying, among other things, that two of the reasons that had brought about the change in his thinking since the 15th May were, one, that Brother Hopkins had resigned, and the other was that Brother O'Brien, the Provincial, had explained to him, in a more detailed way why they would not go along with Co-education in 1974. Should I remind the Minister of the meeting that took place between him and Brother O'Brien in September, 1972, at Prior Park; even as far back as that date he was in fact told that the Brothers could not go along with Co-Education at such a date: they were not prepared for it.

Mr Speaker, I did ask him very specifically in my opening speech to tell the House which of the bodies which he had consulted, or had discussed this with, had in fact agreed and which of those had not agreed. He only mentioned the GTA, which he said had agreed, and the late Bishop who he said had disagreed with it. I am sure, Mr Speaker, that there are other bodies who did not agree with it either, and who are certainly hot up to date with all the facts of the case. I would like to suggest to the Minister that in spite of his enthusiasm for an early implementation of Co-education, it is his responsibility when holding meetings with different bodies to help those people with whom he is holding these discussions by giving them all the facts available to him. By so doing he would be helping them to come to a clearer conclusion as to the way of thinking. I think it is quite understandable that if you ask somebody: "Are you for, or against, Co-education," some might say, yes; some might say no; but even those bodies like perhaps the Board of Education, I do not think, have been sufficiently preoccupied with education over the last two years to know exactly how they feel on any sphere.

May I tell the Minister - and this is absolutely factual - that I met the Board of Education on one occasion and quite frankly I was not impressed; not as a body, but certainly as a number of individuals they did not have a clue as to what they were talking about and in my opinion they didn't even care. We were to discuss on one occasion, Mr Speaker, the Education Ordinance which had been sent to them six months before and most of them had not even read it let alone show an interest.

Mr Speaker, coming back to the motion, it should be clear to anyone that the defence of the Minister has been a weak defence. We cannot have a Minister for Education saying something in May, 15th, and now bringing two very lame excuses as to why he has now been made to change his mind. He should have known of the difficulties and it is his responsibility to have asked the Brothers and all those concerned to express exactly what their feelings were on this

particular issue. It is not good enough, Mr Speaker, for the Minister to come here and say: "Perhaps I am understood; perhaps I did not understand exactly what they said". On an issue of this importance, on an issue which is of such fundamental importance, the Minister should have been left in no doubt whatsoever as to how everybody really and truly thinks on the issue and I am surprised that the Minister should have brought this as an excuse. I would put it to the House, Mr Speaker, that he was over-enthusiastic: he was prepared perhaps to have meetings but I don't think he was prepared to listen to other people's arguments because I would say that when somebody else was saying something he was not listening, but thinking all the time what he was thinking and what he wanted. I am very glad, nevertheless, that he has realised his mistake, that he realised that he had ill-considered, ill-timed; that he is now prepared to accept what other people were suggesting and at least for the time being we shall not be having Co-education in September, 1974.

I think it was also rather bad of the Minister that he should go along and start quoting from a report in defence of his arguments and then a minute later say that he is not prepared to publish this report. This is certainly most unfair and most unbecoming. In fact, although the Minister has offered to make available the report on a confidential basis to the Leader of the Opposition - perhaps he ought to have offered it to myself - I would say that a Report of this importance should be published for everybody to know. I would ask the Minister to think about it very carefully since otherwise, after what we have heard in this House, the few people that are listening might not even believe what the Minister has quoted from the report, or it might not be so. Who can say that what he had said there is true.

MR SPEAKER:

Order. The Minister has not quoted anything from the Report. He has paraphrased from the report. He is entitled to paraphrase.

HON L DEVINCENZI

What I am saying, Sir, - of course he is allowed to do so - what I am saying is that the public is entitled not to believe what he has been saying, and I am sure they will make full use of that entitlement.

Mr Speaker, I would have thought that the Minister, before making the sort of statements he made in the House the 15th September, would have called a collective meeting of all the different bodies concerned and by doing so he would have had a far better picture than by just merely having met different bodies at different times and of all of them giving their own impression. Mr Speaker, I am of course very glad that the Government, or rather I am rather hopeful that the Government, will support the motion. I am sure they are bound to support the spirit of the motion, and even if any amendments are forthcoming, essentially they are bound to be the same. Mr Speaker, I think it has been proved very conclusively that the Minister was guilty of misleading the public. I would say that if we could also have the 'instant parking tickets' one could also be given to the Minister for having been found guilty of misleading the public, and even the House.

I would say, Mr Speaker, and I have no doubt about this, that the Minister, in a rather subtle way, used the words: "discuss", and "had meetings"; without telling us exactly what those discussions were about and who had agreed and disagreed. In fact, he did on one particular occasion say: "we have even consulted ODA". It is clear to us, Mr Speaker, that even ODA do not necessarily agree with the implementation of Co-education in 1974, although of course they agree with the principle.

Mr Speaker, I think that the Minister has been given a fairly good beating by the Opposition and I think the beating is well deserved. Quite frankly it is rather pitiful to see a beaten man and with those words I commend the motion to the House.

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On a division being taken the following Hon Members noted in favour:

The Hon M Xiberras,
The Hon Major R J Peliza
The Hon P J Isola OBE
The Hon W.M. Isola
The Hon J Bossano
The Hon E Caruana
The Hon L Devincenzi

The following Hon Members voted against:

The Hon Sir Joshua Hassan CBE MVO QC JP
The Hon A W Serfaty OBE JP
The Hon A P Montegriffo OBE

The Hon A J Canepa
The Hon I Abecasis
The Hon Lt Col J L Hoare
The Hon J Zammit

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The following Hon Member abstained:

The Hon M K Featherstone

The motion was accordingly defeated.

HON CHIEF MINISTER

I now move formally the adjournment of the House.

MR SPEAKER:

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

HON MAJOR PELIZA

Mr Speaker, as you know I gave notice to you about raising matters connected with question No 111, which at the time you said we might raise it at the adjournment. We do this because, obviously, because at Question Time it is impossible to make any constructive suggestion.

MR SPEAKER

May I say that the time is now 6.57 pm and the matter can be debated for 40 minutes.

HON MAJOR PELIZA:

Well, I certainly, Mr Speaker, will not take very long but I do hope that as many speakers as possible will contribute to the debate if they have anything to say and at the end of the day, even if we hear negative noises from the Government, - or even positive noises, that we heard today - and whether they openly disagree with what we have to say, in the same way that apparently they are going to implement the motion on which they voted against, they will act in the same way with the suggestions that we are going to bring to the House here this evening.

My main concern in bringing up this matter of course is the welfare of I would say about the 1,500 or very nearly, getting into the age of Senior citizens in Gibraltar, and definitely not intended in any way to accuse the Minister for Labour of anything whatsoever, but, in fact, only to try and help him to solve this problem which I do not think is such a big problem as he sees it. We obviously welcome the move of the Government in trying to help those of its own employees who want to join the scheme to do so by coming forward with loans. We welcome that very much. But at the same time we are sorry to see that a kind of distinction is being created in Gibraltar with public money, in that with public money certain individuals, simply because they are employed by the Government, will be able to take advantage - and in fact have been able to take advantage, because it is too late now to take advantage - have been able to take advantage of a scheme by getting loans from the Government - Whether they are employees of the Government or not, they are still ordinary citizens of Gibraltar/ Whilst I think it is a jolly good step forward, and we all welcome that, at the same time we would like to see if it is not at all possible to extend this to everybody else who wants to join the scheme in Gibraltar.

/whilst other citizens who are not employees of the Government will not be able to do so.

HON MAJOR PELIZA

I know that we agreed entirely with the terms of the Ordinance at the time, we are not trying in any way to excuse ourselves of a situation that has arisen subsequently, but it has just come to our notice and I am sure it has also probably come to the notice of the Minister for Labour, that there are quite a number of people who would like to join but have found it impossible because to do so they have to find, I believe, something like £150 to £180 to be able to pay their arrears contributions. I cannot see why it is not possible to find a solution to this problem by increasing the contribution, the instalments, in the same manner as you are going to do with the Government employees, and perhaps extend it for a little longer and not just I believe, and correct me if I am wrong, I think it was stated in this House, between three and four years. Perhaps the period could be extended to even more than that since nothing can be lost. As I understand it, eventually, the benefits derived would be proportional to the payments effected, so the public will never be out of money because at one stage or another either the individual leave the scheme or is incapable of paying or dies. I do not see, therefore, the financial problem, shall we say, of bad debts along the line. Equally I don't see any insurmountable financial hurdle since there is no immediate need for money. In fact, in most cases I would imagine, by the time the payment of benefits comes about, it is more than likely that the majority of these individuals would have paid their full contribution.

I know that there are administrative difficulties, and I know that obviously the individuals who are going to work this out will be resistant to any administrative work that may add to their burden, this is very human, and, equally, I know that, particularly within the Service itself, the individuals who are supposed to look after the money will be over cautious in making sure that the accounts are rigidly kept, and I sympathise with them, I fully sympathise with all that. There are difficulties, but I do not believe that they are insurmountable and what is at stake, in my view, is so important that we should not allow administrative difficulties to get in the way of finding a reasonable and I think a practical solution to this problem. It is of course a matter of little significance, I would say, in the overall machinery of Government, but to the individual concerned, it's a great thing. I think the position is even more in favour of the moral obligation of the Government to find a solution to this in that in fact it was the Government itself which at one stage deprived quite a lot of them from continuing in the scheme by making it optional. I think that it is a good idea to be able at this stage, even if it is at a late hour to try and see if the date for joining the scheme can be extended. There might have to be amendments to the law and I am sure that this side of the House would welcome those amendments. Certainly there would be no difficulties. Equally, I think it should be possible to find a way of enabling the individuals who want to join to receive a little bit of financial support, a bridging financial support, to make it possible for them to enjoy the benefits which otherwise they just will not have. And I go further than that, I can see that by the time these individuals are entitled to their old age pension the Government will find the moral pressure so great that it will have to give them some kind of supplementary benefit which will probably very much equal to the pension that they would get after they had made the contribution. So even financially I think the public would benefit by a rapid solution to the problem and of course it will put at ease the minds of all those individuals

who see that they are approaching old age and feel they will have to live perhaps on charity. We are happily trying to do away with the sort of situation where individuals need for their own existence - people who have worked all their lives - to depend on the goodwill of individuals rather than be able to have this as of right in the same way as the rest of the members of the community will have, and as such indeed, some members of the community in their own circumstances will have by virtue of being employed by the Government. I think it is no excuse to pass the burden to the employer: that is the easy way out which I would advise the Minister not to take because this is a social matter. It is the responsibility of the Government and certainly this House, that it becomes a social matter and that it is properly attended to by the Government and not pass the buck to somebody else who obviously is impersonal and need not have the responsibility. It is a way of shirking responsibility and I think it would create a very bad precedent if we were just to say: "well, it is the practice of good employers to do this and therefore the employer should do it." Unless we pass a law saying that the employer will have to do this then, of course, it is our responsibility. But I think that that perhaps would be unfair, but if we feel that it is right and there is no other solution to this, then I suggest to the Minister that we should make it law - certainly I think he would have the support of this House - to make the employers responsible for it if that is what he thinks is good employer practice. If it is good employer practice then we have got to press it home, but I think this is not necessary, I do not believe that this is necessary, I think that the Government can adequately do it if we can find an administrative way of overcoming this difficulty, and I do not believe that the administrative brains of our organisation cannot find an answer to that question. I do not believe this is impossible. There might be difficulties, but it is not impossible, and therefore I would suggest to the Minister that he should look into this again. I say we come here in the spirit of full cooperation, pleased to see that the Minister has taken this step forward, and hopeful that he will take the other one which we suggest can be done. I am sure it can be done without risk of any nature and within the means of the Administration of Gibraltar.

HON P J ISOLA

Mr Speaker, I certainly would like to support what the last speaker has said on his attempt to get the Government to have a second look at this matter. The question that was put by my friend, the Honourable Joe Bossano, was a very reasonable one and one which recognises the existence of a problem, and the Government itself, by affording facilities to its own employees from public funds has recognised that the problem exists. I think, Sir, it is a principle of legislation that you should not enact legislation which is not realistic or effective so if you were to decide, as a matter of policy, which we on this side of the House agree, that an opportunity should be given to people to opt into the scheme by paying arrears, and if you decide that and you pass legislation to give it effect, then you should be equally prepared to ensure that the policy that you are enunciating in that legislation is a practical one and one that can be given effect to. It is quite clear that in many instances this is not a practical piece of legislation and it is quite clear that the Government has recognised this by offering facilities to no less than 500 of its employees from public funds. And I think it is a question that the rest of the public can ask who are affected." Why should a person who is in Government employment be given facilities out of funds which I have contributed and I myself not being given them?" It is all very well for the Minister to talk about good

employer practice, but has this been discussed in JIC? I understand that the Ministry of Defence is not prepared to be such a good employer so that the net result the Government finds itself with is that it has passed a law which it knows is neither practical nor realistic insofar as the individuals that it is intended to benefit are concerned, and the Government has recognised that concern by affording facilities to its own employees by way of loan to enable them to opt in and then they can pay the Government back in instalment.

Now, Mr Speaker, having regards to the position of the Ministry of Defence, as we know it, and having regard that in the case of the Government Sector there are no less than 500 employees to whom the facility was being afforded, there must be a great number of people outside the Government employment who are equally affected and who should be given an opportunity, a realistic opportunity, to be able to obtain the benefits of this Ordinance. It is that we are asking the Government to look at at this stage. I do not think, with respect, that the problems, the legal problems, can be insuperable. I would think there are no problems there, it is just a question of drafting the appropriate legislation. As far as the practical problem are concerned, Mr Speaker, I would say: "where there is a will there is a way", and if the Government feels that it is fair that everybody who wants to opt in should be able to opt in on reasonable terms, then I think the Government should make sure that those terms are applicable to the whole community and not just to the section of the community whom they employ. The point here is that the Government has proposed the legislation and the Government itself has recognised its impracticability, in so far as individuals are concerned, by offering facilities to its own employees to be able to pay the arrears because they are too large for them to meet in the time specified under the Ordinance. It is in those circumstances that we in the Opposition feel that the Government should get up today in this House and say that they are prepared to look in the legislation again and they are prepared to make arrangements to enable those people who, just like their own employees, because of lack of means, are unable to opt into the scheme in the time that was specified in the Ordinance. That is all I would like to say.

HON J BOSSANO

Mr Speaker, in answer to my question the Minister made reference to a letter that he had written to me and to earlier correspondence, and he gave nothing, in addition to the points that he had made in that letter, to justify the unwillingness of the Government to show flexibility on this matter. The Minister in fact, Mr Speaker, made reference to the contribution conditions on Maternity Benefits in his replies, which shows an extraordinary ignorance of how the Insurance Scheme works, because for Maternity Benefits the payment of arrears will only affect people in the forthcoming year who in the current year will not meet the forty contributions, but people in two years time, even if they have not paid any arrears, will be entitled to the full Maternity Benefits because the relevant period for the contributions is forty contributions in the year before confinement takes place, according to the publication for which the Minister is responsible: publication made available to me by his department. The important benefit where arrears affect the amount of benefit that is paid are primarily, Old Age Pension and Widows Pension, and it is shocking, Mr Speaker, that individuals should be invited to exercise an option to return to the scheme and yet be denied because they lack the means the opportunity of looking forward to a full pension when they reach pensionable age. We have in this meeting of the House laid on the Table of the House Regulations which have

been made under the Ordinance which contain a number of tables showing the reduced contributions that will be paid to those individuals who have not been able to exercise the option to pay arrears because they lack the means. And if we look at that table, Mr Speaker, if we look at these Regulations that are before the House, we find that, for example, somebody who joined the scheme in 1955 when it started, then opted out and is now returning on the basis of having say 10 years of working life before he reaches pensionable age: somebody who is 55 now and rejoins the scheme will pay 500 contributions over the next 10 years, which is one of the contribution conditions to enable him to obtain a pension, and then those 500 contributions will be spread out over all the years between the time when he first joined the Insurance Scheme - when he first became an insured person - and all those years during which he was out of the scheme will be used to average out his contribution. And in cases of individuals who are now on the age of 55, and who have only a few stamps in their record cards in respect of their previous period in insurance, in those cases the average is likely to come out at something in the region of twenty stamps, Mr Speaker. Which means that what the Government is offering individuals who join the scheme now is a pension for a married couple of £1.62 in 1973. This is a shocking method of going about things. I wonder, Mr Speaker, if the Minister can tell us how many of those individuals who have exercised the option in the Social Insurance (Amendment) Ordinance to rejoin the scheme, how many of these have been informed by his Department that what they can look forward to in 10 years time is a pittance of £1.62 for a married couple. And this is what the Minister is condemning people to, because he is completely inflexible in the matter of allowing people who have limited means at their disposal a way of joining the scheme. What excuse does he give, Mr Speaker, in the letter to which he has made reference? That the contribution conditions are related to the number of payments that have been made: well, it is the simplest thing in the world, Mr Speaker, to allow individuals, now that we know that there are individuals who wish to join but who lack the means, which we did not know when the law was originally passed through the House, but which I certainly knew before the deadline of July was reached, and which I made it my responsibility to acquaint the Minister with in case anybody had not gone and told him personally. I am sure he has had representations made to him, but in any case I made sure that he knew from me that I had had them, Mr Speaker. What I do know now is that there are people who would like to pay these arrears and who cannot, and to my mind it would be the simplest thing in the world to meet the points in the letter that the Honourable Minister for Labour and Social Security sent me, to relate the payment of arrears to the level of contributions that are normally paid so that you pay your arrears and for every week that you pay for arrears you pay in effect two or three contributions. You pay in instalments and the level of instalment is related to what is the nominal level of a contribution. In this way when a person, for example, reaches retirement age, or when a person dies, the widow can have the actual payment, the actual number of contributions of the arrears, that have been paid taken into account. Not the ones that would have been paid but the ones that were actually paid. It is no problem, there is no difference between that and the existing system which is detailed in the Regulations that are on the Table of the House, where there is a table with the amount of contributions involved. If people are allowed to pay the arrears then the average number of contributions will gradually increase as they pay up more and more of their arrears, and consequently their entitlement to the pension, or the widows pensions, will gradually increase, according to this table, until, depending on the length of time between when they start paying their arrears and when they claim their benefit, until the time is reached when they will be entitled to a full pension, which heavens knows is bad enough, Mr Speaker. Let us not condemn

people to an even inferior standard than the one that we give those who have fulfilled full contribution condition. I would like to make it quite clear, Mr Speaker, to the House and to the Government, and to members of the public, that if the Government is unwilling, after all the arguments that we have used, to look again at the legislation with a view to bringing the necessary amendment, and to make this public so that people will have another chance, then we commit ourselves to re-open the question of rejoining the insurance Schemes and the question of paying up arrears when we are in a position to do so in the Government benches.

MR SPEAKER

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

HON A CANEPA

Mr Speaker, I very much welcome the attempt to be constructive evinced, in particular, by the Honourable Major Peliza. I accept that the question of social insurance is primarily a Government responsibility but I would of course remind him that employers also have a responsibility. The necessity for social insurance arises in order to protect precisely those people for whom reasonable provision is not being made by their employers through an occupational pensions scheme.

HON MAJOR PELIZA

I will try and be constructive again.

HON A CANEPA

Sir, I have a great number of points, I have been left 15 minutes, and I would welcome

HON MAJOR PELIZA

Sir, I wish only to say that in fact I suggested that if you feel that it was the employers who could do this then we should legislate. I am conscious that the employers are responsible.

HON A CANEPA

Whilst trying to be constructive, Sir, I will also say this, that in the previous debate the Minister for Education was told that he had not listened to advice. I listen to advice and apparently the advice that I get is not good enough. I am fairly well versed, Sir, I ~~consider~~ ^{think} in social insurance matters in so far as policy and principles are concerned and I must accept the advice that I get of an administrative nature because I am not the one who is sitting in the Social Insurance Section dealing with the problem at that level. Sir, we have heard reference, not so much to the kind of legislation that could be introduced to bring this desired objective about, which was the subject of the question, but ~~we~~ have heard greater reference to what Government has done for its own employees. We have also heard,

Sir, that there are 1,500 people outside the scheme. Sir, there are 1,500 people outside the scheme primarily because on three consecutive occasions they had not exercised the option they have been given to enter or re-enter insurance. Apart from those who were at the time, in 1965, when the scheme started already earning over £500, others, on reaching the level of £500 a year were given an opportunity to continue as voluntary contributors, and they did not. Then in 1968 they were given an opportunity, extending over the whole year, to re-enter the scheme and they did not. In fact, the Department got 1,500 ~~extension~~ *exemption* certificates sent in by employers saying: "Our employees do not want to re-enter insurance." And now again, Sir, these people are being given a third opportunity, and we find 515 enquiries - I asked for a record to be kept - 515 enquiries of which, I am glad to say, 500 have come in, 320 without paying arrears and about 160 paying arrears.

f But let me go back, Sir, to 1968 which was really the crux of the problem. Prior to that, legislation went through this House in the course of 1966, and ~~for that year~~ the legislation did not go on the statute book ~~until~~ December 1967. There was a period of over a year during which people could exercise an option to come in and make arrangements for the payment of arrears which would become due on the 1st January, 1968. They had over a year, and what did we find, Sir? A miserable 30 persons out of about 2,000 that it must have been, then entered insurance, even though they had been given the sort of opportunity which perhaps they have not been given now. So, Sir, the problem is not as simple as that, the problem is one of educating people. f Where are the other ~~thousands~~ *thousands* that have not even bothered, in spite of twice nightly adverts, a slide on television, constant advertisements in the press; where are the other thousands that have not shown any interest in entering or re-entering insurance?

Sir, what the Government has done for its own employees shows a similar lack of awareness on the part of people. Over 500 could possibly have opted in; only 100 did so, in spite of the facilities in respect of arrears. Or is it, Sir, that people cannot afford to have £150 deducted from their salary over a period of four years? But they do not mind having other deductions in respect of a lot of luxuries. I am afraid, Sir, that in Gibraltar we have not reached the stage where the public at large is yet aware ~~and~~ *and* of the importance of social insurance and of providing for their old age. And it is about time, Sir, that perhaps people were not so ~~closeted~~ *closeted* and so protected as they are being. People must be told the truth, ~~they have a responsibility~~ *they have a responsibility*. The state must make provision for people to exercise options, but people have a responsibility to provide for themselves and not become an unnecessary burden on the tax-payer; ~~if~~ *if* they have the means to protect themselves.

assuming that

Sir, I made a very detailed study of the problem. I do not need - though I welcome the concern of members opposite - I do not need to be made aware of the nature of the problem, what I need perhaps is to be shown how the problem can be solved. Time and time again, Sir, in this House I have extended an invitation to members opposite to discuss the subject of social insurance with me, to put our heads together in an effort to improve the scheme, and the response, Sir, I am sorry to say, has been very poor. Certainly we have had amendments when I introduced the legislation, but the offer that I have made to members opposite, going back to January, to discuss the scheme has not been taken up. I do not intend to close the door, Sir. I have said on a previous occasion that this is not the end of the road. Obviously, the problem is coming increasingly under

control. We now have 500 people less outside the scheme: this is a step in the right direction. This means that the problem is not so great in magnitude as it was; I have asked, Sir, for Technical Assistance, primarily in the field of Earnings Related Pensions, and when I get an ODA man to come here to advise the Government on how to go about an Earnings Related Scheme, one of the matters that I intend to put to him is this problem of those people who are still outside the scheme. Perhaps an outsider-one does not like "Government by Experts" - but an outsider, someone who perhaps may take a fresh look at the problem - maybe I am too introverted, maybe I am looking at the problem with blinkers - perhaps I am wrong, perhaps a fresh look from outside will help and this, Sir, I do undertake to do. I may not be able to bring legislation to the House at the next meeting, but I am committed to a review, I said, in two years time. I can commit myself to introduce it as early as possible following that advice, and I would like, Sir, to bring everybody under the umbrella of social insurance, I would like to make some sort of provision for those who are outside the scheme. But primarily, Sir, let us not forget that the nature of the problem is one which goes back a long time and it is not easy, in one single revision to, in my view, do a once and for all exercise.

Sir, in the letter that I sent the Honourable Mr Bossano I did give a number of reasons as to why in my view it was not possible to extend facilities by legislation for payment by instalment. He has taken up one of those matters: the question of Maternity Benefit that I referred to. I am aware, Sir, of the fact that the qualification for a claimant to Maternity Benefit is the payment of 40 contributions prior to the date of confinement and therein, Sir, lies the problem. If someone had exercised an option to enter the scheme, and had been given facilities to pay by instalments through legislation, what legally would have been the position of that person lodging an application in two or three months time, when he would already be in the scheme, in respect of a confinement, in respect of Maternity Benefits. What happens about the prior 40 weeks, bearing in mind that he will have paid some instalments of arrears, and if the instalment were to be a reasonable one - bearing in mind that we are dealing with arrears of £150 and £190 in fact - had that instalment been a reasonable one, where do we apply it? Do we start reckoning back from 1965 or do we reckon from 1973 backwards? Therein lies one problem. Sir, what happens also in the event of the death of a person who has come into the scheme before the instalments have been totally paid? How do we assess the entitlement of his widow? Again on what basis is this to be done, bearing in mind that the entitlement to benefit depends on the rate at which contributions have actually been paid and since the Scheme started there have been three levels of contributions - Initially 1/5d 20 pence of late, and now 35 pence - and also their entitlement is dependent on the period of employment. There are technical aspects, Sir. I do not pretend that I am an expert in these matters, I need advice, but I take a policy decision and the policy decision is: I want as many people as possible to come into the Scheme and I ask my experts, how can this be done? I have some ideas about it but this is something that I must discuss and I have taken the advice. One has been working on this revision not for one or two months, but for six, seven, eight months and I think the Opposition surely must give me credit that in that period of time the discussions that have taken place have been exhaustive, and yet I have not found the full answer, only part of the answer.

7 So, Sir, I would like to end on this note: that a very considerable step, in my view, has been taken in this revision in getting the problem ~~out~~^{under} of control; that I leave the door open for another look at this, preferably a look from an outsider; and again I extend an invitation to members opposite to bring forward concrete, detailed proposals that I can sit down and analyse and consider. That is the kind of situation, Sir, in which we are in. In Government, Sir, one does not want to take all the credit for what is done, but not all the brickbats either, and perhaps a number of members in the House having a look at the problem could achieve what I and others have not been able to do. If that is achieved then the people most directly concerned will be the ones to benefit, and after all, Sir, that is what we are all here for.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

The House adjourned sine die.

The adjournment was taken at 7.35 p.m. on Wednesday the 4th July 1973.