

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

8 JULY, 1986

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The twelfth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 8th July 1986.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, CBE, LVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone OBE - Minister for Health and Housing
The Hon H J Zammitt - Minister for Tourism
The Hon Major F J Dellipiani ED - Minister for Public Works
The Hon Dr R G Valarino - Minister for Labour and Social Security
The Hon J B Perez - Minister for Municipal Services
The Hon G Mascarenhas - Minister for Education, Sport and Postal Services
The Hon E Thistlethwaite QC - Attorney-General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon J Bossano - Leader of the Opposition
The Hon J E Pilcher
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon J L Baldachino
The Hon R Mor

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 24th March, 1986, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

I am sure that all Members will be delighted to welcome back to the House our Clerk, Mr Garbarino, after his illness and wish him a very speedy recovery. As we can all see this recovery is already taking place.

DOCUMENTS LAID

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

- (1) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.7 of 1985/86).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.8 of 1985/86).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.1 of 1986/87).
- (4) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.3 of 1985/86).
- (5) Supplementary Estimates Consolidated Fund (No.1 of 1986/87).
- (6) Supplementary Estimates Improvement and Development Fund (No.1 of 1986/87).
- (7) Loan Agreement for a £4 million floating rate facility between Banque Indosuez and the Government of Gibraltar.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

Answers to Questions continued.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I move that the House do approve the giving by His Excellency the Governor of the notice which I think has been circulated to Hon Members. It is the Licensing and Fees (Amendment) Notice.

MR SPEAKER:

You crave the indulgence of the House not to have to read the motion.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would crave the indulgence of the House as you have so generously suggested, Mr Speaker.

MR SPEAKER:

Which I am sure the House will grant you so you can go ahead and speak in favour of the motion.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, the amendments to the Licensing and Fees Ordinance are, in fact, proposed as a fairly routine matter because we normally follow the United Kingdom practice in such matters and notice was received from the Home Office that various fees for naturalisation and registration were to come into effect with effect from the 1st April, 1986. The various fees shown are, in fact, included in the Schedule to the Order which has, I believe, been circulated. Dependent territories have been asked to make local provision to charge similar fees and we were also advised that visa and other consular fees had been increased in the United Kingdom, that is also included in the Schedule to the Bill. I commend the motion to the House on that basis, Mr Speaker.

Mr Speaker proposed the question in the terms of the motion moved by the Hon the Financial and Development Secretary.

There being no debate Mr Speaker put the question which was resolved in the affirmative and the motion was accordingly passed.

BILLS

FIRST AND SECOND READINGS

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) ORDINANCE, 1986.

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to make provision for the salaries and allowances to be paid to the holders of specified offices 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 CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. This is the second Bill that has been brought to this House in this legislature. Under the provisions of Section 68 of the Constitution there shall be paid to the holders of the offices to which this Section applies such salaries and such allowances as may be prescribed by the Legislature. Subsection (5) says: 'This Section applies to the office of Governor, Chief Justice, Deputy Governor, Attorney-General, Financial and Development Secretary, Commissioner of Police and Principal Auditor'. I think the requirement is normally in overseas constitutions to ensure the independence of the Judiciary and that certain offices are decided not in caucus but by the Legislature and this refers to the 1985 Review and has taken a different shape to other years because on the parity basis on which some of the officers are analogued, they have now been put into three categories, three stages of their

salaries and in respect of the First Schedule it deals with the salaries already paid and we will be bringing another Bill for 1986 later on in the year. The Second Schedule has been done in that way because there may be officers who may have to go through the three stages. The bulk of the officers now in post are all at the top of the scale and would not require any amendments. I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

I would like to say something on the general principles of this Bill and I would like to take the opportunity since this is the first Bill of making a statement regarding all the legislation that we are looking at, Mr Speaker, which is all down to be taken in this one meeting of the House. We have on a number of previous occasions objected to the fact that Bills are brought to the House and taken all in one session. Since 1984, Mr Speaker, I think the House has met less frequently than previous Houses of Assembly and there has been no pressure from us because we accept that the Hon and Learned Member, as Leader of the House, is entitled and it is his prerogative to hold meetings of the House when there is Government business to be dealt with which is the primary purpose of the House. However, the reason why we have an Opposition and the reason why we have a Parliament is because we are supposed to be here to scrutinise the decisions of the Government, the workings of the Executive and to exercise a role on behalf of the electorate in deciding whether we can support a Government measure or whether we shouldn't or whether we should try and influence the Government in changing its mind and in order to do that with a sense of responsibility we need to know what it is we are talking about and it isn't fair on the House of Assembly and it is not fair on the Opposition to put a lot of legislation in front of us, most of it very technical which requires time, we have got a week in which to do it, we deal with the general principles where we can raise some things and be given some explanation but we have no time to discuss it amongst ourselves or to deliberate on the arguments that are being put by the Government in support of that legislation or to sound out the opinion of Members and I think, quite frankly, it makes a farce of the Parliamentary process. If we just sit here and we say Amen to everything that comes in front of us without really understanding what it is we are voting for so that everything goes through in one meeting of the House, we are not doing our job properly and we are not prepared to be a party to that. Either we are going to do the job properly or the Government, when it comes to the Committee Stage, need not bother to give any explanation because we will just opt out of voting on all the legislation because how can we in conscience know whether we should be voting against or voting in favour? Some of them are very straightforward like this but when you come to something like the Imports and Exports Ordinance, for example, it is

a major exercise to try and find out what are the implications of the changes and, indeed, what the changes are because we couldn't even find the existing Ordinance in the volumes and we believe we ought to do a job, for which we are getting paid, conscientiously and to the best of our ability and I think the Government should want us to do it too because that is what makes for effective Government if we are trying to do a good job on our side of the House as well. It is a matter that I have raised, I think, before, the Government has responded by saying that, yes, they understand and they recognise it but then it keeps on happening and in the past I remember that it used to be the exception rather than the rule that we took all the stages at the same meeting and when there is a need for it the Opposition will be willing to cooperate. If the Government comes along and says: 'We have got a deadline to meet' or 'this legislation is urgent and needs to go through', if we need to vote it all in one day we will vote it all in one day, we are not being obstructionists but we really feel it has to be put on record that we take our job seriously and that the Government is not giving us a fair chance to do our job well. I think on the actual merits and general principles of the Bill to which the Hon and Learned Member has referred in relation to parity, I note, of course, that the size of the salary that we are paying, for example, the Hon and Learned Attorney-General and the Hon Financial and Development Secretary, of course, is a mere pittance compared to what we think the General Manager of the commercial dockyard is worth and I am wondering whether the Government can explain to us how they can administer the whole of Gibraltar with half a dozen people at £25,000 each and they need thirty-nine to administer a dockyard that employs 600 people?

HON CHIEF MINISTER:

That last point is really too rhetorical and too funny for words because I started by saying that Section 68 of the Constitution provides that a certain number of people come under this, God knows we have enough officials in the Government apart from those in this and are paid more or less on the same lines down the grade. The comparison of what people get in public service as what they get outside is, of course, a difficult one. I suppose the mere pleasure of being in the House is enough for the Hon Financial and Development Secretary to be prepared to work at such a low salary. Dealing with the more important aspect of this matter which is the point raised by the Hon Leader of the Opposition, I take the point and I have taken the point before and I am not unmindful of it. Let me tell the Hon Member that sometimes the pressure of work has been such for difficulties that I need not go into that at least I am now getting something that there wasn't before, I am getting the Bills published and we don't need to suspend Standing Orders to deal with any Bill. That has been an effort I can tell Hon Members. I can understand a Bill like the one on Imports and Exports requiring more time and, as Hon Members always know, when they say that and there is no particular reason I am quite prepared to leave that for the next meeting. But, first of all, Standing Orders do not prohibit dealing with Bills in one meeting so long as

they are not taken on the same day, the Second Reading and the Committee Stage. Secondly, and I don't mean this in any disrespectful way, the Hon Leader of the Opposition says that they are paid to do their work, well if they are paid to do their work and ordinary Members are paid half of what a Minister is paid, it is not too much to expect them to study Bills and do nothing else when they get them until the House of Assembly Meeting because in between the work of Members of the Opposition is considerably less than half of any Minister but, anyhow, that is only by the way.

HON J BOSSANO:

If the Hon Member will give way. What I am saying is, if we listen to the Government's arguments in the general principles of the Bill then there ought to be a gap between that and the Committee Stage; it is not just a question of a week. We can be presented with eight Bills eight days before we meet and we study a Bill a day and then we come here and then the first thing we have to do is to start asking for some explanations about some of the things that we have seen in those Bills and that is why the gap is important.

HON CHIEF MINISTER:

I accept that, I am making a general observation which applies both ways. The other thing, of course, is that what is inconvenient and what we perhaps may have to get used to, if that is the wish of the Opposition and I obtain the concurrence of my colleagues, is that perhaps we may meet within a fortnight within two meetings and then do the Committee Stage at the subsequent meeting. At this stage we are not in a position to do that, we are towards the end of the summer and I don't think it is convenient. Certainly I can give immediate assurance that there is no need to go through this voluminous Imports and Exports Bill or the Prison Bill or anything else that Hon Members think they are not ready for till the next meeting, as it happens it doesn't matter. When I come to that I will say why it is so formidable but there isn't that much study that is required but I agree that it is a matter of detail. I will make a confession now without fear of punishment that I haven't read the whole Bill, I have only read the head titles of the Schedule but if it comes out of the Attorney-General's Office it must be alright. I take the point and we can leave the Imports and Exports Bill and the Prison Bill for the next meeting and, hopefully, we can proceed with the rest of the business.

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

The Hon the Attorney-General and the Hon the Financial and Development Secretary abstained.

HON CHIEF MINISTER:

Mr Speaker, I beg to give notice that the Committee Stage and

Third Reading of the Bill be taken at a later stage in the meeting.

This was agreed to.

THE MOTOR INSURANCE (MOTOR VEHICLES) (THIRD PARTY RISKS) ORDINANCE, 1986

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to make provisions against Third Party Risks arising out of the use of Motor Vehicles 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 M K FEATHERSTONE:

Sir, I beg to move that the Bill be now read a second time. The principal object of this Bill is to update the law relating to the insurance of Third Party Risk arising out of the use of motor vehicles in Gibraltar and in doing so to implement certain obligations arising out of the European Communities Directive 72/166/EEC of 24 April, 1972, relating to insurance against civil liability in respect of the use of motor vehicles. Perhaps I should begin by explaining, Mr Speaker, that the directive calls upon Member States to refrain from making checks on insurance against civil liability in respect of vehicles normally based in the territory of another Member State. This will mean you will be able to cross the frontier without having a check on your insurance. Likewise Member States are to refrain from making such insurance checks on vehicles normally based in the territory of a third country entering their territory from the territory of another Member State. Random checks may however be carried out on such third country vehicles. In order to make possible such abolition of border checks, the directive requires each Member State to take appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance and that the contract of insurance also covers, according to the law in force in other Member States, any loss or injury which is caused in the territory of those States. This will mean, of course, that you will not get a licence issued to you until you have proved that you have got your vehicle adequately insured. The directive came into effect after an agreement was concluded between the national insurers' bureaux of Member States under the terms of which each national bureau guarantees the settlement, in accordance with the provisions of its own national law on compulsory insurance, of claims in respect of accidents occurring in its territory caused by vehicles normally based in the territory of another Member State, whether or not such vehicles are insured. However these arrangements were not extended to Gibraltar in 1972 when Britain joined the Community because of the closed

frontier and because Spain was not a party to them. I might add that the EC Commission in Brussels was aware of the situation.

With the opening of the land frontier with Spain and Spanish and Portuguese accession to the EEC the situation changed and as a result, from 1 June 1986, the Community's arrangements for the non-checking of insurance documents now apply to Gibraltar as well as to Spain and Portugal, Gibraltar coming under the auspices of the British Motor Insurers' Bureau for the purposes of the inter-bureaux agreements.

I should mention here that a number of non-EEC countries also participate in these arrangements. They are referred to as 'relevant foreign states' and include Austria, Czechoslovakia, Finland, the German Democratic Republic, Hungary, Norway and Switzerland. This will mean in effect that once you are insured you are insured for the whole of the EEC and for all these other countries as well.

The main benefit to motorists therefore is that they can travel throughout the Common Market and to these relevant foreign states without undergoing border checks for insurance. For local motorists the advantage mainly lies, of course, in being able to cross over to Spain and Portugal without having to produce a green card.

Given the extension of the arrangements to Gibraltar it became necessary to ensure that as from 1 June 1986 - the operative date decided by the Commission in Brussels - all motor policies issued in Gibraltar covered the compulsorily insurable liabilities in Member States automatically. This was achieved, pending the enactment of legislation, by means of a guarantee given by the British Motor Insurers' Bureau to the other Bureaux under which the British Bureau guarantees the settlement of relevant liabilities arising from accidents caused by vehicles normally based in Gibraltar.

It was also necessary to recognise for the purposes of the Insurance (Motor Vehicles) (Third Party Risks) Ordinance the evidence of insurance issued by insurers in Member States, and in relevant foreign states, in the case of vehicles normally based in those States and to ensure that non-EEC vehicles arriving in Gibraltar from outside the Community comply with Community motor insurance requirements. This was done by means of the European Community Motor Vehicle Insurance Rules enacted on 1 June, which, incidentally, will become redundant once the Bill now being introduced to the House becomes law. Before dealing with the Bill, Mr Speaker, there are two further points concerning the directive I have to dwell on.

The first is that the entire Community minimum insurance cover requirement applies to all vehicles compulsorily insurable under the laws of Member States and that no derogation from this is possible. In other words, it means you are going to pay more for your insurance. This means, for example, that buses, taxis or lorries require such cover whether or not they travel

outside the state or territory where they are normally based whether or not a vehicle is used for travel outside Gibraltar. If you have, like I have, a car which I do not normally take to Spain, I am going to have to pay an insurance covering the whole of the EEC and covering all these other states which are subscribing to the memorandum and I am not going to get anything for it but that is just one of the penalties we have in belonging to the EEC.

The second point is that Member States may exempt from the obligation to insure against civil liability certain natural or legal persons, public or private, provided they take appropriate measures to ensure that compensation is paid in respect of any loss or damage caused. Member States have made use of this to exempt Government and public bodies and whilst it is likewise intended to exempt Gibraltar Government vehicles and Ministry of Defence vehicles, as at present, it will continue to be the Government's policy to carry on insuring its vehicles as if the exemption did not apply. However, any of those vehicles if they should travel outside of Gibraltar they will need to be covered by an insurance. Mr Speaker, I now turn to the Bill itself which contains many re-enactments of provisions already found in the Statute Book. For example, Clause 3 of the Bill re-enacts the existing requirement that the use of motor vehicles in Gibraltar shall be covered by policies of insurance against third party risks. New elements being introduced in the Clause are that all passengers must be included in the cover and that those vehicles exempted from the compulsory insurance requirements must be covered by insurance when used outside Gibraltar. One thing that the cover does only cover and that is accidents to persons; if you hit another car and damage the car the insurance cover will not cover that, you will probably be liable for that separately.

Clause 4 of the Bill introduces the concept of approved motor vehicle insurers in relation to policies issued in Gibraltar. Formerly any insurer authorised under the Insurance Companies Ordinance or any person approved by the Governor could run motor vehicle third party risks business in Gibraltar.

To be an approved motor vehicle insurer, an insurer will now have to be authorised to carry on motor insurance business under the new Ordinance as well as a member of the Motor Insurers' Bureau of the United Kingdom, who operate the green card arrangements for Gibraltar and with whom the Government will shortly sign an agreement to enable compensation to be paid to victims of uninsured or untraced drivers on the lines of existing arrangements in the United Kingdom. This will mean that not every insurance company can do motor insurance, he will have to belong to the Motor Insurers' Bureau. This is in keeping with Article 14 of a second directive which requires each Member State to establish an organisation to provide a source of compensation for victims of uninsured and unidentified drivers in relation to liabilities compulsorily required to be covered by insurance.

Clause 4 also specifies the type of risks to be covered by insurance policies which are to be as at present, that is, against any liabilities that may be incurred in respect of the death or bodily injury to any person in Gibraltar. Account will have to be taken in the not too distant future of the second EEC Directive on motor insurance which requires and specifies a minimum compulsory insurance cover for damage to property by not later than 31 December 1988. However nothing is being done in this respect yet given a number of decisions that have to be taken in the United Kingdom with regard to the directive's implementation.

The Clause also extends the compulsory motor vehicle insurance cover in respect of vehicles normally based in Gibraltar to include liabilities arising out of their use in the territories of the Member States of the Community and requires vehicles based in the territories of member states and of certain other states to be insured whilst in Gibraltar against any liabilities which may be incurred in respect of the death or bodily injury to any person in Gibraltar.

Once again the strength of the insurance is on the death of any person or any personal injury, it does not cover the injury to your car. If a foreign car comes in and bumps into you and knocks a dent in your car you will have to claim separately for that repair not through the insurance if you can find the foreign car that has done it.

Clauses 5 and 6 of the Bill deal with the issue, delivery and surrender of certificates of insurance and are relatively straightforward.

Clause 7 requires insurers to notify the Licensing Authority under the Traffic Ordinance of policies which become ineffective otherwise than with the consent of the insured, the death of the insured or by the effluxion of time. This provision will enable the better enforcement of the Ordinance as it will bring to the notice of the Authorities vehicles which are not insured.

Clauses 8 and 9 re-enact with only slight changes the existing provisions in relation to the production of certificates of insurance to police officers and the reporting of accidents.

This will mean that as, at present, if you have an accident the Police Officer who is investigating the accident can ask to see your certificate of insurance and I think you have five days in which to produce it.

Clauses 10 and 11 deal with the evidence to be produced and information to be given for the purpose of Clauses 8 and 9 in respect of vehicles normally based in the territory of Member States of the Community and relevant foreign states.

Clause 10 is a re-enactment of Rule 5 of the European Community Motor Vehicles Insurance Rules 1986, and Clause 11 of Section 8 of the present Ordinance.

Clause 12 provides for the checking of the insurance cover of vehicles coming from non-member states of the Community or from the non-European territories of member states and authorises the detention of such vehicles if not adequately insured.

Clauses 13 to 16 are essentially re-enactment of existing provisions of the present Ordinance.

Clause 17 enacts that where an insured person becomes bankrupt, the bankruptcy shall not affect the liabilities to third parties required to be covered by a policy of insurance. That means that if you go bankrupt and you have an accident your insurance policy will continue to keep you covered.

Clause 18 is essentially a re-enactment of existing provisions in section 15 of the present Ordinance with the following additions to the conditions which have no effect as regards the liabilities required to be covered by a policy of insurance under Clause 4:

(a) any condition in a policy of insurance excepting the insurance of persons by reference to the holding of a valid certificate of competence or valid motor vehicle licence; and

(b) any antecedent agreements or undertakings entered into with regard to the carriage of passengers on insured vehicles.

Clause 19 requires approved motor vehicle insurers to keep certain records for a minimum period of 1 year from the date of expiration of policies.

Clause 20 makes it an offence for any person other than an approved motor vehicle insurer to issue or renew policies for the purposes of the Ordinance. That will mean that you have to be sure that the insurance company you go to is a proper company which may undertake motor insurance.

Clause 22 increases from £50 to £250 the penalty for breaches of the Ordinance unless they are specifically provided for.

Clause 24 recognises the validity of policies of insurance issued or renewed prior to the 31st October, 1986, by existing authorised insurers. In other words, if you have taken out an insurance in the last three or four months it will remain valid until the end of its life.

Finally, Mr Speaker, there are two other points I should like to expand on if I may.

The first concerns the insurance cover requirement for the entire Community. It should be noted that this refers only to the minimum legal requirements of Member States. All Member States include third party personal insurance for varying limits of indemnity. Some also require limited third party property damage. Policyholders who intend taking their vehicles into any Member State are most strongly advised to carry on extending their policies to include cover in excess of these minimum requirements to provide, for example, for such things as the balance of any court award for third party death or personal injury claim, and third party vehicle and property damage in full. That is, as I say, that the insurance policy does not cover damage to the vehicle and you are advised that in your own interest to see that you have a wider insurance which will cover you for damage to vehicles, etc.

The second point is that though green cards are no longer essential for travel between countries party to the arrangement mentioned, motorists are again most strongly advised to carry them as they provide internationally recognised evidence of insurance. This could be important in the event of an accident. It is not normal that a person carries his insurance policy with him so that if you should run into trouble you will have five days to provide evidence of your being insured and if you are in Western Germany you may not be able to provide the insurance in time so if you have a green card that will serve you instead and you are advised to have a green card. Thus policyholders can obtain the benefit of the international claims handling facilities of the green card system without any formality.

Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, the Hon the Minister responsible for Traffic has successfully bored both sides of the House this afternoon with his probably brilliant and eloquent exposition of the finer details of the Bill. The problem is that I am afraid that his speech wasn't very audible and I was myself unable to grasp all the finer details of the Bill. But it does make the point, Mr Speaker, that if we were able to take the Committee Stage and Third Reading of this Bill at a later stage perhaps we might be able to study all the things that the Hon Member has

said and be in a better position to respond to it. I do notice that we are, in fact, effecting an EEC directive of 1972 or part of the Bill refers to that and the Hon Member has said that it has only become necessary to do so after the opening of the frontier something which I dispute because there were many Gibraltarians who used to ferry their cars across through Morocco and enter EEC countries even prior to Spain's accession. In fact, part of the Bill should have been brought to this House in 1972. I would just like to make the point that I believe that the Hon Member had clarified to me and that is that the substitution of the green card by some of the things contained in this Bill has the effect, as I understand it, that the automobiles are covered in another EEC country against risks of the minimum requirement that exists in that country, is that correct?

HON M R FEATHERSTONE:

Yes.

HON J C PEREZ:

What we are, in fact, being told is and perhaps the EEC has more to do with it than the Hon Member, but what we are being told in this Bill, Mr Speaker, is that we will have to pay more money for our insurance to cover ourselves for that but at the same time that it would be preferable to carry the green card to be able to be covered fully. Basically that is what it says. The effect of this Bill on car owners is that they will have to pay much more for their insurance policies nowadays and on top of that pay the green card if they want to be safely covered when they go to Spain, that is basically the effect of it. Mr Speaker, only to add that the Hon Member did mention as an example his own car and I am hopeful that if in October the MOT Test Centre legislation comes into effect his car will be taken off the road as quickly as possible.

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

HON M K FEATHERSTONE:

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

This was agreed to.

The House recessed at 5.30 pm.

The House resumed at 6.00 pm.

THE PRISON ORDINANCE, 1986

HON J B PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance relating to the regulation of prisons and the custody of prisoners be read a first time.

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

HON J B PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the main object of this Bill is to repeal the present Prison Ordinance of 1949 and I think the reason that this Bill has been brought to the House is primarily because it arose from the re-drafting of the laws of Gibraltar and although most of the Sections which are contained in this Bill are really re-enactments of the present Prison Ordinance, there nevertheless was one particular principle which is contained in this Bill which was not included in the present Prison Ordinance which was felt should be put before the House. I am, of course, referring to Section 19 of the Bill which deals with the objectives of training and the treatment of prisoners. I think I ought to say, Mr Speaker, that in reality, in practice, most of the Sections have been complied with in the past, that has been the practice which has been adopted and that is the penal theory behind the administration of the prison and for the treatment of the prisoners but nevertheless it was not in our legislation. Therefore Section 19 now provides for a statutory provision in order to highlight and to set out what the objectives and training and the treatment of prisoners should be. That is really the main, as I say, Mr Speaker, the primary purpose of bringing this Bill before the House otherwise I think it would have come in connection with other Bills which have come before this House on a package basis. That is really the primary purpose of the Bill, Sir, and I commend the Bill to the House.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, there are two points that I would like to seek clarification on. One is Clause 7, subsection (1) where it says: 'Every prison officer shall, upon termination of his employment, quit and deliver up vacant possession of any

official quarters which he or any other persons have occupied by virtue of such employment'. Basically, the point there which perhaps might be answered by the Hon Member at the next meeting of the House when we come to Committee Stage but I think it is useful that one should raise it at the general principles so that the Hon Member has time to look it up. Basically I would want to know whether there is an obligation on the part of the Government to re-house that prison officer or he just finds himself in the street without a house. The second and the more important point is the situation of the sentence of death which is included in the Bill, Mr Speaker. In the explanatory memorandum at the back it says: 'Clauses 57 to 65 deal with sentences of death and are obsolescent'. If they are obsolescent why are we re-enacting them in this Bill? And if we are re-enacting them for one reason or other I would seek an explanation from the Hon Member because civilised communities everywhere else in the world have done away with sentences of death and I would want to know what the legal position is in relation to this in Gibraltar.

HON J BOSSANO:

I want to say something, Mr Speaker, about the part mentioned by the Hon Member setting out the philosophy of the treatment of offenders in terms of their being reinserted into society rather than the concept of punishment for crime and I think it is a philosophy that we certainly subscribe to on this side and will support but I think the Government needs to take into account that in Gibraltar we are talking about something that is very real, it is not a theoretical problem, it is a real problem which particularly affects Gibraltarians rather than non-Gibraltarians and it is a problem that anybody dealing with employment is very conscious of in that because the community is so small and because a local person carries his life history with him in every job that he goes to, he is in fact at a disadvantage as compared to an outsider about whom nothing is known and we find this, in particular, for example, there have been a number of recent instances, in the MOD there was a recent case which the MOD eventually retracted on where somebody who in the 1974 parity battle had been arrested on a picket line outside the Dockyard was refused employment as a gardener in 1986 on the grounds that he had a criminal offence on his record. And, of course, when it was pointed out what was the nature of the criminal offence which was obstructing a policeman in the execution of his duty and the context and why it happened and when it happened because we were in a position to actually demonstrate it, they decided to change the policy. But I think it can show how this person who was, in fact, at the time a teenager, I think he was a 19 year old and we are not even sure, in fact, that the person concerned happened to be more than just in the way at the time and happened to get the blame for something he might not even have done but the record was there and somebody looking at the records decided: 'Well, he cannot be employed as an unskilled gardener', and this shows that effectively we are saying because of something that happened to a 19-year old when he is 25 he cannot get work then what we are saying is that he is unemployable for the rest of his life in Gibraltar. But, of course, the moment he leaves Gibraltar it

doesn't matter and we have a situation where there are several hundreds coming into Gibraltar everyday seeking employment about whom we know absolutely nothing and because we know nothing they don't get penalised. I think it is important that the Government itself should influence in its own employment practice and in places where it can exercise influence like in GSL where the Government is the owner, the need to give people an opportunity and a chance because it is no good having a law that says what we want to do is to give them training and prepare them for when they come out so that they play a full life in our society and then nobody will touch them with a bargepole. I am not sure whether we can do something in the law and I am not sure what the practice is in the United Kingdom or anywhere else but I know that there are in other places social work agencies that are there to help to rehabilitate people and get them back into society and get them acceptability in society and I think that is an essential part of the process of accepting that people make mistakes and that what you don't want is to encourage them because you give them no other option to keep on making the same mistake for the rest of their lives. We support entirely the general principles in the Bill but we feel that we need to do something in practice because it is a very real problem, it is not a theoretical problem.

MR SPEAKER:

Any other contributors to the debate? Does the Mover wish to reply?

HON J B PEREZ:

Yes, Mr Speaker. There are two points that have been raised by the Hon J C Perez. The first one is in connection with Section 7(1) and he asked whether, in fact, there was an obligation on the part of Government to re-house. I am not aware whether there is a statutory obligation or not, however, I am aware that the practice has always been, in these particular cases, to offer alternative accommodation to the officers concerned but, as I say, I don't think there is a statutory obligation but, in practice, this has been done. The second point he raised was the question of the death penalty. The answer to that is yes, under the Criminal Offences Ordinance treason is an offence punishable by death. It continues to be so both in England and here in Gibraltar and there could well be some other common law offences, I think, like piracy that is also punishable by death. In a way, the explanatory memorandum when it says 'Clauses 57 to 65 deal with sentences of death, and are obsolescent', in practice, yes but in theory they are not obsolescent because treason remains in our Statute Books as an offence punishable by death. But let me remind Hon Members that we are not saying in this Bill that treason is punishable by death, that is a matter which comes under the Criminal Offences Ordinance. This is only what one does, what the prison authority does when somebody has been found guilty of treason and has been sentenced to death, then you have all the relevant clauses of the things that one has to comply with. The point that was raised by the Hon Leader of the Opposition is a point that, of course, we have considered, we all live in Gibraltar and we are

quite well aware of the problems that confront people who serve even short periods of imprisonment here in Gibraltar but not only just those who serve prison sentences but also people who have even got suspended sentences or have been fined. It is unfortunate but Gibraltar being such a small place we all get to know what is going on. However, let me assure the Hon Member that we gave this matter quite a lot of thought and that he will find that in Section 19(g) we tried to have something to cover that in which we have put: 'from the beginning of a prisoner's sentence consideration shall be given, in consultation with any appropriate after-care organisation, to the prisoner's future and the assistance to be given or available to him on and after his release'. We also have provision as to educational facilities and for training the prisoners and I do know as a fact that in the past help has been given, there are a number of people who give of their own free time and, in fact, help to get jobs to those who have served prison sentences.

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

HON J B PEREZ:

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

THE EDUCATION (AMENDMENT) ORDINANCE, 1986

HON G MASCARENHAS:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Education Ordinance 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 G MASCARENHAS:

Sir, I have the honour to move that the Bill be now read a second time. Sir, this is a very simple matter to amend the Ordinance which has stood since 1974 when the now College of Further Education was under the Ministry of Defence. We are reducing the term of office of the members from three to two years because we feel that three years is a very long time and, secondly, we are appointing the Director of Education as the Chairman of the College Committee rather than the Principal as the Ordinance stood. The Principal will then be the Secretary of the Committee and will be answerable, obviously, to the Director of Education who would act as Chairman. In the old days under the MOD the Principal was always an MOD employee and he was the Chairman, now we are reversing that and we consider that the College of Further Education being so important from an economic point of view that the Director of Education is better placed to be able to implement Government policy in that respect. Sir, I commend the Bill to the House.

MR SPEAKER:

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

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

HON G MASCARENHAS:

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

This was agreed to.

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Offences Ordinance (Ordinance 1960 No.17) to make camping an offence in certain circumstances be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of this Bill is to prohibit unauthorised camping. The proposed Section 165B in Clause 2 prohibits camping on Crown Land except by persons authorised to use the Governor's Lookout Scout Camp and the Mons Calpe Caravan and Camping Club Site except with the previous written permission of the Director of Crown Lands. The proposed Section 165C in Clause 2, prohibits camping on private land except with the previous permission of the owner or his agent. Any person who acts in contravention with the provisions of the Bill and commits an offence is liable to imprisonment for three months and to a fine of £100. Mr Speaker, there are saving provisions in respect of members of Her Majesty's Forces and the Police when on duty and in respect of permits granted under Rule 3 of the Seashore Rules. Mr Speaker, I suspect Members of the House may be a little concerned at the wide definition of camping included in the proposed Section 165A, particularly so, Mr Speaker, with (e) - 'camping includes sleeping in the open, whether in a sleeping-bag or otherwise'. Mr Speaker, in theory, this could catch any one of us having forty winks on a park bench or on the beach. I have discussed this particular Sector with the Law Draftsman, Sir John Spry, and both of us feel that unless the provision is widely drawn the Bill would prove ineffective. I pointed out the particular provision to the Commissioner of Police and I have asked him to instruct his officers to see that they use their commonsense in implementing this provision and would add, Mr Speaker, that the Stipendiary

Magistrate and the lay Justices will also use their commonsense in considering cases. Mr Speaker, if the House approves this Bill, I am prepared to instruct the Police that no prosecution will be instituted for sleeping in the open, whether in a sleeping-bag or otherwise without my personal written consent. Sir, something has to be done in the interest of public health and to answer the many complaints of the Caletà Palace Hotel and Both Worlds and, indeed, complaints from the people who live in the vicinity of Parson's Lodge. The Police carried out a check last night and there were twelve people sleeping at Miami Beach and ten at Parson's Lodge. Mr Speaker, it is for these reasons that I commend the Bill to the House.

MR SPEAKER:

Before I put the question to the House, let it be said quite clearly that unconstitutionality will not prevent this House from passing whatever legislation they like. Could it not be challenged constitutionally that it affects the rights of anyone sleeping wherever he likes?

HON ATTORNEY-GENERAL:

I think the first part is where people are sleeping. The sleeping in the open air near to beaches, near to hotels, near to residential quarters. They have no sanitary facilities and they have no washing facilities and there is a very serious public health risk.

Also with the Law Draftsman we considered the constitutional aspects and we don't think it is a breach of them.

MR SPEAKER:

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

HON MAJOR P J DELLIPIANI:

On a point of clarification. I notice on page 84 the definition of 'Crown Land' means cliffs, beaches, streets, roads, recreation and pleasure grounds. I have had personal experience where I live in Glacis Estate where I found half a dozen hitchhikers sleeping on my roof and it didn't scare me but it certainly scared a lot of the ladies who went to do their washing and I think the definition should be amplified by including public buildings or Crown buildings or Government buildings or whatever.

HON J BOSSANO:

We are opposing this Bill which seeks to deprive almost the entire population of their civil liberties. It seems to me the only people who are safe here are the insomniacs, Frank is obviously in a good position. I take the point that the Hon and Learned Attorney-General that commonsense is expected to be exercised but the point is that we are actually legislating and drafting the legislation what are we saying? That if a

Policeman arrives on the beach and the person is inside the sleeping-bag awake he is not committing an offence because he is not sleeping. If the person is not in the sleeping-bag but asleep then he is committing an offence and he may not be able to arrest him because he is asleep, he has to wake him up in order to arrest him and now he cannot arrest him because he is not sleeping anymore. On the other side we have got the problem with the caravans. Clearly the only way the caravan owners can stop themselves from becoming criminals is to have amphibious caravans because they are allowed to have the caravan on the specified camping site but they cannot get them there since in order to travel to the camping site either they have to parachute down or go on Crown Land which includes streets, roads, paths, lay-bys and everything else so you cannot get the caravan to the camping site without actually having a situation where you are, in fact, infringing - as we read it - Clause (b) which says 'bringing a caravan onto any land'. Therefore if you are bringing it onto any land and the definition of Crown land includes cliffs, beaches, foreshore, streets, roads, paths, lay-bys, there is no way. Either you float the caravan there or you parachute it. We think that there is a genuine problem that clearly the Government needs to tackle but we are not happy with having legislation which is drafted in a way which essentially is going to effectively create the possibility of committing a criminal offence independent of how sensible people may be in applying it, it creates on the Statute Book the possibility of a criminal offence which is almost impossible to avoid. Furthermore we are not just talking about people who are en passant through Gibraltar, presumably we are talking about homeless people also being treated as criminals for their homelessness and even since on the other legislation that we have just looked at, retired prison officers do not necessarily get re-accommodated because there is an understanding that this will happen but the Government is not sure if there is a statutory obligation, it means that the poor retired prison officer is committing an offence if he doesn't vacate his quarters and then if he vacates his quarters and he squats or goes into a derelict structure or sleeps on the beach he then becomes a criminal and finds himself back in prison but at the wrong side of the prison bars. What we would ask the Government to do is, in fact, to give more thought to this and to bring back the Bill at the Committee Stage for the next House of Assembly and try to produce something which achieves their purpose but is not as wideranging as this because even with the kind of reassurances that the Hon and Learned Attorney-General has given we don't think it is a good idea to have a Bill on the Statute Book that creates such a wide definition of what a criminal offence is.

HON J E PILCHER:

One other aspect that perhaps we would need clarification on and we have all heard the Hon Leader of the Opposition asking for the Bill to be taken away and brought back at the next meeting of the House, but it is as regards the difference between caravans, motor caravans or caravettes. The definition of caravans means any structure designed or adapted for human

habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer). A caravennette or a motor caravan has a caravan at the back of a motor vehicle and therefore a caravennette or a motor caravan is also a caravan in this legislation. There are 50 to 100 caravans already registered in Gibraltar. Are you saying to their owners that it is now illegal to have a caravan in Gibraltar? It is not illegal if you have permission from the Collector of Customs. Under this law since it cannot be on cliffs, beaches, etc, which is the point which the Hon Leader of the Opposition was making, you cannot bring it to its parking place which is all that the law asks at the moment because you would have to carry it through this Crown Land. This is another aspect which I think the Government should look at because in reality you have already accepted the licensing and certification of those caravans by the owners here in Gibraltar and you have been taking the licensing fee from them for the past fifteen years and at this stage some kind of exemption should be made for people who already have caravans registered and in Gibraltar itself.

HON J. L. BALDACHINO:

By passing this Bill will it also mean that any tourist coming in with a caravan or caravennette will be told at the frontier that they cannot enter Gibraltar? Will it be feasible to do that? Can we do that or will it be against EEC Regulations to stop anybody coming in with a caravan?

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, to deal, first of all, with my colleague, Major Dellipiani's point. I think the washing areas on top of Glacis Estate are covered by the definition of Crown land, it means all land other than private land and the building which is attached to the land forms part of the land and therefore camping in the washing areas of the Glacis blocks I think would fall within the ambit of this Bill. Bringing onto land, I would be prepared to argue that driving a caravan or a caravennette or one of these mobile homes from the frontier along the roads of Gibraltar is not bringing it onto land, it is using the roads of Gibraltar. What we are aiming to catch with this are these caravans which park in the lay-bys. You are standing waiting for a bus at a bus stop and then all of a sudden you see water pouring out of the caravan and you wonder what exactly this water is and you find that they are doing the washing up at the caravan and it drains into the lay-by or the parking space. Insofar as the entry of these caravans into Gibraltar are concerned they, indeed, are prohibited imports under the Imports and Exports Ordinance, I think they come under the Control regulations, but we are allowing them in because so many people are using these caravans for the purposes of their holiday, we are

allowing them in and telling them: 'You have got to leave within X number of hours'. Of course they can use their caravans to travel round Gibraltar and to see Gibraltar but to park them into lay-bys, again, without any sanitary facilities in many cases, throwing the washing-up water through the sink into the public streets and, indeed, on the public highway, this is the thing that we are trying to stop. The idea of a caravan being brought onto land, not travelling on the roads but coming actually onto land itself, taking your caravan or bringing your caravan onto a piece of land, onto a piece of road for the purposes other than passage or re-passage but to camp there, to reside in that caravan and to use it as a home and throw your rubbish into the streets and into the lay-bys, this is what we are trying to legislate. We say that bringing a caravan onto any land doesn't mean going over the roads but to take it onto a road and use it for purposes of living. It is bringing it onto the land, bringing it onto the land and travelling round the streets of Gibraltar is not bringing onto land or travelling round the roads, if you want. Once you stop and use the roads for purposes other than the passage and re-passage for motor vehicles and pedestrians then it is like camping.

HON J. C. PEREZ:

I am not quite clear that what he means by it is exactly what the Bill itself says but, in any case, if what he is saying is that the caravan or caravennette can drive, what he is saying is, for example, if a tourist comes with a caravan he cannot park at all because that would be an offence.

HON ATTORNEY-GENERAL:

No, he can park.

HON J. C. PEREZ:

Parking would be bringing a caravan onto any land as the Bill is suggesting that is why the Hon Leader of the Opposition suggested that perhaps a different wording was needed because the interpretation of this can be anything. I respect the Hon Member's interpretation but he is not going to be there always to interpret it, Mr Speaker.

HON ATTORNEY-GENERAL:

To deal with that point, if I may, Mr Speaker. To use the caravan to stop and look at the view at Catalan Bay, I don't think that would be bringing onto land, that would be using the highway for a purpose, a perfectly legitimate purpose, to pass and re-pass and use the highway in a reasonable manner but not to sleep in your caravan on the highway, to answer the point made by the Hon Leader of the Opposition.

HON J. C. PEREZ:

How can the Hon Member find out whether there is someone sleeping inside a caravan if it is parked?

HON ATTORNEY-GENERAL:

That is why we have Police Officers.

HON J C PEREZ:

Knocking at caravan doors to see if there is someone sleeping inside.

HON ATTORNEY-GENERAL:

But usually you find that it emanates from a complaint or from a Police Officer on duty if he sees caravans in a lay-by or parked in the roadway certainly you get it, I think, it is at Devil's Tower Road, you have got several caravans there which were there for days completely in contravention of the permission by which they entered Gibraltar and that is how we managed to get them out of Gibraltar because they were in contravention of the permit to enter. But, as I say, we thought about this for a long time, this is the third draft prepared by the third person and we accept it is wide, we don't particularly like it but we feel it is the best we can do to cover the whole of the situation with which we are faced and this is why I have commended the Bill to the House. I don't like it but we have got to do something about it.

HON CHIEF MINISTER:

Mr Speaker, if I may be allowed to say a word. I don't normally like to get things done by majority but it is urgent this year to do something about it but I would like to be able to assure the Members though they may vote against it, give the undertaking that if after the summer, and this is put into effect, any charges of abuse or improper use of the powers given is brought to our notice we will reconsider the Bill and bring something else in its place.

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

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham

The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE IMPORTS AND EXPORTS ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to control imports into and exports from Gibraltar and to provide for the imposition and collection of duties of customs, and for matters relating thereto be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. I have read the Bill, Mr Speaker, and I am glad to have the opportunity to introduce it to the House, which updates the administrative and management provisions of the Imports and Exports Ordinance and makes them consistent with current practice. I think I would use that description and also describe it as, very largely, a consolidation Bill. The present Ordinance contains no specific provisions which charges any person with its administration or with the day-to-day management of customs. The legal effect of the present Bill is to place these responsibilities on the Financial and Development Secretary and to charge the Financial and Development Secretary with the specific function of collecting the custom dues, fees, charges and rents prescribed by the Ordinance and by the Regulations. In practice, it is and has been for a good many years the Collector who administers the Ordinance and is responsible for the management of customs. The new Bill, in fact, will reflect the de facto position. The House will note that the exercise of those two powers which reflect or impinge on matters of policy will remain with the Financial and Development Secretary and the Bill also provides for appeal to the Financial and Development Secretary in certain circumstances against the decision of the Collector of Customs and, indeed, in certain circumstances to the Magistrates' Court. The other principal changes in the draft Ordinance provides for, firstly, increases in fines in order to bring these into line with present values and the deletion of all references to minimum fines.

Penalties for being concerned in the import or export of controlled drugs, are substantially increased. Secondly, there is the granting of statutory authority to the Collector to cooperate with other Customs authorities for the prevention or detection of fraud or evasion and the due administration of Customs law. Thirdly, there is the introduction of a much more comprehensive tariff based on the Brussels nomenclature which is used worldwide. This, in fact, as far as the Schedules are concerned, accounts for much of the bulk of the Bill presented to the House if not its intellectual content. There are in fact, one or two useful insights into worldwide eating habits, if not Gibraltar eating habits, illustrated by the Bill and as far as Gibraltar is concerned certain animals or, indeed, fish, for example, if they are edible then they are free of tax and if they are not edible they are taxed and that applies equally whether they are alive or dead. On the other hand fresh flowers may be eaten but dried, impregnated or otherwise prepared flowers may be imported, taxed and eaten. Another provision is the making of regulations to introduce a lower rate of duty on goods to be exported from Government or private bonded stores. At present full duty is payable on importation and a drawback is applied when the goods are exported. This system is rather cumbersome to administer and Clause 50, in effect, legalises what has been the current practice. The new drawback regulations will only apply to motor vehicles and goods assembled in Gibraltar for export. Another provision is that of authority for refunds of duty on imported goods which do not conform with the ordering instructions or have been damaged in transit to Gibraltar and though it had been the practice to authorise such refunds, Clause 68 now provides statutory authority. The Bill also provides for mandatory forfeiture of goods, vehicles and vessels by the Court in certain circumstances if the vehicle or vessel has been adapted or altered for the purpose of concealing goods. In other instances the Court has given discretionary powers. Mr Speaker, copies of the customs tariffs will be put on sale prior to the coming into force of the Ordinance and the sale of copies will include extensive explanatory notes and much more comprehensive index and there will be no attempt to make funny remarks such as I have just made during this speech which obviously fell quite flat. On the day that the new Ordinance comes into force two ratification instruments will be published revoking all the present subsidiary legislation. Simultaneously, a number of revived notices, orders and regulations will come into effect. The new subsidiary legislation contains no new provisions other than to provide for the new drawback arrangements I referred to earlier. There are, however, changes in the format as in some instances some of the old regulations are consolidated into a single regulation. There will, of course, be a number of Government amendments at the Committee Stage, Mr Speaker, on which I think I

have already given you notice. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

I think one point that I made, Mr Speaker, earlier on is the comparison between the existing Ordinance and the new Ordinance which we looked in the new volumes and we couldn't find a copy of it there, of the existing Ordinance, and obviously it is important for us to see what is being changed and I think it is also important for us since the law is being changed to look at what is not being changed which we might think should be changed. On the general principles those are the two ways that we are going to be looking at it, we will want to see what the Government is seeking to change and when the Government is not seeking to change something like, for example, the privileged treatment accorded to MOD who don't pay duty on their petrol and things like that, we would want the Government to explain to us why they are not seeking to change that, is it that they approve of that or is that they cannot do it? Is there something constitutionally that prevents duty being put on that? On the actual detailed Schedule, we think it is useful for these things to be available to the public and for people to know what duty is payable on what and I think the Hon Member made some reference to the Brussels nomenclature. Is it really necessary to include in the legislation a great deal of things on which there is no duty? Why have it there at all if it pays no duty? I would have thought if we are looking at these things we seem to have, for example, a duty on a particular fitting if it is made of one material and no duty if it is made of another material. Is there any logic to that because one would have thought that there might be, for example, situations where for economic reasons one wants to encourage an indigenous material and therefore you may put the duty to protect an indigenous material whereas you don't put it on something that is not competing with an indigenous material but here in Gibraltar we don't have that. If we are talking about wrought plates, sheets and strip of zinc - zinc sheets (basic building material) - Free; Others - 12%; gutters and fittings - Free; Others - 12% when it comes to tubes and fittings and so forth. It seems to us that if there is a reason for putting a duty on something and not putting a duty on something else because of the difference in the material of which the component is made, then the Government should say what is the economic rationale of what they are doing. In that sense the Schedule itself is an important reflection of a particular policy decision. If it is just that all that we are

doing is consolidating what is already there without questioning whether what is there is something we want to perpetuate or not then, surely, if we are changing the law we should take the opportunity to put as many things right as we can see need putting right at this stage. We ourselves, as I mentioned earlier, have not really had an opportunity to go into this in any great detail and I am just mentioning some of the things that have struck us but I think we are putting the Government on notice that there will be a great deal of questioning when the time comes as to why you have a duty on something and you don't have a duty on something else or why are you not doing something about changing this clause whereas they are changing other clauses. I am afraid I am not in a position to be more specific at this stage because we ourselves haven't yet formulated a policy on it.

HON CHIEF MINISTER:

Mr Speaker, I think it has been felt for a long time and, in fact, I think the Financial Secretary has mentioned this at several Budget Sessions that it is necessary to amend the Imports and Exports Ordinance and make it into a comprehensive Ordinance because it is full of amendments and the trader hasn't got a booklet that will cover it however complicated it may be. That is insofar as the substance of the Bill is concerned and therefore as we have agreed to take the Committee Stage after the recess, I am sure that it would be helpful both to the Financial Secretary and the Attorney-General, indeed, for all of us, if before the meeting some indications or some enquiries, after all you have the whole of the summer to spend time at the beach reading nothing but this and finding fault with it.

HON J BOSSANO:

The only problem is that one might go to sleep in which case one would be committing a criminal offence.

HON CHIEF MINISTER:

Then you may not be here to argue. I think we would well enough welcome indications. There are points that have been raised. I can think of only one answer to two points raised by the Hon Member in connection with something that does not pay duty and the other one pays duty and that is that there is a general provision that building materials don't pay duty and therefore some of this may be considered building material and others may not be considered building materials and that is the difference. The indication of the concern, the question of MOD, is a very good one and I would like to argue that a bit generally, to have a discussion because that is something that

requires being aired whatever the outcome may be. Otherwise I think the Bill serves a very useful purpose and will help, I am sure, certainly it will help the Collector of Customs in rationalising his work much better than he does now.

HON J L BALDACHINO:

I don't know whether it is appropriate to bring it up now or it would be better at Committee Stage.

MR SPEAKER:

If it is a specific point in a specific clause then it must be at the Committee Stage but if it is a matter of principle then by all means you can raise it now.

HON J L BALDACHINO:

If I say it you can rule whether it should be brought up at the Committee Stage or not. Under 20(1)(a) it says: 'by sea, shall not be unloaded at any place other than the public quay at Waterport or the North Mole, or at the Dockyard'. The word 'Dockyard' doesn't come up anywhere else, it comes up as the commercial yard, I wonder what does the word 'Dockyard' mean, does it mean the Naval Base as well?

MR SPEAKER:

It might be looked into.

HON J L BALDACHINO:

The other thing is that there is a typing error under Clause 72 'hospital' is spelt with the s before the o, Mr Speaker.

MR SPEAKER:

I am sure that the Ordinance itself will have it rightly spelt, I hope.

HON ATTORNEY-GENERAL:

Mr Speaker, I wonder if I may mention a point about the lack of the Imports and Exports Ordinance in the revised edition. For some reason best known to themselves the printers left out the Imports and Exports Ordinance from the revised edition. A fresh printing was done and a copy can be obtained from the Government Publications Department and I think it is free of charge because it is part and parcel of the revised edition.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

THE SUPPLEMENTARY APPROPRIATION (1986/87) ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1987, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. In accordance with convention in this House I do not propose to make a speech but simply to refer to the fact that the bulk of the funds requested are, of course, in connection with the loan of £250,000 to Gibrepair which has already been mentioned earlier in this House.

MR SPEAKER:

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

HON J BOSSANO:

Unlike the Hon Financial and Development Secretary, Mr Speaker, I do not intend to keep with tradition and therefore I want to raise on the general principles of the Bill the £4m which we have to vote at Committee Stage because, in fact, we have not been given a satisfactory explanation during Question Time and dependent on the explanation we will either vote for or against the £4m. That is to say, we do not support the provision of additional money by the Government of Gibraltar to GSL to meet any of its commitments because as far as we are concerned we are very critical of the way in which the original £28m has been managed by GSL and we are still committed to the view which we defended in the election campaign that the £28m should not all have been used in GSL and that consequently a

smaller and more modest operation requiring less funds would have less funds available for other purposes. We will not support the Government on providing more money, in fact, as far as we are concerned, what the Government ought to be doing is getting rid of Appledore and the quicker the better. However, if the situation is as appears to be the case from some of the answers we have had which then the Financial and Development Secretary has either refused to come clean on or tried to say something different about, that Gibraltar Ship-repair Limited has been using some of the funds that were destined for its running expenses in order to finance over expenditure on refurbishment costs which do not come from its own cash flow according to the projections and according to the provisos of the Ordinance, then we feel the Government has got an obligation to make that good and, indeed, not just a £4m and, in fact, essentially what we are talking about is GSL lending the Government money in excess of the amount of money that is now being lent to GSL. We are not talking about the Government having to foot the Bill ultimately which is the point that, I think, the Hon and Learned the Chief Minister was answering when he said that they thought that if more money has been spent on refurbishment because, for example, as GSL claims the dockyard was found to be in a worse state than anticipated and more money was required, then that is a British Government responsibility, we are not in a position to judge how true that is except that it is certainly peculiar that after so many experts and the consultancy and Ross Belch and TF Burns and Coopers and Lybrand and all that period they didn't discover that there were extra costs required but the point, of course, is that if we look at what has been said before, the experts at the time effectively said that the capital investment side was exaggerated and that certainly there is no doubt the consultant if he does a thorough job will have some questions to ask over. But our position at the moment is, if GSL has in fact been faced with bills which it has had to pay and because it has had to pay those bills from its cash flow which was intended for the running costs and for the wages and for the stock it has then got itself into a problem then we think the Government of Gibraltar has got a responsibility because under the law if the £28m had been in the Special Fund and the original projections were - I cannot remember the exact figures but let me give a simple and artificial example for the sake of illustration, Mr Speaker. If you have got a situation where there are £28m in the projected sum and of that £28m under the Section that I quoted from the Ordinance the Government is allowed to do two things by the law, one is to spend £18m in buying shares in the company and to pay £10m for refurbishing the yard and then we find that the cost of refurbishing the yard is £11m then, clearly, the extra £1m is an amount that has to be met by the Special Fund independent of whether the Special Fund gets the money from the

UK or not which is a secondary consideration. But what is clearly true is that the extra £1m is an increase on the £10m refurbishment element and not on the £18m share capital element. If in the £10m share capital element there is an amount which is cash in hand in the company's accounts and the company uses one of those £18m to meet the extra cost of refurbishment then, in fact, the company is accepting a responsibility for a payment which strictly speaking in law is the responsibility of the Government of Gibraltar as the owner of the asset as the law stands and in keeping with the answers that we have had before. If the Financial and Development Secretary shakes his head, well, he has got to stand up and give explanations.

HON CHIEF MINISTER:

If the Hon Member will give way. Will we not argue all this when we come to the supplementary provision in the Schedule of Supplementary Appropriation?

HON J BOSSANO:

Well, when we come to vote the money.....

HON CHIEF MINISTER:

No, not the vote, when we get to the Committee Stage and you have the Special Fund there provided, will the Hon Member not argue what he is arguing now because I think it is much more relevant there.

MR SPEAKER:

Not if he has argued it now because I won't allow it.

HON CHIEF MINISTER:

Because we cannot have a double event on the same thing.

HON J BOSSANO:

When we come to the Committee Stage, Mr Speaker, we will vote one way or the other depending on the explanation we get between now and then so, in fact, what I am doing is telling the Government since at Question Time we can only ask questions and get answers we have been precluded from giving an exact definition of our position and our position is that if all that we are talking about is the Government coming in and providing £4m loan so-called interest free extendable every year then effectively we will say no to that because as far as we are concerned what the Government should have done a very long time ago is to stop the wastage that Appledore has been responsible for in that yard. If in fact the situation is that the

Government is redressing the balance of a problem faced by the company because the company had to use some of its funds for a purpose which they were not intended then we cannot blame the company for that and we accept that there is at least a moral obligation on the part of the Government to advance money now because effectively the company itself was advancing the Government money by meeting the builder's cost of the refurbishment of expenditure which, in our reading of the law, is absolutely clear, it was absolutely clear at the time and I remember it specifically because when the Bill was brought to the House, Mr Speaker, it was changed as a result of my raising the point at the time. At the time that the Bill was introduced in the House the intention was that all the £28m should be paid into share capital, that was the original intention and that was the original Bill as it was brought in the House before amendment and I questioned how in the balance sheet of the company you would have a situation where the company would be showing expenditure on assets which it did not own because the assets were being leased at a nominal fee from the Government who retains ownership of those assets and the record shows in Hansard that the Government said they accepted the argument, it was something that they hadn't looked at or thought about, it would have created a great deal of problems for the company and consequently what they were going to do was amend the Section to say you can use the money either for the purchase of shares in the company in which case the company then obtained that money and is responsible for the expenditure decisions or for meeting the bills. Since then we have had many questions in the House where we have been saying, well how is it that the contracts are being signed by GSL and not by the Government and we were told because GSL is essentially acting as the agent of the Government. So if GSL gives out a contract for the conversion of No.1 Dock, the No.1 Dock does not belong to GSL, the No.1 Dock belongs to the Government of Gibraltar, it belonged then and it belongs now like the whole area and therefore the refurbished No.1 Dock belongs to the Government of Gibraltar and is being hired or rented by GSL and GSL as the tenant of the area does not meet the cost of the refurbishment. It is still met from the £28m but it will not show in the share capital of the company, that is how the structure is in the law and that is how the structure is in the accounts that have been brought previously to this House. So our argument then is, if instead of the refurbishment costing £1m they cost £1½m the extra £½m logically cannot come from the share capital of the company otherwise the original £1m should have come from the share capital of the company. How can the original £1m be paid directly from the Fund and the extra £½m be paid by the company? Essentially what the company has been doing has been advancing that money in the expectation of recovering it and it has not been able to recover it because it has not been forthcoming from ODA into the Special Fund, therefore in that context we think the

Government has got a moral responsibility if not a legal responsibility and we will support this money but not otherwise. If all that this money is there for is because the company has done a pay settlement and then come back to the Government and said: 'I cannot afford to pay the pay settlement', well, we know how to afford the pay settlement. All we need to do is get rid of a third of the expatriates and we have got £300,000, we don't need to give them £4m, that is our position and it is a clearcut position and this is why we want a clearcut answer from the Government before we vote.

MR SPEAKER:

Any other contributors? Does the Hon Member wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think I ought to simply for the record, I don't hope to convince the Hon Leader of the Opposition but I really must draw a distinction between the financing of the £30m by means of ODA money and the provisions in the Ordinance. Of course, it is quite true as the Hon Member has said, let us take a simple example, suppose that £10m was originally allocated for expenditure on assets which would remain in the ownership of the Gibraltar Government and the remaining £20m on other expenditure and therefore it would be, according to the Ordinance, financed by the purchase of shares equal to the amount of the £20m cash and supposing then the situation were changed so that instead of being £10m for one and £20m for the other, it was £20m for one and £10m for the other, well, of course, it would follow that the Government shareholdings would fluctuate and the amount of expenditure on fixed assets in the Government's ownership would likewise fluctuate but this would still amount to £30m which is to say there would be in no sense any contradiction of the Ordinance, no action would have been taken which would be in conflict with the provisions of the Ordinance. I think that is an important distinction between financial aspects and legal aspects here. The Hon Member may argue that the Government has some moral responsibility, he is entitled to argue that, but the Government is not necessarily going to accept his views. As far as the original amendment to the Bill which he quite rightly pointed out was as a result of his own intervention, the real reason for the changes in the Bill, the new Section 6 which was brought in making the distinction between the purchase of shares and the expenditure on fixed assets, we had to do that, we had to introduce that Section because the Constitution and the Public Finance (Control and Audit) Ordinance as it then stood would not have allowed us to hand this money over for the dockyard project and that was the inception. As I say, I don't expect that I am going to convince the Hon Member, I can only conclude with one of my quotations from Shakespeare on

this and it comes from Macbeth: 'Things bad begun make strong themselves by ill'.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

The House recessed at 7.10 pm.

WEDNESDAY THE 9TH JULY, 1986

The House resumed at 10.40 am.

MR SPEAKER:

I believe that the Hon the Financial and Development Secretary wants to make a statement.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. I would like to make a statement to try and clear up any misunderstanding which may have arisen as a result of the supplementaries on Question No. 114 by the Hon Mr Pilcher yesterday. The question was: 'Can Government state whether they have now received the whole of the £28m from ODA for the GSL Special Fund?' And my answer was: 'No. The total amount received from ODA for the credit of the GSL Fund is £26.4m. The balance still to be released of the £28m is therefore £1.6m'. That is correct, £1.6m is still to be released but £300,000 is the amount withheld, that is, as I explained, the balance from the original split between offshore and local expenditure which is available for working capital purposes. As far as I am aware, there is no intention on the part of the ODA to withhold the remaining £1.3m making up the total of £1.6m, as this is on approved work in the original memorandum, therefore it is simply a question of the money not having been released because the bills have not yet been paid or the expenditure has not come to account. I think the confusion may have arisen because £1.6m is fairly close to a figure of £1.7m which, of course, is a rather different figure. As I explained, the shortage of working capital arose because the capital overruns on the originally approved items came to £1.7m and ODA approved that particular figure. That was the first reason. The second reason was the fact that GSL, as I explained, with ODA approval, used the amount originally intended for local

expenditure, ie working capital, to meet the cost of those capital overruns.

HON J BOSSANO:

Mr Speaker, so the situation therefore is that the capital overrun approved effectively meant that the company on the original provision would have spent £29.7m but in fact the £1.7m was approved by diverting funds from within the £28m to another purpose and therefore to restore those funds would mean an additional £1.7m over the £28m. So where do the £2.4m come in then?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The £2.4m is the addition to the £28m that ODA have actually offered. The Hon the Leader of the Opposition stopped in his calculations of £29.7m, that is to say, £28m and £1.7m. The £1.7m represents the capital overruns, an additional £700,000 is for further works, repairs to roofs, the fact that the crane rails left by the former Naval Dockyard collapsed and a new fresh water pipeline because the existing one is not up to standard, those are the three items which I know are in that £700,000 and the ODA officials thought that that was a perfectly reasonable request to make.

HON J BOSSANO:

I got the impression, Mr Speaker, the Hon Member was saying that, in fact, the £1.7m has been spent and therefore it is a question of meeting the cost but the expenditure has already taken place. Is that also true of the other £0.7m or is that the other £0.7m the expenditure has been approved but has not taken place?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is correct, Mr Speaker, the expenditure has been approved but has not yet taken place and I also perhaps ought to add that for other reasons the company had to postpone certain expenditure which was considered desirable of a capital nature but not absolutely essential again because of this cash flow shortages.

HON J BOSSANO:

Could I just ask one further thing, Mr Speaker? Is it not true that, in fact, in the original capital projections made by the company when these were examined in the Project Study by Coopers and Lybrand, Coopers and Lybrand queried the figures as being on the high side, as being excessive so does it mean,

in fact, that since we are talking about a net figure of £1.7m overrun and a number of things for which there was provision have not materialised, ie a £1m for the tug it means, does it not, that the excess on the remaining has, in fact, used up all that there was there in terms of contingencies and money that has not been spent and still £1.7m on top? So, in fact, the overrun must be more like £3m or £4m.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I don't know whether I would entirely agree with that but there certainly have been changes. I don't recall the comments in the Report as the Hon Member does, there have been a number of changes, some contract works have not exceeded budget and others have so that there have been a number of changes and, indeed, postponements amongst the items in the original £28m.

HON J BOSSANO:

But the point I am making, Mr Speaker, if this is a net figure over and above what was provided and what was provided at the time was queried by the experts that the Government brought in as being on the high side and if we know from having observed what has taken place subsequently that the things that were queried as perhaps being unnecessary have not materialised, for example, a £1m capital investment in a tug has not taken place so therefore it means that there must have been overruns on the rest of the expenditure of £1m in addition to the £1.7m and there was a figure of £3m for contingencies for the next three years which presumably has also been used up. Am I correct in saying that or are those things part of the overrun?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The Hon Member is correct, I think, in saying that the £1m for a tug was not used but then I wouldn't simply isolate that particular item and say that this is the only factor. I think there have been a number of factors at one point which one tries to make as delicately as possible because of the sensitivities of the former owners of the yard, is the fact that it was in a rather worse state than was imagined and I think quite reasonably, given the amount of time they were allowed to go into the yard, when their original calculations were made they found that they incurred a lot more expenditure and ODA are aware of that. I haven't got a figure absolutely in mind but I think certainly £1m might be about the same forecast figure.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills

clause by clause: The Specified Offices (Salaries and Allowances) Bill, 1986; the Insurance (Motor Vehicles) (Third Party Risks) Bill, 1986; the Education (Amendment) Bill, 1986; the Criminal Offences (Amendment) Bill, 1986; and the Supplementary Appropriation (1986/87) Bill, 1986.

This was agreed to and the House resolved itself into Committee.

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) BILL, 1986

Clauses 1 to 5 were agreed to and stood part of the Bill.

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

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

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

THE INSURANCE (MOTOR VEHICLES) (THIRD PARTY RISKS) BILL, 1986

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

Clause 3

HON M K FEATHERSTONE:

Sir, I beg to move an amendment in Clause 3(1). In the fourth line the word 'user' should be changed to the word 'use' and in Clause 3(5) the word 'user' should be replaced by the word 'use'.

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

Clause 4

HON M K FEATHERSTONE:

Sir, I beg to move an amendment in Clause 4(1)(b) that the word 'user' should be replaced by the word 'use' and in Clause 4(1)(c) the word 'user' should be replaced by the word 'use'.

Mr Speaker put the question which was resolved in the affirmative and Clause 4, as amended, was agreed to and stood part of the Bill.

Clauses 5 to 24 were agreed to and stood part of the Bill.

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

THE EDUCATION (AMENDMENT) BILL, 1986

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

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

THE CRIMINAL OFFENCES (AMENDMENT) BILL, 1986

Clauses 1 and 2

On a vote being taken on Clauses 1 and 2 the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

The following Hon Member was absent from the Chamber:

The Hon Sir Joshua Hassan

Clauses 1 and 2 stood part of the Bill.

Clause 3

HON ATTORNEY-GENERAL

Mr Chairman, in the Schedule in paragraph 1 - Governor's Lookout Scout Camp: 'The land in the Upper Rock Area shown edged with red on plan numbered.....' there should be inserted there T.39

On a vote being taken on Clause 3, as amended, the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C. Perez
The Hon J E Pilcher

The following Hon Member was absent from the Chamber:

The Hon Sir Joshua Hassan

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

The Long Title

On a vote being taken on The Long Title the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C. Perez
The Hon J E Pilcher

The following Hon Member was absent from the Chamber:

The Hon Sir Joshua Hassan

The Long Title stood part of the Bill.

THE SUPPLEMENTARY APPROPRIATION (1986/87) BILL, 1986

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund No.1 of 1986/87.

Head 8 - General Division was agreed to.

Head 10 - House of Assembly was agreed to.

MR SPEAKER:

I am surprised to see that the Opposition have not asked when broadcasting of the proceedings of the House are going to start.

HON J BOSSANO:

We just happened to see it there and we were overwhelmed.

MR SPEAKER:

I feel that the way things are progressing it should when we meet after the Summer Recess.

Head 16 - Medical and Health Services was agreed to.

Head 25 - Treasury

HON J BOSSANO:

Mr Chairman, I would like to take advantage of this now to clear up one further point in the statement made by the Hon Financial and Development Secretary. The £1.7m of capital overrun which have been approved by ODA and which form part of the £2.4m, has the cost of that been met from its own funds by GSL and will the payment be reimbursement to GSL of that expenditure or is that money unpaid at the moment?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I couldn't say whether it has all been paid, that

is say, whether the bill was presented but it is certainly committed so the expenditure will be met from the GSL Fund.

HON J E PILCHER:

The point, Mr Chairman, is a very simple point. The point is obviously the £1.7m in overrun is work that has already been done and although the bills might have not been sent to ODA yet, have the bills been paid locally to the contractors that did the work? We would like to know how much of that £1.7m has already been paid locally by GSL and how much hasn't or has it all been paid out already not by ODA but by GSL?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I should think relatively little of it would have been paid by GSL locally. The majority of it by its nature, I think, would have been offshore and hence the bills would have been paid by the Crown Agents in the UK.

HON J BOSSANO:

We got a different impression from the earlier questions in the House and I think the important point which is the one we are trying to establish clearly is, if tomorrow ODA says: 'Fine, here is the £2.4m', does that mean that £1.7m goes back into the coffers of GSL because they have been advancing that money to ODA, as it were, and paying those bills and this is why they have got a cash flow problem because they have used their own money to pay the £1.7m and they need it back or, in fact, will it not make any difference at all to GSL as GSL because the money will be paid by ODA to whoever has done the work? There is a very important distinction between the two because the cash flow of that position is not affected at all whether you pay the thing now or in a month's time if it is being paid to the people who have done the work who are the people suffering in their cash flow but it does make a dramatic difference to GSL if GSL has used £1.7m of its own money to advance payment, as it were, to its contractors. Which of the two is it?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think this is a distinction the Hon Member made which we discussed yesterday evening. What if GSL owed the money? I don't think that that distinction is one which is particularly relevant, quite honestly. I really don't know what to say about this. The £1.7m is capital overruns until the money is available, until ODA agree to make it available GSL's cash flow will be worse, I think that is quite clear to that extent for the reasons which I have already mentioned.

HON J BOSSANO:

It is not quite clear, Mr Chairman, this is what I would like to understand. It seems to be clear to the Financial and Development Secretary, it is certainly not clear to us. If there had been no overrun the amount of money we would be talking would be £28m. There has been an overrun of £1.7m, there are two possibilities of what has happened and it is a matter of fact, it is not a matter of theory, either the people have been paid £1.7m by GSL for doing that work out of the £28m in which case GSL is short of £1.7m and when ODA approves and pays the £1.7m instead of that money going to the contractor it will go to GSL who has been bearing the cost in the intervening period or it hasn't happened like that and the contractors have not been paid in which case GSL is working with the £26.4m that has been released and in that £26.4m is not included the payment of the £1.7m. Essentially, if the £1.7m has been paid already or any part of it has been paid already for the work that has been done already it must have been necessarily paid out of the £26.4m which is the total amount made available by ODA. Let us forget the distinction about whether it is the Government or part of the share capital. Has any of that £1.7m been paid out of the £26.4m or not?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I misunderstood, in fact, I think I was, as is my wont on these occasions, thinking 'What is he going to ask next?' I thought it was going to be this intimate distinction between expenditure on GSL assets and the purchase of shares but no, I am quite satisfied, I cannot be satisfied as to 100% but that £1.7m has very likely been paid.

HON J BOSSANO:

From the £26.4m so, in fact, it is the company that is in need of that money so that their cash flow can go back to normal?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Of course, yes, Sir.

HON J BOSSANO:

Well then, Mr Chairman, this is the point we were making. If in fact GSL has borne in the intervening period the cost of the £1.7m which is approved capital overrun, overrun above the £28m then, effectively, GSL has been making a loan to somebody of £1.7m and here we are talking about the Government of

Gibraltar making a loan to GSL of a £4m. This is where the distinction that the Hon Member thought I might be about to make comes into it and I am about to make it now which is that, of course, if that £1.7m is something that is part of the overrun on refurbishment costs, on assets owned and held by the Government of Gibraltar and leased to the company, then we feel that the responsibility for meeting that cost in the intervening period is, strictly speaking, until ODA provides the money, the Government's and not the company's and we think that it is an unfair burden on the company's cash flow. If they overspend on wages then clearly it is their responsibility, if they overspend on running costs it is clearly their responsibility, but if there is an overspending on the contract of the property that they are renting then we don't see how it can be their responsibility and then it seems to us that, in fact, part of the problem has been created by the company accepting meeting a payment which, strictly speaking, is not theirs to meet. The company should have turned round to the Government and said: 'Look, there is this bill from the contractor for repairing the roofs or whatever which I am not meeting, you meet it or ODA meets or let the contractors sue you but it is not up to me'. Effectively, what we are saying on that basis, quite frankly, the money that is being lent to the company we consider to be justified purely on the grounds that the company itself has been from its own funds intended for other purposes essentially advancing money to ODA or to the Government of Gibraltar and we would support the advancing of a £4m for that purpose. We would not support the £4m for the purpose of meeting extra running costs because we think in the extra running costs for a start there is £900,000 of the expatriate bill which we consider to be excessive and that there are things there that can be cut in extra running costs but we feel on the capital side the company has got a clearcut case but, of course, what we are not prepared to see is if the Government is defending the £4m on the basis that they are making that money available to the company because they want to gain time for this consultancy to take place which we are going to vote against as well anyway so clearly if we are against the consultancy we are against the provision of the money so that the consultancy can take place and the yard can be working normally for that purpose. We are against the consultancy, we are against the money being made available to the company for the purpose for which it has been put but we would not be against the idea that the company should get a loan if necessary of £1.7m, let us be clear, because we think it is unfair that the company should have to carry the burden of meeting capital costs over and above what was already agreed which have been approved and which are putting a burden on its cash flow position. We would have thought that it would have been perfectly legitimate to say to the company: 'OK, we will quarrel with ODA and we will get the £1.7m to meet those bills and in the interim we will lend you the money to meet the

£1.7m and you won't have a cash flow problem', and we would have supported that.

On a vote being taken on Head 25 - Treasury, Subhead 81(NEM) - Loan to Gibraltar Shiprepair Ltd the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

MR SPEAKER:

There is a subsequent Subhead on Gibraltar Shiprepair Ltd - Consultancy.

HON J BOSSANO:

We are opposing that, Mr Chairman, because we consider that, in fact, the wealth of evidence that there is already available is more than sufficient for the Government to be able to decide which way it wants its company to go. The Government has been extremely reluctant to accept that it owns the company at all, it seems to us, from its inception and tries to stay at arms length. It is now setting up yet another consultancy after all the many we have had. I remember the money that we voted in this House for an independent party to look at the GSL position and then when that independent party came to the conclusion that the projections made at the time, in the project study were, in fact, extremely difficult to see materialising in reality, the study was kept secret and the report was ignored. What are we going to see, a repetition of that exercise. That is to say, if the consultants come up with something the Government finds embarrassing what will they do, make the report secret and not do anything about it. All

they need to do is to go back to the Secretariat like I have done and read the thing, the Michael Casey Report, and if they look in the Michael Casey Report they will find that Michael Casey said, for example, 'There is no indication that the workforce or the Trade Union Movement will accept a cut in wages which is built into these projections', and of course they have not accepted a cut in wages, they have obtained a substantial increase in wages by comparison to what the company was trying to do before. It seems to me that we have got the Michael Casey Report there which can show us many of the things that we want Price Waterhouse to tell us now. We have had the Coopers and Lybrand Report, as I have mentioned earlier in the context of the statement made by the Financial and Development Secretary, which queried the projections of the company on the capital side. The company built in £2m for contingencies. In that £2m was a sum of money for contingencies in the next two years and presumably that has gone in the £26m. We had a situation where the Coopers and Lybrand Project Study queried whether the best way and the most economic way to provide for the movement of ships was by the company purchasing a tug at a cost of £1m with a fuel bill annually of £200,000 and they recommend that savings could be made in that area by hiring the tug services. The company has been hiring the tug services but the £1m on capital investment has taken place although there is no tug and the £200,000 of fuel has been used on something else because there is no fuel like the £300,000 on pensions is not there and the pensions are not there and the £2m of municipal rates are not there and the money is not there. You certainly don't need to throw more money, good money after bad money to find out all that is wrong. The Government has already got all the information at its disposal, the Government has said publicly that the accounts have been audited by three different sets of Auditors and now we are employing a fourth set of Auditors. The Management Agreement with the company gives the Government the right to ask for monthly and quarterly reports and projections and analyses of their performance so all the information that the Hon Financial and Development Secretary might need to establish all that has gone wrong not that it is going to do us any good because the money is not there anymore now, we may find out how badly we have spent it but we are not going to get it back and that is a tragedy for Gibraltar. That is available. If what they want to do is get off the hook at the expense of the people of Gibraltar and the taxpayer of Gibraltar they will have to take the responsibility on that side of the House for doing that because clearly this is a hot potato and it won't go away. The report, from our experience of previous reports, will go the way that every other report has gone that the Gibraltar Government has produced, it will go into the Secretariat and it will gather dust. So we are against this.

HON CHIEF MINISTER:

Mr Chairman, I regret I was not here earlier in the discussion of this matter but I had a pretty good idea of the views of the Leader of the Opposition by the exposition he made yesterday in the Second Reading of the Bill and I will not deal with the legalities of the matter on which there are always two or three views and as far as the Government is concerned we are satisfied that the question of the accounts and the question of the distribution of the various parts of the Fund are being carried out in accordance with the provisions of the law. I would like to address myself briefly to the question of the £4m and to state clearly the reasons that make the Government take the steps that they have taken. First of all, there had been the difference and there is still the difference of the amounts which the Government after close study and the Board after close study felt was justifiably required to make up for the various overspending that had occurred and for the requirements at the time. The ODA took a different view and we were going to go into battle for that but there are two difficulties, I hope one will be overcome soon and the other one will take a little longer. The first one, of course, is that we have to get over the retention of the balance of the £28m. That is a direct matter to which we have devoted our close attention and have had very long sessions on this matter and, as I said yesterday, I had hoped to have news for the House either yesterday or today but for the reasons I stated yesterday we cannot expect a reply by the end of the week. I must assume for the moment that the reply is going to be favourable, a different situation would arise if the reply was not favourable, a very serious situation would arise if the reply was not favourable but that, I don't think, we need to deal with now because I have expectations and let me say that I do not have any expectations from any feedback that I have got, there is no feedback at all but I think we have made a very good case and if cases are dealt with on merit I have no doubt that that balance will be forthcoming. The difference between the £2.4m and the £3.5m, it is a different matter. We were at the point of continuing to argue that but having regard to the consultancy that has been appointed, it seems to us of no use to argue about that. First of all, we will ask for the release of such sums as the £2.4m without prejudice that we may need to keep the cash flow and the situation normal but it would be idle for us to argue about the difference now if, in fact, in a few weeks time the consultants advise us (a) that it is not known if it is £3.5m and it may be more, or (b) that perhaps £2.8m is necessary or £3m or £2.9m. The matter now being the subject of a consultancy we must get their judgement and, in fact, we may be enforced by their judgement on our attitude in this matter. That is the situation as it is now but at the time of the industrial action we had a number of choices. One was, of course, the closure of the yard and be done with it and finish

and then start thinking of something else. It is a reality, it is a real reality. That yard was given to us on the understanding that on the basis of the consultancies prepared by the ODA would work on £28m. If it didn't work on £28m and there were good reasons why it should be more then we look to the British Government and we look today to the British Government to make up for that. But in the meantime a situation arose where, I think on the statements of Mr Anderssen alone and I am not going to question that, the yard lost £300,000 by the walkout and the closure. We felt (a) that there was need to have a settlement, a reasonable settlement with which we did not interfere at all, let it be quite clear, we did not interfere in the settlement but circumstances brought about a change of management and there was a change of attitude and the change of attitude has brought about a change of attitude from the workforce and I am very happy to hear Members who visit the yard apart from the statements made by the Leader of the Opposition in his capacity as a Trade Union Official, that people will work better if they are happier and that seems to be the case today. But we were in that position and there was no time to wait for reactions from the United Kingdom in order to bring about a settlement and at the same time we had that very clear letter from the United Kingdom before the situation deteriorated, not after, but before when there was only blacking on overtime. We must not forget the sequence of events, when there was blacking on overtime, that the work practices were such that they would not release the amount, that was made public by us. The Government, in its responsibility to the workforce, to the yard and to Gibraltar felt that it had to have a rescue operation and the rescue operation was linked very clearly, as the press releases have indicated, the rescue operation was made on the clear understanding that we were only providing this in order to bring peace to the yard in order that there should be a consultancy in normal industrial conditions in the yard. Whether that should come from one fund or the other eventually we will see but we provided a loan on various conditions. First of all, it was a contribution by way of loan. Secondly, we obtained the full cooperation of management with the consultancy and, thirdly, it may be possible for ordinary work to be restored. Wherever that money will come from eventually is not a matter that concerns us now. We are satisfied in the general interests of Gibraltar and in the particular circumstances, it is all very well coming back to the House and arguing weeks after about this, that and the other but as in every crisis you have to take a decision and you have to be forceful and you have to know where you are going and the Government took that decision, it limited the amount to the minimum required, it wasn't just an open-ended commitment, it limited the amount that the House is now being asked to vote and we are quite satisfied in our minds and we are prepared to defend it here in the election and wherever it is that the contribution that the Government has made in the conditions that the Government has made has made it possible

to look to the future with much more confidence than there was before and has made it possible if the yard continues to prosper and we hope it will, that the money will be paid back to the Government and then the question of the various funds is a matter for the Auditors and the others to comment and to fight over. For all these circumstances the Government is not only firm in its decision but proud of having done something for Gibraltar which in the circumstances nothing better would have saved that yard.

HON J E PILCHER:

Mr Chairman, I am not so proud of the forceful situation that the Hon and Learned Chief Minister is advocating. It is a pity that the Hon and Learned Chief Minister did not come earlier in the debate because we have been insisting since yesterday, Mr Chairman, at Question Time and also, I think, we established it this morning that it is not the Government coming to the rescue of the company, it is not a rescue operation. We have been insisting from this side and I think we have finally been able to get the answers this morning, that it has been the Government who caused the crisis. Who created the crisis? That is the key question, Mr Chairman, and that is why we have voted against the £4m loan because we have managed this morning to get the answer that the £1.7m of overrun in capital expenditure has already been paid by the company which is all wrong because that money if it is an overrun in capital expenditure should have been paid by ODA and it hasn't. We have a situation here, the way we see it, Mr Chairman, that it is a question of somebody owing somebody else money. I owe you £1,000 and you come and say to me: 'I have a cash flow problem', and you either say: 'Well, alright I will lend you £250', how can that be? That is logic in reverse. The ODA owe GSI £1.7m because the Financial and Development Secretary has said himself that they have come out here and seen that the overrun expenditure of £1.7m was a reasonable expenditure. They should have gone back and released the £1.7m which they haven't. That has created a problem for the company who have paid out the £1.7m and have therefore got a cash flow problem so they come to the Government, the Government who has caused indirectly because they are responsible for the assets, they have caused the cash flow problem and the Government say to them: 'In order to get you out of the financial difficulty I am now going to loan you £4m'. We are not talking now of the legality and I take it that since we have been discussing the legality now for a year and half, at one stage we should get the Attorney-General to make a statement in the House as to what is the legality of the problem as he sees it. We have seen the Financial Secretary doing it, we have seen the Chief Minister doing it, we have seen other Members doing it, it is about time that the Government's own

Attorney-General gave a statement in the House as to what he considers the legal aspects of how to spend the £28m but we are not talking about the legality, we are talking about the morality, the morality of having an overrun of £1.7m and now lending the company £4m to get them out of their difficulty and then to say what a forceful approach this has been by Government, how proud they are of what they have done because they have averted the crisis, that is the way they have shown it publicly and it is our contention that it is their non-interference when he said: 'We have not interfered, we did not interfere', that is our contention, their non-interference has also been a great

MR SPEAKER:

The Chief Minister referred to non-interference exclusively with regard to the industrial dispute and nothing else.

HON J E PILCHER:

Yes, that is right, that is what we are referring to, Mr Chairman.

HON CHIEF MINISTER:

To the industrial settlement.

HON J E PILCHER:

The industrial settlement, the industrial dispute, and he said: 'We did not interfere' and precisely this is what we are saying and it is precisely although the Hon and Learned Chief Minister hasn't really answered the points on the consultancy although he was here and has heard the points made by the Leader of the Opposition, our point is that there is enough information in order for the Government themselves as the owners of the company to ascertain what it is that went wrong. You know how we feel about consultancies, Mr Speaker. Committees, they are all manoeuvred by the Government in order to put something between them and their responsibility, something which they can then have inbetween so that they can then use that publicly as a buffer zone like the Committees on the Tourist Report and many other consultancies and Committees, Mr Chairman. That is why we are voting against the consultancy.

HON A J CANEPA:

It is extraordinary, Mr Speaker, to hear the exponents of the whole philosophy of open Government being so much against the use of Committees. The Government has caused the crisis because of its non-interference, we are told. The Government has been

afraid to get itself more involved politically on the whole question of GSL than what it actually is now because of the whole history of the matter. GSL was set up because the Government reluctantly but it had to accept the reality of a closed naval yard and its replacement by a commercial yard. The gentlemen of the Opposition were against it, an us and them situation, a general election was fought over that issue in which sides were clearly taken and what are we to do subsequent to that? What are we to do? To become more and more involved in the yard so that it is seen as a continuation in the industrial arena of that political fight between the Government and the Opposition? We only have to see and compare the state of industrial relations within the Government as an employer and other major employers in Gibraltar. Why are industrial relations within the Government not as good as they are in the MOD? Why are they not as good as they are with the PSA? Why are they not as good having the last incident of industrial action sparked off by the inability of the President of the Chamber of Commerce to keep his mouth shut when he should? Barring that, why are industrial relations within the Government of Gibraltar not as good as they are in the private sector, generally speaking? And why it is that in spite of that record of poor industrial relations people are falling over backwards to get employment within the Government of Gibraltar? These are questions that have to be answered. I have no doubt what the answer is and the answer was clearly not said by me, the ACAS conciliators tell you what the answer is. Mr Phayre has said what the answer is. For my part, I have no doubt that industrial relations in Gibraltar has got grave, within the Government of Gibraltar, grave political overtones. We can do something about that, Mr Speaker, in the Government. Ministers don't get involved in the conduct of industrial relations, we tell management, let them do their job, they get handsomely paid, there are the guidelines, you have got a code, get on with it. But does that happen on the trade union side, what is the quid pro quo? Or is it that the position of Leader of the Opposition is completely and utterly divorced from that of the Branch Officer of the union? How can that be the case in the eyes of the public? And that is a very serious reason why we don't want to get involved in the yard so that the yard does not become another Gibraltar Government industrial situation. That is our fear, our main fear of getting involved. So that people can be given a chance to get on with it and do a good job and management can get on with it without the political in-fighting that is part and parcel of the set-up within the Government of Gibraltar. And it doesn't help one bit for the Leader of the Opposition with his normal bravado that we are used to and which I think the public is used to who see him on television, who hear him on radio and who read what he has to say in the press, yesterday to come here and say: 'The Government should sack Appledore'. That is the kind of statement which elicited a belligerent response from Mr Abbott and I would hope

that Mr Anderssen does not react that way. My assessment of him is that he will not react in the belligerent manner that Mr Abbott reacted but more belligerent people like Mr Abbott, like Adolfo Canepa, do react that way and I hope that Mr Anderssen for the sake of continuing good industrial relations doesn't take much notice of what the Leader of the Opposition has said in the House when he sits across the table with the Branch Officer of the TGWU. And yet Sir Joshua was speaking a few minutes ago about a change of attitude. Is there a change of attitude? Not as evinced by what we have heard here in the House, there is certainly no change of attitude. Maybe there is a change of attitude at shop floor level from the people whose future, whose jobs are threatened. But, of course, there is more than all that and there is greater reason why a consultancy has to take place. It is not to let the Government off the hook, that is a nonsense at public expense, or to say 'the information is all there'. We have a new situation. All those reports by Michael Casey and Coopers and Lybrand and Ross Belch and what have you, we are in a vacuum situation, there was no yard, it was a project but now we have got eighteen months of experience and the background against which those reports were produced was one in which A & P Appledore were proposing to employ in the region of 1,200. That has not materialised, the number of people in the yard is now 850 and unlikely to go up to 900 and, in fact, what is now being spoken of is, if anything, should the yard contract, should it be a smaller operation? So that has changed. What else has changed? The economic situation in Gibraltar has changed, the unemployment situation has changed for the employment situation. All those consultancies and studies were made against the real fear of sizeable unemployment in Gibraltar. There isn't that unemployment and because there isn't that unemployment a lot of Gibraltarians don't want to work in that yard not to mention the sad experience of the last seventeen or eighteen months of poor relations with management, the inability of management to appreciate the situation in Gibraltar and to give the workforce some credit for the experience gained over a lifetime of working in the MOD yard. But because the situation is different we have to have a fresh look at the yard, we have to know whether there has been some mismanagement. There are serious question marks, questions that have to be answered. It is no part of us as politicians to get involved in that, we don't know how to run a yard. Mr Bossano himself knows a little bit about industrial relations, I would suggest he knows rather more about the running of the yard than we do because he is involved with it from the staff side on a day-to-day basis and he is an economist which helps but at the end of the day I doubt whether he would make a better managing director in that yard than Mr Andersen or Mr Abbott, that is the reality. We have to bring in people to have a fresh look at the new situation, to try and answer these questions, to try to point as to the

future of the yard and it is not a case of a whitewash and having a buffer, it is a case of being able to decide clearly on the basis of sound advice what direction is that yard going to move in. How many people is it going to employ in the future? To what extent should the Government of Gibraltar continue to be in any way financially involved? Is it worthwhile for the Government of Gibraltar to be involved in that way if the yard is going to employ 380 or 390 Gibraltarians and, unless the situation improves, the prospects are that the numbers will decrease? We also need, I think, a certain amount of ammunition with which to fight ODA on this matter because, for all we know, the attitude of ODA could be to wash their hands of the problem and, as the Chief Minister said earlier today, it was £28m because £28m was judged at the time to be the amount required but if that yard was handed over in a condition in which after investigations, after working there on the scene it was clear that a great deal more work had to be done that had been anticipated by Mr Ross Belch, by Coopers and Lybrand, by Appledore, by Michael Casey or all the other experts then that is a fact that we have got to face ODA with and they cannot just shirk that responsibility. For all these reasons, in order to give a fresh start now that people have approached the precipice, apparently they have looked over, they didn't particularly like what they saw beyond the precipice and the Government has come to the House asking the House to vote £4m to make a contribution to setting that yard on its proper footing and coming to grips with what its future should be.

HON J BOSSANO:

Of course, we are talking about much more than a loan for a consultancy, we are talking about the entire handling of GSL by the Government of Gibraltar, having won an election on that issue, and it is all very well for the Minister for Economic Development to come along now and say: 'Well, the circumstances have changed and now we may need a smaller yard', which is what we were saying in 1984 and what a lot of other people that they engaged in 1984 were pointing out to them. If he wants I will send him a copy of our manifesto so that he can read it again. In fact, he went on television saying there were two clearcut positions, ours and theirs, and that the other party that was then contesting the election had no position because the other party were saying they would go along with the Appledore proposals. We said in 1984 we would get rid of Appledore within 24 hours of winning the election and we are saying now to the Government, to Mr Anderssen and to the people of Gibraltar that in 1988 if the GSLP comes into Government Appledore will be sent packing. That doesn't mean that we need to have a Gibraltarian as manager of the yard, what the Minister doesn't seem to understand.....

HON A J CANEPA:

If the Hon Member will give way. If that statement is not published in the media later on today or tomorrow, will he commit himself to write a letter to the press stating that he has said this in the House?

HON J E PILCHER:

He has said that on many occasions.

HON A J CANEPA:

Now, I am saying now in the new situation, I am not saying the many occasions, I am challenging him to do that now.

HON J BOSSANO:

Mr Chairman, I am quite happy, if the Hon Member wants to give me greater publicity, to hold a press conference after this meeting of the House and say: 'The GSLP position in 1988 will be the GSLP position in 1984, if we come in we get rid of Appledore, we think they are a total and a complete waste of money'. You are paying Mr Anderssen a salary and you are paying Appledore £300,000. Mr Anderssen is a vast improvement on Brian Abbott but people of Mr Anderssen's calibre can be found and employed and paid without Appledore. There is nothing to stop the Government engaging Mr Anderssen as their employee without using Appledore or somebody else. He is not the only man in the world in shiprepairing, the whole of the shiprepairing world is going through a huge crisis everywhere. French yards are in the process of closing now in the Mediterranean, Mr Chairman, because they have lost billions of francs in the last five years. There are a lot of senior management people in the shiprepairing world available for hire, the market is full of them but we don't think we need 39 people like we have got here which is what Appledore has sent out which was questioned by Mr Anderssen himself on television. He said he had just come from the Neorion and there are two expatriates in the Neorion and he cannot understand why we have got 39 here with all our years of experience. We are entitled politically to question that. If the Hon Member is saying to me that because the Opposition says: 'We are against GSL', this will upset Brian Abbott and will upset the likes of Adolfo Canepa who presumably shares the character of Brian Abbott but possibly will not upset Mr Anderssen because Mr Anderssen presumably understands that if tomorrow if he offers a pay deal for the foremen which the foremen then meet and decide to vote on and accept, the fact that the Opposition in Gibraltar, Mr Anderssen knows this, I have told Mr Anderssen across the table what I am telling the Hon Member in the House, he knows that the GSLP

position is that if we get in we will change the situation and we will not want to continue with a management under Appledore, we think it is a waste of public money and he knows that and he is not upset because it is a waste of public money and he knows that and he is not upset because it is a perfectly legitimate position for a politician to take, there is nothing wrong with it. The Hon Member, I think, at least has done me the favour of coming out openly and saying something here that has been said by innuendo by his colleagues on more than one occasion. Let me say that his coming along now and saying here for the first time that because the GSLP position is what it is then, in fact, it may mean that it could have an impact on industrial relations. Well, it is not that it may mean that, the reality of it is that in December last year the Hon Mr Mascarenhas actually said on television that the Government view of what was wrong in the yard was that all the workforce had risen to the occasion in true Gibraltarian fashion and achieved all the productivity targets, nothing was wrong with the management and that if the yard failed there was only one person responsible in Gibraltar, me. This is what was said and it is there and I have got the written text of what was said.

HON A J CANEPA:

He may be interpreting it as he wants.

HON J BOSSANO:

No, it is black upon white and I am sure that there are records available and it has not been challenged anyway, nobody has said that was not said. The Hon Member is entitled to believe that and he is entitled to say and propagate it and if he says 'there are worse industrial relations in the Government than there are in the MOD or DOE', the most I can tell him is that the MOD and DOE tend to react in a way which would be unacceptable to him. He thinks that to actually consult every step of the way before you do anything is, in fact, to be bossed about by the union or the workforce, very much like Brian Abbott used to think that, and therefore his approach would be different perhaps because at the end of the day if a settlement is done in Gibraltar the difference in the relationship is that the Hon Member on the other side has got to defend that settlement politically and, quite frankly, if a settlement is done in MOD or DOE then the people who are running the show here want peace and we have had a situation, for example, I can tell the Hon Member, where there has been equipment in the DOE which was blacked for fifteen months and nobody was locked out. There was a dispute about the manning levels and plant that cost £4m was not used for fifteen months and the Hon Member presumably participated in the decision which determined that electricity workers should be taken off pay for seven weeks last summer which is still a

continuing dispute between the workforce and the Government or the Union and the Government independent of whether I am in the House of Assembly or not in the House of Assembly or Leader of the Opposition or not Leader of the Opposition. If he wants to draw the parallel let him draw the parallel. Let me tell him that there are many people in Gibraltar who believe that all the contracts and all the tenders go to all the firms registered in 3, Library Street because his colleague sitting beside him is the Chief Minister of Gibraltar, a lot of people say that. It may be true, it may not be true, it is of no consequence whether it is true or it is not true, the people who want to believe it will believe it and the people who don't want to believe it will not believe it, it is up to the Hon and Learned Chief Minister whether his conscience is clear that it is not true, like my conscience is clear that it is not true that there is any situation where I have put the interests of the workers in any way subservient to the interests of the Opposition or the GSLP and since I am absolutely satisfied that in conscience I do my job well and nobody has got any reason to criticise me for the way I do my job and in conscience I carry out my commitment as a Socialist which gives me the fortunate position that politically I can, in fact, be in a situation where I am not in conflict with myself, Mr Chairman, what I cannot do obviously is be a Socialist and be the legal adviser of the Chamber of Commerce, that I couldn't do. But there is no conflict in being an active and a committed trade unionist and an active and a committed Socialist. The entire history of the Labour movement, not the AACR Labour Party/Gibraltar Confederation of Labour, of course, no, the entire history of the Labour movement, the genuine Labour movement, has been that the political impetus has come in order to produce changes in society to defend the interests of the working class as a natural extension of the Trade Union fight. This is why working people went into politics, to change society, that is what makes the Labour movement a Socialist movement in defence of Trade Union interests and in defence of working class interests. The Hon Member is perfectly entitled to defend a different philosophy, he is entitled to be a Liberal or a Social Democrat or a Conservative but what he cannot do is expect that Socialists should be anything other than what they are and we are a Socialist Party we are committed to a Socialist philosophy and if he wants me to make sure that the press say that as well as saying that we are going to kick Appledore out, I will give that as well as one of the items that I want them to put because we are not frightened of those things. We will stand and if at the end of the day the people of Gibraltar.....

HON A J CANEPA:

If the Hon Member will give way. To apply the label of Socialist to one does not inure one from criticism. I could say that I am a Christian and that I try to lead a life according to the Christian philosophy but that doesn't set you apart from everybody else, you have to live in society as it is established and it doesn't inure one to criticism and the trouble with the Hon Member is that in all the years that he has been a Member of this House and has been active in public life in Gibraltar, he has been at the receiving end of very little criticism because he is

a Trade Unionist and because he has been on the Opposition. In December last year when the Hon Mr Mascarenhas criticised him on television he wasn't able to take it. And if he is ever in Government and he cannot take criticism he is going to be in trouble because he is showing serious immaturity in that respect. We are used to being criticised, in the press, in the media, here in the House, we get used to it but he has never been at the receiving end of criticism and he reacted in a childish, immature way when he was criticised in a party political broadcast.

MR SPEAKER:

I feel that I have been liberal enough even though we are in Committee.

HON J BOSSANO:

I have given way to the Hon Member and I intend to answer him.

MR SPEAKER:

I am not cutting you in any manner or form but I think we have debated this matter enough.

HON J BOSSANO:

The Hon Member is entitled to lecture me as is his wont because he has not forgotten he used to be a school teacher.

HON A J CANEPA:

And you have been lecturing to me on Socialism and the Labour Movement.

MR SPEAKER:

Order, order.

HON J BOSSANO:

I have to do that because the Hon Member has challenged the Opposition to say in public what we have said here. We are saying it in public. He said make sure that the press say what our policy is on Appledore as if we were saying something here that we would be ashamed of or would want to hide or what we are saying is for one audience here and we will say something else for another audience. That is the point that I am making. When the Hon Mr Mascarenhas went on television on a party political broadcast and he is the Minister for Education, the normal thing one expects him to do is to talk about defending the record of his Government on education which is his responsibility, that would be the normal thing. Instead he then goes on to the kind of attack which, quite frankly, it is not that I cannot take it, Mr Chairman, it is just that I think that the level of political debate in Gibraltar has been, if anything, improved since we have been here because precisely we have concentrated on issues and on ideology and, on policies and we

have tried to retain a personal relationship independent and divorced of that. He is perfectly entitled to attack the GSLP or me or anybody else he wants on the policies of the GSLP. He is entitled to go and tell the people of Gibraltar that in his opinion or in the opinion of his Government it would be disastrous to get rid of Brian Abbott or disastrous to get rid of Appledore, that the yard wouldn't work without them, he is entitled to do that. What he is not entitled to do is to accuse any Member of this House, he is not entitled to lie, anyway, and he is not entitled to accuse any Member of this House because if that is what we think of each other, that is a serious reflection on ourselves. I have never believed, for example, that the Chief Minister would be prepared to destroy Gibraltar to fulfill a personal political ambition or a personal financial ambition, I have never believed that of the Chief Minister and I would not say it because I do not believe it to be true. I think it is serious that anybody on that side of the House should think that of me or of anybody on this side of the House, should think that any of us is prepared to destroy Gibraltar to get into power apart from being a very stupid thing because if you destroy Gibraltar what is it that you are going to get into power for, to do what, to rake the ashes after you have burnt the place down? It is total nonsense, it is logically invalid and logically nonsensical but apart from that, if it is not simply a political gimmick to blacken somebody's character or blacken somebody's name in the hope that that will cost him votes and it is not just that because you don't really believe it, then we are talking about two issues. One is, either you really believe that of somebody on this side and we have never thought of people on that side as being that sort of personally corrupt or evil or whatever, or else it is considered that the political game that is played is played within those rules and that these are permissible rules. I think it is important for all of us and for Gibraltar that we should accept that there are serious important issues that divide us and serious differences between us and that we quarrel and fight and argue about those and we may finish up with unchanged views and incapable of convincing each other but at the end of the day we respect each other as honest sincere people trying to do the best within their field although somebody else might see what they are doing as completely wrong and there is a fundamental difference and I think if the Hon Member cannot tell the difference it is because he doesn't want to but I can tell him that in spite of all that we shall continue behaving in that way because we believe that it is important to do that, it is important for this House and it is important for Gibraltar. We will criticise the Government, we will vote against what they want to do, we will challenge them but we will not go beyond that point because we set ourselves that target when we came into the House after the 1984 election and we shall not be deviated from that and we will not be drawn into the kind of gutter politics that we have always disassociated ourselves from.

HON G MASCARENHAS:

Mr Chairman, the Leader of the Opposition is.....

MR SPEAKER:

Order, if you wish to speak you are entitled to get up and speak.

HON G MASCARENHAS:

No, Mr Chairman, I just want to comment that the Leader of the Opposition obviously does not read the 'Tio del Capote' in the 'The People'.

HON M A FEETHAM:

Mr Chairman, one point that I want to remind the Hon Minister for Economic Development when he talks about improved industrial relations, I have told him this before, why and what caused the enormous rift in Gibraltar's industrial set-up that has today constituted in the mind of the Hon Member that there is an industrial conspiracy headed by my colleague on this side against anything which the Government is associated with of which we obviously totally disagree? What started that? I have got enormous experience, Mr Chairman, I will not give way, I have enormous personal experience as a young man yet to find his way through, when I came in through the Trade Union Movement, where the AACR were affiliated to the TGWU.

HON CHIEF MINISTER:

No, Sir, they were affiliated to the AACR.

HON M A FEETHAM:

It doesn't make any difference. I haven't given way and it doesn't make any difference and I accept that you are saying this and it is correct, I accept that. But what happened? We had two important leaders in the TGWU at the time for whom I have got and still maintain although they have both passed away the highest respect for their honesty and their integrity and everything else that they stood for at the time, and we are talking about the late Hon Alberto Risso and the late Ernest Mor. But what happened at the time when the AACR were the governing party because of the inflationary problems because of the new militancy that was coming into the union which was only a natural thing and was happening throughout Europe, what happened? The establishment that represented the AACR in that political industrial network began to oppose and create the rift between the industrial labour force and the political parties. Of course, I am going to say it because it comes to what.....

MR SPEAKER:

There have been allegations.

HON M A FEETHAM:

There have been serious allegations and we must remind the

Minister in the same way as he accepted that the package of £28m was generous in itself and today he is trying to defend a different line, let me remind the Hon Member opposite that it was the AACR that fought that militancy, the AACR that drifted away from the TGWU and created the climate and even gave more impetus to what they classified as the extreme left in the union despite the fact that some of us defended the affiliation in general meetings, despite of that because they run scared and weren't prepared to face up to their responsibilities. They have disaffiliated the Union unconstitutionally without even going to a Party Conference from the AACR and said 'You are on your way' and literally left those of us in the union that believed that the workers had to have a political wing to defend their interests and the same as commercial and conservative interests have and will continue to be defended politically by politicians in Gibraltar, they left the union in the lurch without a political wing and those of us who defended that line were swept to one side. What happened then? Of course, the union because of their frustration even though some of the leaders were not even aware that that frustration comes because they haven't got the outlet, began to militate and fought against the AACR and it went to a general strike after even though it was the IWBP that made the original offer. And since then in Gibraltar precisely because of that gap, and history will show that you are responsible, we have got bad industrial relations in Gibraltar, that is the root of the evil because you started that situation and you haven't yet accepted that responsibility and that is what happened and that is why the Union organised and that is why perhaps history will show that the GSIP may never have come into being if the courage and conviction of the political leadership that had to defend the interests of the affiliated members of the union had taken a different line today we may still have had a situation where a more enlightened AACR taking more note of the aspirations of workers and the militant workers not because they were Communists or Anarchists but because it was clear that 50p offers and 7p offers that were made at the time was not in keeping with the dramatic economic changes that were taking place and you weren't prepared to accept people that wanted to stand up and say 'enough is enough'. What they used to do is they used to push them to one side. I have made the point on that. I will come to the other point. The other point is, Mr Chairman, that despite everything that has been said about the need for extra funds and the need to make a case to the ODA, the realities are that it is not that we are saying now that we would do away with Appledore, we have said this from the beginning and I remember very distinctly the night that we went on television, the Hon Minister for Economic Development, myself, Bob Peliza and Dr Isola. I remember that I defended very clearly that what we would do with that money was that we would go for a smaller yard with more specialised work because the skills were already there and that our case would be that some of that money would go towards investment in other areas to help the economy during the difficult period of transition, that was our case. The retort later from the Minister for Economic Development was that the British Government wouldn't have given us that money for that but that is his interpretation of his negotiations, of his economic planning with the British Government. We never

dealt with the British Government and he will remember that during that election campaign the AACR were saying that that was a starting date for employment and that we would go up to 1,200 or 1,300 and so on and so forth. And we told them that it was not in our economic interest to do that because if we are going to in the constraints of the economic development of Gibraltar expand to the extent which we are already doing and that is one of the symptoms and what we are going to pay for later, expand at such a pace without economic and manpower planning, why should we be spending money from ODA or from any other source, indeed, even from borrowed money, if all we are going to do is create jobs for people who at the time, now or in the future are not even living in Gibraltar at the moment. Why bring in people into a yard which, at the end of the day is going to mean jobs for people from outside. I am not saying as a Socialist 'let us not create jobs', what I am saying is that it is vital to Gibraltar's economic survival that whatever we do must be within those constraints first and that is not what you have done because what has happened is because of the conditions that Appledore were trying to impose, let us not forget when the Hon and Learned Chief Minister speaks about the overtime ban and so on, there was industrial unrest in the yard because the conditions which the company wanted to impose were totally unacceptable and not in keeping with what was being paid elsewhere, that is why. That was the situation and that is why the turnover today continues to be the same as it was before the industrial unrest and after the pay agreement. People will try to get more secure jobs elsewhere because the management has failed to create the right climate and it will take a long time even though there is industrial peace it will take a long time for people to say: 'There is a future in this yard under this management'. That is why people are going to the Government service. The other thing is, since the Hon Minister for Economic Development has brought it up, that in the private sector we have still got a situation where apart from a few good employers the rest in this rush for development and because they are bringing labour from outside, you have given 500 work permits during the last year for labour from outside, think that they can still impose cheap working conditions and that is why the union in that sort of situation will come up and say 'we want a national minimum wage', will come up and say 'we want redundancy payment' and that is a cost factor but it is a cost factor because the economic planning of the Government is not geared and the manpower planning of the Government is not geared and that is why what we have got ourselves in a vicious circle because your economic planning and direction is wrong and this is all costs that we are bringing in and at the end of the day the Government has to pay indirectly or directly unfortunately but that is the reality of the situation, it isn't that this side or any Member of this side is trying to stir it up everywhere, I am sorry, I will not accept that accusation. This is the second time I have stood up and I wish that the Hon Member had left it to me to defend him but he is quite capable of defending himself because I will not accept anymore, it is not criticism, it is hitting below the belt and so long as I am here as a Member of this Opposition I don't wish to hit anybody below the belt but don't push us into a situation where we are going to have mud slinging because that will lower the status of the

House. I don't want to get myself involved in that sort of situation.

HON CHIEF MINISTER:

I would like to say something if I may. Mr Chairman. I address my contribution completely to the subject matter before the House which is the voting of the money. A lot of things have been said outside that scope which may or may not have been necessary but there is only one thing I must answer the Hon Member for the record because he has made a very serious accusation. The AACR in 1972 in Opposition found itself in exactly the same position as Mr Neil Kinnock finds himself in the Labour Party with the militants, that he wants to throw them out because they will follow him and that is exactly what the AACR did by disaffiliating the union which was not only a question of rights for the union, they wanted to take over the party and that they would have done over my dead body. We did it constitutionally and within the right of our Constitution which was copied from the Labour Party Constitution of the United Kingdom.

HON H J ZAMMITT:

Mr Chairman, I have heard Mr Feetham, in particular, with great interest and I am delighted to see his socialistic concern for people. I wonder if he has the same concern for those ten taxi drivers that are unemployed, one of which he is directly responsible for.

MR SPEAKER:

Order, I will not have that.

HON J BOSSANO:

Do we now move on to the Coronias?

MR SPEAKER:

Order. I will not have that either. We will now take a vote.

On a vote being taken on Head 25 - Treasury, Subhead 82 (NEW) - Gibraltar Shiprepair Ltd - Consultancy, the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

Head 25 - Treasury was accordingly passed.

Schedule of Supplementary Estimates Consolidated Fund No.1 of 1986/87 was passed.

Schedule of Supplementary Estimates Improvement and Development Fund No.1 of 1986/87.

Head 101 - Housing was agreed to.

Head 104 - Miscellaneous Projects

HON J BOSSANO:

Mr Chairman, we are voting against this. It seems to me that the outstanding claim from project consultants, one would have thought since the project consultants disappeared from the scene a very considerable time ago, one would need to know how come we are meeting this claim and, in fact, if my memory serves me right I believe the last settlement with the project consultants was the other way round. That is to say, that they paid the Government some money which was then put into the Improvement and Development Fund, I believe, because of the non-operation of the chute. Can we find out how come at this stage in the proceedings we are facing a claim from them?

HON M K FEATHERSTONE:

No, Sir, these are not the same consultants. These are the consultants that we used against the first consultants.

MR SPEAKER:

Does that satisfy the Leader of the Opposition?

HON J BOSSANO:

So these are the ones who got for us the reimbursement originally. Well, if that is the case they deserve to be paid.

Head 104 - Miscellaneous Projects was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No.1 of 1986/87 was passed.

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

Clauses 2 to 4 were agreed to and stood part of the Bill.

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

HON CHIEF MINISTER:

Mr Speaker, I would like your leave to make a personal statement. In my enthusiasm to reply to Mr Feetham in his historical approach to the question of the AACR, I omitted to say the very first thing I wanted to say and that is that I totally repudiate the innuendo not perhaps deliberate but which was contained in the reference by the Leader of the Opposition to the question that people who want contracts go to 3, Library Ramp. I repudiate that as being totally untrue as much as I am sure we would repudiate any suggestion that was made at a meeting at which he took part in public during the elections that he was the economic adviser of certain firms and therefore that was why there are no conflict with certain firms and so on. These innuendos are made very often and to be made in the House by the Leader of the Opposition even though attempting not to give it credence, I would like it to be on the record that, as far as I am concerned, I have no dealings with anybody that has anything to do with the Government of Gibraltar. My Chambers deal with matters as Chambers of all lawyers deal with matters connected with development and so on and it is within the code of conduct of Members of the Government and Members of the Gibraltar Council.

MR SPEAKER:

May I say that I dislike insinuations and innuendos from either side. My attention was not drawn to it and I don't have to be asked that something should be withdrawn. The manner in which it was stated did not allow me to interfere otherwise I would most certainly have. But may I express my view that I dislike intensely any personal references to any Member of the House.

HON J BOSSANO:

I think really there was no need for the Hon Member to do so but if he wants to make that personal statement so be it. It is a good thing, of course, that I do not share the views of his Minister for Education who would have said in reply to that that if you defend yourself you accuse yourself and he would have said it in French like he did on television.

HON CHIEF MINISTER:

Pardon?

HON J BOSSANO:

His Minister for Education would say to that if you defend yourself you accuse yourself because that is what he said on television in exactly the same context. I have said to the Hon and Learned Member that I am sure that if his conscience is satisfied he will not care what they will say about it just like I don't care what he or his Party says about me because my conscience is clear of what I am doing with my life and with the interests but I defend, Mr Speaker. If he is as clear as I am

he will sleep as comfortably as I do at night.

HON CHIEF MINISTER:

But there were two different references that were made and I was not referring to the second one because the second one was in a normal way which I entirely share, that if my conscience is clear I have no problem but earlier on in his contribution he did say something about, 'it is also said that' and I don't want to refer to it again but I have made it quite clear that if that is what he said and has repeated what he said, it is untrue.

MR SPEAKER:

We will now continue with the First Reading of the European Communities Bill.

BILLS

FIRST AND SECOND READINGS (Continued)

THE EUROPEAN COMMUNITIES (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the European Communities Ordinance so as to include in the definition of 'the treaties' and 'the Community Treaties' certain provisions of the Single European Act signed at Luxembourg and The Hague on the 17th and 28th February, 1986, and to extend certain provisions relating to the European Court to any court attached thereto be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill gives effect in Gibraltar to the changes to the Treaties establishing the European Communities which were agreed in Luxembourg in December, 1985. The Luxembourg Agreement is contained in the Single European Act which was signed at Luxembourg and The Hague on the 17 and 28 February, 1986. Clause 3 of the Bill, Mr Speaker, amends the definition of 'The Treaties' and 'the Community Treaties' contained in Section 2 of the European Communities Ordinance to include reference to certain provisions of the Single European Act. By Clause 3, Mr Speaker, the whole of Title II of the Single European Act is applied to Gibraltar and Clause 3 also applies the Preamble and Titles I and IV of the Single European Act insofar as the Preamble and those Titles relate to the Communities or to any Community institution. Mr Speaker, all Members of the House have been supplied with a copy of the Single European Act and I think it would be useful if we were

to examine the Act in order to see exactly what we are talking about. Mr Speaker, the Preamble is set out on page 1 with the heading 'Single European Act' and it continues to the top of page 2, that is the Preamble. Title I, Mr Speaker, is set out on page 3. Title I 'Common Provisions' and it contains three Articles, that is Title I. Title II begins at the top of page 4 and continues to two-thirds of the way down page 19, and Title II finishes where you see the heading 'Title III'. Title III begins at the bottom of page 19 and continues to the top of page 22. Title IV shows the remainder of page 22. That is the long explanation. Hon Members may care to do what I have done, Mr Speaker, and that is to delete those provisions of the Single European Act which have no relevance or very little relevance to Gibraltar. I have deleted the whole of Chapter 1 of Title II on page 4 because it seems to me that amendments to the Treaty establishing the European Coal and Steel Community have little relevance to Gibraltar so I think for all intents and purposes you could put a line through the whole of page 4. Similarly, I have deleted Chapter III of Title II on page 18 and to the top of page 19 because, again, Mr Speaker, it seems to me that amendments to the Treaty establishing the European Atomic Energy Community have little relevance to Gibraltar. I have also deleted the whole of Title III from the bottom of page 19 to the top of page 22 because the Bill does not seek to apply Title III to Gibraltar. Title III deals with European Cooperation in the sphere of foreign policy and Foreign Policy, of course, is the preserve of Her Majesty's Government in London and it is no concern of Gibraltar or the Government of Gibraltar so I think we can take Title III completely out. Consequently, Mr Speaker, what we have to concern ourselves with is the Preamble insofar as the Preamble relates to any of the Communities or to any Community institutions. Title I insofar as Title I relates to any of the Communities or to any Community institution. The Bill applies to the whole of Title II and particularly insofar as Gibraltar is concerned, Title II which is set out from page 5 to 18 and Chapter IV on page 19. The Bill applies Title IV on page 22 insofar as Title IV relates to any of the Communities or to any Community institution. Mr Speaker, regretfully, I think it is now incumbent on me to go through the Single European Act and to speak particularly to those parts which are applied to Gibraltar. First of all, the Preamble on page 1. It confers no rights nor does it create any obligations, it expresses the intention and the highhearted hopes of the signatories to the Act. The principal significance of the Preamble is that it is part of the context of the Act to assist in interpretation, that is the only purpose of the Preamble. Title I on page 3. Again, Title I is only included insofar as it relates to any of the Communities or to any Community institution so consequently paragraph 3 of Article I which relates to Political Cooperation which is contained in Title III can be deleted because it does not apply and similarly paragraph 2 of Article III on page 3, that again refers to European Political Cooperation and that is excluded from the scope of the Bill. With regard to Article II, Mr Speaker, for the first time the European Council's existence is recognised in the Treaty, for the very first time. The composition of the Heads of State or Heads of Government; the President of the

Commission assisted by Foreign Ministers and a Member of the Commission reflects the existing practice. The European Council is now to meet at least twice a year. Before the Single European Act, Mr Speaker, customarily it met three times a year. I have dealt with Title II Chapter I on page 4. I shall deal, incidentally, with these when I come to deal with Clauses 4 and 5 of the Bill.

MR SPEAKER:

I am beginning to get confused. Did you not delete the whole of Section II?

HON ATTORNEY-GENERAL:

Yes, I did delete it, Mr Speaker, but it does have some relevance when I come to deal with it in Clauses 4 and 5. It has no relevance to Gibraltar but it is applied to it. Article V at the bottom of page 4 and, again this is repeated in two other Articles, this enables the procedure of the Court of Justice of the European Coal and Steel Community to be amended by the Council acting unanimously at the request of the Court and after consulting the Commission and the European Parliament. Title II, we have come to the nittygritty of it, Mr Speaker, Title II on page 5. Article 6 amends the following Articles of the EEC Treaty to enable new Cooperation procedure with the European Parliament to apply where Community legislation is adopted under them. The first one referred to is Article 7, this is referred to in paragraph 1 and Article 7 deals with the rules prohibiting discrimination on the grounds of nationality. Article 49 which deals with the free movement of workers. Article 54(2) deals with directives laying down the freedom of establishment. Article 56(2) deals with the coordination of legislation restricting freedom of establishment of self-employed persons on grounds of public policy, public security or public health. Article 57 of the Treaty which deals with mutual recognition of qualifications. This particular Article 6, Mr Speaker, also provides that the Cooperation procedure shall apply to acts based on five new Articles contained in the Single European Act, namely, Articles 100A and 100B which deal with the approximation of laws with regard to the internal market; Article 118A which deals with working conditions; Article 130E which deals with implementing decisions for the rationalisation of structural funds; and Article 130G(2) which deals with technology. With regard to all these Articles, Mr Speaker, the specified qualified majority is required for the adoption of acts by the Council. This specified qualified majority is something which I ought to deal with that is contained in Article 148 of the EEC Treaty. This was amended by Article 14 of the Spanish and Portuguese Accession Treaties. What this qualified majority means is that it is specified in paragraph 2 of Article 14: 'Where the Council is required to act by a qualified majority the votes of its Members shall be weighted as follows: Belgium - 5; Denmark - 3; Germany - 10; Greece - 5; Spain - 8; France - 10; Ireland - 3; Italy - 10; Luxembourg - 2; Netherlands - 5; Portugal - 5; the United Kingdom - 10'. For the adoption of acts under that particular

Article there must be 54 votes in favour where the treaty requires them to be adopted on a proposal from the Commission and 54 votes in favour cast by at least eight Members in other cases. Every time we talk about the qualified majority, Mr Speaker, it is as specified in Article 148 of the Treaty. Article 7 on page 6, Mr Speaker, this sets out the new cooperation procedure with the European Parliament. This introduces a new form of consultation with the European Parliament by enabling it to give an opinion not just on a Commission proposal for legislation but on the common position adopted by the Council of Ministers on a Commission proposal. The object of it is to allow Parliament to propose amendments to a proposal after the Council has formed a view on it but before the Council has formally adopted it part of community law. This is the Article which gives a say and a voice to the European Parliament which it hasn't had hitherto. Articles 8 and 9 on page 7 amend Articles 237 and 238. Article 237 deals with the accession of new Member States and Article 238 deals with association agreements with third countries or groups of countries. These two Articles provide that agreements to be concluded under them shall require the assent of the Parliament by an absolute majority of its Members, that is, not just those present voting. This absolute majority, Mr Speaker, means there are 518 votes in the European Parliament and to get an absolute majority you have to have one half of those votes, namely, 258 votes for anything that needs requirement for an absolute majority. Article 10, this really enables the Council to delegate certain powers to the Commission, it confers implementing powers on the Commission. The Council is free to exercise the powers themselves or to delegate or to confer them on the Commission to exercise. I shall deal with Article 11, Mr Speaker, on page 7, when I come to deal with Clauses 4 and 5 of the Bill. Article 12 on page 8, again enables the procedure of the Court of Justice of the European Economic Community to be amended. Articles 13 to 15, Mr Speaker, again are fairly important Articles in that they lay down the provisions establishing an internal market by the 31 December, 1992. What is this internal market? The internal market is described at the top of page 9: 'The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty'. This means, of course, that the free movement of goods, persons, etc, must be applied within the Community State and not to outsiders and therefore a Community country can retain full immigration control insofar as non-EEC Members are concerned but within the Community there must be free movement of persons, goods, etc.

HON J BOSSANO:

Will the Hon Member give way? Is it that under the common external tariff means that this does not apply in the case of goods to Gibraltar? It applies to services and capital and persons, presumably, but not to goods in our case?

HON ATTORNEY-GENERAL:

Free movement of goods does not apply to Gibraltar.

HON J BOSSANO:

And this doesn't change, does it?

HON ATTORNEY-GENERAL:

No, that doesn't apply. When I come to deal with the actual provisions for implementing this internal market we will see what applies to Gibraltar and what doesn't apply. You will note by Article 14, Mr Speaker, that the Commission is required to make progress reports to the Council before the end of 1988 and 1990. The Council will be able to determine the guidelines to ensure that progress is made in a balance not just in one area and not in the other. Article 16 on pages 9; that amends, Mr Speaker, certain provisions of the Treaty which are related to the new internal market to allow for qualified majority voting so you can now get these articles through by a majority whereas before in many cases you needed a unanimous vote. Article 17 on page 10, that provides for the harmonisation of legislation concerning VAT, Excise Duties and other forms of indirect taxation to the extent that such harmonisation is necessary to establish the new internal market. Gibraltar is not required to harmonise on VAT and it is not required to harmonise on excise duties and indirect taxation on goods. Articles 18 and 19 on pages 10 and 11; these introduce two new Articles, Article 100A and Article 100B which supplement the existing Article 100 which is the basic provision providing for the approximation of laws with regard to the internal market. Article 100A which is contained in Article 18 on page 10, this provides that the Council shall act by a qualified majority for measures approximating national laws where the object is the establishment and functioning of the internal market. The Article 100A procedure will not apply to fiscal provisions nor will it apply to the free movement of persons or provisions relating to the rights and interests of employed persons. The Commission's proposals envisaged by Article 100A which concern health, safety, environment and consumer protection, will take their base at a higher level which might exist in any Community country rather than the lowest common denominator having regard to the equalisation standard, so you are taking the highest common factor and not the lowest common denominator. Article 100B, Mr Speaker, provides that in 1992 the Commission will draw up an inventory of national laws which ought to be harmonised by the end of 1992 Article 20 on page 11 provides for cooperation in the field of economic and monetary policies. Article 21 on page 12, Mr Speaker, it introduces a new Article 118A which provides for further improvements in health and safety at work and for the minimum requirement on the health and safety of workers. Article 22 on page 12, Mr Speaker, introduces a new Article which provides that the Commission shall endeavour to develop a dialogue between management and labour at European level which could, if the two sides consider it desirable, lead

to relations based on agreement. Article 23 on page 13 aims at strengthening the economic and social cohesion of the Community. Article 24 on page 14 aims at strengthening the scientific and technological development of the European industry. Article 26 on page 18 deals with the amendments establishing the European Atomic Energy Community. Article 27, again refers to the Court of Justice and enables it to amend its procedures. Article 28 which may be of some interest to Members, contains intact the provisions, derogations etc, which are contained in the Spanish and Portuguese Accession Treaties. Article 29 deals with Euratom which has no relevance to Gibraltar. Article 30 in Title III deals with the European Cooperation in foreign policy and is not included. Article 31, Mr Speaker, ensures that only Title II and Article 32 affect the powers of the Court of Justice. Article 32 ensures that only Article 3(1), Title II and Article 31 affect the Community treaties. Article 33, I will deal with when I deal with Clause 2 of the Bill. Clause 34 deals with the depositing of texts of the Single European Act. Mr Speaker, before dealing with Clauses 4 and 5 of the Bill I would refer you to Article 11 on page 7, this is the one on the European Court and insofar as they have any relevance, Article 4 on page 4 and Article 26 on page 18, all three Articles dealing with the European Court. Each one of these Articles, Mr Speaker, deal with the setting up of a Court which is to be attached to the Court of Justice and this new Court will have jurisdiction to hear and determine at first instance certain classes of action or proceedings brought by natural or legal persons. In case any such Court is set up it is necessary to amend certain provisions of the European Communities Ordinance and the Criminal Offences Ordinance to include a reference to this new Court. Certain provisions in both the Criminal Offences Ordinance and in the European Ordinance refer to the Court of Justice and all Clauses 4 and 5 of the Bill do is to amend these provisions by adding the magic words 'or any court attached thereto'. Wherever you see the words 'The European Court of Justice' insert the words 'or any court attached thereto'. Clause 2 of the Bill, Mr Speaker, postpones the coming into operation of the Bill to a date to be prescribed by the Governor by notice in the Gazette. It is intended to bring the Ordinance into operation on the date when the Single European Act itself enters into force and by Article 33(2) on page 22 the date will be the first day of the month following that in which the last instrument of ratification is deposited in accordance with Article 33(1). It wasn't as long as I anticipated, Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, I am not sure whether this, in fact, has the effect of requiring us to move faster than we have done in the

past in bringing our legislation into line with Community standards and Community directives and I think it is an important point of principle, on the general principles of the Bill, that we should clear up because if all that we are doing is going through the motions of passing this with every intention of paying lip service to it and then doing nothing more. For example, in an area like consumer protection which I think the Hon and Learned Attorney-General talked about the harmonisation process being on the basis of extending the provisions that are highest so that, for example, presumably if in Holland there is greater consumer protection than in Portugal it means that the Portuguese will have to come up to the Dutch standard and not vice versa and that would have to apply to us.

HON ATTORNEY-GENERAL:

If Parliament has a higher standard than that required by the Community, the higher standard should stay, Holland would not be required to come down but if Portugal has a low standard Portugal would be required to come up to the Community norm. Everybody has to have the lowest common denominator but if some countries have a higher standard then the Community is not going to ask them to reduce their standard.

HON J BOSSANO:

But it doesn't mean, in fact, that the norm will become what is the highest standard?

HON ATTORNEY-GENERAL:

No, not necessarily.

HON J BOSSANO:

I am grateful for that clarification, Mr Speaker. We are not absolutely clear whether it means in fact that the Single European Act will impose an obligation which is already in existence under the Treaty of Rome or whether it is really just a paper exercise. Does it mean as a result of this that we are going to be required to go further along this process of European integration than we would have done formerly? I think that is an important point of principle in the whole basis of the Bill that we are passing.

HON CHIEF MINISTER:

Mr Speaker, there is an ongoing controversy in the United Kingdom about this Act and there is no doubt that to the extent that Britain approved of the Act to that extent an element of sovereignty has been taken away from the British Parliament insofar as affairs with the Common Market are concerned. In an article in the Daily Telegraph of the 13th June, 1986, Dr Caroline Jackson who Members will remember is a Member of the Gibraltar in Europe Representation Group, wrote in the Daily Telegraph in reply to somebody who had written a letter against

the Act. 'Those who express grave doubts about the Single European Act and the effect of Westminster need to ask themselves two questions: (1) Do they seriously believe that there is any viable alternative to our membership of the EEC and, if so, what? (2) If they are in favour of Parliamentary control then why not turn to the European Parliament already the only directly elected body in the EEC specifically consulted by the European Commission on draft legislation?' In this respect, I think we ought to realise that the Single European Act does give more powers to the European Parliament than they had before. She goes on: 'The Single European Act is part and parcel of our membership of the EEC, it brings the Treaties up-to-date with some very mild changes. There will be more majority voting in the Council to help achieve the 1992 target established in a complete open market in Europe'. The extent to which the British Government oppose this and did not become a party to it is insofar as foreign affairs are concerned when there has to be unanimity. I hope the Attorney-General doesn't disagree with some of the statements I have made but that is my reading of the Treaty. And it says: 'Since Britain currently runs a trade deficit with the rest of the EEC, we ought to gear ourselves to take advantage of the open market, if we don't our partners certainly will. Those parts of the Single European Act which facilitate travel within the EEC, yes, European passports will seem to be to most of us plain commonsense. As for the House of Lords comments on the effects of the Single European Act on Westminster's powers anyone who has observed our Parliament since 1975 will have realised that it exerts only the sketchiest control over European matters now. The usual procedure is for Ministers to inform the Commons after a decision has been taken in the Council. The importance of the European Parliament lies in the fact that we should consider proposed amendments and give our opinion on legislation when it is still in draft, in a better world perhaps now opened up by the Single European Act we would collaborate closely with our national Parliament to alert them to proposals for action by the Commission on which the question should be raised with Ministers before the Council of Ministers takes a decision'. Obviously here the European Act is in favour and therefore she makes the case for the fact that more consultation with the European will give more time for the Cabinet in England to be aware of what is coming to be able to make objections. But all is not that easy. In another Article by E E Attlee who is a regular columnist of The Telegraph published shortly after, I think, it says: 'Mrs Thatcher fought hard to avoid the need for any such Bill maintaining that there was no need to revise the Treaty of Rome at all but she was defeated at the Milan summit in June, 1985'. So that really the British Government fought against that and what they were able to come out with is the limitation to which she agreed, the Preamble, which is only a declaration of faith, I suppose, in legal terms other than that to some extent and which nobody can object to and in any case it hasn't got the validity of law. The question of majority rule as explained by the Attorney-General in respect of limited subjects and to a limited extent the more involvement of the European Parliament and the creation of an additional Court to the European Court which, of course, is purely to deal with personal and not national claims other-

wise those are the general principles. We as Members of the European Economic Community must, to the extent that it is required of us, do so whether we like it or not. I don't think there is much to dislike because the decisions that are to be taken in these respects mainly are decisions at the level of Member Nations and not at our level and there is nothing that I can find which is of particular effect in Gibraltar other than the overall effect that it has on the membership of the United Kingdom of the EEC.

HON M A FESTHAM:

Mr Speaker, when we talk about the Single European Act and the consequences that this has on Gibraltar in the wider aspect of European unity, we are doing so in the understanding and knowledge that we are actually having to comply with legislation and directives and regulations by virtue of the fact that we are in the European Community with Britain. There is, of course, a conflict insofar as our right as a people, the people of Gibraltar are concerned, when we come to face this sort of legislation in that (a) it tends to give most of the rights to the European Assembly and Parliament and therefore it takes it away from the Member States and the Parliament of Member States. I know there is a public debate about it and everybody have got their point of view but it does give more sovereign rights but as far as Gibraltar is concerned, it takes even more rights away because we happen to be the only community in the European Community today who haven't got the right to vote to the European Assembly and haven't got the right of direct representation. It seems to me that although we are a little people and we are being pushed along and we are advised that there is very little that we can do about it except go through the rigmarole and process of listening to the Hon and Learned Attorney-General explain this in a most eloquent manner half of which I haven't understood to be quite frank, at the end of the day what does this mean to me? It means to me that more rights are being taken away from the people of Gibraltar and more responsibility, on the other hand, is being given to us. I think that a little voice of protest somewhere along the line is not unwelcome. The Opposition, primarily because of what I have said and we have said previously when we have discussed European Community matters, the Opposition will be voting against the Bill precisely because of that.

MR SPEAKER:

If there are no other contributors I will call on the Mover to reply if he wishes.

HON ATTORNEY-GENERAL:

Mr Speaker, I don't.

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

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

This was agreed to.

The House recessed at 1.00 pm.

The House resumed at 3.40 pm.

COMMITTEE STAGE (Continued)

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the European Communities (Amendment) Bill, 1986, clause by clause.

This was agreed to and the House resolved itself into Committee.

THE EUROPEAN COMMUNITIES (AMENDMENT) BILL, 1986

Clauses 1 to 5

On a vote being taken on Clauses 1 to 5 the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan

The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

Clauses 1 to 5 stood part of the Bill.

HON CHIEF MINISTER:

I would like to draw attention to the fact that the operation of this Bill will not come into effect until the Bill and the Act has been passed in the United Kingdom.

The Long Title

On a vote being taken on The Long Title the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

The Long Title stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Specified Offices (Salaries and Allowances) Bill, 1986; the Insurance (Motor Vehicles) (Third Party Risks) Bill, 1986, with amendment; the Education (Amendment) Bill, 1986; the Criminal Offences (Amendment) Bill, 1986, with amendment; the Supplementary Appropriation (1986/87) Bill, 1986; and the European Communities (Amendment) Bill, 1986, have been considered in Committee and agreed to and I now move that they be now read a third time and passed.

Mr Speaker then put the question and on a vote being taken on the Specified Offices (Salaries and Allowances) Bill, 1986; the Insurance (Motor Vehicles) (Third Party Risks) Bill, 1986; the Education (Amendment) Bill, 1986; and the Supplementary Appropriation (1986/87) Bill, 1986, the question was resolved in the affirmative.

On a vote being taken on the Criminal Offences Bill, 1986, and the European Communities (Amendment) Bill, 1986, the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montefrizzo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

The Bills were read a third time and passed.

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move that: 'This House notes the Principal Auditor's Report for the financial year 1984/85'. Mr Speaker, we have brought the motion to the House because two years' ago we initiated that practice following the decision of the newly elected GSLP Opposition not to take part

in the Public Accounts Committee that had previously existed and we thought it was better, in fact, because we didn't think as our role the day-to-day questioning of civil servants, as far as we are concerned, we question the Government and then it is up to them to question the civil servants, we thought it was better that it should be done in this way and the first time we did it we were told by the Government that it was desirable that we should wait until the House subsequent to the Report being tabled to give them enough time themselves to look into it. Last year, in fact, the Government moved the motion in the first meeting of the House when it was tabled and this year, in fact, we are reverting to what we consider to be the correct practice of us moving the motion since it gives the Government having had the Report the chance to reply to any points that we raise and for us to come back and say whether we agree with their replies or not. I think, a number of things in the Report, of course, reflect some of the debates we have had previously in the House and as far as we are concerned they tend to support the line that we have taken. I think in particular we have got the situation of the money that is unspent in the Consolidated Fund and the yield from the investment of that money in short term gilt edged securities or even in a bank account the yield of that money until it is invested in the projects for which it is intended should, in our view, be seen as revenue for the I&D Fund and not as revenue for the Consolidated Fund, we are seeing a reflection of that here and the Auditor mentions that although the way that it has been done he is obviously satisfied that that is a reflection of the value of the income to the Fund and consequently as long as that is happening, it is not a question, as far as we are concerned, of nit picking or concentrating on any technicality, what we are concerned about is that a true reflection of the income and expenditure of the Government should be one that divorces the capital fund and the resources of the capital fund from the recurrent expenditure and the resources of the recurrent expenditure. This is why, for example, we voted against the last Loans Empowering Ordinance which gave the Government the ability to use loan capital for recurrent expenditure. And it is consistent with the changes that have taken place in the Estimates over the years where the Non-Recurrent Public Works vote initially was reduced considerably by the actual project being moved into the Improvement and Development Fund, I think it was when Mr Collings was the Financial and Development Secretary, and then more recently it was done away with altogether and we had just one Public Works vote. An obvious area of interest to us, Mr Speaker, is the coming and going of the correspondence on the GSL shareholding, obviously. We support the view of the Auditor that that shareholding is part of the assets of the Government and should be shown as part of the assets of the Government not as a footnote and we think that the Auditor is right in saying that there is an inconsistency in saying the \$1,000 of shares in the Gibraltar Quarry Company forms part of the Consolidated Fund, the \$18m of shares in GSL do not form part of the Consolidated Fund because technically, as far as we can tell, independent of the size of the enterprise or the value of the shares, the relationship between the Government is supposed to be identical. What we would like the

Government to consider and perhaps the Hon and Learned Attorney-General can give some thought to whether this is compatible with the Public Finance Ordinance or with the Constitution because both make reference to the Consolidated Fund and to the Improvement and Development Fund, whether it is compatible to have such shareholdings shown as part of the assets in the Improvement and Development Fund rather than in the consolidated Fund because we believe that the Consolidated Fund as the Auditor points out, ought to be really as it used to be before the Special Funds were set up, a Cash Fund because it is a measure of the liquid reserves available to meet a cash flow problem, the kind of problem that the Hon Financial and Development Secretary has been telling us GSL has been facing, well, that is what the Consolidated Fund is there for. We have got the Contingency Fund with \$200,000 but that really is only to provide money in between meetings of the House of Assembly before approval can be obtained for the expenditure, it is then topped up again from the Consolidated Fund. So really the cash in the Consolidated Fund is what is supposed to take the Government over a situation where they might have a lot of bills coming in and revenue being held up. That in a way is almost as if they had their own overdraft facility on which to draw and that cash in there was cash until the Special Funds created the relationship between the Funded Accounts initially the Water, Telephone and Electricity and subsequently Housing as well, where the income of those Funds is based not on receipts but on demand notes. We had a situation where until the Special Funds were set up when the Government issued an electricity bill if it didn't get paid it didn't show in the Estimates of Revenue and Expenditure and it didn't show in the Consolidated Fund and it was an asset that didn't appear anywhere, this was before the Special Funds. When one is looking, and it is a point we have made before, Mr Speaker, when one is looking, for example, at the strength of the Government's financial position if we go back to a situation, for example, in 1972 when the Consolidated Fund had \$1.4m, it was \$1.4m in cash. If we go to a situation where you had in 1978 \$2.2m, the \$2.2m including all the unpaid bills might be less money than the \$1.4m was and therefore it means that unless you know at any one point in time how much of the actual figure shown as the balance of the Consolidated Fund is cash then, effectively, you are getting a false picture and that argument seems to me to have been reinforced by the argument of the Government in reply to the Auditor that if you then put in the shares in GSL as part of the Consolidated Fund which cannot be easily translated into cash, effectively you are creating an even more of a false picture. The validity of that argument is correct but it is only correct if one is consistent and carries that argument straight through. What we would like to see certainly is a situation, quite frankly, where the Consolidated Fund and the revenue of the Government reflect the actual cash coming in because that gives us a better idea of the true position. Perhaps a way can be found that the actual unpaid bills are still shown in the Special Fund until they get paid and if it were possible to show the Quarry Company shareholding and the GSL shareholding and, for example, if there is a move in the telecommunication field which would also involve a Government shareholding, then those would be

assets and those assets would be, in a way, the same as the assets that are obtained by investment from the Improvement and Development Fund. It may not be possible because clearly the Improvement and Development Fund was not intended for this and we know that but what we are saying is that if we need to show the shareholdings in Government-owned companies somewhere then it seems to us that if the choice is either the Improvement and Development Fund or the Consolidated Fund, the Improvement and Development Fund is a more appropriate vehicle because it is a vehicle where we hold at the moment the cash which is intended for capital investment and an investment in shareholding is of the same nature as an investment in a building or an investment in equipment, the reality of it is that, of course, that in the Improvement and Development Fund once the investment takes place since there is no balance sheet there are no shareholdings. At the moment what we have in the Improvement and Development Fund is a cash reserve position which is the balance at the end of the year and we have in the Consolidated Fund a reserve position at the end of the year which is made up, as the Auditor points out, of three elements; £1,000 shares in the Gibraltar Quarry Company; unpaid bills and the cash. We think a move to keep just the cash in the Consolidated Fund, a move to keep the unpaid bills in the Special Funds to which they relate and a move to transfer, it would be a paper exercise, but to transfer the assets to the Improvement and Development Fund and use the Improvement and Development Fund as if it were a holding company holding the shares in Government-owned businesses or in businesses in which the Government participates, would give us a much better reflection of the true reserve position for dealing with day-to-day running expenses of the administration of Gibraltar which is one issue. It would give us a Fund which would show the assets that the Government has got from time to time, however liquid or illiquid those assets might be and I think it meets, quite frankly, both the argument put forward by the Principal Auditor in his Report and in his complaints that at the moment the shareholding of GSL technically does not appear on the balance sheet of the Government and consequently is not there and there is an inconsistency between that and the treatment of the Quarry Company shares, whilst also meeting the argument of the Financial and Development Secretary that to include such a massive shareholding would distort the true reserve position and give an impression of financial strength which is not really there because the shares are not quoted on the Stock Exchange and they are not easily realisable and certainly if they don't get the money from the ODA then the writing down of the value of the shareholding could be very substantial without a doubt. It may be, Mr Speaker, that the Government will not be able to give us any response on the spot to what we are saying but it would be useful to know that they are prepared to

give some thought to that and give us an answer one way or the other. There are two different aspects and this is why I brought the Hon and Learned Attorney-General into it. I think we would need to know whether it is permissible to do it, that is, whether it is compatible or incompatible with the provisions of the Constitution. If it is not permissible then there is no more to be said, if it is permissible then it is a matter of policy whether it is desirable or not. I think that on the whole, Mr Speaker, the other point that I wish to make about the Report as a whole is that there are a number of areas, for example, if we look at the Labour and Social Security paragraph on page 20, the Auditor mentions in Section 54 the need to establish better procedures for controlling the contributions by employers to the Social Insurance Fund. We think that when there are important areas like this to which the Auditor draws attention then it would be desirable that the Government, at some stage, should report back to the House whether there has been any progress in this matter and to what extent action has been taken to put that right. We sometimes find that a comment like that appears in one year and does not appear in the subsequent year and we don't know whether that is intended to reflect that the situation has now been corrected or whether it is just that the Auditor feels that having made the point one year it is up to the Government to do something about it and there is no real need for him to keep on repeating the same thing. Going over the years, of course, Mr Speaker, I am sure you will agree that there have been many, many occasions when the Auditor's Report has simply said that this has been brought to the attention of the Department, that the Department has said they were going to do something about it or look into it and then the same comment appears afterwards and I think it was that kind of apparent lack of response, I think, that initially created some of the impetus for the setting up of the Public Accounts Committee of the House. Although we hold different views on that and we felt that sometimes the performance of the Public Accounts Committee was counterproductive in that they appeared to be almost hounding certain departments and instead of making for the department to work better I think one can overdo a situation where effectively you deprive people of the incentive to take any decisions at all for fear that if they take a decision they are exposed to making a mistake and if they make a mistake they expose themselves to being hammered and therefore it is safer not to take a decision. I think one needs to avoid that but on the other hand I think the importance of the Auditor as the officer that in a way is the watchdog for the Government and the watchdog for the public purse and the watchdog for the efficient administration of the affairs of Gibraltar is an important one and therefore he must be seen to have the full support of the House. It is really his expertise and his knowledge on which the House has to rely to ensure that the

money that we vote in the Estimates are effectively well spent and that the department is acting efficiently in implementing the policies that are decided by a majority in this House and, consequently that support can only be reflected if the comments that he makes and the criticisms that he makes are taken seriously and action is taken to put them into effect or, at least, to satisfy him if they are not put into effect that there are compelling reasons why it cannot be done.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon J Bossano.

NON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I shall not delay the House long. I would like to thank the Hon Leader of the Opposition for, what I think were, sympathetic and constructive comments on those parts of the Auditor's Report which he dealt with during his speech. He is quite right, there was a fair amount of correspondence between the Principal Auditor and myself and, indeed, the Attorney-General was brought in as well, on the question of the proper accounting practice as described. I think the Leader of the Opposition has, in fact, put the dilemma very fairly that there is a problem one does not want to see the Consolidated Fund further distorted in any way by the inclusion of the value of the GSL shareholding while at the same time naturally one must have regard to the provisions of the law and the Constitution and what it says however imperfect in financial terms it may be in some respects. I think I would agree with him and he knows this but the problem is one of reconciling between the trading accounts and therefore the non-cash element in the trading accounts and the cash accounts of the Government to a very large extent and this leads to the inclusion in the Consolidated Fund as we have often acknowledged in debate in this House of an element of non-cash and I think the Principal Auditor quotes himself somewhere commenting on my own remark that by custom and convention the Consolidated Fund is understood as a source of yearly liquid reserves. He points out that the total due from these funds on the 31st March, 1985, was some 66% of the value of the Consolidated Fund and I agree that taking his comments with mine they do look a little contradictory. As the House will know the Government have been giving some consideration to this question of separation of the cash and the trading element. Ironically, the Principal Auditor himself was a member of a Study Group in the 1970's which, in a sense, brought about the present situation by making recommendations in a Report which he now, I think, recognises as perhaps not having been the best solution. It was certainly a very ingenious solution, it had my admiration if not my understanding for the first few months when I was Financial Secretary but I think there is a way and we have been

studying it by which one can maintain the Government's estimates and, indeed, the Consolidated Fund on a purely cash basis so that what we are talking about in the main I think it is page 5 of the Estimates, for example, which is probably the document most familiar to all of us, that would be on a cash basis but you would provide a reconciliation between the Government's cash accounts and the trading accounts but not to this rather curious and Byzantine device of reimbursement which means that you are, in effect, producing something of a non-consolidation. The way to do it, I think, would be to provide what in fact was the standard solution to this problem in the UK, for example, with the old Post Office when it had commercial accounts but was still a Government Department. You produce your estimates of revenue and your expenditure, cash received from bills paid and your expenditure in the Electricity Department but you provide separately a commercial account which includes all the non-cash items, debtors and creditors, of course, accruals, depreciation ie financial charges, capital charges and management charges, the notional charges which we now include as a trading account, and it is possible to do this and I think it is possible to do it without a great deal of additional effort in staff resources. This, I think, to be fair to those who looked at this problem in the 1970's, they felt that to do it any other way would be costly or expensive in staff resources but I am not sure that that is so. However, as I said, we are considering this and I shall be putting forward proposals to Council of Ministers involving that and, of course, the Telephone Service as well in due course. There is just one other point I would like to mention, Mr Speaker. The Principal Auditor has referred to the improvement in collection of revenue of the arrears of municipal services and there is no doubt that improvements have been made particularly over the past two years. He is quite right to say that some revenue or the collection of other revenue has given rise for some concern, of course, one of the items which does is that of rates where there has unfortunately been an increase. As the Principal Auditor himself says, the problem here is the enforcement mechanism. It doesn't take very much to realise that while the Government has with telephones, electricity and water always the option of cutting off the supply in the event of non-payment of bills which is a fairly severe but nevertheless in the ultimate an effective sanction, this is not the case with rates. You cannot cut off rates, there is only the procedure, a fairly long involved and lengthy one involving the Courts. However, we have also been looking very carefully at this particular problem in conjunction with the Court and I am hopeful here of some improvement in the not too distant future. One of the features of the increase in the arrears of rates is, of course, the fact that the 5% penalty for non-payment is being continually compounded so that of a figure of, I forget what it is, at the

end of the 1984-85 or indeed a more recent figure, something as much as a third of the arrears represents this compounding element. It isn't really very sensible to have a system which is clearly not producing the effect originally intended and I shall also be making proposals to Council of Ministers on this very point in the not too distant future. That is all I would like to say, Mr Speaker.

HON J E PILCHER:

Mr Speaker, really only a very minor point to deal with the Tourist Office. It is a very minor point, as I say, although I think in principle it is a point which is important. I am referring to page 24 of the Auditor's Report on the hire of St Michael's Cave and since we are noting the Auditor's Report we should be noting the comments. It is not our policy to deter people from using this undoubtedly beautiful setting for various functions, private functions, but I am worried about the comments made by the Auditor that there has been a departure of an agreed procedure which is, up to a point, an abuse of a public place. As I say, the amount of expenditure is minimal we are talking about £1,830 but there is a departure from the agreed rules governing this and as a result there has been money which has been used from public funds and has not been accounted for. I would also like to ask whether this expense takes into account costs on the Public Works like electricians, cleaners, labourers and other expenses which are incurred in these functions and my question is which were those functions and why was there a departure from the procedure? What is worrying, Mr Speaker, is the fact that in paragraph 68, it says: 'I have not received any satisfactory explanation from the Department for the departure from the approved policy in the case of the six functions mentioned above'. I hope since we are noting the Auditor's Report that we will note this and ensure that the procedure is adhered to.

Hon CHIEF MINISTER:

Where is it.

HON J E PILCHER:

Page 24, the hire of St Michael's Cave and this is paragraph 68 which is the one I quoted. Thank you, Mr Speaker.

HON H J ZAMMITT:

Mr Speaker, Sir, on the question of the hiring of St Michael's Cave mentioned in the Auditor's Report, what occurred here was that in the past we used to make provision in the Estimates so

that we could bear the cost of the overtime factor involved in the running of the Cave for a particular function and then we would charge the people using the Cave for that cost. It was then discovered, Mr Speaker, that particularly since the frontier opened, that we do not hire the Cave out for a commercial enterprise and, in fact, the only times the Cave is, I use the word 'hired out' in brackets, it is to those institutions that perform up there for charity. In those circumstances it is Government's policy to assist charities in particular and therefore what happens is that in the past whereas we used to pay the overtime element to the Public Works Department or to the Tourist Office set-up if overtime was required, today it is footed from our own vote and does not go elsewhere. The Auditor has commented on this in the past, Mr Speaker, but it seems to me the most equitable way of getting round this otherwise very cumbersome situation. An enormous amount of overheads is involved and, in fact, to hire the Cave out if we were to analyse the costs of it, would be very much in excess of what charitable institutions could afford. If the Hon Member would care I am quite prepared to let him know that the main user of the Cave today on charity is probably the Albuhera Band or the Royal Marines that may come here once or twice a year and perform.

HON J E PILCHER:

If the Hon Member will give way. The charitable organisations, part of it is well covered in paragraph 67 and I don't think the Auditor does comment on the fact that it is agreed that the policy should be to help charitable organisation but this is talking particularly of six functions held at the Cave which could not be for charitable purposes because he wouldn't have commented on it if it had been, so it must have been that at one stage the Cave must have been hired out commercially for these functions and this is what I am trying to clarify.

HON H J ZAMMITT:

This was in the past, Mr Speaker, it certainly doesn't occur anymore.

MR SPEAKER:

Are there any other contributors to the motion? Does the Mover wish to reply?

HON J BOSSANO:

I haven't got anything to say, Mr Speaker, except that we haven't had any indication from the Attorney-General as to

whether what I suggested is permissible or whether he has any idea. I will give way if he thinks he can say something now.

HON ATTORNEY-GENERAL:

Mr Speaker, I was going to look into it. At the moment as the Constitution reads, Section 63, I don't think it would be permissible as things stand at the moment. What you would have to do, I think, is to provide by law for the revenues or other moneys into some other Fund established for a specific purpose. Therefore it will need an amendment, as I see it, to the Public Finance (Control and Audit) Ordinance to set up, if you like, a Government Investment Fund and if such Fund was set up then, of course, Section 63 would permit the payments to go into that Fund. I was going to investigate this more fully but that is my off the cuff view on Section 63 and I think it is something that the Financial and Development Secretary is considering.

HON J BOSSANO:

Mr Speaker, I would just like to comment on what the Hon Financial and Development Secretary said about what happened with the Special Fund and the ingenious way in which the money is shown back in Government's account through reimbursement. I think, of course, one of the detractions of the present system is that it does have an effect on inflating the level of revenue and expenditure because, effectively, the same thing is being counted three times, it is counted on the expenditure side and then it is reimbursed as Government revenue and I think when we move from notional accounts to the Special Fund effectively there has been this inflated impact on public spending which the Government revenue and expenditure effectively shot up although nothing more was being spent than what has been spent before because of the movement of money, at least on paper, backwards and forwards between the four Special Funds and the Government, either as reinvestment of capital charges or as interest payments or whatever. Certainly, we would welcome the move in the kind of direction the Financial and Development Secretary is talking about and I think if we go back to the original system we used to have before the Special Funds when at the back of the Estimates we had the notional accounts, essentially our big complaint about the notional accounts was that because they were notional accounts produced with the Draft Estimates at the beginning of the year there was never any attempt to give us a final account. The answer we got from the Government in setting up the Special Funds went well beyond the complaint that we had been putting in the House and produced something totally different. What we had been saying in the House was, OK, if we are being given an estimate of what it is anticipated is going to be the performance of the electricity

account over the next twelve months we then want to know at the end of the year what has been the actual result so that we can compare the historical account with the projected account so that we know whether we are actually moving into a subsequent year with an inherited deficit or surplus. Whereas the notional accounts were started every year on the 1st April as if the Electricity Department was being created new every year and there was no continuity between one year and the other. I think really that was the most important point from our point of view and in going into the Special Fund something much more complex was created which incidentally and, I think unintentionally, had the effect of inflating the accounts of the Government by virtue of the practice of the reimbursement which then when you are looking at Government revenue the bigger the deficit the bigger the revenue, basically. I think that anything that corrects that and gives a more realistic and more easily understood picture of the Government's position the more welcome it will be.

At the end of the debate the House noted the Principal Auditor's Report for the financial year 1984/85.

HON J BOSSANO:

Mr Speaker, I beg to move that: 'This House does not approve the terms of the Agreement entered into between the Government and Banque Indosuez on the 18th day of June, 1986, to borrow £4 million'. I anticipate that the Hon Financial and Development Secretary will not be as warm in his welcome of what I have to say on this motion as he was in what I had to say on the last motion. The Opposition, Mr Speaker, was informed by the Hon Financial and Development Secretary in the Budget debate that of the £6m that the Government was raising in loans, £4m were intended to repay the Midland Bank loan because it had been possible to borrow that money from Banque Indosuez at a lower rate of interest and that consequently all that was involved was a reduction in the cost of borrowing and a reduction which we obviously supported. There is no way that we as an Opposition would say to the Government: 'We want you to pay higher interest than you need to pay'. I think that the House was deliberately misled on that point by that statement because, of course, there is much more to it than simply a reduction in the interest charges. Had we known what there was in it, which we now know from the terms of the loan that we have had tabled in this House, then we would have said at the Budget that we would not support the Government. Of course, the Budget contained the innovation as well of including the £6m in the Estimates and in the summary of revenue as if this was recurrent revenue whereas in the past the loan income has been shown separately on page 5 and not included so if we look at page 5

it is easy to see how misleading these things are, Mr Speaker, because anybody coming along and looking at page 5 would say to himself: 'Recurrent revenue - £724m, does it not imply that you are going to be borrowing £6m every year otherwise how is it recurrent?' We said that on the £4m we supported the Government because we had been told that it would reduce the cost of borrowing and we are saying we were deliberately misled. On the other £2m, if you will recall, Mr Speaker, what we said was that we did not support the Government because they were keeping £1m of that and putting it into the reserves ostensibly for meeting recurrent expenditure and we are against borrowing money for recurrent expenditure and we voted against the Loans Empowering Ordinance because the Loans Empowering Ordinance on this occasion, uniquely and for the first time in our history permitted the Government to do that. Although one could argue that to the extent that you are borrowing money from one Bank to pay another Bank you are using it to meet recurrent costs, we couldn't know that for sure until we saw what was happening with the terms of the loan and therefore it appeared to us that the explanation we had been given on the surface was a reasonable explanation and that we should support that. Of course, now that we have got the new loan and we have got the old loan, what we find is that the difference, Mr Speaker, between the cost of borrowing from Midland Bank and the cost of borrowing from Indosuez, unless we have understood this agreement incorrectly in which case the Hon Financial and Development Secretary will be able to put us right, but as we see it the difference is three-eighths of 1%, that is to say, that we are paying to Indosuez Libor plus 1% and we were paying to Midland Libor plus seven-eighths per cent so what we are saving is three-eighths of 1%. However, against that three-eighths of 1% we have to offset the commitment fee for the loan of Indosuez, I will give way if there is something I have said that the Hon Member cannot understand.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I always hesitate to challenge the Hon Gentleman's arithmetic but did he say that the difference between seven-eighths and one-quarter is three-eighths?

HON J BOSSANO:

Five-eighths.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Five-eighths.

HON J BOSSANO:

We are talking about a sum of money, Mr Speaker, over the three year life of the loan of something like £20,000 to £25,000, that is what we are talking about, that is the kind of saving. That is to say, had we had two loans of £4m on which we would have had to pay interest for the next three years and one was seven-eighths over Libor and the other was one-quarter per cent over Libor, with the repayment periods involved the figure comes to something like £25,000. Even that amount of money, if we are saving £25,000/£30,000, fine, if we can save that money then why not, there are better things to do with that money than push up the profit figures of Midland Bank. However, it isn't as simple or as straightforward as that because, in fact, if the Government had not done that, suppose the Government had not been able to get a loan from Indosuez which was at $\frac{1}{4}\%$ over Libor instead of being seven-eighths and they were not able to argue that we were borrowing cheaper, does that mean they wouldn't have done this? They would then have had to pay back Midland Bank beginning this year because the loan that was negotiated in 1981 was a loan that allowed the Government a period of grace in the repayments as indeed the new one does and the repayments would have started this year. And again, on looking at the agreement, it appears to us that the Government would have had to pay the £2m of the Midland Bank loan and the £2m of the Midland Bank International loan over the same period and in five equal instalments beginning this year. That means that in a two and a half year period they would have had to pay the £4m which would have meant £1.6m this year, £1.6m next year and £800,000 the year after. Where would the money have come from if we look at the Estimates? We would then have had a situation where the revenue of the Government would not have been £76m, we would not have had the £4m that they have borrowed from Indosuez as revenue and, of course, the repayment to Midland Bank would not have had to be £4m this year, it would have had to be £1.6m but the difference is, Mr Speaker, that if we are going to compare the policy decision taken by the Government with what was programmed to happen, we would have had a reduction in the outstanding public debt this year of £1.6m and there should have been money there to repay that loan and the money to repay the loan is not there. Independent of whether the cost of the loan is the difference between seven-eighths and one-quarter per cent, the reality of it is that they haven't got the money to pay the £1.6m this year and they haven't got the money to pay the £1.6m next year and they haven't got the money to pay for the £800,000 for the year after that which is what was intended should happen when the House was asked to vote in 1981 on the Loans Empowering Ordinance. The Financial and Development Secretary, Mr Speaker, came with a Loans Empowering Ordinance to the House of Assembly on the 17th December,

1980, and the loan was raised in 1981. We were then told when we agreed to the Government borrowing this money, I didn't even comment on the thing because it was so straightforward, Mr Speaker, the Financial Secretary came along and he said: 'Right, the original 1978/81 Development Programme envisaged an expenditure of £21m, we have been given £13m by the British Government, we have to find £8m ourselves and now we find that the cost instead of being £21m is £31m and we have got commitments on the investment side that we are going to have to carry out and we need it' and, in fact, he asked the House exceptionally to take all the stages of the Bill in the one meeting of the House because in those days it was the exception rather than the rule so the Financial Secretary said it was because of the urgency of investing that money in the 1978/81 Development Programme and the House approved it and, in fact, authority was given for raising £14m which was partly going to be raised by the issue of loans from banks, partly was going to be raised by the issue of local debentures and part of it was going to be supplier financed. So we are talking about the money invested in 1981 and the Government, at the time, said that they had had a very good response from the banks and that they had been able to negotiate a position where there would be no repayment of those loans in the early years of the loan, we would be paying interest only which is what we have been paying until now, interest only, and clearly, Mr Speaker, the question of investing money in assets and repaying that money is linked together, it is not a unique feature of Government finance because it is a thing that businesses do as well as Governments. We need to ask ourselves apart from everything else, apart from the fact that we are, in fact, saying we have been misled because we have been told that the cost of borrowing is coming down when, in fact, the cost of borrowing is going up, we need to ask ourselves, 'What did we spend the £4m on in 1981?' Having looked at the Development Programme for 1981/82 it would appear that in that year we bought some vehicles and some plant for the Public Works, in that year we have got in the Estimates the beginning of the notorious MOT Testing Station. Are we saying that having borrowed money in 1981 and paying interest since for the MOT Testing Station that should have opened in 1983 we haven't even got the money now to pay back the Bank for the money we borrowed to build the Station in the first place. And because we haven't got the money to pay back Midland Bank we need now to borrow from Indosuez to pay Midland and now we are committed to paying back Indosuez in five years' time and presumably by then with this banking expansion we are expecting we should be able simply to go to another bank so I think if the banking expansion promised by the Government materialises, I suppose we can spend the rest of our lives on a merry-go-round of going down Main Street from one Bank to the other borrowing from one Bank to pay the last Bank until we run out of Banks and then we can start again with the first one, that is a good idea. The importance of the difference between borrowing for investment is, of course, that we are borrowing this money and we have got nothing to show for it. We are going to be paying interest over the next five years on £4m whereas after this year we would have paid interest on £2.4m and in two and a half year's time we would have repaid the £4m back and that was the intention in 1981 when the House approved the 1980 Loans Empowering Ordinance and the House was presented with the Agreement by Midland Bank and when that agreement was brought here there were two tranches to this loan, there was a

\$2m tranche(a) and a \$1m tranche(b) from Midland Bank Ltd and the same from Midland and International Bank Ltd. We are effectively repaying early the first tranche, tranche (a). If we look at the Estimates, Mr Speaker, for this year, for 1986/87 in the Consolidated Fund I think the footnote explains that the amount of money that is being paid there which is just over £4m, one assumes that the £2m is the instalment due on tranche (b), that is what the note says. Note (e) on page 21 says: 'Repayment of tranche (a)' - which is £4m where we should have paid this year £1.6m but we should have paid £1.6m because we had the £1.6m to pay. What we have done is we have paid the £4m by borrowing the £4m and we are repaying back the first and the second instalments of tranche (b) where we have got a longer period to repay the sum of money. I think in the case of the first tranche the repayments in the agreement are over something like two and a half years whereas on tranche (b), if I am not mistaken, it is in fifteen repayments making it seven and a half years that the repayment takes place. So we are carrying on with the seven and a half year repayment clearly because that puts it into the future and, of course, it will be a problem for whoever has to do it in the future if he doesn't have as friendly a Bank Manager as the Members opposite seem to have. And obviously I don't think Indosuez is going to be the friendliest of Bank Managers after the motion although let me say that the motion would have been brought independent of which Bank the borrowing had taken place from because it is the Agreement that we are objecting to and not the specific Bank. If we look over the life of the loan, there is no way of knowing what the total cost of this loan is going to be because, of course, we are talking about floating interest rates and at the moment they seem to be floating very slowly downwards but they could equally float upwards as they have done in the past. But it is not unreasonable to say that the rates at the moment are probably going to be costing the Government something like 10% or 10½% over a ten year period.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

HON J BOSSANO:

Well, if the Hon Member knows what interest rates are going to be like in ten year's time or in a year's time he will be able to retire as Financial and Development Secretary, Mr Speaker, because he will be able to make a lot of money.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is why I shook my head, Mr Speaker, because I don't know and neither does the Leader of the Opposition.

HON J BOSSANO:

I have said, Mr Speaker, that if that is what it is at the moment and what it is at the moment is lower than what it has been in the past and we agree that it could go lower or it

could go up, then we can only calculate the cost on the existing rate, we have got nothing else on which to calculate it and on the existing rates the additional interest cost over the new loans as compared to the old loan over the life of the loan will be in the region of £2m, that is what we are talking about. We are going to have to pay £2m extra in interest on investment that we put in in 1981. It is bad enough if we are borrowing and doing the investment now because at least we have got something to show for it, we have got an asset there but now we haven't got the asset and we have got a commitment on interest. Of course, what it will do, Mr Speaker, is that it will depress the cost of borrowing in next year's Estimates, in 1986/87 it will depress the cost of borrowing because of the fact that we have got the repayment of the loan substituting by the payment of another loan because the saving in the differential because of the margin over Libor takes place in the first year and we are not having to show in next year's Estimates a repayment of £1.6m as part of our servicing costs so, in fact, next year's borrowing cost will be lower than they would have been had the Government not done this but that is not true over the period of the life of the loan of Indosuez had we simply repaid the Midland loan as intended.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

HON J BOSSANO:

Well, the Hon Financial and Development Secretary may say what he likes or make whatever phrases he likes but the reality of it is that he told the House of Assembly in the Budget: 'the purpose of this Bill is to save the Government money', and it is not going to save the Government money, it may save the Government money between now and 1988 but it won't save the Government that is in 1988 to 1992 money, it is going to cost the Government from 1988 to 1992 money because they will be paying money to Indosuez for a loan that was raised in 1981 and for money that was spent in 1981 and which has not yet been repaid because the normal thing is that if you buy a car, Mr Speaker, and you do a hire purchase on the car or you get a bank loan on the car, you expect to pay the loan back by the time the MOT Station, which has been built with this money, scraps your car. What you don't expect is to go to another bank to borrow the loan from the third bank and then they scrap the car and you haven't got a car but you have still got the loan because then you cannot borrow a second loan for a second car because you are still paying for the first one. And that is the essence, the essence of it is that when we are talking about financing capital investment and I would remind the House, I asked the Hon Financial and Development Secretary to give us the figures for the public debt of the last five years and apart from the fact that I think he got one year wrong, when he gave us £22.4m it ought to be £26.4m, I think, in March, 1984, from 1983 to 1984 it went from £22.5m to £26.4m and the figure he gave in the answer was £22.4m, but apart from that what we see there is that the big jump came when the figure was the figure that he started with

in 1982 which was £20.6m because in 1981 the figure was £9m of public debt and if we go back over the years we had a situation between 1972 and 1981 when the Government was very reluctant to borrow notwithstanding the fact that it had very healthy cash reserves and notwithstanding the fact that there were important development projects that could have been financed by loan capital and then there was a very dramatic change in policy and from going, for example, in 1972 we had £3.9m of public debt, in 1973 £3.8m, in 1974 £4m, in 1976 £4.1m, so in fact, there was virtually no change. Then in 1981/82 we went to £20m and, of course, we then have a situation as well where the Consolidated Fund and I think when we are looking at public debt the figure that the Financial and Development Secretary has chosen to give us in the answer that he gave as to how much of the burden the national debt is by comparing it to public expenditure and expressing it as a percentage of public expenditure, quite frankly, is complete nonsense because if the Hon Member says the percentage of public expenditure that is the national debt is coming down that can be achieved two ways. One way to achieve it is to spend more money so the more the public expenditure is the lower the percentage of the national debt. The public expenditure is going up this year partly because the repayment of the Midland loan is shown as public expenditure of £4m. Just like the borrowing of the £6m is shown as income but I can re-write the situation on paper and produce a totally different percentage from the one he produced and we would still be talking about the same financial situation. The way that I have always seen public debt being analysed is either by comparison with the reserves because that is a sensible thing when you look at it from an individual point of view you look at what money you have got in the bank and what money you owe not how much money you are spending and how much money you owe. If you are spending more than you can afford and you owe more than you can afford that doesn't make you any wealthier, it puts you in an even more precarious position. I have never seen anybody defend the level of national debt by reference to how high public expenditure is and by arguing that the higher public expenditure and consequently the lower the percentage the national debt is of public expenditure the better off we are. And the one that previous Financial Secretaries have looked at and brought to this House and certainly the one that was brought in December, 1980, and in other meetings of the House when Financial Secretaries have put forward the Government's plans for borrowing, what they have looked at has been the cost of servicing the loan not how big the loans are, not how big the total debt is but what is it going to cost every year to repay those loans because, clearly, if you are going to have to depend, as has always been done, on revenue for paying interest charges and on revenue for paying back your debt not on getting more debts to pay back other debts, then it is as a percentage of your total revenue that you express your debt servicing and in that context the figure has fluctuated from as high as 15% to as low as 8% but I have never seen it expressed in those by any other Financial Secretary in this House or anywhere else for that matter. I have never read of any Financial Secretary in any other territory or any Chancellor saying: 'We are better off this year because our public expenditure has increased 100% and therefore our national debt is a smaller percentage of our public expenditure'.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. I think this is the second time he has actually accused me of saying that, I did not.

HON J BOSSANO:

Mr Speaker, I think the answer of which we have all got a written copy clearly says that the public debt is going to decline as a percentage of public expenditure and consequently the Government is in a better position to borrow. Well, no, because it can decline because public expenditure goes up.

HON CHIEF MINISTER:

And revenue.

HON J BOSSANO:

Well, the Hon Member didn't mention revenue because the reality of it is that he has brought a Bill to the House that enables him to meet a deficit of up to £10m by borrowing on current expenditure, that is what the Loans Empowering Ordinance did, it gave the power to the Government to borrow £10m to cover recurrent deficits. Revenue doesn't enter into it, he just mentions expenditure there and this is what I am saying that in the past when any Financial Secretary has chosen to do any comparisons the comparisons that he has always done was to say: 'Well, of the income that we are getting, the income we get from income tax and the income we get from import duty or whatever income we have got, we have got to use so much percent to pay off our debts', which is a sensible thing, it is what the average person does with his wage packet. If he is looking at whether he can afford to take a loan or not afford to take a loan, he says to himself 'I have got £100 income in my pay packet and I am going to have to use £10 every week to pay for the loan for the car and if I have to use £20 every week to pay for the loan for the car then I can afford it'. He doesn't look at what he is spending he looks at what he is receiving and in this situation what we are doing effectively is we are extending into the future the cost of expenditure we have had in the past. What is significant is that the Government debt as a percentage of total expenditure which was 49% in the first year, and 45% in 1985/86 will fall to 38% during the current financial year. Well, that is not significant at all, that is a meaningless statistic. What is significant, Mr Speaker, is that we are going to have to be paying interest on £4m in 1986/87, 1987/88, 1988/89 and for the next five years and a loan that should have been repaid in the next 48 months will have to be repaid in five years time. That is what is significant and that consequently the cost of borrowing and the cost of servicing will be affected by that which means that the Government's capacity to service the loan will be affected by the fact that if we are looking at it as we have always done, if we are now going to be paying out £300,000 or £400,000 in a year on the £4m to Midland when the £4m is not there because we have repaid it to Midland

and where there are no assets that we have built with that £4m then it means that that is a burden on the annual income of the Government which is not money available for something else and if we are looking at debt servicing as it ought to be looked, then the percentage devoted to debt servicing over X years will now be affected by this and consequently unless the Hon Member goes back to the philosophy he trotted out for the first time in this year's Budget, that we are also antiquated in this place that we should emulate other administrations or the UK Government or the Treasury where they just print more money if they need it. It is all very well for the Hon Member to say that other people have got debt problems and that we have got less or none but all the other people who have got debt problems are regretting having them. They are not rejoicing, all you read about in the paper is how do you get out from your debt problems so we have got none and he wants to put us in them. He then takes his retirement, gets his 25% gratuity for his three year service and leaves us with the debts. Well, that is not acceptable, we cannot even surcharge him for that. If, in fact, when we had seen the new loan, and he knows that this was bound to be our reaction, I suppose he just tried it to see if he could get away with it, if we had seen the new loan was a loan that effectively had the same life as the old loan and over that same life at a lower cost that would have been the end of the story. We would have said to ourselves: 'Right, he has done a good job, we are going to have to pay the same amount of money over the same period of time to Indosuez as we committed ourselves in 1981 to doing to Midland Bank but, of course, we are going to be able to do it at a cheaper price and that means that the Government of Gibraltar is going to have an extra £30,000 to spend on something else' and with £30,000 from the figures that the Hon Minister for Economic Development told us before about this feasibility study you could build a house so if you can build a house even if it is one house by saving money by borrowing from Bank 'A' instead of Bank 'B', fine, it is a job well done but that is not what is going to happen. What is going to happen is that we are going to be paying interest over a much longer period of time on money that was spent a very long time ago and I am not sure that the Hon Member can even tell us what it was spent on and he would probably argue that why should he have to tell us what it was spent on because when we have asked him in other areas, for example, when my colleague, the Hon Mr Feetham, asked him what was the £2.3m being spent on? He said: 'Well, Government expenditure', the £2.3m we borrowed last year over which we also had very strong objections. The Hon Financial and Development Secretary has to understand that it is very difficult for the Opposition to understand how it is that he can now come along and be so liberal in his attitude on borrowing when he emanates from the same stable, and no offence is meant, as previous Financial Secretaries. Is he not also a minion sent out to control us by Whitehall, Mr Speaker, or am I mistaken? Is it that the British Government would rather see us up to our necks in debt than give us ODA money? Is that why there has been a change of emphasis? Because I remember the last time we had a Loans Empowering Ordinance the complaint we had from the Government benches about how the Treasury didn't want them to allow to have money to invest in assets, in bricks and mortar, they wouldn't allow

them to borrow money to put in bricks and mortar in 1982 and I remember saying: 'Well, is it fair? The Government says they want to borrow and they are only being allowed £10m, is it fair that it should be the British Government if we are going to have to pay the money, why should the British Government say what we can borrow and what we can't? And I was told: 'Because that is the constitutional position'. Because at the end of the day the Hon and Learned Chief Minister said to me: 'At the end of the day you cannot have responsibility without power and since ultimately if things go wrong they are responsible for the financial stability they have got the power to say to us 'you will not be able to borrow more''. How come that in 1982 we were being cautioned about not borrowing more when we owed less and when we wanted to put it in bricks and mortar and now we are allowed to borrow to pay wages and we are allowed to borrow to pay other Banks. Because the £2.3m that we borrowed last year we still don't know what we borrowed it for, we know we are paying interest on it.

HON CHIEF MINISTER:

And getting interest.

HON J BOSSANO:

And getting interest on it and previous Financial Secretaries have told us in this House that they would not do that because the interest they get is less than the interest they pay. If it doesn't matter, if the difference between the interest we are getting on the £2.3m and the interest we are paying on the £2.3m is so small as this Financial Secretary has told us previously, is so small that it is a matter of a few thousand pounds and it doesn't really make that much difference, why then do you go to borrow from Indosuez to pay Midland Bank when that is also only a matter of a few thousand pounds? If it is important to save the difference between the 2% and the seven-eighths percent by doing this loan and if that is the real reason why is it not important to save it in the case of the £2.3m where you are losing that margin? He doesn't want to shake his head on this one, he'll have the chance to tell me, Mr Speaker, if he can. So then I can only deduce, being the rational animal that I am, Mr Speaker, that the real reason is not the difference between the seven-eighths and the one-quarter. The real reason is that what we are doing is putting off the day of reckoning and putting it off into the future and therefore it has to be understood that this is something that the Government of Gibraltar will carry a local political responsibility for and the British Government, since we have been told in the past that they are responsible for the financial stability of the territory and they have to OK these things, the British Government carries a responsibility on this and when the day of reckoning comes it may be the British Government that will have to answer for that day of reckoning because we are saying that this is wrong, we are saying we do not support it, we are saying that we do not consider that it is binding on us or fair on future Gibraltarians. The whole philosophy of public borrowing for investment in assets and the philosophy which we have heard on many, many occasions in this House in the past has been the logical one that you do

not burden the taxpayer in one year with the cost of an asset which has got a life of several years and you try to match, to some extent, the cost of servicing. This is why there are Sinking Funds which the Hon Financial and Development Secretary who is, incidentally, responsible for them, he is responsible for all the Special Funds under the Constitution which are the Sinking Funds except that he told us in this year's Budget that he didn't understand the concept of the thing, in fact is very simple.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I didn't say I didn't understand, I said it was an unusual one in this day and age.

HON J BOSSANO:

Well, not so unusual now, it might have been unusual at first when he arrived if he had never seen them before but he has been here, he is getting a few grey hairs amongst us now, Mr Speaker, so he ought to be more used to them by now. The idea, as I have always understood it, I didn't know about Sinking Funds before I arrived here, when I was given an explanation it seemed to me a sensible explanation and that explanation was that effectively the asset is coming down in value at the same time as the Sinking Fund is building up and by the time you write off the asset you have got the money on a historical cost accounting basis. You may have a problem in that when you need to replace the asset then the money in your Sinking Fund which enables you to repay the loan may be less than the new loan you need to buy the new asset because of inflation in the intervening period. But, of course, every business has that, every business has got a problem of replacing out-dated assets with new assets at prices which compare with the original cost but until a different accounting system is devised and many, many people have thought of different ways of revaluing these things without coming up with a satisfactory answer, the only way to do it is to depreciate historically. And the Sinking Fund to me seems to be a very sensible vehicle in Government finance in that it maintains a good reflection of the position of the Government in terms of the money that is spent. But, of course, fine, when we went into the loans from the Banks the last time and when we went into supplier finance, the Government said: 'Look, we have been able to do something new and something different in that we are going to get a breathing space, we are going to get a holiday in the middle where we are paying interest only which gives us a chance to repay capital in the future'. Of course, by the time you repay your capital you are already five years into the loan and already the asset that you bought five years previously is not worth the same although you still owe all the money but we are now compounding that, Mr Speaker, because effectively we are borrowing today money for another ten years on assets that we bought in 1981 and in 1982. It is not possible, I think, to be absolutely sure from the Estimates of Expenditure exactly where the £4m went in particular because, of course, we had a £6m loan from the same source and there is no distinction between where tranche (a) went and tranche (b) went in terms of expenditure. The only

thing that we know from looking at the Estimates for 1981/82 is that there was expenditure from ODA funds and expenditure from local funds. In the year 1981/82, Mr Speaker, the Government had income from local funds of £12.4m. Of that we had £4m of supplier finance for the Power Station, £400,000-odd of supplier finance Mr Varyl Begg and £600,000 of supplier finance for IDE, for the Telephone Department. The Loans Empowering Ordinance in that year raised £73m, I am assuming that the £6m is part of that £7m and therefore that the £4m is part of the £7m because when I looked at the outstanding public debt at the end of the book I find that the £6m is there so that means that the £6m was obtained during that financial year and therefore the £4m was obtained during that financial year and that went into financing a variety of local projects but we don't know which is which except that we see, as I have mentioned, that the MCT Station appears there and we have seen that there is expenditure on equipment for the Public Works Department and we see a variety of small purchases and we assume that some of this came out of that money. There was also some of the costs of the Waterport Power Station which was not financed by supplier finance which might have come out of this money. So here we are in a situation where we are saying people are going to be paying interest in the next four or five and six or seven years on the cost of tools that were bought in 1981 and the tools may not be there anymore. That is not a sound way in which to handle public money, that is not a way of reducing the cost to the public, that is, in fact, a way of getting round a serious problem the Government now faces of what would the page 5 look like if instead of having been presented as it was in the Budget it has been presented with a £1.6m hole in it and with another £1.6m hole next year. Therefore, we need to say that we will not go along with this. We also need to draw attention, I think, to the question of the kind of undertaking that this loan contains. Some of it, in fact, are to some extent a repetition of what was referred to in the original loans agreement with Midland Bank although this time it seems to have been put in even clearer and more specific language than it was the last time. We are talking, of course, on the freedom of a future Government to do things. It is bad enough, Mr Speaker, having to take orders from the Foreign Office and from everybody else but if on top of that we are going to have to ask the permission of the Bank Managers before we can do things, shouldn't we ask the Banks to stand for election? We are being told that a Government in the future, a Government for the next ten years, it is not just the Government that may come in in 1988 but even the Government that may come in in 1992 and possibly the Government that may come in in 1996, so they are giving Indosuez power over three Governments: 'That in the case of any taxes or duties, withholdings or deductions of any kind, present or future, are required to be paid or made by any authority of any of the payments that the borrower under this Agreement, the borrower will increase his payment so that the Bank will receive the full amount of any sum payable as if no such taxes, duties, withholdings or deductions had been required to be paid or made except any such duties, taxes, withholdings or deductions on the Bank's overall net income'. That is to say, we can actually tax this Bank like we can tax any other Bank except on the profit they make from this loan. On the

profit that they make from this loan we cannot increase their taxes and if we do they then charge us, the Government, for the tax that we have put on them and if we don't accept that then they cancel the loan and we have got to pay the £4m straightaway. Is all this worth the difference between seven-eighths of 1% and one-quarter of 1%? Does the Hon Financial and Development Secretary sell his soul that cheaply? Of course, it also says 'that the borrower shall not, unless the Bank otherwise consents in writing, create or allow to be created, granted or extended any mortgage, pledge, lien, charge or other encumbrance or any or all of the present and future revenues and assets of the borrower or his agencies as security for any indebtedness unless such security is at the same time extended or granted to the satisfaction of the Bank equally'. Of course, it does mean presumably that the borrower can exercise some restraining influence on the Government which is more than the Opposition have been able to do. And, of course, the borrower will have to, as and when the same is published deliver to the Bank the approved Estimates of Expenditure but in addition to that they have got to give information related to foreign reserves and balance of payments and external indebtedness which is something we have never been able to get so maybe I can come to an arrangement with the lender that they pass the information on to me when they have got it from the borrower. And of course they have to deliver on request to the Bank other published statistical and financial information about the borrower and its agencies as the Bank may request. All this, Mr Speaker, because they are able to reduce the cost of borrowing from seven-eighths of 1% to one-quarter of 1%, nobody is going to believe that. The reality of it is, as we have said, that we have been presented with something in the Budget which the Hon Member tried to slip through and which the Hon Member should have known by now he was not going to be able to slip through. I think the Hon Member who is responsible to the British Government as well as to the Government of Gibraltar, should take the message back that it will not do.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon J Bossano.

HON FINANCIAL AND DEVELOPMENT:

Mr Speaker, as the Hon Leader of the Opposition quite rightly assured, I don't propose to congratulate him on his speech. There is a great deal in it. I think, possibly, the point on which I should start is his concluding remark because he, in effect, said that I had tried to slip this through without anyone noticing. I totally reject that idea, I have given plenty of notice on behalf of the Government of its intention to refinance this particular loan or if not this particular loan to take advantage of opportunities occurring when loans were due for maturity to refinance them, indeed, I have in front of me, Mr Speaker, the Hansard of the meeting of the House of Assembly on the 11 December, 1984, pages 32 onwards which was when I had the honour to move that a Bill for an Ordinance to provide for the raising of loans by the Government of Gibraltar in aid for the general expenditure of Government. My speech on that

occasion, Mr Speaker, talking about the purpose for which the money to be raised by loans and debentures were to be used, I went on to say something about Government's debt policy which I said then: 'Has on the whole been rather conservative' and I certainly mentioned debt charges as a percentage of public expenditure or, indeed, public debt as a percentage of gross national product which when compared with those of other Western countries compares very favourably indeed. But the particular point to which I want to draw the House's attention after what the Hon Leader of the Opposition said was that because of earlier borrowing, in fact, it seemed that debt charges were likely to rise to a peak of about £7m in 1986/87. I said 'This does give rise for some concern and I am therefore exploring with the financial institutions the possibilities of refinancing with a view to spreading the debt more evenly. Naturally it is not a sensible policy to have one's debt peaking, it is a sensible policy to spread this out as far as possible. The discussions I will be having will be with a view not to increasing the amount of public debt but to spreading the incidence of debt charges towards the end of the decade'. I also said that the refinancing I had in mind would reduce the peak from £7m to about £6m even with the addition of the further debentures which the Government were then about to raise. I have given the House and the Opposition ample notice, and they have had ample notice of the Government's intention, and really to make the comments the Hon Leader of the Opposition has just made are not, I think, justified. However, I do have some sympathy with him on one particular point and that is when he referred to the innovation on page 5, the fact that we are showing the increase this year in debt charges have amounted to £10m, in effect, one has to net that £10m of the £4m which we are borrowing and subtract it from revenue where it is included. I am afraid I lost the arguments with my colleagues in the Treasury on that who were rather too concerned perhaps were rather more concerned than I am about the things I do and the extent to which they may be compatible with the Constitution or the various laws. But if I did say in the Budget that I was going to reduce or I hoped that the cost of borrowing was going to be reduced, I certainly meant interest and not the amount of debt. I did not suggest that we were going to borrow less, what I have always said is that we intended to reduce debt charges to smooth the peak of future Government debt and it is part of the policy of arranging future maturities in a better profile. The Hon Leader of the Opposition made what I thought was a rather revealing comparison, or rather he made a very revealing comment, that the average person uses revenue to repay his debts. Well, Governments use revenue to service debts and that is, I think, the crucial difference. Governments, in a reasonably sound financial state, and I am not now talking about banana Republics, Government do not repay in net terms nor is it likely that a modern Government will reduce the amount of public debt as a percentage of whatever one cares to name.

We are not threatened in any way with financial instability and the view I have taken and in the light of that view advised the Government, is one which has been supported by the Foreign Office so far as they comprehend all the issues because their knowledge of finance is strictly limited but certainly by the Bank of England and the Treasury against whom I would certainly not levy such a criticism. There is no question of the Government not having the money, the Government is adopting a sensible and, I hope, realistic approach to borrowing and I am sorry if some of my predecessors for one reason or another and I hesitate to think what they may have been, they may have been trying to con Ministers even, Financial Secretaries in the past I understand were occasionally guilty of that particular practice, I have tried to be open and frank with Ministers and to lay out the financial verities in front of them as I always have with the Opposition and I am left rather with the feeling, Mr Speaker, that perhaps it is my frankness and my concern for the verities which may concern the Opposition.

MR SPEAKER:

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

HON J BOSSANO:

All I can say, Mr Speaker, is that it is a pity we don't have broadcasting of the proceedings of the House because I don't think the Hon Member's defence would have persuaded anybody that in fact he has been able to answer the arguments put forward by the Opposition on this issue and, of course, he did make reference to one element and only one element in what I have said and that is that he had not misled us in the Budget because in the Budget he had not said that he was going to reduce the repayment of the loans, that he was going to reduce the interest and the cost of the interest.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. I did in fact ask for the Hansard to see what it was that I said, it wasn't available but what I said was if I said I was going to reduce the cost of borrowing then I am pretty sure we knew that the Banque Indosuez loan was, I think we knew the terms at that particular stage and therefore I knew that it was going to cost, ie Libor over 1½% less in terms of the interest chargeable than any previous loan and I am sure that is what I meant. But otherwise I would have been talking about reducing debt charges which, of course, is the intention as I have just explained.

HON J BOSSANO:

Therefore, Mr Speaker, what the Hon Member has just said I think provides final proof that he was seeking to mislead the Opposition because if, in fact, the Hon Member had been interested in reducing the interest charged as he claims he is and which he claims to be the explanation for this and the explanation that he gave us in the House then, in fact, Mr Speaker, what he would have done would have been to repay tranche (b) and not tranche (a) because in tranche (b) the rate of interest is 1½% above Libor and instead of saving as he is saving now five-eighths percent he would be saving 1½% and therefore he would have been saving more public money by repaying tranche (b) than by repaying tranche (a). The reason why he hasn't done it is because tranche (b) doesn't have to be repaid until well into the future and therefore the actual capital repayment of tranche (b) although it carries a higher interest, the actual capital repayment on tranche (b) which is in fifteen equal instalments from now instead of in five equal instalments from now, go into the future and into the 1990's and.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way because I can answer that point. Naturally, I did look indeed we have in the Treasury looked at the various other loans outstanding. I am not a bloody fool, I shouldn't use that sort of language in the House, I am not a fool I should say, and of course we looked at the other loans and we decided that as soon as the Indosuez loan was negotiated we would consider the possibility of some form of consolidated refinancing. I would like the Hon Member to temper his sudden onset of fury with those few remarks. I think I may even have mentioned it in the Budget speech.

HON J BOSSANO:

I haven't been able to go back and see the Budget speech either for the same reason as the Hon Member and therefore I am relying on memory, Mr Speaker, but I am quite clear that the emphasis was very small and it was an emphasis on reducing the cost of borrowing and even with the qualification that the Hon Member has introduced now my argument still stands. If you are going to borrow money today to repay a loan and your justification of repaying that loan is that the loan that you are repaying costs more because it has higher interest and you have got the option in the same agreement to repay either the loan which pays 1½% more than the one you are going to use now or the loan that pays five-eighths of 1½% more, you naturally go for the loan that pays 1½% more because you are going to save more money unless what you are really wanting to do is push your

repayments into the future because, in fact, if we look at the estimates it is quite obvious that the estimates would have looked very different if instead of having £4m of revenue and £4m of expenditure which cancel each other out we had had no revenue and £1.6m of expenditure, Mr Speaker. The reality would have then been that instead of coming up with minus £800,000 which is what we have got in the approved estimates as the bottom projection for the end of the financial year, we would have had minus £2½m. It cannot be neither, it is simple arithmetic. That is what would have happened if this sort of 'refinancing' in inverted commas had not gone through. So here we are with a situation where, first of all, we are paying interest which at a figure of £400,000 a year for the next five years is £2m. We are talking about interest over the next five years but, of course, the loan is not for five years, it is for ten years, of course it won't be £400,000, the interest may come down, the interest will start declining in five year's time when we start repaying the loan but the reality of it is that we are going to have to be financing a loan for the next ten years and the money has been used to pay another loan and it hasn't even been used to pay back the loan that is paying most interest and the reason why they have chosen this loan now instead of the second one is because the second one they have got seven and a half years to pay and this one they have only got two and a half years to pay it and they didn't have the money and there is no disputing that, Mr Speaker, and there is no way of talking it away or dressing it up. I commend the motion to the House.

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

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The motion was accordingly defeated.

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

HON M A FEETHAM:

Mr Speaker, I beg to move that: 'This House - (1) Notes with concern the failure of the Government to provide pensions for Industrial workers after 10 years service in line with the existing provisions for non-industrials as promised in December, 1983 (2) Notes that the Government continues to retire industrial workers compulsorily with 10 to less than 20 years service without payment of a pension (3) Therefore calls on Government to take immediate action to provide pensions for those industrial workers, with at least 10 years service who have been or are being retired, as an interim measure until such time as a unified pension scheme is implemented'. Mr Speaker, in presenting this motion I wish to go through a factual background, as I understand it, of the events leading to this motion being presented to the House today. In December, 1983, the Hon Minister for Economic Development and Trade made a Ministerial statement in response to my colleague, Mr Joe Bossano's motion in a previous meeting of the House of Assembly whereby Government had accepted, in principle, the policy of bringing about improvements in pension benefits by removing the discrepancy existing between the non-industrial and industrial workers. Government accepted the principle therefore of lowering the minimum qualifying service for industrial workers from 20 to 10 years in December, 1983. In doing so Government agreed to the principle but announcing at the same time a unified pension scheme. I recall having been informed that at about the same time it was pointed out to the Government that it had already initiated discussions previously with the union, some time before in fact, and had even brought out an expert, I think it was a Mr McNeil who spent a great deal of time here and cost a lot of money.....

HON CHIEF MINISTER:

Not us, ODA.

HON M A FEETHAM:

I stand to be corrected eventually. According to the Minister, the Government had decided to leave the matter on ice for the time being, that was the position in December, 1983. The Minister also said, quite rightly, in December, 1983, that Government did not want to give notice to elderly people and

have them out on the streets without a pension, quoting his own words, by being able to afford a pension for those people Government hoped to sugar the pill and at the same time create job opportunities, that was the policy of the Government in December, 1983. In January, 1984, Government began to retire persons without a pension on the condition that such a pension would be awarded from the 1st January, 1984. It is now two and a half years later and the situation remains the same with the added problem, of course, that during 1985, 41 persons were retired with more than 10 years service and less than 20 years without a pension. The delay, as far as our information goes in introducing a pension after 10 years, is causing hardship to some of these employees and, indeed, as a matter of fact, Mr Speaker, the Gibraltar Government is the only public sector department where this happens. For example, in the UK Departments a pension is awarded after seven years and nobody leaves the Department without a pension being paid to him effective from the date they actually retire. We have now learned that Government presented proposals, about a week ago, to the Staff Side presumably at the same time to respond to this motion today. Of course, this could be considered - and I am not implying so - but it could be the height of cynicism but, anyway, I am not saying it is, because what we are talking about is the welfare of a few elderly people that are desperately in need of this pension. The height of cynicism, perhaps, because in real terms the proposals which have been put to the Staff Side is very little different to what the Minister said in 1983. I think, looking at this now in an objective fashion, what is worse is that the effect of the proposals that Government has presented a few days ago, comes up with a pension after ten years of less than £1 per week per retired person than what was originally asked for by the unions in December, 1983, or round about that period. In other words, that the total savings after two and a half years proposed in the scheme to Government for each one of the 41 that were recently retired in 1985 produces a total saving to Government of £2,000 a year. I think, quite frankly, that it is a very miserly approach to a very human problem that to date has meant a wait of two and a half years. I am putting it to the House, Mr Speaker, that there should be no more obstacles of any kind to this problem once and for all and therefore what I am trying to do by bringing this motion to the House, is to ask Government to act without delay and reach an agreement with the TGWU and demonstrate in the process that the interests of their ex-employees are at long last being protected or, alternatively, that a pension based on an interim arrangement is reached until a unified pension scheme is agreed with the TGWU and the non-industrial unions since the non-industrial unions already get a pension and it shouldn't be too difficult a matter for Government to agree to this approach. The unjustified difference,

Mr Speaker, between what was asked for and offered last week warrants, in fact, immediate action. It would be worse, and one doesn't really want to refer to this sort of thing happening, but it could be worse and who would be responsible if one of these employees dies without having even got their pension? What I am asking, Mr Speaker, is how much longer does this Government intend to continue to do what the Minister said quite rightly in December, 1983, that the Government did not want to do and that is to give notice to elderly people and have them on the streets without a pension, Mr Speaker.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon M A Feetham.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I am just going to make one or two points about the sequence of events which has affected this particular issue. The Hon Member, I think, quoted correctly the early part of the sequence, that is to say, the motion which was moved by the Hon Leader of the Opposition in the House in October, 1983. There was an amendment moved by the Minister for Economic Development and Trade. There was subsequently a meeting of Council of Ministers, the Government agreed in principle, as the Hon Member has said, to the basic claim involving the lowering of the minimum qualifying period as part of a unified pension scheme to be introduced for all Government employees and the Minister for Economic Development and Trade reported back to the House in December, 1983, the Government's acceptance of this. There was, I think, some interval before the pensions adviser, Mr McNeil, who normally advises Government on these matters, this pension expert, quite well famous, I believe, was commissioned in January, 1985, so I think one must accept there was an interval. I think, perhaps it might be forgotten too readily now, that during that period there was a certain amount of concern over dockyard redundancy, employment prospects generally and I think that contributed to a certain amount of caution, shall we say, in the way which the issue was processed at that particular juncture. But anyway, the pensions adviser was asked to produce an outline of the proposed unified pension scheme and, again, I think, not necessarily a criticism of him but it did take him rather a long time and it was not until December, 1985, that this was accepted by the Government. Then the scheme had necessarily to be approved, in principle, by the Secretary of State and this took another three months or so which takes us up to April, 1986. Thereafter the scheme was presented to the Staff Side at a meeting on the 3 July and the Staff Associations Coordinating Committee representing non-industrials have said that they need time to consider the scheme and said that they will not be in a position to reply for a few months. I accept that the TGWU have accepted, in principle, the draft

scheme whilst I think making one or two reservations on the detail or they are in fact going to reply shortly. I think the position in which the Government is in is that we want to see a unified scheme and it is important that a unified scheme is introduced and it was felt that it would be wrong to go ahead and take a unilateral decision, shall we say, with the industrials or introduce something in advance of that general agreement being reached. Nevertheless the Government fully accepts if not the critical tone behind the original part of the motion, nevertheless, I think, shares the concern of the Opposition at the general delay and one of my colleagues will be moving an amendment during the debate which will, while reflecting and sharing the concern, perhaps modify the tone of the motion a little. Thank you, Mr Speaker.

MR SPEAKER:

Do I understand that the Hon Mr Canepa wishes to speak?

HON A J CANEPA:

Mr Speaker, I hope that the fact that the Financial and Development Secretary has given that brief exposition as to the state of play is not seen as too odd having regard to the actual constitutional position on the matter that is now before the House. I think it has to be realised that occupational pensions, in other words, the pensions paid by the Government to its employees are not a defined domestic matter as against social security pensions and therefore in the case of social security pensions the procedure is very simple. If the Minister for Labour wants to enact certain proposals he gets his Department to prepare the proposals for him, he submits them to his colleagues in Council of Ministers, a decision is taken on the matter and then the Attorney-General is asked to draft the necessary legislation. A very simple procedure, one that ensures that target dates can be met as successive Ministers of Labour since 1972, namely, the Hon Dr Valarino, the Hon Major Dellipiani and I myself working backwards have been able to do over the years and that is why we are able to come to the House every year with proposals for annual reviews. But that is not the position with occupational pensions. There is also the added advantage with social security pensions that there is no trade union side to consult. In the case of occupational pensions it is very much a matter for the administration and because Ministers are not even responsible for the matter collectively, the ability of any one individual Minister who follows the matter up and to give it the kind of impetus that he would tend to give any other matter which is close to our heart and is of a departmental nature, that ability is seriously undermined. No matter to what extent the Hon Dr Valarino with his concern for pensions naturally or I myself

because of the history of my involvement in the matter, no matter how often I phone, I speak to, I call the Establishment Officer to a meeting, and no matter how much one cajoles and tries to get things moving, the position is not the same as when you are dealing with a Head of Department who works directly to you and for which you are directly politically responsible. In the case of the Hon Dr Valarino, the Department of Labour, in my case the Port, Crown Lands or what have you. I think it is important that Hon Members and perhaps the public at large should appreciate that there is an important distinction in this case but that is not by way of excuse. Between the Hon Mr Feetham and the Hon the Financial and Development Secretary they have given part of the reasons why this matter has not yet been brought to fruition. Let me say at the outset that I am very much aware of the hardship or the potential hardship that can be caused if there are further delays. There are a number of people who must now have retired six months ago, a year ago, in the knowledge because they probably had it in writing, that they would get a pension in due course but time goes by, people get older, some of them may have found alternative employment but others may not and if they have found alternative employment the time will come when they have got to retire altogether. I get representations myself and I am very much concerned about the matter. I understand that there are about 55 persons now in this position. May I say that the timing of the meeting held last week with the Staff Side was totally unconnected with the moving of this motion. I was informed before notice was received of the motion that the proposals were going to be tabled before SACC at a meeting that was going to be arranged and whilst the Hon Mr Feetham was moving the motion I went outside, consulted with the Acting IRO who was in the Ante Chamber and I asked him when had the meeting been arranged and he said that the meeting had been arranged about a week before Thursday 3 July. I think that it was in anticipation of this motion and it may appear to be a coincidence but when I give the whole history of the matter he will see that it is not a coincidence, it is that in Council of Ministers we have been expressing concern very recently about the matter and therefore some fresh impetus was given at our request. I hope that he will grant us when he exercises his right of reply that amount of goodwill on the matter. Subsequent to my making the statement referred to in the body of the motion in December, 1983, there was a small incident that had to be disposed of shortly after that, namely, a general election, and when the dust has settled we find that in March, 1984, the thing was set for the proposals which, in a way, were outlined in principle in the statement that I had made in the House in December, 1983, for those proposals to be formally put to the Staff Associations Coordinating Committee. That was the position in March, 1984, but a report that I have before me indicates that they did not proceed to do so in March, 1984, and I quote from this report

because 'the Establishment Division was informed that agreement had been reached in principle to facilitate employment to workers made redundant as a result of the closure of the Dockyard. Establishment was asked to work out the details of measures which would give such workers such option over candidates from outside the service for industrial vacancies. Therefore it was not considered prudent to present the retirement - namely these proposals - and recruitment policies to the Staff Side until the details of the measures to be adopted in respect of the Dockyard employees had been agreed and the positions become clearer as to whether or not the proposed policies might be affected by any of the exceptional measures to be introduced in respect of the redundant Dockyard employees'. So following a request that exceptional treatment should be given to Dockyard workers who were to be made redundant, Establishment perceived that there could be a possible connection between that issue, the issue of giving priority of employment under certain conditions to people, and the retirement policy that at the time the Government was developing and the whole question of the link which this retirement policy had with the enactment of the unified pension scheme. I didn't become aware, let me say, that that was the state of affairs until some time later and this is where I say that because of the peculiar constitutional position momentum can be lost because if it had been a Government Department adopting that view that it was not considered prudent to proceed in the way indicated, they would not have adopted that view without clearing the matter with the Minister. Where a Minister has responsibility for a specific matter no senior official of the Government or Head of Department would arrive at that conclusion, make that assessment without getting the Minister's agreement. But, as I say, Establishment had no obligation to come and talk to me about this or clear the matter with me at the time. In fact, for all I know they may have had political support generally at a level even higher than mine because I know that the Chief Minister was involved with Mr Bossano and other people in the discussion on the problem of the redundant Dockyard workers. But months later seeing that no progress was being made in putting the proposals to SACC, I asked about it and then I was given an explanation, I remember that this was some time in the summer of 1984, and I was not entirely satisfied, I thought that we could have proceeded in parallel and eventually my views managed to prevail and at my insistence the proposals were presented to the Staff Side in November, 1984. They were accepted in principle by the TGWU, SACC agreed to set up a Working Party to study the proposals but a month later on 21 December, 1984, they said that they could not go along with this, they did not agree. They changed their minds and they stated that the proposed pension scheme was inferior to that presently in force and they felt there was no need to negotiate an inferior scheme. That killed it at the end of 1984. Shortly after that, a full report was made to Council of Ministers on 21 January, 1985, explaining the reasons for the delay in implementing the scheme. Council of Ministers was advised that the Attorney-General had been consulted on the matter and his advice was that the details of the unified pension scheme should be cleared by the United

Kingdom pension's adviser, Mr McNeil, who had been originally engaged to draw up a revised pension scheme in line with UK conditions prior, I think, to the announced closure of the Dockyard in the early 1980's. Mr McNeil was commissioned to do this in January, 1985, and a final draft report was received from him in December, 1985. In the meantime Ministers had asked for and obtained an interim report, or rather not a report, but a report of the state of play in July, 1985, when, and I quote, in answer to a question the Chief Minister said: 'The pensions adviser will shortly start work' and Council took note. So even though he had been commissioned in January, 1985, according to the records that I have in this file, for some reason or other, he wasn't actively engaged on this matter in the early part of 1985 but he was in the second half of 1985 and produced a draft report at the end of December, 1985. In February, 1986, my colleague, the Minister for Labour, Dr Valarino, asked for a progress report or perhaps what one might more euphemistically call a non-progress report and as a result Council of Ministers asked for an information paper on the matter, the information paper was circulated to Ministers on 26 February, 1986, when I complained at that meeting about the delays in the matter being held up by the FCO and ODA. A further progress report was asked for in April, 1986. At the end of April, 1986, a progress report was produced, we were told shortly after that that the FCO/ODA had agreed to the proposals provided we footed the bill, naturally, and hence the meeting of 3 July, 1986. That is the sequence of events and Hon Members will see that in the intervening period of two and a half years the matter has been raised in Council of Ministers on at least eight occasions. The position now is that again the proposals had been accepted in principle by the TGWU, SACC have asked the Official Side that they be given until October to reply and that is the position that the Government is faced with. If the Government were to unilaterally, having regard to the fact that the TGWU have accepted the proposals, amend the legislation without introducing a unified pension scheme, amend the legislation retrospectively to lower the qualifying period from 20 to 10 years and therefore give a pension to these people who have retired in anticipation of general agreement with the rest of the Staff Associations, the Government I think would be weakening its bargaining position in whatever discussions may unfold over the next few months. Alternatively, what is the Government to do? It has reached agreement in principle with the TGWU, should it proceed unilaterally? Should it tell the non-industrial unions: 'Well, look, sorry, chums, we are really interested in aligning the conditions of industrials, we think that this is right and proper but we are going to go ahead and we are going to unilaterally introduce a scheme which we will then put before Government employees and they can exercise an option as to whether they remain under the existing scheme or opt for the new scheme'. I think that the Staff Associations, the non-industrials, may have a point that perhaps an inferior scheme is being put before them than the present one because retirement age will be 60 and each year of service will count as one over eighty as against one over fifty but the present scheme is an extremely lucrative one, it is a throwback to the old Colonialist days

and I don't think that one can find a scheme for non-industrials, because it is less favourable than in the case of industrials, for non-industrials I don't think that you can find just like that a scheme as good as the present one but I think the rough has got to be accepted with the smooth and the responsible position that non-industrial Associations, in my view, should adopt is that the position of everybody today in employment is absolutely safeguarded, everyone can remain on the day that this is introduced under the present scheme and it will only be people who come into employment in the future who will come under different conditions and anybody that serves a full lifetime of service, 40 years, will be entitled to pretty well the same level of pensions as we are now getting with the added advantage that people will be able to receive a pension with fewer years of service than is the case now. I would hope that the way should be clear if the House can come to terms today, Mr Speaker, for good sense to prevail for the remaining discussions to be speedily concluded, for the legislation to be enacted and hopefully if we could get a positive reply from the Staff Associations before October, I see no reason why the legislation cannot be enacted before the end of the year. The motion is not totally unacceptable to the Government, Mr Speaker, the spirit behind it, except in the first paragraph where by implication it is the Government that is criticised for the failure and I hope that it will seem that we have within the constraints that I have explained done our very best to expedite the matter. Therefore, I am proposing an amendment, Mr Speaker, namely, that all the words after 'the' in the first line of the motion be deleted and substituted by the following: '(1).... delay in providing pensions for industrial workers after 10 years' service in line with the existing provisions for non-industrials, as promised in December, 1983; (2) Notes that the Government continues to retire industrial workers compulsorily with 10 but not less than 20 years' service without payment of a pension; (3) Notes that the draft outline Pensions Scheme was last presented to the Staff Side on Thursday 3rd July, 1986, and that their reply is now awaited; (4) Therefore calls on Government to urge the Staff Side to discuss and agree the details of the Scheme and for the Government to take urgent steps to introduce the Unified Pensions Scheme without further delay'. I would hope, Mr Speaker, that the House could, broadly speaking, agree on this motion and that a message could therefore go from both sides of the House to the administration and to the Staff Associations that we are concerned about the potential hardship that is being caused to an increasing number of employees and that we would like to see this matter settled once and for all. Mr Speaker, I commend my amendment to the House.

Mr Speaker proposed the question in the terms of the Hon A J Canepa's amendment.

HON J BOSSANO:

Mr Speaker, this motion that was brought by us to the House necessarily is aimed at the Government because the GSLP is in the House of Assembly and seeks responsibility from the

Government which is elected to that side of the House for all the sins and omissions of everybody in the civil service, that is what they are politically answerable for, it doesn't mean that the Ministers themselves have taken a decision but it is a part of the political system that if a civil servant makes a mistake at the end of the day the Opposition does not criticise the individual civil servant, it criticises the Minister even though the poor Minister may have found out about it after the event. To the extent that it is critical and it isn't a censure motion, it isn't censuring the Government but, as far as we are concerned, the failure is on the part of the Government because it is the Government who came here, who told us what they were going to do. Their problems with ODA or their problems with the administration.....

HON A J CANEPA:

If the Hon Member will give way. I have tried to explain where the executive responsibility, having regard to the constitutional position of the matter lies and I can tell the Hon Member that in the 14 years that we have been in office we have made a great deal of constitutional progress in practice but the legalistic aspect of the constitutional position is one that cannot be denied. This formality of having to submit the proposals to London for the Secretary of State to come back and say churlishly: 'Well, yes, but you have got to foot the bill', I think is indicative of a very real problem.

HON J BOSSANO:

All I can say, Mr Speaker, I don't know who prepared the brief for the Secretary of State in London but we keep on talking about this Bill. Let us be clear that the Opposition does not support the view of the Government on the unified pension scheme and therefore there is no question of the Opposition saying: 'We urge the Government to urge the Staff Association to accept the Unified Pensions Scheme', because we are not saying they are right in wanting a unified pensions scheme and we are not saying that they are right in the ability that they claim to have to meet the pensions if they have a unified pensions scheme but not to be able to meet it if they don't have the pensions scheme. We don't understand why there has been so much of a problem in meeting what the union asked for for industrial workers. Let us be clear, first of all, what it is that exists today because presumably the Government knows and the British Government knows what we are talking about. One has to assume that that knowledge is there on the other side otherwise we cannot understand how they can come along and expect us to vote in favour of them urging the Staff Association to accept what the Government is proposing unless they know what it is that they are proposing. The reality of it is that we have got a pensions scheme in Gibraltar for white collar workers, for civil servants and non-industrials and non-pensionable officers and the non-pensionable officers get a pension which is inferior to that of the civil servant and which is a pension where they get three-quarters of a week's pay for every year of service with a maximum of half pay. So that means that if they do 35

years they get half pay and the Government has come along and said: 'I cannot afford to give you half pay after 35 years but I can afford to give you half pay after 40 years'. The difference between the multiplier of one over seventy and the multiplier of one over eighty is so small that it is not really worth arguing about if in the process you are going to deprive forty or fifty or one hundred people of a pension and they are going to be out in the streets without an income so therefore the response of the TGWU is a very logical one. If you have got a situation where you are arguing about whether it should be one over seventy or whether it should be one over eighty and the difference is for a man who has had ten years service something like 66p a week, well, you are not going to argue for the sake of fighting for 66p a week more you are going to have 50 people without a pension for two years because the difference is too small and the logic of the thing is to accept the one over eighty in order to get it settled. That is why the reaction of the industrial workers in principle is to say: 'Well, the difference between one over eighty and one over seventy is very small'. However, the difference for the white collar workers is much bigger because the white collar workers can get a pension of up to two-thirds salary and the multiplier for every year of service in their case is one over fifty and consequently the Government is going along to Staff Associations and saying: 'We have got a new scheme for you which is inferior to the scheme that you have got now except that the people who are on the existing scheme will not be required to move to the new one, only the people who join after the day you sign'. Well, every day that they delay signing is one more person that they have got into the old scheme so there is every incentive to delay, obviously. I don't know what the Hon Member thinks would be the reaction of the GTA if he was still in the GTA but the reaction of the GTA is to say: 'Well, why should we negotiate an inferior pension for future teachers than we have got for existing teachers?' The reaction of the Staff Association has been for the last two and a half years what I told the Hon Member it was going to be in December, 1983, and what any sensible person that knows anything at all about the operation of unions would know. That the unions are saying on the white collar side: 'Look, we are not saying you must not give it to the industrial workers, if you want to give it to them you give it to them, we are not stopping you but what we are saying is we are not prepared to see that improvement for industrial workers being made at the expense of us accepting less good conditions for our members or for future members of our union', that is what they are saying and what the TGWU is saying is: 'We are not prepared to see you, the Government, exploiting the situation of the people who have been retired in order to try and put moral pressure on the non-industrial unions to get them to accept what they say they will not accept by making them responsible'. I can tell the Hon Member that we in the GSLP are not prepared to take part in that game of blackmail. It is not a question of removing the Government's bargaining position, the Government has got no right to seek to bargain one group of workers against another group of workers. We think it is totally wrong and it is totally immoral. If the Government wants to change the conditions for civil servants because they are too generous,

they should come along and say to the civil servants: 'Look, we want to change it and if we have to have a fight with you we fight you', but they shouldn't make the scapegoat the industrial workforce and they shouldn't seek to make the scapegoat the House of Assembly, they shouldn't then go and say to the non-industrial union: 'Look, with the full force and the full weight of the House of Assembly you are now being urged to accept inferior pensions for future school teachers, future Clerks of the House of Assembly, future people doing the tape recording', no, we are not a party to that and therefore we are against the amendment because that is what the amendment wants us to do. It wants us to tell the Government to urge the Staff Association to discuss and agree a scheme which the Staff Association have already told the Government: 'You are asking us to invert the role of unions. Unions negotiate improvements, they don't negotiate to go backwards'. That is the response of the unions and that should be obvious to anybody that has been in the Trade Union Movement on that side of the House and I think it would be their reaction if they were in the shoes of those unions and because this was obvious to me from the beginning, Mr Speaker, I told the Member at the time and because it was still not moving I remember that he was asked, I think it was in 1984 or even last year, about an interim arrangement and he said he knew nothing about an interim arrangement and I remember when he answered a question in this House saying that they were awaiting for a reply from the unions and how upset he got when he discovered that, in fact, he had been badly briefed and they were not awaiting a reply from the unions because the unions had not had anything put in front of them for them to reply to. I am not saying the Government doesn't want people to have a pension, this is not what the Opposition is saying because if they didn't want to do it he wasn't forced to give me the reply he gave me in December, 1983, we held one seat in the House of Assembly at the time, I couldn't put a gun to his head, I brought the motion here because I was in favour and sympathetic to the stand being taken by industrial workers, we had people who were 70 years old and with 18 years service and they were waiting to be 72 so that they could get a pension because if they left at 70 with 18 years service they didn't get it. That is the situation we had in 1983 and we had a situation where the Government on the one hand was saying and the Minister for Labour was saying here in the House: 'We have got to do something about elderly people in employment well over the normal retirement age when we have got school leavers coming out of schools and these people are blocking the jobs, and on the other hand we cannot do it because there are some cases of people who came late into Government service'. In other cases people who many years ago used to go into this practice of dealing with their gratuity as if it was a savings account and when they got to the 20 years they then got their gratuity and bought themselves a television and then started counting years all over again so they just might have done 39 years with one lot of 29 years having been bought out by a gratuity 19 years ago and then be on his second leg of his second 20 years. There are many, many elderly male industrial workers in the Government service in that category who when you count their years have been there perhaps since they were 15 years old but, in fact, they may be now on their third

20 year leg. It is unfortunate that it happened like that and it is not a desirable situation but once you inherited that kind of mess at the end of the day what you have got to look to is do we really want to have a situation like we have today and I can well believe that the Hon Minister for Economic Development has people pestering him about what is going to happen with the pensions because they do it to me as well and they keep on calling at the office and they say: 'Well, what progress is being made?' And I have to say to them: 'Look, the fact that you have got a letter saying to you', and you have got to understand, I think, Mr Speaker, that we are talking in the main about people who are nearer 70 than they are 60 and we have got people whose understanding of the English language is not as good as it is with industrial workers nowadays who have been through an English educational system and as far as they are concerned they half understand the letter that they have got and the letter that they have got says to them: 'You are going to be retired and you are going to get a pension' and it doesn't say when they are going to get a pension because it says: 'When the Unified Pensions Scheme is coming in'. And they have had that letter in some cases now for fifteen months and they say: 'Well, when am I going to get this pension, I am now 77 and I am going to be 78, what does it mean? Doesn't this mean that I am getting a pension?' I think most of the people although the letter is clear and the letter does not seek to mislead because I have seen the letters myself, I think most people misread into that letter that the pension was just round the corner and that they were going to be retired and then within a matter of weeks or a couple of months at the outside they would be called in and the pension would be there. I have no doubt that they are calling back at the Secretariat knocking on people's doors like they are doing at mine. I don't think the problem of those people can be solved by us urging the Government to urge the Staff Association to do something and I think it is wrong to put the responsibility on the Staff Association for the people who have been retired as industrials without a pension. I also think the Government must understand if they don't already, that it is very peculiar for a Government to come along and say to the civil servant: 'Look, I am putting in front of you a proposal for a pension scheme which is inferior to the UK', because you have now got a pension scheme which is superior to the UK and which is inferior to the one in the UK Departments in Gibraltar which is marginally inferior to the UK, the only difference really between the UK Departments' pension scheme in Gibraltar and that took eight years to negotiate, it was finally negotiated in 1980 and signed in 1980 and made retrospective to 1972 for all the people who had been retired without a pension in those eight years, we don't want to repeat that. The only difference between those two which at the end of the day the unions accepted because it was a difference that was not worth holding up the entire exercise for any longer, is that in UK you get a pension after five years service and in Gibraltar you get a pension after seven years service. The Government is coming along and offering people a pension after ten years service, not after five like it is in the UK civil service, not after seven like it is in the UK Departments but after ten years but with the same multiplier of one over eighty.

Any person getting hold of the Government's proposals and getting hold of the proposals of the MOD will come to the conclusion that all that they have done and you don't need to be an expert or bring anybody from UK to do that, is to pick the one over eighty out of it and put it in yours and forget all the rest. There are many, many other things. Apart from anything else I believe, quite frankly, that in spite of what the Government has said about the generosity of the multiplier of their pension scheme that if they went all the way with the UK pension scheme which in my view is the only way that they are going to get a unified pensions scheme, if they get it, I don't see any union in Gibraltar accepting anything inferior to the UK civil service pension scheme and if they go all the way I think they will find that there are quite a number of elements which come more expensive and that the difference between the two may not be as much as it is being cut out to be just like the difference between what the union asked for for the industrial workers which was to say: 'Give them a pension after ten years on the existing multiplier which is one over seventy'. All that the union asked for in 1983 and I am sure that even if it has to be approved by ODA and approved by the Foreign Office and by everybody else, the House of Lords and God knows who else, all that was being asked was to take 20 out of the law and put 10 in and leave everything else the same so that the industrial worker with 10 years service would have got a pension which would have been based on a multiplier of one over seventy, that is to say, that for ten years service he could have had one-seventh of his pay, so if he is earning £70 a week then he gets £10. The Government turned that down because it was too expensive and proposed it should be one-eighth. We are talking peanuts. I don't believe this would have taken so long if the Government would have said: 'OK, we are prepared to give you the pension after 10 years because we have recognised that we have got many people who are never going to make the 20 because of their age but we are not prepared to perpetuate the existing scheme which is out-of-date and therefore we are putting you on notice that it is our intention to modernise the Pensions legislation, bring it up-to-date but we recognise we have got a problem with 20 or 30 people every year who are retiring because they just really cannot go to work anymore and those people need to be looked after because it is not their fault'. Had they done that in 1983 or in 1984 or in 1985, I believe they would have made more progress in getting a new scheme, fully protected the existing people and the cost would have been minimal, negligible. We are talking of a couple of thousand pounds a year between what they are offering to pay retrospectively and what they would have had to pay at the most and I don't think it would have been so difficult to convince the Secretary of State that whilst this process of change was going on which was going to be a lengthy and

cumbersome one this minute amendment should take place. Let me also say, quite frankly, that if it wasn't that we are dealing with a group of people who belong to an old school they would not have the problem because there is a very easy loophole in the law which would enable all of them to get a pension but we happen to be dealing with people who belong to an old school and who feel conscientious about work and who feel guilty about not acting honestly because all they need to do and it is very easy to do when you are 69 or 70 is to go to a doctor and say: 'I want to be medically examined because I feel it is too much work for me now' and when you have got a 69 year old man with 18 years service and any doctor will tell a 69 year old man who is working as a labourer: 'You really are too ill at 69'. I have had people who have been effectively retired by doctors from the St Bernard's Hospital and they have put on the thing that because of old age this man is no longer fit to keep on working. Then that man would be entitled to a pension after 10 years service but the people concerned feel that that is dishonest and because they feel that that is dishonest, which I don't think it is, quite frankly, I think it is perfectly legitimate, they are not malingering, they are not pretending to be ill, they have given in some cases just like we have had people who although they had a cut off point, we have had people in the Government service whose maximum pension was after 35 years and who have done 35 years for the Government effectively without getting anything for it just because they felt that they were strong enough to keep on working and in some cases, in fact, we have had also the unfortunate experience that some of these people who have worked all their lives, retiring them unless they can be found a way of still playing an active role in society is almost condemning them to death.

HON A J CANEPA:

And then there are the others who have done very little work and are now driving taxis with 20 years pension.

HON J BOSSANO:

But the fact that there are people like that shows one thing, Mr Speaker, what it shows is that it pays dividends to be like that, that is what it shows and therefore what should one recommend to somebody? To be conscientious and honest and hardworking and then be carried feet first at the age of 90 with everybody saying: 'What a wonderful man he was, it is a pity he died of starvation', not that anybody is starving because we don't have that in Gibraltar. I don't believe and nor does anybody believe on this side of the House that the Government is unsympathetic to the case of these people, we have got no reason to believe it, Mr Speaker, and therefore

when the motion asks the Government to do something about it it isn't so that we can then go out collecting votes of old people and saying: 'See how bad they are, they don't care about you'. The Government knows in any case that most of the people we are talking about are die-hards AACR who will still vote for them even if they don't get a pension, they know that and I know that, we know the people concerned because they are people who were founder members and people who were in the original struggles of the OCL in 1945 and those people also feel that it is wrong to change loyalties, they also feel that. This is not a motion brought to the House out of any attempt to make political capital or to hit at the Government or to make them out to be insensitive, no, it is a motion brought to the House because we feel that really the way that it has been played for the last two and a half years and urging the Staff Association to change their mind as the amendment proposes is not going to produce the goods for those concerned, quite frankly, Mr Speaker, and the problem will not disappear unless the Government suddenly decides to change its policy and stop retiring people at 65. Then you will have a situation where the people who were retired at 65 a month ago will come back and say: 'How come I was retired at 65 and now there are people with 66?' Once you start along a particular road it is very difficult to turn back and it is not that we are harassing the Government on this, it isn't that we have been bringing motions every three months. We have given the thing a fair amount of time for it to go through the system and I can honestly tell the Government that the Unified Pensions Scheme that they have produced and the Unified Pensions Scheme that they want to see is a very, very long way off. That is the honest truth and they must know that this is so and the fact that there are people who are as a consequence of that suffering the deprivation of a pension which they have been promised they will get eventually retrospectively will cut no ice and, in fact, the non-industrial civil servants resent and in my judgement are entitled to resent that they should be made out to be selfish or uncaring because they are not prepared to bargain away things that they have got in order that somebody else should get it. At the end of the day the Minister says to us: 'Well, the ODA approves it and the Foreign Office approves provided we pay for it'. Well, it seems to me that he is doing the same thing to the union. He will approve it provided they pay for it.

HON A J CANEPA:

If the Hon Member will give way. I hope the Hon Member should give a little bit more credit having regard to the way that I have presented the case on behalf of the Government that I don't think I have been critical of the stand. Notice what the

amendment does, it urges them to discuss and agree, it doesn't say: 'Look, say yes, accept it', discuss and agree. But I hope he doesn't think that I am being critical about the stand that they are taking because, as he rightly says, if I were in that position I might well take the same stand and I don't want anybody to go away with that impression, that it's not the case.

HON J BOSSANO:

I am glad to hear the Hon Member say that because then I think he must understand that the question of discussing the thing, it is not going to be discussed any more rapidly as a result of the motion and it is not going to bring the conclusion of the thing any nearer and the problem of the people who are out still stays there. We certainly don't object, for example, to an amendment that removes the reference to the Government if he feels that by saying: 'notes with concern the failure of the Government', we are being hypercritical, we would be prepared to say: 'Right, we note the failure and we don't say whose fault the failure is, we take away 'Government' to provide a pension'. But I think we have to ask the Government, as an Opposition, on the basis of coming along and saying: 'Well, look, there is a problem in the strategy that you had proposed to deal with the situation in December, 1983, clearly because here we are in July, 1986 and we are really no further down the road we were then', that is a fact, we are no nearer to a solution, so clearly that particular road has not produced results. In that context, urging everybody to keep along the same road will not solve the problem so what we are saying to the Government is you have got to look at it from a different angle and, as far as we are concerned, we know that the TGWU's position has been to say to the Government: 'You have got two choices, either you do as an interim what we suggested that the people in post get it after ten years until a new Unified Pensions Scheme is in place and then we will go along with everybody else at the same pace because the current people are protected or alternately you do a scheme with us and then you go with the others at their pace'. We think that that is a sensible alternative. The Government may not be able to decide that without consulting the Secretary of State, I don't know, but at the end of the day perhaps we should ask somebody to raise it in the House of Commons instead of raising it here because if the political decisions have got to be taken by UK Ministers then, fine, what we will do is we will ask some of our friends on the Labour side to put a motion in the UK Parliament raising the issue there and say to the British Government: 'What are you doing about all the Crown employees that are being retired from your employment in the Government of Gibraltar without a pension?' Accepting the Hon Member's amendment, certainly the last part, gives us the impression and will give others the impression, I am glad he has clarified that it is not the intention to do that but I think if we are asking the Government to urge the Staff Side to discuss and agree the details of the scheme then we are saying that we and the Government are joining forces really because it is the Staff Side that is dragging its feet. Mr Speaker, I am going to move an amendment to the Hon Member's amendment which effectively deletes

paragraph (4) of the amendment, we don't mind paragraph (3) because that is just a statement of fact that it was presented and a reply is awaited, we delete paragraph (4) and what we are proposing is that we add a new paragraph (4) which would be the original paragraph (3) with changes which perhaps make it easier for the Government to accept, that is, in the original paragraph (3) we were asking the Government to take immediate action to provide pensions for those industrial workers. In the light of what the Hon Member has said about the constitutional position and the difficulties in any changes in the Pensions Ordinance, what instead we want to say is that they should provide an interim solution without specifying that it should be a pension and then that removes the constitutional problem about talking about pensions. It would therefore read: '(4) Therefore calls on Government to take immediate action to provide an interim solution for those industrial workers with at least 10 years service who have been or are being retired', and that would follow from the basis that we know a scheme has been presented and we know a reply is being awaited but while we are waiting for the reply something really needs doing which is the essence of what we are proposing.

MR SPEAKER:

I understand then that you do not object to any part of the first three paragraphs of the amendment.

HON J BOSSANO:

No, on that basis we would support the Government's amendment because really we are not here to accuse the Government of anything, we are just here to try and see if we can get some progress. The proposed paragraph (4) would read: 'Therefore calls on Government to take immediate action to provide an interim solution for those industrial workers with at least 10 years service who have been or are being retired', and we leave it to the ingenuity of the Hon and Learned Chief Minister to think up what the interim solution should be. I propose that the amendment proposed by the Hon Minister for Economic Development should be amended further by the deletion of paragraph (4) and the substitution thereof of a new paragraph (4) to read: 'Therefore calls on Government to take immediate action to provide an interim solution for those industrial workers with at least 10 years service who have been or are being retired'. We might even think of making them a loan since we are now in the process of making loans to everybody including GSL, Mr Speaker.

Mr Speaker proposed the question in the terms of the Hon J Bossano's amendment to the Hon A J Canepa's amendment.

HON CHIEF MINISTER:

I just want to make three or four remarks on practical experience and absolute ignorance of the details of the matter. First of all, we introduced pensions for industrials in the City Council before anybody else did in Gibraltar after 20 years

service and the then non-Executive Government, that is to say, there were no elected Members with executive authority then, had necessarily to follow suit because the Council had done it and that is, in fact, what happened in most industrial process at the time. The Council had an elected majority which made progress and the Government which didn't have an elected body had to follow suit because of the pressure. But shortly after we introduced that there was a spate of applications of people wanting to have their gratuity and be re-employed. That must have been some time in the early 1960's. I remember quite clearly telling people after having obtained, which wasn't easy to get approval, after obtaining a pension for them trying to persuade them not to spoil that pension by getting £400 or £500, paying for a debt or an operation or a car or a holiday and then starting again. I confirm that that was the case and there was a spate of that that lasted for about eighteen months and many of those probably have suffered considerably as a result of that. The other thing that I must say is that I was not aware that the pensions scheme which is being offered to the Staff Side is less favourable to that which is provided by the Services and that I take note of. But I am also conscious of one thing which whatever happens with regard to the 10 years which we will have now to take an initiative and I know what that initiative will be, we can do it. What I think is unfair about the pensions scheme of the Government for the non-industrials is their entitlement to retire at 55. That is a great disservice to the Government and a very expensive thing indeed and that is something I have always fought against because if you want to ask an officer who is not satisfactory for any reason to leave at 56 or 57 which we have a right to do, the Establishment and the administration put up their arms and say: 'Well, you have to justify, he wants to stay until 60', so it is his choice, if he wants to stay until 60 and you don't like him you have to carry him and it has been an effort in one or two cases to try and persuade people that they have to go at 57 or 58 without any blemish on their character but they have to give way to somebody else. That I think must be solved in any agreement that is negotiated with the Staff Side and, of course, this tied up for the future, people who have that entitlement can never be deprived of it but there are people who have started young, who have gone up in the service and do not wait one day beyond their 55th birthday to get their gratuity and their very good pension and care two hoots how long it is going to take to have that man replaced in a place where he has become important to the service and useful. That is a practical thing which I see in the administration personally, that I think is unfair and that is better, whatever else may be said about the staff pensions, that is better than what the people in England have, they are not entitled to retire until 60. These are just thoughts on matters which I have seen at close quarters and I know that we have a commitment with the people over 10 years and that the longer we take the more anguish there is going to be and the less people are going to benefit if we take much longer.

Mr Speaker then put the question in the terms of the Hon J Bossano's amendment, to the Hon A J Canepa's amendment which was resolved in the affirmative and the amendment, to the amendment was accordingly passed.

MR SPEAKER:

The question before the House now is the amendment proposed by the Hon A J Canepa as amended. You have the right of reply.

HON A J CANEPA:

There are a couple of points I want to take up, Mr Speaker. The Unified Pensions Scheme that has been put to the Staff Side is, of course, not inferior or that indeed that was presented in November, 1984, was not inferior in any respect. I think it had a number of provisions which were desirable. For instance, the provision whereby someone entering the service late in life because of the exigencies of their profession like an engineer, for instance, or a doctor, a barrister, the provision whereby that person would be able to buy back years of service so that if someone entered the Government service, say, a doctor at the age of 40 and retired at 60, under the present pensions scheme he would only be able to have 20 years service towards a pension and therefore he would never get a full pension. Under the Unified Pensions Scheme that was put to the Staff Side in November, 1984, there was, I think, provision for this concept of buying back years of service according to a certain formula of repayment which I think would have been very beneficial in the absence of transferability of pension rights for those individuals. I think it would make it more attractive for Gibraltarians who may have left Gibraltar, who may want to come back and practice their profession years afterwards to do so. There was also the concept of the unfreezing of pensions. At the moment persons retiring at 55, as explained by the Chief Minister, have the indexation of their pensions whereby they are increased in line with the cost of living every year, that indexation is frozen for five years, between 55 and 60, it doesn't seem to act as much of a disincentive, let it be said. The road that we have been travelling does not seem to have produced results, Mr Bossano has explained, and the indications he said are that it is not likely to do so. I am frankly somewhat puzzled to understand why at last Thursday's meeting the Staff Association Coordination Committee asked until October to give a reply.

HON CHIEF MINISTER:

So as not to lose summer hours.

HON A J CANEPA:

I wonder whether it might not in that case have been better that they should have given a reply much earlier than that, after a week or two of consideration which would help, I think, to expedite matters all round. I will conclude with this thought, Mr Speaker, there is a need for a new pensions scheme. The present one is out-of-date in many respects. It is also the subject of some abuse. There is an increasing tendency in certain areas of employment and I won't mention which sectors are involved in that tendency so let me just refer to them as employees of the Government who having got employment in a well

remunerated sector of employment within the Gibraltar Government, soon after they reach their 10 years of service they begin to suffer from depression and before very long they succeed in being retired on medical grounds, being awarded a pension of 20 years service which at the rate of salary being paid in that sector of employment becomes a very lucrative pension, a very high pension, and because they have been retired on medical grounds, every year it is increased in line with the cost of living and that is a scandal, it is militating against the interests of the service which gives the public service a bad name and I think that I would urge here, I have no compunction in urging Staff Associations to cooperate with management in eradicating this because it gives the public service a bad name.

Mr Speaker then put the question in the terms of the Hon A J Canepa's amendment, as amended, which was resolved in the affirmative and the amendment, as amended, was accordingly passed.

HON M A FEETHAM:

Mr Speaker, having clearly established that having gone down a particular road in relation to this problem hasn't produced up to now the desired results, I am pleased that the House has been able to establish a commonsense policy on how to tackle the problem even though it is going to be in an interim manner and I am hoping that, at least this side of the House and I am sure the Government is in agreement, that having agreed on this that this will produce a solution, particular for those 55 people who have been retired.

Mr Speaker then put the question which was resolved in the affirmative and the Hon M A Feetham's motion, as amended, was accordingly passed.

HON CHIEF MINISTER:

Mr Speaker, I was going to propose the adjournment of the House but before that notice was given of a motion by the Hon Mr Mor yesterday which would require the suspension of Standing Orders. I had a word with the Leader of the Opposition and subject to a statement being made by the Minister for Education, I understand that we will not have to take a stand on whether the suspension of Standing Orders should be taken. I wouldn't like to refuse it but I don't think I can accept it so we have found a compromise and the Minister for Education will make a short statement on the matter which I think will satisfy Members for the moment because we haven't got enough information.

HON J BOSSANO:

I would just make the point, Mr Speaker, that we wouldn't normally, in fact, have done it except that when the issue came to our notice there wasn't the necessary time and that having discussed it the Party felt that by the time we meet after the recess it may be too late to do anything about it but we would not normally put the House in the position of having to suspend Standing Orders, anyway.

MR SPEAKER:

Then I will call on the Minister to make his statement.

HON G MASCARENHAS:

Mr Speaker, it is a short statement. The European Commission recently took up with the British Government the matter of access to vocational training courses by nationals of other Community States. As a result of this, the Secretary of State for Education and Science, Mr Kenneth Baker, stated in the House of Commons on the 1st July, 1986, that as from the 1st September, 1986, students who are nationals of other European Community countries and are studying in the United Kingdom on courses designated for mandatory award purposes in England and Wales or which are covered by equivalent awards will have their fees paid by the British Government if they satisfy the same or equivalent conditions for eligibility for such assistance as are applied to UK students. We have sought clarification on this but in the absence of any further information it is impossible for Government to formulate a new policy but once a reply is received then we will be in a position to consider the implications and obviously what improvements can be made to the scholarship system. That is all I have to say.

HON J BOSSANO:

Mr Speaker, I think the point is that we have brought a motion essentially which is based on the Minister's reported elation in the Chronicle and we therefore assumed that he knew that he was going to make a saving. We are now being told that he isn't sure but, of course, what we really want from the Government is an assurance that if between now and September they get official confirmation and therefore they have got money available to them which they didn't anticipate having, then we wish to see that money retained within the Minister's Department and used to provide extra scholarships rather than used for some other purpose. Of course, if October comes along and they still don't know then we accept that they cannot do it. If that is the understanding then, fine.

HON G MASCARENHAS:

Mr Speaker, I think I can give the House a guarantee.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I now move that the House do adjourn sine die.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned sine die.

The adjournment of the House sine die was taken at 7.15 pm on Wednesday the 9th July, 1986.