

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

26TH MARCH, 1991

VOL III

TUESDAY THE 9TH JULY, 1991

The House resumed at 10.45 am.

PRESENT:

Mr Speaker (In the Chair)
(The Hon Major R J Peliza OBE, ED)

GOVERNMENT:

The Hon J Bossano - Chief Minister
The Hon J E Pilcher - Minister for GSL and Tourism
The Hon J L Baldachino - Minister for Housing
The Hon M A Feetham - Minister for Trade and Industry
The Hon J C Perez - Minister for Government Services
The Hon Miss M I Montegriffo - Minister for Medical Services
and Sport
The Hon R Mor - Minister for Labour and Social Security
The Hon J L Moss - Minister for Education, Culture and Youth
Affairs
The Hon K W Harris QC - Attorney-General
The Hon P J Brooke - Financial and Development Secretary

OPPOSITION:

The Hon A J Canepa - Leader of the Opposition
The Hon G Mascarenhas
The Hon M K Featherstone OBE
The Hon Dr R G Valarino
The Hon Lt-Col E M Britto OBE, ED
The Hon K B Anthony

The Hon P R Caruana

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

MOTIONS FOR ADJOURNMENT : DEFINITE MATTER OF URGENT PUBLIC
IMPORTANCE

MR SPEAKER:

I have been given notice by the Honourable Leader of the
Opposition, Mr Canepa, that he wishes to raise the suspension
of the operations of the Bank of Credit and Commerce as
a matter of urgent public importance and for this to happen
we must have the agreement of the House or at least of two
Members. Does the House agree?

This was agreed to.

MR SPEAKER:

Now according to the Rules we should be taking it this evening
about 5½ hours from now but I believe that the Leader of
the Opposition considers this to be so important that he
would like, if possible, to raise it now. Again if the
House wishes to do that we will have to suspend Standing
Orders and someone will have to move it.

HON CHIEF MINISTER:

Mr Speaker, I beg to move under Standing Order 7(3) to suspend
Standing Order 7(1) to enable the motion on the adjournment
to be taken at this stage rather than at the end of the
proceedings.

MR SPEAKER:

Under this Rule, the matter is discussed or debated and
no vote is taken and we cannot take more than forty minutes
all told. So if the mover wishes the Government to reply
he has to give time for a Minister to be able to reply.

HON A J CANEPA:

Thank you very much, Mr Speaker. I am very grateful to
Members of the House for the opportunity to raise this urgent
matter of public interest now. Let me make it clear right
at the outset, Mr Speaker, that the last thing that I would
want to do would be to give the impression that I am trying
to make political capital out of this serious and
unprecedented matter affecting the livelihoods of many
hundreds of people and families in Gibraltar. There is
nothing that I can say that will give practical comfort
to those who have been adversely affected by the suspension
of the operations of BCC International in the United Kingdom
and elsewhere in the world and more to the point the branches
here in Gibraltar. I however felt that it would be
unthinkable and that we would open ourselves to criticism
if the House convenes this morning and we went on about
our business as if nothing had happened. Important as that
business is, because the first item on the Agenda is, of
course, the motion to note the Accounts of GIBREPAIR more so
having regard to the fact that GIBREPAIR has also closed
its operations as from the beginning of July. Mr Speaker,
one of the first points that I ought to highlight is the
difference that there is in the situation in the United
Kingdom following the closure of the bank there and here
in Gibraltar. In the United Kingdom as Members probably
have now read in the media there is a fund which is
administered by the Bank of England through the Deposit
Protection Board which gives a modicum of protection to
depositors to the extent of three-quarters of the amount
held on deposit to a maximum of £15,000. I understand that
the procedures, the well laid down procedures, should ensure
that that is an aspect of the operation that ought to be
dealt with fairly expeditiously. It is also, I understand,
intended from the reports that I have heard that procedures

will be put in hand to give urgent help to small businesses who by the closure of the bank in the United Kingdom have effectively had the ground cut under their feet in their ability to conduct their business. The difference here of course is that persons holding deposits in the Gibraltar branches i.e. persons banking with the Gibraltar branches, be it having their life savings on deposit locally in Gibraltar, in current accounts or other arrangements including, for instance, the purchase of travellers cheques, etc, then these persons do not have access to their money. Some of them were employed with the bank and had their money with the bank. They are out of a job and not only are they out of a job, but they do not have access to their savings. Under Gibraltar legislation there is currently, no arrangements to give them comfort, to give them help, in line with what is available in the United Kingdom. So the matter here is a great deal more serious. Mr Speaker, one hears about cases of an individual, for instance, who has put all his money in a taxi licence and who has now at the end of a working life sold that taxi licence, invested the money in BCCI in order to live on retirement from the interests of that deposit. That person now does not have, first of all the interest coming on stream and he does not know what the future is of the amount held on deposit. I think, Mr Speaker, all these aspects together with the question of the loss of jobs is a matter which I think the Government is going to have to address immediately to see what special help can be given by the Job Centre and by the Department of Labour and Social Security to assist these people. First of all in respect of welfare benefits and secondly to try to find another job which is even more important than payment of welfare benefits. The other point that, I think, the Government is going to have to give consideration to in the medium to long term is whether arrangements should be set in hand in order to provide a degree of protection, a measure of protection along the lines of what is available in the UK. Obviously there is no Bank of Gibraltar that can fulfil the functions being fulfilled in the UK by the Bank of England. But, perhaps, we could expect banks licenced in Gibraltar to be required in return for operating in Gibraltar to make compulsory contributions into a scheme that would provide a measure of insurance, protection for depositors. Either the banks should do that individually or that they should do so collectively. These are not matters that would be of direct comfort to those who have been affected because we are talking about an attempt to close the stable door after the horse has bolted. But in the world in which we live, with the complexities that there are, with the extent to which I understand that we may lose even more of the control that we now have over existing banks, I think, that it is a requirement for the future to give confidence to depositors and creditors that they should know that there is a degree of protection available to them. I do not expect the Chief Minister to be able to give me an immediate reply to this matter. It is just a thought, an idea, which I put across and which, I think, is going to have to be given serious consideration to if the Government is going to be able to continue to develop its policy of developing their financial

institutions in Gibraltar on the basis of the confidence and support of ultimately depositors who are part and parcel of the electorate. I do not wish to take up too much of the time of the House because I want to give other Members an opportunity, Mr Speaker, to contribute to the debate. But there is a point also that I feel that I have an obligation to make and to give the Chief Minister an opportunity also to say something about it. The point is the question of Gibraltar's good name. I sympathise and I can understand the anger, in particular of expatriates living across the way, who have retired and who have deposited through the Gibraltar Branches either locally or in the United Kingdom or elsewhere their savings in order to be able to live the existence to which they are entitled but, I think, that I must ask them to understand that the fact that the Branches in Gibraltar have closed is not of Gibraltar's doing. There is nothing improper about the operations of the Branches here as we know the facts. That is not what has caused the problem. In fact, I would ask them to take note of the fact that whereas two Branches have closed here, fortyeight have closed in the United Kingdom, not because of anything that has happened in Gibraltar, but because of what has happened elsewhere and that if anyone who cares to look into the covers of a BBCI Diary will see how numerous are the number of Branches in Spain that have been closed. At a cursory glance I would say that there are about twenty Branches of BBCI all over Spain and they have had to close down. Their operations have been suspended. I just ask that because it is very easy for people to give vent to their rightful anger, sometimes because the right questions are not asked. I heard an interview being conducted yesterday over radio, where I was appalled by the question that was asked, "Do you blame Gibraltar?". Obviously the interviewer did not know the consequences of Branches closing in UK or the input of the fact that forty odd Branches have closed in UK and that twenty odd Branches have closed in Spain. Sometimes it is ignorance and the wrong question being asked at the wrong time that elicits these angry responses and then unjustifiable blame is put on those who are not to blame. It is so much more comfortable to hit Gibraltar because Gibraltar has been hit by Spain of late and by others so why not join the gang and hit Gibraltar instead of criticising the Bank of England in the United Kingdom for having taken so long over their investigation or the fact that no warnings had been given or insufficient warnings or what have you. That, I think, is an additional point that needs to be made. So, in conclusion, Mr Speaker, as I say, I cannot give comfort to those who are affected, but my heart bleeds for them because I am aware of individual concrete cases of grave hardship that is being caused. I am not going to go much further in other facts other than I am also aware that it affects Members of this House although not to such an effect. The real hardship that I am talking about is of people who have lost their jobs, who lost their life savings and who are not able to operate their businesses because they were banking with the bank here. One's heart goes out to those people and if immediate help cannot be given in the short term then I hope that various lessons are going to be learned from what has happened so that we do not have a repetition of this in the future.

MR SPEAKER:

Any other Member who would like to speak.

HON G MASCARENHAS:

Mr Speaker, having listened to the Financial Services Commissioner last night on television and taking the level of deposits at present, £96m, was the figure that he quoted yesterday, Mr Penman-Brown a safety net for that amount was beyond Gibraltar's resources. Mr Speaker, I pose the question and perhaps the Chief Minister can give us a reply; "If the Government of Gibraltar is on the road of borrowing huge sums of money perhaps is there any way that the Government of Gibraltar can borrow locally rather than outside Gibraltar and therefore there is a modicum of security for investors from the outside?" I am not saying that the Government of Gibraltar should borrow the £50m locally in Gibraltar but if the Government of Gibraltar were to borrow locally you could very well present to the outside world that there is an element of security because the Gibraltar Government would obviously have to repay that loan. I hope the Chief Minister understands what I am getting at and if he could give us a reply if that is possible.

HON P R CARUANA:

Mr Speaker, I think, it is possible, at least speaking for myself and my Party, to express solidarity with the views expressed by the Honourable the Leader of the Opposition, insofar as he expressed extreme sympathy for those that through absolutely no fault of their own have found themselves in a position where they have suffered in many cases, and I have heard even more hair raising stories than the one that the Leader of the Opposition has described, and they unquestionably represent very severe blows to the individuals involved. I think that the Honourable the Leader of the Opposition makes a very good point when I think he cautions Gibraltar of the need to guard against others making unfair propaganda value of the demise of BCCI. And when he has quite rightly intimated that the question posed in the interview yesterday "Do you blame Gibraltar?", is a highly damaging question, because the questioner appears to overlook the fact that one can often do more damage in the question that one asks than in the answer that he elicits. The same is true, with the greatest of respect to the Honourable Leader of the Opposition in relation to calling too easily for a Life-boat Fund to be established. Because if you call for a Life-boat Fund to be established and that is a highly complicated far-reaching matter with great ratifications then it may lead people to believe that the fact that we do not have one, or that we do not put one in place, means that we are less than other places comparable to Gibraltar and it has the same possible damage value as the question put by the interviewer about the question of "Do you blame Gibraltar?". The fact of the matter is that this business of Life-boats is a relatively novel principle even in many leading Finance Centres. The most advanced

instant is in the United States where the protection by the Federal Authorities is practically total. In England, it is much more limited and relatively recent. The City of London developed for many hundreds of years the Finance Centre without a Life-boat Fund and there are many Finance Centres much more, in their own opinion, much more prestigious and advanced than Gibraltar that do not have a Life-Boat in relation to deposits. The fact of the matter is that I believe that when Off-shore users of the Finance Centre decide what bank to put their money in, I think they choose institutions and not the territory. And perhaps there is a lesson to be learnt from this affair in that respect. I would support, nevertheless, the call made by the Honourable the Leader of the Opposition to the extent that, I think, Government should look into the possibility of some sort of framework in this respect, but if Government came to the conclusion that there was no scheme that was practically attainable either within the bounds of the views of the private operators in the banking industry or on the basis of cost to the Treasury of the Government of Gibraltar, then I would not from that conclude, Mr Speaker, that Gibraltar is any less well regulated Finance Centre than any other.

HON CHIEF MINISTER:

Mr Speaker, obviously Members on this side of the House entirely agree with the sentiments of sympathy for those affected. A number of Members of this side of the House are in need of sympathy themselves, in fact, because they used the bank and they had last month's pay put into it they are in the same situation as other people who suddenly find that their month's salary is not there to be spent anymore because it is frozen. We have intimate knowledge of what the victims feel like. Let me say also of course that the Government found out at the same time as everybody else. This was a matter dealt with through the Bank of England and the Financial Services Commission. It was being coordinated at an international level with the tightest of security so that there was no warning that there was going to be simultaneous action mounted in several Countries and we support fully that this is something we should not have had communicated to us frankly because the last thing we wanted was that there should have been a leak in Gibraltar and then people would have been saying well how did the information get out. It was the right thing that the professionals who are in law obligated to regulate financial institutions in Gibraltar in contact with those doing a comparable job in other jurisdictions should have been the ones doing it. It was done with Gibraltar, UK, Spain, the Isle of Man, Luxembourg, all taking simultaneous action. My understanding of the situation is that the bank in Gibraltar has not been involved in any fraud, has not lost any money, was running its business well and had no reason why the depositors should have been at risk at all if the money had been re-invested with somebody other than another Branch of BCC. The only reason why the branch in Gibraltar is unable to meet its liabilities is because it is unable

to cash its assets because those assets are the liabilities of the Cayman's Branch. Therefore it is the failure of the BCC Cayman's Branch to be able to pay back the money to the Gibraltar Bank, the £90m, that makes it impossible for the Gibraltar Bank to pay the £90m to the owners of that money. That, Mr Speaker, is my information based on the Report that has been submitted to the Government. In fact if that is indeed the case then one can see that it is impossible to protect oneself against that situation because there is no wrongdoing in Gibraltar. The banking system in Gibraltar has £3½ billion. I take the point that the Honourable Member has made of creating opportunities for the local banks to lend the Government money, but however much I stretch the Government's borrowing requirement I do not think I can get anywhere near £3½ billion. So, Members will see that in fact the very essence of what we are trying to create as an international Financial Centre creates this kind of risk. The Cayman Island is considered to be probably the most successful banking Off-shore Centre in the world. It has two hundred banks as opposed to our thirty and it is the tenth banking location in the world, with 12,000 people. It is a British Dependent Territory and therefore it has the same constitutional relationship with UK as we have. So, obviously the situation is that being as big as the Cayman Islands, which is the entire source of their prosperity, does give opportunities for unscrupulous people to hide things. This is why I have said on many many occasions that if one wants to launder money and if one wants to commit fraud you go to the Cayman Islands where there are tens of billions of pounds and two hundred banks. You do not come to Gibraltar because in Gibraltar it is so small that if there was a big shift of big sums of money it would be noticed. I think also that we need to be clear of what we mean by a life-boat operation. The Bank of England does not run a life-boat operation for situations like the one that is being created by BCC. The life-boat operations which were initiated following the 1985 Banking Act in the UK, when there was what was called the secondary Banking crisis, was an operation to maintain the stability of the economy and the stability of the Banking systems. So what they were salvaging was the Banks not the depositors. There is, independent of that, a Depositor Protection Scheme. The Depositor Protection Scheme is not run by the Bank of England. It is effectively run and financed as it would be if it is done here, by the people in the business. So at the end of the day the Bank of England says if Natwest goes down that is a disaster for the British economy, so we will effectively prop up Natwest as a Banker of last resort by lending them the money until they can get over the problem. That is what the life-boat involves and sometimes it actually involves, as happened with British and Commonwealth Bank nine months ago, the Bank of England going in and taking control of the Bank and running the Bank and finding a new shareholder to sell the Bank to. We would not have that because we do not have a Central Bank and that is what is done by UK. For example, Luxembourg does not do that and Luxembourg does not have a Central Bank. It has a Monetary Authority that licences institutions, but does not provide Central Bank lender of last resort.

BCC is not a UK Bank and therefore BCC cannot go to the Bank of England for money as lender of last resort. Therefore BCC cannot avail itself of the life-boat operation. But, as branches of a Luxembourg Bank, like any branch of any Bank which is overseas based, but licenced to operate in the United Kingdom, it pays a premium into a Central Fund out of which there is an insurance policy to cover deposits, provided they are not in foreign currency and provided they are not from Corporate customers, up to a maximum of £15,000. If Gibraltar wanted to do something like that, at the end of the day it would be the Financial Services Commission that would have to decide it and it would be without any commitment of Government funds. Let us be clear, absolutely clear from day one, there is no way we are going to have a situation where we are growing as a Finance Centre primarily with Offshore locations paying little or no tax and we are going to use local taxpayers money to protect people against the risk of putting their money into a Bank which pays more because perhaps it is taking bigger risks. Mr Speaker, one cannot have a situation where one is saying to people invest in the Stock Exchange because if your shares go up you keep the cash and if your shares go down the Government recompenses you. That is what taking risks with money involves. One thing that the Government needs to do, and in the Savings Bank Ordinance which we were bringing to the House we are making provision for widening investment opportunities, is to give small investors in Gibraltar in the Government Savings Bank more investment opportunities with more realistic returns than an ordinary account paying 5%. I think, people must realise that if they can get 9% from the Government and that is a Gilt-edged investment absolutely 100% safe and they choose to take 10% by putting it somewhere else they are then risking that money for 1% more. That is the risk that they are taking and they have to make a judgement on whether that extra 1% is worth the risk. We therefore need to create national savings vehicles like there are in the UK for savers who do not have to put their money in commercial institutions if they do not want to because they have attractive options in the Government Sector. That is one of the things that we accept and I think that might make more sense than what the Honourable Mr Mascarenhas was saying that rather than saying we would borrow from the Bank the money that the Bank borrows from people we should use our own Bank to borrow from the people and we cut out the intermediary and we give the rate of return to the individual depositors and then the individual depositor has the choice of either putting it in a safer but with a slightly less lucrative return or taking a bigger risk and getting a little bit more. We are conscious that that is something we need to do. It is something that we have intended to do for a very long time. However, Mr Speaker, it is just like everything else it gets more difficult to actually do it in practice than to think of the theory. I think also, Mr Speaker, that the question of the thirty-five employees who have lost their jobs overnight, obviously the people who are contract workers would probably have to return to their Country of origin if they were brought in especially for special reasons for

that particular Bank, but the local employees frankly are better placed to find re-employment than people who are losing their jobs in the Royal Navy Auxiliary Service where we are expecting twentyeight redundancies to take place during the course of this month. Mr Speaker, other people maybe also losing their jobs in PSA and other have taken redundancy from GSL and other companies and although they have been given very substantial sums in compensation, compared to what anybody else is getting from the MOD and so on, at the end of the day what they want is work and in their case their skills are specific skills. However, I think, that people who have lost their jobs in the Banking Sector, if we are successful in our policy of developing the Finance Centre, then they ought to be better placed to get alternative employment quicker than other people. It is certainly our job to help all of them and I do not think that we can say that because it is BCC they are going to be put at the head of the queue. There are other people, Mr Speaker, some of whom have lost their jobs before BCC and are still unemployed and we therefore have a problem, we are going through a period of transformation and transition in our economy where the expansion of job opportunities in one area is coming very hard on the losses in some other place and it is therefore very difficult to absorb the reduction of job opportunities in another area. We have made clear that the target of the Government is to have eight thousand jobs in the Private Sector because we expect that that will be sufficient to absorb the reductions in the Official Sector. But, of course, the faster the Official Sector reduces, the harder we have to work to create alternative jobs in the Private Sector if we are not going to have a shrinking economy. Because if we have a shrinking economy then we are in serious trouble. We would have a shrinking tax base and we would then have a serious problem of meeting all the commitments for development and investment which we think are vital to give Gibraltar a future role. So frankly BCC is bad news for Gibraltar. It is bad news for depositors. It is bad news for the employees and for the customers of the Bank. It is also bad news for our economy because however hard we try in this House to defend the position, the truth of the matter is that what we will get in the newspapers will be accusations against us and not the defence we make of ourselves. That is the truth, Mr Speaker. One final point which needs to be made and which I made in the comments that I have made in the past in relation to Barlow Clowes, and I think, the Leader of the Opposition was also making a passing reference to it, and we are talking about a situation in 1993 which by definition involves greater risk than anything that has existed in the past in Europe because we are creating a Single Market and we are creating a Passport Licence. This means that any Bank licensed anywhere in the twelve Member States of the Community will be able to operate in the other eleven and in Gibraltar and they are able to do it on the authority of their originating home State. We have to be notified but we cannot refuse permission. So if somebody has a licence in Luxembourg like BCC, in 1993, and they say I want to open a Gibraltar Branch and the licence issuer in Luxembourg has given permission then that institution in Luxembourg will inform

the Commissioner in Gibraltar that the Branch has been authorised in Gibraltar and we have a volume of technical supervision which is minimal as the host Country. At the moment BCC is a Gibraltar Bank, it submits quarterly reports to the Banking Supervisor, it has to have Share Capital and Solvency Ratios laid down by us and regulated by us but all that will disappear if it was a Branch of somebody else. We need to understand, Mr Speaker, that moving into the Single Market in 1993 will not increase the individual controls. It will in effect reduce the individual controls because there will be one single harmonised system, the Passport Licence, which means that when one gets that Passport one can travel anywhere in the Community with that passport. For us it is a very good thing because we are market ing that and saying get the Passport in Gibraltar and then use the Passport for the rest of the Community and have your operation Headquarters here. That is the market ing exercise that we are doing. However, the other side of that coin is that we lose regulatory authority over incoming institutions and in fact two-thirds of our Banks in Gibraltar are Community Banks currently licenced by us and would not require a license after 1993. What one cannot do is have somebody that is licenced and regulated in Luxembourg, in Madrid or in Copenhagen and we tax Gibraltarians to produce a life-boat for them. That, Mr Speaker, is not on because how can we produce a safeguard over somebody when we have no control over the standards that that person is required to meet. In looking at any Depositor Protection Scheme, the Commission would obviously have to take into account the effects of Community Law and probably one could not have a situation where Community Institutions coming into Gibraltar will not be covered by such a Scheme because one of the essences of the process of harmonisation has been that there has to be equal treatment for everybody. So it is a highly complicated area and it is going to be made even more complicated after 1993. Today we have a larger measure of control than we are going to have in the future. The only thing that I can say is that on the basis of the report that I have had, the local operation was operating at standards which cannot be questioned or challenged. Therefore no finger can be pointed at Gibraltar or the Gibraltar Managers or employees. It is regrettable, Mr Speaker, that those same standards have not been applied by much bigger, older and supposedly more stable places than us, otherwise BCC today would be open.

MR SPEAKER:

Now that we have aired the matter we can carry on with the Order of the Day

SUSPENSION OF STANDING ORDERS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying on the table of the Accounts of Gibraltar Shiprepair Limited for the year ending 31st December 1990.

This was agreed to.

DOCUMENTS LAID

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

The Accounts of Gibraltar Shiprepair Limited for the year ended 31st December, 1990.

Ordered to lie.

MOTIONS

HON J E PILCHER:

Sir, I have the honour to move the Motion standing in my name that: "This House takes note of the Accounts of the Gibraltar Shiprepair Limited for the year ended 31st December, 1990". Mr Speaker, in doing so, as I have done in previous years, I will divide my contribution into three parts. The first part, Mr Speaker, will be to view the Accounts in front of us, up to the 31st December 1990. Secondly, Mr Speaker, as I have done in other years, I will review the operation through the present year, 1991. Thirdly, Mr Speaker, as in previous years I will go on to the most important part of my contribution and look at the short to medium term future of GSL. Obviously, Mr Speaker, although this year in doing this exercise we have been able, perhaps for the first time in the last three years, have been able to have them in front of the House as I promised earlier on in the year, in July. When we analyse the short to medium term future of GSL we are not obviously analysing it in the same way as we have in previous years because, Mr Speaker, as is now public knowledge, GSL ceased its direct operations on the 2nd July. Obviously, Mr Speaker, the point that has been raised by us in Opposition since 1984, and I think by the Members opposite since 1988, that we were discussing a historical situation, is perhaps today more true and relevant than it has ever been. Mr Speaker, today it is really historical what we are about to discuss, what happened in 1990 and in the first six months of 1991. It is historical because the GSL direct operation ceased on the 2nd July. Notwithstanding that, Mr Speaker, I think, we need to go through the Accounts of 1990 and again as in previous years, Mr Speaker, if Honourable Members would like to relate to my contribution in last year's debate they will see that the predictions that I was making last year for 1990 Accounts and the major step which we took at GSL to arrive at a situation where we had certainly, from the political point of view, halted the decline and halted the major drain that GSL had been up to that date to the economy of Gibraltar. That, Mr Speaker, can now be seen clearly from the Accounts. It can be clearly seen that in 1990 GSL, as in fact I said last year, the losses have been brought down to about £1.7m, which we consider, Mr Speaker, is economic viability. The GSL operation in 1990 was not costing the taxpayers of Gibraltar, directly, anything because GSL was directly putting

back into the economy an equivalent amount of money. Mr Speaker, in going through the Accounts it is perhaps important to start with the Chairman's Report. Mr Speaker, the Management of Gibrerepair had completed the major re-deployment, which I explained in detail last year, this meant that we had during the latter part of 1989 and the early part of 1990 brought down the level of direct employment in GSL to about 170. We had also contracted the physical size of the Yard and we had already handed back to Government the area which was to be used as the Industrial Park. The First Phase of the Industrial Park is commencing now and also the second Phase, where the stone buildings are located and No.3 Dock. We also did away with the Second Shift System as we did not feel that the new operation that we were about to embark on with 170 people required the Second Shift System and Mr Speaker, we also continued to look at the price-structure of the Company in order to try and do less labour intensive work and more high spending work. This was completed through 1990. I think, the result of that, and if I can just leave the last part of the Chairman's Report for later because that I think, Mr Speaker, it is more pertinent to the short-term and to what happened during the year 1990 in particular with Kvaerner and what has resulted in the ceasing of operations on the 2nd July. I will explain why, Mr Speaker, when I go on to the short-term future of the Company. The results, Mr Speaker, can be seen quite clearly from the Profit and Loss Account and again, as I did last year, Mr Speaker, I will go over the Accounts briefly and then I will be more than happy in my contribution at the end of the motion to answer any specific points which Members opposite may have. If one looks at my predictions last year, although they were done in October and it was late in the year, Mr Speaker, it will be seen that the turnover that I predicted would be in the region of about £7m. The final turnover figures was £6.863 and I predicted losses of between £1.5m and £2m, the losses on the ordinary activities are £1.715m, a loss for the year of £1.746m. Mr Speaker, this obviously is a major improvement from the position in which we took over the Company. Mr Speaker, I have not bothered this year, to refer to the equation of leaving out the subsidised work which shows a situation where there has been a major improvement throughout, in 1985 to 1987 and then 1988/89 and 1990, Mr Speaker. Administration expenses obviously are down substantially as, in fact, are the wage costs. In fact, Mr Speaker, the loss for the year we considered at the time, and again if the Honourable Members want to look back at the motion last year, they will find that what we were saying last year, Mr Speaker, is precisely what has been happening through 1990 and through 1991. It was not possible even with a smaller operation employing some 170 people, in fact, just before ceasing operations, Mr Speaker, we are talking about somewhere in the region of 163 or 164 people. It was not possible to bring down the administration cost, the overhead cost, it was not possible to bring down the wage cost even further and this trend, Mr Speaker, has continued through 1991. So what we have in front of us today, Mr Speaker, is the most that the GSL Management and

the GSL Board could do to bring down and minimise the costs of GSL. We, as the Board of the Company, in fact, were saying this quite clearly to the Unions and again I will explain this later on in the contribution that it was not possible first to further decrease the Yard in physical layout and secondly it was no longer possible to decrease the Yard further as far as its manpower was concerned because, I think, Mr Speaker, that with 163 was really when the Yard did attract work and although we had a subcontractor flow through the Yard, it was very difficult to meet the necessities at a given time. So we felt that 170, 165, 160 was the minimum. Given those two factors and again looking at what has happened through 1991, these losses in front of us, Mr Speaker, were the minimum losses that we could hope for and it is really based on this fact that the discussions and negotiations have arisen with the Trade Union Movement. It is, Mr Speaker, a good situation, as far as its loss making is concerned, and when that is compared to other years we did halt the decline of the Yard and the Yard was economically viable, Mr Speaker. I will now turn to the latter part of the Chairman's Report, Mr Speaker, and it can be seen that this in itself was producing problems for the Yard, not problems that I had not envisaged before and that is the Capital Investment that the Yard needed. It was not possible for the Government to provide this because of its other priorities and also because with these levels of losses there is no way that we could invest a further £5m to £8m which is what I genuinely thought and continue to think is the Capital Investment that the Yard needs. What would have happened is that that £5m to £8m would have gone the way of the other £34m or £35m which GSL has spent. Initially the UK taxpayer met these losses and over the last three to four years the Gibraltar taxpayer, but of course that in itself was creating a problem for a Yard that was also making losses and we did not have the cash flow necessary to be able to make major investments in equipment. Nevertheless, I think, as I have mentioned last year, final result of the year is, Mr Speaker, very commendable, not from the point of view of the Government but from the Management and workforce of GSL point of view who tried very very hard, Mr Speaker, for three years to turn round an operation which was ill thought of the moment it was put in place on the 1 January 1985. I would nevertheless commend and thank both the Management, the workforce and the Trade Union Movement for its great support in being able to get GSL to this position. At the moment we are trying to prepare Interim Accounts up to the end of June, Mr Speaker, when the GSL operations ceased directly. However as I mentioned last year we do produce month to month Management Accounts which have proved through 1989 and 1990 to be relatively accurate. We were predicting losses of about £1.6m. Although there was a minor problem in January and February created by the Gulf Crisis which also affected shiprepairing and we spent January and February virtually ticking over as a Yard. If one however relates that back to 1990 the two months that we were ticking over not because there was any major crisis like the Gulf War but because we had just exited from a restructuring exercise

and it took the Yard January and February to get its engine ticking over again to get back into the Market and to start selling, then there were similar months for the losses for the first six months of 1991 and for 1990. We are talking about somewhere in the region of £800,000 to £850,000 that the operation has lost through the first six months of 1991. So if the operation had continued throughout 1991, and not ceased its operations as happened on the 2 July, I think we would be here next year, Mr Speaker, looking at accounts which reflected exactly the same losses as in 1990. Obviously, I think it adds to the proof, Mr Speaker, that we have done, as a Government, as a Board, as shareholders, as much as we could do to halt the decline of GSL and to halt the loss making and brought it down to economic viability. But an economic viability, Mr Speaker, which we were not happy with because it is a tough world and although today the market is rather buoyant, it is not absolutely buoyant and we could be looking at further recession in the years to come. So we were looking at a very tough business, Mr Speaker, with an operation that was ticking over, an operation that was losing £1.7m a year and that did not have the money to spend on Capital Investment, in equipment, in major maintenance and that had, historically, to repay a lot of money. It had to pay PAYE, Social Insurance, a lot of money, a lot of creditors and again you see, Mr Speaker, as you go through the Accounts that we have made major inroads this year into trying to produce cash to start making inroads in what is a situation where during the latter part of 1989, we had tremendous problems with our creditors who felt that, particularly during the last six months of restructuring, we were not able to meet our commitments and we proved to them through 1990 and 1991, as again I mentioned last year, Mr Speaker, that we had turned the Company round and although losing money, we were in a normal trading position with normal creditors/debtors situation other than obviously, as the Honourable Leader of the Opposition rightly said last year, the Government element of the credit was obviously something which was not being paid and this is what was keeping GSL afloat to a point, Mr Speaker. But, we managed to get back to a relatively normal creditor position, with normal thirty, sixty, ninety days and certainly through 1990, we arrived at a normal situation with our creditors very happy with the situation that we had and we were able to make major inroads into our debts. As I have mentioned any elements in the Accounts which the Members opposite want specific explanations of, Mr Speaker, I will be more than happy to do that, but I think at this stage we have produced a Profit and Loss, the Balance Sheet and everything else and, I think, I would want to know if the Members are happy with that or is there anything that they are not sure of which I will then talk about when I wrap up the motion, Mr Speaker. In reviewing the operations for 1991, I have briefly just touched on the operational side and what was happening through 1991 and because there is no difference to what was happening through 1991 to what was happening through 1990. There is very little need for me to go into the operational nature of that. However, Mr Speaker, there was something that

was happening parallel to the operation which, I think, is what has led to the situation of the ceasing of operations on the 2 July. Let me stress, Mr Speaker, in case there are members of the public listening to the debate and are responsible for entities who are creditors or debtors of GSL, Mr Speaker, that GSL is not closing down. GSL, Mr Speaker, even after we have repealed the Ordinance is not closing down. GSL is continuing on as an entity and GSL will honour all its creditors and will collect from all its debtors, Mr Speaker. It will hopefully set up a system by which GSL will be trading in the future, not directly as we have been doing up to the 2 July, but indirectly and that is something that I will explain in a moment. But, I think, that has to be stressed because I do not want any creditor feeling that they are not going to get paid or any debtor feeling that they do not have to pay. GSL continuous as a normal trading company albeit it is not trading at this precise moment. Coming back to what I was saying in the latter part of the Chairman's Report is important, Mr Speaker, because it starts the process which has ended in the ceasing of operations on the 2 July. The process was, in fact, started and, I think, if I read this, "In the light of the need for this an extensive capital investment is required for the reallocation of the physical restructure, the Government consider proposals initiated by the Norwegian firm Kvaerner aimed at replacing the Gibraltar Shiprepair Limited operation. Discussions with the Trade Union Movement started in the latter part of the year and as it is now public knowledge these discussions did not lead to an agreement acceptable to both sides and were discontinued. At that stage the Government felt that the Yard should continue to operate in order to monitor the progress through 1991, particularly given that economic viability had been achieved". These were, Mr Speaker, the targets that we set ourselves at the end of 1990, and targets which we were quite clear we wanted to continue to operate. So it was not in the minds of the Government at that stage nor at any stage during the early part of 1991 to close the operation down, we wanted to see the operation through 1991 and we wanted obviously to monitor and see what had been happening. However, Mr Speaker, the Kvaerner proposals did lead to something which I think was important and that was, Mr Speaker, that although they were not successful as discussions because they did not lead to an agreement there was however an agreement in principle with the Government which did not however lead to an agreement in principle with the Trade Union Movement. I think, Mr Speaker, it implanted the grain in the minds of the Government and in the minds of the Trade Union Movement that we were convinced, to the point that one can be convinced that it was possible, given the interest that had been shown by Kvaerner and other entities to be able to sub-contract the Yard and therefore the preferred option, which I think was the preferred option of this House certainly unanimously, it was certainly the preferred option of Mr Peter Montegriffo and we will see today if it is the preferred option of Mr Peter Caruana although I dare say that as a Party the policy decision should not have changed. It was the preferred

option in this House when we discussed it last year and having discussed it through the year we thought that if we could get an entity like Kvaerner to come in and produce the Capital Investment and run the Yard then it would be able to provide much more for the Yard than the Government could. There was the element of security of work or at least the volumes that could be produced by Kvaerner in its own right because they were controlling certain ships or they could in fact utilise some of those ships to produce work for themselves and obviously the very important element of idle time which is an important element when the Yard is somewhat idle. Entities like Kvaerner, Mr Speaker, can produce secondary work like fabrication units as backup in other of their operations worldwide. And I think, certainly, in the minds of the Government, Mr Speaker, and in the minds of the shareholders and of this House of Assembly that that was the preferred way forward. It was also the preferred option in the minds of most of the employees of GSL. The fact that they were not able to do a deal with Kvaerner, Mr Speaker, is not something that I am privy to because obviously this was between Kvaerner and the TGWU, but immediately after the collapse of those discussions or negotiations, the Union and the Shop Stewards of GSL approached my office wanting to know, Mr Speaker, what the future was. Obviously, Mr Speaker, as we said in the House of Assembly and in our normal way we were honest with the people and our advice was that we had a four year political commitment, Mr Speaker, which was the four year political guarantee of employment. It was a political guarantee that was exercised by my Government in 1988 because we felt when we came in on the 25 March 1988, that the Yard had already been put in a situation of redundancy and we felt that Gibraltar and its employees deserved a second opportunity. We felt that we had certain diversification plans that we wanted to put in motion. So we gave a four year political guarantee of no redundancies in the Yard, no compulsory redundancies, in order to protect the workforce for four years whilst together with them and the Trade Union Movement we tried to put this mechanism into place. So when they approached us, Mr Speaker, I think, it was in March, possibly April, the answer was the guarantee of employment would not be repeated, the guarantee of employment would continue up to the 31 March 1992. It will be seen, Mr Speaker, from my Chairman's Report on the 1st January that GSL broke totally from the Joint Ventures and there were commercial arrangements between them. We felt, Mr Speaker, politically that after the 31st March those companies, including GSL, had to stand on their own two feet commercially and therefore, the guarantee of employment would not be there. We still wanted to continue to make a go of the Company and do everything in our power to continue to operate within the shiprepairing world for the foreseeable future. The Union, Mr Speaker, then took this message on board and went back and discussed this with the GSL employees. It must be remembered, Mr Speaker, that we are talking about GSL and only GSL at this stage. They came back and said that they would be prepared because of different circumstances to look at the ceasing of operations as soon as possible because they knew that

there were different entities interested in taking over the Yard and they felt that it would be better if the Yard was a closed Yard with no workforce in it because the chances of us, as a Government, being able to subcontract that Yard, would then provide for the Capital Investment needed coming from outside. Obviously, Mr Speaker, this was in line with the Government's thinking because we had said quite clearly that there was no way that our Government could spare another £5m to £8m, Mr Speaker, for investment. Therefore, Mr Speaker, we then looked at the possibility of ceasing operations with a view of trying to make it possible for the Yard to be empty physically. The assets would be there but there would be no manpower which was felt by the Trade Union Movement, the Industrials at least, because at that stage it was the Transport and General Workers Union in the guise of its Industrial workers who made the first approach and we agreed with them that this was in fact the way forward. It is no secret now, Mr Speaker, that after virtually four, five or six weeks of very intensive negotiations with both TGWU and ACTTS an agreement was reached which was an agreement to cease operations. I have to stress the words "ceased operation," because what GSL is doing is ceasing direct operations and is ceasing to operate a shiprepair facility directly with its own employees. It is trying to get an outside entity to come to Gibraltar and subcontract the Yard to continue what we believe is an important aspect in the overall economic activity of Gibraltar. As a Government we believe that we have real assets there. We have three docks, we have wharfage, we are geographically placed in possibly one of the best positions for maritime activities worldwide and we genuinely feel, Mr Speaker, that we do not want to use those assets for anything other than shiprepairing. Therefore, Mr Speaker, there was a package agreed with the workforce, with the GSL workforce, by which the Yard was run down very quickly in the last three weeks of June. The second week of June saw in the region of sixty or seventy workers leaving on voluntary redundancy and in the third week of June another forty or fifty. In the last week of June up to the end of June, the rest left bringing it up to a total of one hundred and sixty one, the total workforce of GSL. The preferred option of my Government is that the assets belong to the people of Gibraltar, the three docks, the wharfage space, together with a geographical position and all the equipment and assets necessary for a shiprepairing operation and that economically, Mr Speaker, it is an important sector of the activities of Gibraltar. Shiprepairing is also then linked to Bunkering, Crew changes, Ship Registry, Yachts, Marinas and we feel that this sector is important to our economy and we will try and endeavour in every way possible to attract an outside entity to take over the Yard, Mr Speaker. Commitments there are none because as I said to the workforce I have endeavoured from the moment that the agreement was signed to convince entities of the commercial viabilities of taking over the Yard. But there is obviously no commitment because we are still at the discussion stage and although I have to say to this House, like I said to the members of GSL, there are today three major entities interested in Gibraltar and we expect to continue discussions

with them until hopefully one of them produces a proposal for the Government to be able to look at. As far as the medium to long-term future of the Yard, Mr Speaker, obviously this is why I said at the beginning that it was not possible for me in this motion or in this debate to look further than the short-term future. The short-term future for me, Mr Speaker, and for the Government is to try to attract an operator to come to Gibraltar in order to continue shiprepairing in Gibraltar. I think that it would be a lucrative element for a major entity which can produce for the Yard what the Government of Gibraltar cannot because we are not owners of ships, Mr Speaker, and we do not have any other entities worldwide that can produce work. So that is our preferred option. It is also the workforce's, the Union's and hopefully this House of Assembly's preferred option and we are actively pursuing these possibilities, Mr Speaker. When there is more to be said on that I will be making a public statement. At this stage there is interest a lot of interest, from various entities, but only time will tell whether we are successful or not. If I have left things out or if there is anything that Members want to know I will deal with then when I reply. At this stage I therefore would like to commend the motion to the House.

Mr Speaker proposed the question in the terms of the Hon J E Pilcher's motion.

HON A J CANEPA:

Mr Speaker, the Minister responsible for GSL has dealt reasonably comprehensively with four of the five points that I had intended to raise as part of my contribution. I think that anyone knowing the history of the Yard and in particular is acquainted with the nature of the debates that we have had here in the last three years would have anticipated the questions that I was going to put to him. Today the Hon Minister has much more intimate knowledge of GSL than I myself have and he rightly has anticipated these matters and dealt with them. Sadly, Mr Speaker, the Accounts are to an even greater extent than in the past of academic interest and I say this because before they used to be of academic interest in the sense that we were debating at the end of November 1989 eg the Accounts for 1988 and in November 1990 the Accounts for 1989. Today, Mr Speaker, in July 1991 we are considering the Accounts for the last year at the time when the Yard has effectively ceased its operations. So it is in that sense that they are of greater academic interest. I think I should at the outset express sentiments of personal regret for the fact that the Yard has had to cease operations although I am encouraged by the Minister's words at the end of his contribution saying that it is Government's policy to try to attract some other firm to come in and operate the Yard. I however have to express regret because, first of all, I am conscious of the number of hours which the AACR Government between 1980 and 1984 spent in setting up the Yard and subsequently between 1984 and 1988, because of the problems that we had, the number of hours that we had to devote to the problems of the Yard, even without any

of us having direct political responsibility. The then Chief Minister and myself, in particular, spent very many hours which we could have been devoting to other work listening to and having presentations from PEIDA, Coopers and Lybrand, Appledore, and I have left out one individual a Michael? Michael Casey. Listening to them and weighing up the options. Some of us had greater misgivings and were more sceptical about the likelihood of success of the operation, but in a situation where it was the preferred option and the only option that Her Majesty's Government were then prepared to accept and to make any capital contribution towards it, perhaps a case of Hobson's choice. Many millions of pounds were invested in the Yard, in the order of about £35m, and I can understand the attitude of the Government, that if we are talking of about another £5m to £8m of capital investment on top of what had already gone into, and this time from the resources of Gibraltar, then it is not difficult to understand that the Government should not be prepared to contemplate putting in that kind of money. At the end of 1988 when we were considering the Price Waterhouse Report and were thinking in terms of restructure and we offered redundancy to the workforce, we had made it very clear that we were not going to put any further money from the Gibraltar resources for any capital investment into equipment for the Yard. Given the history of the Yard, Mr Speaker, I suppose that in a way what has now come about was inevitable and I wonder whether the Honourable Minister himself may not also be sharing some of the regret and frustration which I feel because I am conscious of the very many hours of time and effort he has given to the Yard in trying to reduce the losses. Honourable Members of the Opposition were shown around the Yard, I think, it was in late 1989 and the Minister was at the time enthusiastic about the future and of the operation of restructuring being set in motion and which the Government hoped would have gilded the result. I do not want to go into the controversy of this venture, Mr Speaker, but when I refer to its chequered history I think all Members know what I am referring to and I do not think that I would be doing anyone a service if I were to try to apportion blame as to why we have arrived at the juncture at which we have. The reality is that the Yard has ceased operations. I am glad to hear that the assets are going to be maintained because as Honourable Members know I have consistently held the view that there is not much else to which it can be used and I have always been very anxious that the Government should be projecting the Yard in its marketing strategy of the Port of Gibraltar as part and parcel of what Gibraltar can offer shipping. So, in that sense it has been a continuation of our policy. I was going to ask the Minister, but he has really answered the point, that now that redundancy payments have been made and the workforce is leaving the Yard whether the way was not clear for a new operator to come in and he has said yes they are going to be on the lookout for another operator. Presumably with its own workforce. I would like the Minister when he exercises his right to reply to indicate whether the Government would be looking to an operator that would be bringing in its own workforce. What I am asking the Minister to confirm

is that the operator will be free to employ its own Yard without any commitment to the present workforce and without being bound in that sense by the attitude which the TGWU might have on the matter? The Minister has also indicated what the position is regarding creditors and debtors and in particular no doubt the Gibraltar Government will pay with its right hand and collect with its left hand in respect of PAYE and so on! Therefore the only other point, Mr Speaker, is that when I said that it was inevitable in a way that we should have come to this situation, the fact that the Government had stated that they were not prepared to foot the bill for capital investment and therefore I suspected that that was going to be where the crunch would be reached. The only point which has not been dealt with by the Minister and I would be grateful, if he clarified it, is when the final Accounts come for the first six months of this year there is the statement in paragraph 4 of the Principal Auditor's Report, where he says, "Because of the significance of the above paragraph", namely where the Principal Auditor is referring to the fact that the cost of the announced redundancies as well as the adjustments required have to be taken into account have to be reflected, the Principal Auditor says, "Because of the significance of that paragraph, I am unable to form an opinion as to whether the balance sheet and statement of source and application of funds as presented give a true and fair view of the state of the Corporation's affairs as of the 31 December 1990". And in a very similar vein paragraph 5 of Cooper's and Lybrand's report also makes the same point when they say, "We have been unable to satisfy ourselves that the Company's creditors will continue their support and because of the significance of the matters referred to in the preceding paragraphs, we are unable to form an opinion as to whether the Financial Statements give a true and fair view of the state of the Company's affairs at the 31 December 1990 and of its loss and source and application of funds for the year ended". So that leaves the matter in abeyance, Mr Speaker, and I would ask the Minister to confirm whether we can expect that both the Principal Auditor and Coopers and Lybrand's will be dealing with that aspect of the matter in a definitive way when we consider the Accounts for the operation of the first six months of this year. Other than that, Mr Speaker, I have very little more to add.

HON P R CARUANA:

Mr Speaker, I share the view that these Accounts are in large measure academic, not only because the Yard has ceased operations but because to the extent that they contain financial information about the trading performance of the Yard, I do not think that there is anybody in this House that would share the view that the Government is not or should not ultimately see the Yard financially through yet. In other words, what we are really doing with these Accounts and with the Accounts to June, if I can succeed in securing either an amendment to the Bill that follows or an assurance from the Members opposite that those Accounts will be provided, notwithstanding the repeal of the Ordinance that

requires them to provide them, what we are really saying is what the exit cost is to the Government of Gibraltar of the GSL operation. The Accounts are nevertheless relevant, Mr Speaker, to the extent that they contain bits of information which may be of residual interest. Notwithstanding the principle point of the exercise which is the discontinuance of the direct operation of the Yard by GSL. The Honourable Minister said that the Accounts were clear insofar as the Profit and Loss explains what the results are. I would ask the Honourable Minister in his final contribution to clarify whether under the heading Sundry Creditors of £7,444,000, it will not have escaped his notice that it is £3m higher than last year and whether there are any creditors there in relation to expenses which would have been capable of being included as trade creditors. In other words what I really would like is a partial breakdown of the information in Note 14. Of course there is a breakdown of £1.124m of unpaid PAYE and Social Insurance and certainly those Members in this House who have recently, and in my opinion quite correctly criticised other taxpayers in the Private Sector for not complying with their legal obligations in relation to PAYE, should not lose sight of the fact that there are companies in the ownership of this Government which appear to be in a similar situation. There is an item of £5,548,000, as other creditors and if the Honourable Minister has the information then I would be grateful to be told how much of that is liabilities to the Government and how they have historically arisen? It has increased in the last twelve months and I would be grateful for information as to what is concealed in that figure. The Honourable Minister asked me whether there had been any change in the attitude of the Party that I lead following upon the change of Leader. The answer is that there has not. The Party and I continue to believe that the preferred option for GSL is that there ought to be a continuation of the Yard in the hands of a private organisation for the ultimate financial prosperity of which the Government of Gibraltar is not responsible. That in effect means either the sale of the Yard in a way in which the Government keeps the necessary degree of control over the assets or otherwise on a subcontract basis. We also believe and agree, Mr Speaker, with the remarks made by the Minister that the Maritime Sector is indeed an important Sector of economic activity in Gibraltar or would be if it could be successfully carried out, and even to the extent that it is not profitably carried out, it is capable of having significant economic benefits to the general level of economic activity in Gibraltar. The fact is that we believe that the economy of Gibraltar should retain as many sectors as possible and that there is a danger in relying too soon on perhaps the Finance Centre as the only, I know that the Members opposite do not like the word pillar, but a "pillar" in inverted commas for the economy. It is therefore important to maintain the Yard as a source of new money for the economy of Gibraltar as well as an element of diversity for the economy of Gibraltar to preserve the skills and trades which are presently used in that operation and to preserve the general spinoffs that the operation of such a Yard in Gibraltar has in the Private Sector. I would extend that philosophy

to Gunwharf and although the Minister has not specifically referred to it, I think, precisely the same arguments apply to Gunwharf and I would welcome a statement in his closing contribution that the intentions that he has expressed in relation to GSL, he is able to express also in relation to Gunwharf. I would also like the Minister to disclose, if he is able to at this stage whether GSL has any residual financial responsibility for any of its subsidiaries or for any joint venture company. I mean as guarantees given for any borrowings that those companies might have and the extent to which any of those joint venture companies or subsidiary companies may be indebted to GSL. In relation to the finding of a new operator, Mr Speaker, in one form or another for the Yard, which I think, having heard the Honourable the Leader of the Opposition and the Honourable Minister, there is consensus in this House as to the desirability of, and I personally would welcome an arrangement whereby although the new operator is at liberty to employ whomever he wishes and has no labour agreement with an existing workforce, the new operator will have some degree of obligation to have recourse, insofar as he has need for labour, to local labour that is being made redundant out of GSL. I think, it is almost a commercial fact of life that if the new operator has to employ trades then it is logical that he will want to recruit them locally rather than bringing them in at much greater cost from outside. But, to the extent that that point can be without any great effort covered, I think, there ought to be at least a morally stated obligation in the arrangements to recruit to the greatest possible extent from the local market. The Report of the Auditors attached to the Accounts, Mr Speaker, speaks for itself but it really is a highly qualified Report. The Accounts would have been prepared on a different basis and should have been prepared on a different basis if the information that the operations were going to cease had been known at the time that the Accounts were prepared. Even if the information had not been known as of the Accounting date, namely the 31 December 1990, I think, that if the information had been known after the closing date of the Accounts, before the Accounts had actually been presented and signed by the Directors, that different treatment would have been given to many things which would have had substantial ramification on the figures that are produced. That is not important at this stage, Mr Speaker, provided that we get to see the Accounts for the remaining period and that is a matter, Mr Speaker, that I will leave until the debate on the Gibraltar Shiprepair (Repeal) Ordinance which is highly significant in relation to the obligations that the Members opposite will have in bringing further financial information in relation to GSL to this House.

HON LT-COL E M BRITTO:

Both for the reasons that my Honourable Friend and the Leader of the GSD has already mentioned about the matter being historical and also given the fact that I find myself as a third Speaker in a situation where again most of the points have already been covered my contribution is going to be relatively brief. I must admit that on reading the Chairman's Report and especially in the two places where the Honourable Mr Pilcher stresses that economic viability had been achieved

by the Company, I was a little bit puzzled and I had a note here asking when was the decision to close the Yard made? If the Government had achieved the targets that it had set itself back in 1988, and which it had stressed in answers to questions, that the target was not commercial viability but economic viability and I realised that the Minister has answered that question by saying that it was the Transport and General Workers Union who came forward and proposed, in the aftermath of the failed negotiations with Kvaerner, a situation of redundancy. However, Mr Speaker, the Minister could perhaps explain to us in a little bit more detail, both as Chairman of the Company and as Minister of Government, whether he believes that the interests of the workforce have been best served by reaching this arrangement now and possibly exposing them to a situation where they may not be re-employed if a new interested party comes into place. One would assume that if this has been the Union's initiative and has been done with the agreement of the Union then the answer is indeed so, and if so, I must stress the point that in any negotiations with a third party a high priority must be given in the initial negotiations to protecting that workforce so that there is a measure of guarantee that the maximum number of local people, who had been employed in the Yard previously, will get first preference over imported labour. Mr Speaker, the second point that I want to make is arising out of the Auditor's Report, and it has already again been mentioned briefly, but I want to stress the point that if the Minister has the information that he give it to us in relation to the last sentence of paragraph 5 of the Auditor's Report on page 5, where they say "We have been unable to satisfy ourselves that the Company's creditors will continue their support". If we look at Note 14 on page 15 of the Accounts, obviously PAYE and Social Insurance account for £1.1m of those creditors but the £5.5m coming under accruals and other creditors which one presumes is to a fairly great extent the Government itself. I therefore repeat the request to the Minister for an indication of the proportion to which those creditors are Government and which are non-Government. Secondly, an indication as to why the Auditors have found it necessary to put that qualification into the Auditor's Report. Is it the implication that Government themselves have said that they are not prepared to continue their support? Or is it the other creditors that have said so? That is the question that I am asking. Linking the question of creditors to that of debtors, Mr Speaker, and following the guarantees that the Minister gave us earlier on that all creditors will be paid and all debtors will be collected, can he give us an indication as to whether there are any commitments or connections with the Joint Venture Companies in those creditors and those debtors in the Accounts? Finally, Mr Speaker, following the Minister's statement or clarification that it is intended for the Company to freeze operations but not to wind up at this stage, can the Minister explain why has it been necessary to rush through the legislation to repeal the GSL Ordinance at this meeting of the House and whether the matter has been thought through? And what possible

implications there could be if subsequent to this Ordinance being enacted there is a problem with creditors or with debtors? If there is a bankruptcy involved and if the Ordinance is not there and the Company does not exist, can a problem arise? Why the need to rush the legislation through? Thank you Mr Speaker.

HON M K FEATHERSTONE:

Mr Speaker, the salient feature of these Accounts is the fact that the Government Auditor says that the creditors continue to give support to the Company and the Auditors of the Company say that they do not know that this support is forthcoming. The Company has now closed down and the Honourable Mr Pilcher says that all debtors will have to pay up. That is a good thing. All creditors will be paid. Well, Mr Speaker, if all creditors are going to be paid then the money must come from somewhere? Also, Mr Speaker, there is going to be a need for a considerable sum of money to be found to pay the redundancy costs. The Honourable Mr Pilcher says that in the six months of this year, the trading losses will be about £800,000 to £900,000 and I estimate that redundancy costs will be anything from £1m to £2m. So the net deficit of the Company at the end of its life is going to be somewhere in the region of £5m to £6m. I would ask, Mr Speaker, where is this £6m going to be found? The Government has stated in the past that they as shareholders support the Company, so will they have to foot the bill for this £6m? If so, it means that the general public of Gibraltar will face a loss of £6m on the unfortunate life of GSL. This is something that we would like to have some clarification on, Mr Speaker.

HON CHIEF MINISTER:

I welcome, Mr Speaker, from the last contributor to the debate, with his vast experience of Government and of having been the Chairman of the Gibraltar Quarry Company, how he thinks he can say to people that the most important thing is that nobody loses their jobs and the most important thing is that the taxpayer does not foot the bill of the losses of keeping people employed in a situation where they are losing money? We are not going to do what he did when he was in Government and Chairman of the Company, which was to effectively underwrite, as a Government, all the debts of a Government owned Company including, for example, their Bank Overdraft. We have explained that position from that side of the House, even before we were in Government, because in fact, the Hon Member will recall that when he came here to seek the support of the House for guaranteeing the debts of the Gibraltar Quarry Company that we voted against. We voted against because we said that if we were going to have a situation where somebody lends money to the Quarry Company and charges a commercial rate, because there is a risk, then by giving public money away you then remove the risk by guaranteeing the repayment as a Government. You might as well then borrow the money as a Government cheaper and lend it to the Quarry Company because that way it costs the taxpayer less money. So certainly he is wrong

in thinking that we are going to be repeating what he did because that is the wrong thing to do. If he knows another way or has discovered another way of doing it since he left Office, then we will certainly welcome any assistance he can give us to deal with the problem. But certainly the solution that he found at the time was the most expensive solution. When we came into Office in 1988 the situation in GSL was that it was making very very serious losses and that there was a ruling provided to the previous administration by the Attorney-General, that the Government of Gibraltar would be in breach of Community Law if it provided a subsidy to the Yard to meet operating losses. The House will recall that the last amount that they provided was for the redundancies of 1988. These were voted in the House in December 1987. A £5m contribution of which £3m was to meet redundancies and £2m was to meet the restructure and which actually was spent after the Election. So, when we came into Government we had given a commitment to the people concerned that during our term of Office we would try and keep them employed repairing ships. If we found out that was not possible because we were not prepared to keep a ship repair facility ad infinitum losing money every year if we got re-elected we would have to consider the position. The easiest thing, Mr Speaker, in the world would have been not to say anything then go to an Election and then come in and do what one liked. But we have been clear with people concerned. We have told them "look as far as we are concerned there is no future. It is self-deception to think that you have a secure job in a situation where every year it costs in Gibraltar £20,000 to paint a ship and we can only get a ship owner to pay £10,000". We cannot have the rest of Gibraltar subsidising the owner of the ship because he can get it done here at a price which is not competitive. The other thing is we compete with Cadiz and Lisbon in which case since our wages are much higher we make up the loss. Well, Mr Speaker, we are not prepared to carry on doing that because as far as we are concerned giving people a secure future in Gibraltar means that they are doing an activity which can be sold for what they get paid. We are prepared to tie them over and we are prepared to give them support but at the end of the day it must be seen that there is a situation where a point is reached where it breaks even. We do not actually want to make profit as a Government. We are not going into the situation of GSL and the other Joint Ventures because we want to create a money making business in order to support the activities of the Government. We went into it because the people were already there in employment and we wanted to save their jobs. That is the only reason why we went into it because we inherited the 785 persons. Today directly employed in GSL we are talking about 160 or 161. Of the manual workers in GSL that have taken redundancy there are 71 locals and 40 white collar workers. There are people in other Companies who have come to the Government and I can tell the House that I had a meeting with representatives of all the Companies following the decision of GSL and the Member opposite asks whether in fact their interests were best served by people

taking the money now? Well that is not a question that I can answer. It is a question that each individual has already answered by choosing to go or choosing to stay. What we have done, at their request, has been to add to the normal redundancy part of the money or the whole of the money or more than the money that it would have cost us to keep the Yard open until next year. This is what we were committed to do irrespective of the losses. So we said to people ok, we have a commitment with you and we will honour that commitment and they said well if you are not in a position to renew that commitment every four years irrespective of the losses then give me the money now and maybe I am better off looking for work now than in a year's time when there could be much more redundancies from the MOD. Added to this there is a situation where the permits for Community Nationals from Spain and Portugal will disappear and they will be free to come and go as they please under Community Law and we will no longer be able to distinguish between Community Nationals born in Gibraltar and Community Nationals born in the rest of the Iberian Peninsula because the transition period is over. So frankly I sat down with them, as friends, and not as employer or as Government, because I could see the problem that they are facing and I said "I do not think I have the right to tell each and everyone of you what is the best decision. All I can tell you is that on balance I can see situations being tougher in 1992 than they are in 1991, and we will certainly not be able to pay you throughout 1991, even if we are sitting down doing nothing because there is no work and also to have that money to pay you next year. If we are using the money to pay you every month, then it means that next year, you will just get your basic normal redundancy, which is still better than the MOD but certainly not as much as you will get now if on top of the redundancy I compensate you for giving up a guarantee that I have given you". I gave them that guarantee in the middle of an Election campaign so we see that as a moral obligation rather than a legally binding agreement between GSL, as a Limited Company, and its workforce. GSL has a written agreement which I negotiated as Branch Officer which is better than the MOD and which entitles them to certain redundancy compensation terms. Over and above that, at their request and on their initiative, they said to us look if you are committed to spending that extra money anyway well maybe we are better off getting the money and looking for another job now before the labour market gets even more competitive and maybe there is a better chance of getting somebody in if somebody can come look at the facilities and start negotiating to employ people to structure the Yard and to have the management structure and the workforce structure that they want from scratch. It is certainly, in our view, easier to reach an agreement with somebody where you are negotiating what is going to be put in than to have an agreement with somebody where you are negotiating what has to be removed. But there is no guarantee that somebody will come in and offer employment on terms that will be acceptable to the local workforce and the Union. That has to be clearly understood. We cannot guarantee that because we have not the money to

invest and if we had the money to invest it would be a bad business for us to invest it in given the results that we have got. These results have required enormous efforts on our part, on the part of the Managers and on the part of the workers. We really had decided that having achieved economic viability, there was no further efficiency, no further improvement, that we knew we could get. We honestly believe that we have given it our best shot and so have the people and we have reached a point where we could say ok for the rest of Gibraltar's history we will be running a Shiprepair Yard doing £6m of work and spending £8m in doing it and losing a couple of million. This in a situation where every year the cranes get older and the dock gets older. Since you are losing money you cannot go to a commercial institution and borrow funds for capital investment because what the commercial institution will say to you is show me your balance sheet and show me your profit and loss. When they look at that they will say why do you want to put money in a business that is losing money already? Then they turn round and say if the Government guarantees it then we will lend you the money. Well no if the Government guarantees it then you are not lending money at commercial rates to a commercial company. You are lending money to the Government and the Government will borrow at a ¼% over libor and a commercial company borrows at 1½% or 2% over libor. So why should we give away 1½% to a bank? We might as well borrow the money as a Government. However, we cannot do that because Community Law prevents us. So those are the constraints about looking at different ways of financing the operation and we come to the conclusion that frankly at the end of the day, there was no way out for us. It was either a question of for ever more keeping the thing afloat and there is only one way it can be kept afloat and that was if the Government cannot lend it the money and the banks will not lend it the money unless it is guaranteed by the Government, which is tantamount to the Government lending the money, because we would then underwrite the repayments, then the only way that it could be done, is by other Government Companies effectively making loans which would not make commercial sense but for the fact that we own them all. Then we said ok in order to pay the wages in GSL, you lend it money every week otherwise the GSL workers will not get paid. One can argue well ultimately that money is the taxpayers money but you cannot have it both ways, you cannot say that we believe politically the right thing to do is to keep people working but we believe politically that we should not spend money paying them. Well, Mr Speaker, how do you expect to keep them working if you do not pay them? You can only pay them either if they earn the money by selling it to outside customers and they were earning part of their wages. So at the end of the day the position on economic viability, which we explained last year, is that we believe that GSL in 1990, lost £1¼m. However if GSL had been closed in 1990 and if the people working for GSL and for a number of related Companies like the Port Services Company, whose existence is to move ships and if there are no ships repaired, there are no ships to be moved and the Admin Company whose people are engaged in doing their wages, if we take that group of people who earned

their living out of GSL and we actually had them all unpaid and out of work, then the loss to the economy of Gibraltar would be greater than the loss that they are making by working. That is only when you are comparing two scenarios. One is a scenario of having 300 people employed or 300 people unemployed and what we are saying the 300 people employed did not make enough money to pay their wages, but they made enough money to cover 75% of their wages and the other 25% is a loss. However, if they had been unemployed and they had no income then the loss to the economy of Gibraltar would have been greater than that 25% loss that represented a quarter of their income. That is what economic viability means as we have defined it. So if we have two positions of 300 people working in a loss making activity or 300 people on the dole, then 300 people in the loss making activity is preferable unless they lose so much money that it is cheaper to pay them to do nothing than to pay them to work, which is the situation we had in 1988/89, where the loss was over £8m. But to get beyond that, unless you want to keep that going for ever, you have to say there is a situation that is better than that. The situation that is better than that is to have the 300, not on the dole, but working for someone else where they do not lose money. That is the next stage. We feel we could not reach that stage. Had we felt it would have been possible for us to do that, then we would have resisted the closure. However in order to resist the closure, we had to say to people look forget closing, forget taking your money, forget looking at the possibility of somebody coming in because we are very very confident that we can actually turn this round and break even in 1992. We were not able to give them that kind of straight answer and because we were not able to give them that answer then at the end of the day we went into it very thoroughly with them and on balance if we did not cease operations now they would not be making more money between now and a year than they are getting by going. So effectively, it means that if the Yard had kept going until mid-1992 based on existing levels of earnings then the amount of money that people are taking is the same as if they carried on working until mid 1992. That certainly puts them better off than the people in BCC who left work on Friday and on Monday they had no job and no money. But that does not mean that we said that we had to forget them because we are still keen to get somebody in as quickly as possible because it is not just the activity of those directly employed, it is as the Honourable Mr Caruana has said, the fact that it also generates income for suppliers in other activities in Gibraltar who will miss GSL as a customer. GSL buys in the local economy. In fact, the figure of the creditors is that instead of GSL owing money to the bank and paying vast interest it has borrowed money from another company which has made an interest free loan to enable the Company to repay the bank and therefore the Company has moved from having an overdraft last year to not having an overdraft this year. It has been able to borrow money from a Company in order to pay the PAYE and the Social Insurance to the Government. So we did not want to have a situation where we are saying GSL does not pay and other people pay.

At the end of the day there is only one way it can pay and that is by borrowing money and there is only one group from which it can borrow money and that is other Companies where the money is being borrowed not on strictly commercial terms. The position will be that if GSL is able to find someone interested in coming in and making use of the Yard and providing employment and it is certainly the preferred option of the Government, but it is not guaranteed that it will happen, then the fee it will pay to GSL for the use of those facilities would be what GSL will use to repay back the other Companies that have extended to it basically open credit lines. However, when the Accounts were being done those open credit lines had been opened by the other Companies on the basis that the operation was going to continue and which was in fact what we intended to do. If the operation was going to continue then the credit lines of finance from the other Companies would have been maintained open for whatever was needed. But once the operation ceased then the other Companies could not give a guarantee that they would provide whatever money was required in unlimited quantities whatever eventualities might arise in the future. Once it ceased operations, because the whole basis of the credit lines was to ensure that the Company was able to pay its employees, and if it has no employees then those credit lines are no longer available. This is why the Auditors have to say that they cannot state that the Company gives a fair and true picture of the Accounts as a going concern because it is not a going concern. It has stopped trading. It has not been put into liquidation, but it has ceased trading operations. It will be a going concern if tomorrow we have somebody that says I am prepared to hire the Yard for £1m a year. Then GSL has very few costs and the £1m coming in can be used to start paying off its debts and it becomes a going concern. However that may happen or may not happen. If it happens it is the best solution for the workforce and the taxpayers who ultimately are the final owners. But certainly, as far as I am concerned the general public of Gibraltar and the taxpayers of Gibraltar have a lot to complain about as a result of the disastrous situation which we should have never got into in 1985 and I wish, Mr Speaker, that the Member opposite had listened to all the free advice he used to be given from that side and consequently we would have avoided being where we are today. It has certainly not been for us, I can tell the Member, an easy task to bring it to the state that we have brought it. It has been very very difficult. It has cost a lot of heartaches because we are not treating individuals as employees in an entity, they are our friends and they are people that we care about and people that we have been with all our lives in the Union and we want to do what is best for them. What we are not prepared to do is promise them things that cannot be delivered. We believe that it is the wrong thing to do. We are not prepared to promise that in GSL or anywhere else. People have to understand that Gibraltar will not survive other than by being able to pay its way in the world. There is no other choice. There is nobody with an open cheque book. If there were to be anybody with an open cheque book then the cheque book

would be in pesetas and I am not drawing on that Account. Those are the realities of life, Mr Speaker. It is not something that we want to do but it is something that we have to do and we all have to understand it. It is a message that some people do not want to hear but then we live in a democracy and they can buy themselves a different message by voting for somebody else. However, that will not alter the real world. The real world will still be there and will still catch up with us. The situation therefore given what I have already said is that we shall be producing, and my colleague will explain this, six months Management Accounts which will not be an indication really of what is going to be the final outcome for this year because the Accounts will show the operation of the Yard until the 30 June when it ceased operating. The period from the 30 June to the end of December will be affected negatively by the payout and positively by the income, if any, that we get from an operator coming in before December. In 1992 the full Accounts will reflect the final position at the end of the year like they have done every other year. Obviously the costs from July until the end of the year, other than the cost of the people who have left, will be a minimal care and maintenance cost of the Yard. If however we look at it from the point of view that the payment to people who have left is a one-off payment and is therefore in the nature of an extraordinary payment, then clearly if we have lost £800,000 between January and June this year, we would not expect to have to spend £800,000 on a care and maintenance basis. That would be the only cost that must follow the second half because it will have a lower trading loss than the first half and that the trading loss for the year would be less than the trading loss for 1990 and that the extra cost would then come in as an extraordinary item, redundancy payments, which are treated in all Company Accounts everywhere as such because they are not annually recurrent. Obviously, it is a better situation that we have today to say "I am going to spend £50,000, £60,000 or £70,000 to keep the Yard capable of being put back into operation very quickly by keeping it on a care and maintenance basis so that it is still operational rather than sort of closing it down totally and saying well we are forgetting shiprepairing. We might eventually be forced into that situation but at the moment we are hopeful that that will not be the case. That however is still better, from the point of view of what it will cost to do that, than to say we are going to keep it operating and losing £150,000 a month repairing ships with those people. Because having been paid the money that they would have earned they may be able to find alternative employment and in which case they will be better off. The position therefore will be that if indeed it was decided that it was impossible to find any takers on terms acceptable to them and acceptable to people in Gibraltar the Yard will be closed down. However bearing in mind what the Honourable Member said about asking any operator to meet a certain amount of commitment to employing local people it is not so much a question of saying either you do this or I will not let you in because the operator will say I can spend my money anywhere in the world that I want to

because I have it in hard cash and at the end of the day the bottom line with Kvaerner was that either people here accepted what they wanted or they took their money elsewhere. Mr Speaker, since this is not money that they are giving away because they are saying that if they invest £8m it will have to make 20% per annum on the £8m because otherwise they will put it in BCC or whatever. If they tend to say otherwise I put it in the bank perhaps nowadays we can tell them look the Bank is no safer than the shipyard anymore. If that were regrettably to be the situation then of course the Accounts would not mean very much because one of the elements in what the Auditors are saying about the Accounts is that you are valuing the assets at their written down historical costs on the assumption that there is a use for them. Therefore the value of a crane in a shiprepair yard is negligible if you have to sell it for scrap. The assets of the Company shown in the Balance Sheet do not reflect the scrap value and if you were to say to the Auditors, the creditors will not support the Company, the Company has no employees and it is ceasing operation and that was the whole story then effectively there would have to be substantial provisions on these Accounts to write off some of the capital value. That is where the qualification of the Auditors comes in. We have not done that because we are still hopeful that we will be able to find somebody to come in and operate the Yard profitably. Nobody will come in unless they can do it profitably. Hopefully they will be employing many more people than the 160 that we used to employ when we ceased operations in June. So that not only will they be able to find opportunities to give jobs to everybody here but even if they give jobs to people outside it will increase the base of taxpayers in Gibraltar and help us in the task of creating a viable economy. So it is in all our interests that that should happen.

The House recessed at 1.10 pm.

The House resumed at 3.25 pm.

HON J E PILCHER:

Mr Speaker, I think there is very little to add since most of the points that were raised by the Honourable Members opposite have in fact been answered by the Honourable the Chief Minister. There are perhaps a couple of minor points that I might add to what the Chief Minister said on the Auditor's Report, and I apologise to the House for not having done so in my opening speech. I had it down in my notes but I left it out. The Chief Minister in fact has mentioned the reason for the points raised by the Company's Auditors and the Principal Auditor and it all hinges, as the Chief Minister explained, on the going concern basis. However, even if we had wanted to include at this stage, the information on the redundancies the Auditors would nevertheless, in order to be able to bring Accounts, would have to have had to add on not only the cost of the redundancies but also the losses which would be sustained by the Yard in other areas. Now, this could only have been

done on a notional basis, Mr Speaker, so even if we had produced that, it could only have been done on a notional basis and therefore the accuracy of that would have been questionable. So I think the only reason why the Company's Auditors and the Principal Auditor have qualified the Accounts is not because of the accuracy of the Accounts as such, but of the fact that obviously it was done on a going concern basis, Mr Speaker. I think that there are very few things which the Chief Minister left out. One question that, I think, was raised was the creditors. Let me say that there are no trade creditors in the Sundry Creditors. Let me make that absolutely clear, I think that at one stage somebody did ask that. The answer is that the trade creditors are treated separately and it is important to note that the trade creditors obviously and the trade debtors is something which the Company will immediately tackle on the ceasing of operations, given the normal trading arrangements that we have with the trade creditors and the debtors. Any entity would have to agree conditions of service with the TGWU or with whichever other Union was dealing with that matter. So it is not just a question of the entity coming in and doing what it pleases because there will have to be trade union agreements put into place, Mr Speaker. One other point which I think the Chief Minister failed to mention was the question related to Gun Wharf. I think it was raised by the Honourable Mr Caruana. With Gun Wharf the position at the moment is still not clear but I assure the Hon Member that if Gun Wharf went the same way as GSL then the Government would want to do precisely the same as with GSL because as far as we are concerned it is part of the package of Maritime activities across the board. I think there is very little further to add, Mr Speaker, other than to say that I do share obviously the personal regret that the Honourable the Leader of the Opposition was referring to. As he, in fact, mentioned I have worked many hours together with my Board and my Management team and also with everybody involved in the GSL operation, the Unions, the employees, everybody has worked very hard to try and make a go. There is therefore personal regret and a bit of frustration because unfortunately it has been the end of the road for us, Mr Speaker. Thank you very much.

The House noted the Accounts of Gibraltar Shiprepair Limited for the year ended 31st December, 1990.

BILLS

FIRST AND SECOND READINGS

THE GIBRALTAR SHIPREPAIR LIMITED (REPEAL) ORDINANCE 1991

HON J E PILCHER:

Sir, I have the honour to move that a Bill for an Ordinance to repeal the Gibraltar Shiprepair Limited Ordinance be read a first time.

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

SECOND READING

HON J E PILCHER:

Sir, I have the honour to move that the Bill be now read a second time. In doing so, Mr Speaker, there is very little to add that has not been discussed in the previous debate. We must remember, Mr Speaker, that when the Gibraltar Shiprepair Ordinance was put in place its one main function was to create a situation by which this House was directly concerned with the expenditure made by the Company of ODA funds. Following the demise of the ODA funds, Mr Speaker, the Gibraltar Government then itself produced some subsidy, some direct subsidy to the Company and with that in mind it was also appropriate for the House to be monitoring those funds. I do not think that the Gibraltar Shiprepair Ordinance was put in place for the House to monitor a commercial company. It was a financial instrument where at first £28m and then £35m went into the Company and it could not be done without this House exercising some restraint and exercising its own ability to comment on the way those funds were being dispersed. We could have, Mr Speaker, on the 1 January 1989, have repealed the Gibraltar Shiprepair Limited Ordinance because as Members opposite know, as from the 1 January 1989, the Company ceased getting direct subsidies from the Government and certainly the ODA money was no longer available. However, we felt that we had set a system up where we had a debate in the House of Assembly once a year when we brought the Accounts to the House and we felt that if we changed that it could be seen to be a mechanism by us for not explaining what was happening at Gibraltar Shiprepair. Hence, Mr Speaker, when we ceased the operations we felt that it was now an appropriate time to repeal the Ordinance with the minor exception that is seen in the Ordinance which still leaves in place the mechanism for people to be able to claim against the Company because there may be certain outstanding claims. There are none that we know about but, I think, that must be kept. As the Chief Minister said this morning it is not the intention, or rather, it is the intention to produce interim Management Accounts, a six month Account, up to the end of June, which will show the trading losses of the Company etc and those will be made available to Members opposite on a confidential basis. This confidentiality has nothing to do with the trading aspect but rather a direct relation to the negotiations and discussions which we might at one particular stage be undertaking with certain entities. Other than that, Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, the Honourable Member has said that having decided to cease the operations of the Yard the Government considered that it was an appropriate time to repeal the Ordinance.

An appropriate time may not necessarily be an indication of the fact that it is necessary to do so. I would submit that if over the next few months the Government were to be looking for an operator and perhaps in discussion with the operator and in that interim period the Gibraltar Shiprepair Limited Ordinance could still be in force. In fact, such negotiations could be drawn out and in that case it would enable the Government to table the Accounts for the period ending the 30 June 1991 and have those Accounts discussed in the normal way. I do not think that it is a satisfactory situation to be shown these Accounts in confidence and that that would be the end of the matter. I think that that is most unsatisfactory and I do not think that the affairs of Gibraltar Shiprepair Limited should be wound up in that manner. I would therefore, Mr Speaker, ask why is it absolutely necessary that this course of action be taken now? Why cannot it be deferred for a few months? In any case until the Accounts are produced and debated here, unless there is agreement with an operator and those negotiations come to fruition and the Yard taken over by such an operator it will be necessary to enact legislation and then the repeal of the Ordinance could be done. That, Mr Speaker, would be an appropriate time. I certainly have not been satisfied and convinced by the Honourable Mover of the Bill, having regard to what he has said so far about the need to proceed in this way.

HON P R CARUANA:

Mr Speaker, I concur with the points made by the Honourable the Leader of the Opposition. The fact of the matter is that there is no logical reason why this Ordinance should be repealed now. I know that the press has put out incorrect information that the repeal of this Ordinance means that the Company ceases to exist and we understand that that is entirely incorrect. Nevertheless, I think, that I would welcome an explanation as to why this Bill is being brought to the House. I look at the Ordinance and note what the Honourable Minister has said about the original purpose of the Bill but the fact remains that there is still a substantial amount of public funds washing around in there and in related companies or other companies owned by Government. The fact is that the Company is still a substantial creditor or rather debtor to the Government and it is entirely legitimate whilst those public funds remain in the Company that this House remains entitled to know, as a matter of right, how all those public funds are eventually extricated from the Company. The Ordinance serves other purposes other than the one the Honourable Member opposite has mentioned. For example, it requires this House to approve any transaction whereby the Government might seek to sell its shares in GSL reducing its holdings by less than 25%. Well it would be relatively straightforward to restructure, if the present structure does not permit it, the tenure of GSL to the land. In other words give it some form of lease if that is not what it already has, in a way that would make it considerably possible for the Government, not to procure that GSL gives an underlease

or a subcontract, but it would be possible for the Government to sell GSL, lock, stock and barrell, through its shares. If it did that then the repeal of this Ordinance would mean that the consent of the House, would no longer be required to do that. It abolishes the Government's obligation to continue to bring Accounts of GSL to this House as the Honourable the Leader of the Opposition has mentioned. Whilst Members opposite may think that because the Company has ceased operating the need for the House to see those Accounts no longer exists, I have to say that I do not see any logical connection between the ceasing of commercial activities by the Company and the repeal of the Ordinance. The other thing that the repeal of this Ordinance would achieve, of course, is the closing down of the Gibraltar Shiprepair Fund, which I understand as a matter of accounting, has now been reduced to £1. But in any case Accounts of that would be available in due course in the next set of Accounts of the Government of Gibraltar and I think that it would be important to get the Accounts in relation to that fund right up to the period when Government's financial involvement in the Company had concluded. Therefore, Mr Speaker, I concur with the views expressed by the Honourable the Leader of the Opposition, that this Ordinance, if passed, would deprive the House of rights it presently has.

MR SPEAKER:

Is there any other Honourable Member that would like to contribute?

HON CHIEF MINISTER:

Mr Speaker, I think the position of the Government is quite simple. The Yard will still be there but the Yard does not belong to GSL, the Yard belongs to the Crown, the land. We have no intentions of disposing of that land. That has been made absolutely clear and if we wanted to we could do it without reference to the Ordinance. If we wanted to lease the Yard to an outsider then we would not need to bring it to the House and we would not need to do anything to change the Ordinance to do it. The Government already has the power to do it because the land has always been on a peppercorn rent utilised by GSL. In fact, it was only I think in 1990, that they actually got the MOD to transfer the land to the Government of Gibraltar. I am sure Members opposite who have been in Government know that this is not unusual since it was only in the 1985 Lands Memorandum that they got round to transferring Laguna Estate and the Victoria Stadium to us. So the fact that by 1990 they have actually got round to drafting the necessary paperwork for GSL is not an unusual state of affairs. So, the Member's reaction in saying that does this mean that at the moment we cannot transfer the shares in the Company to another body and that by doing away with the Ordinance we will be able to do it without the approval of the House, seems extraordinary. The fact that we have just presented a set of Accounts which shows that there are no assets, the Company has got no assets and is in fact technically insolvent and that is clear from

the Accounts, from the Auditor's comments and from the Principal Auditor's comments and all has been referred to. So, in fact, Mr Speaker, there is nothing to sell. What we have at the moment are debts! There are no public funds washing about in the Company, I regret to say, because the Company has no funds and no employees. As from the beginning of July, GSL has a book value of fixed assets which if sold for the book value would be insufficient to clear its accumulated debts. I have explained that those accumulated debts are debts which consists of credit banks provided by other Government Companies because otherwise the Company would have gone bankrupt two years ago. That it cannot get money directly from the Government because it is in conflict with Community Law. So the whole purpose of why the Bill was put into the House in the first place which was to require Accounts to be presented on the basis that public funds were being provided has been negated by the subsequent ruling that public funds cannot be provided. Of course, there is no compelling urgent reason for repealing the Ordinance. It is just that it seems to us that now that the Yard has ceased operating and now that the Yard will not recommence operations because we have made that absolutely clear, and will not be employing anybody then there is really no point left in having a GSL Ordinance when there is no GSL and there is no point left for having to debate the future of GSL when GSL is in the past. Of course, if we were not repealing the Ordinance, then, all that would happen would be that sometime in 1992, and not before, when the final Audited Accounts for the year ending 31st December 1991, were prepared, then those Accounts which should be then even more history, would be brought to the House and then we would have been able to repeal the Ordinance having said fifteen months ago that the Yard stopped operations. We actually thought Members opposite would welcome the fact that we are bringing the whole thing forward and giving them the position as it was a week ago. Something for which we have no obligation under this Ordinance to do. We are presenting the Accounts for 1990 and as far as we are concerned we can say to Members opposite that in 1992 they will be told what happened in 1991. That, Mr Speaker, is all that we are required to do by the Ordinance and nothing else. Instead, we tell them of what has happened in the first six months of this year and that events have moved in such a way that if we just told them what happened in 1990 then there would be no indication of what is likely to happen in 1991. So, we bring Hon Members right up to date, so that they have the latest information that is available to the Government and when the Government has the Management Accounts, which are not for publication, we will in fact let them have the Management Accounts. Also if when the final Accounts are finished in 1992, which could well be after the 1992 Election, and they are here and if they feel so strongly about it, then they can no doubt reintroduce an Ordinance and bring Accounts here for, for whom I do not know? Who is going to be interested in them inside the House and outside the House, but if that is what they feel is a useful thing in which the House of Assembly should occupy its time in 1992, then they can do it. We

felt that this was the most practical way to deal with the situation in a way which would give people the most up to date picture and in the most realistic fashion. After all what my colleague has offered is, in fact, to give people a picture of how the Yard traded in these last six months of life. If we went by the book and we produced Accounts for twelve months and we had not traded since July and we had other costs and other income then it would be impossible from the Accounts to extract what had been the trading position in terms of repairing ships for that twelve month period. That is all that we would need to do, Mr Speaker. Because we have decided that it is not a very useful or a very practical thing to be doing in 1992, we thought well we will not do that and instead what we would do was to provide to Members opposite the same information that is available to us as soon as it is available to us so that they see what happened in the first six months. It will show that, in fact, what we expect it to be is that it will be the equivalent of six months of these twelve months. That is to say the situation shows no improvement. Had there been an improving situation it might have been different but it shows that what we achieved in 1990 we have not been able to better in 1991. This is the thrust of what I was saying before. Having achieved economic viability why are we sort of giving up? We are giving up because we felt we have got to the point where we cannot do better than last year and doing better than last year is not good enough as a long term solution. I am surprised that Members should prefer that we should simply have stuck to the letter of the law which would have, in fact, been very easy for us to do. This would however have given, Hon Members false information.

HON LT-COL E M BRITTO:

Mr Speaker, I must say that sometimes from this side of the House one has to smile and even admire the Chief Minister. First of all he draws a red herring as big as the mace in this House in answer to the point that both the Leader of the Opposition and the Honourable Mr Caruana have made. We are not talking about the land, Mr Speaker, we are talking about GSL, the Company. The first three or four minutes of his intervention the Chief Minister was dealing with the question of the land. He then turns the whole thing round and ends up doing us a favour, Mr Speaker. Mr Speaker, the Chief Minister is also going to do us a favour by giving us the Management Accounts for the last six months for GSL. That, Mr Speaker, is not the point that has been made from this side of the House. The point that is being made is that once the Ordinance is repealed there is no obligation on the part of the Government to bring any further information to this House. They will then hide behind the repeal of this Ordinance like they have been hiding throughout the life of this Government and that is the fact that GSL is now a purely commercial company and as such they have no obligation to come to this House to answer questions on GSL and no obligation to giving this House any information on the final package or the final results of GSL. The Honourable Minister has only committed himself to giving

us "in confidence", the Accounts up to June 1991. We however do not know how long GSL will continue until it is finally disposed of. What we are interested in is what happens eventually to GSL? It is not correct or rather it is correct to say that technically the Company is insolvent and that liabilities are in excess of the assets and therefore that there are no assets to sell, technically. In actual practice that is not so, Mr Speaker, because the major creditor is the Government and the Government, as the Chief Minister himself described this morning, has ways of getting round the problem. They could conceivably write off the debts and they can do it more easily, as the Honourable the Chief Minister has described by pumping money into GSL, as loans, from one of the Joint Venture Companies and this way they will pay off the debts. So, it is not true to say, Mr Speaker, that the Company cannot be put in a position where it can be sold to a possible buyer. However by passing this Ordinance today, Mr Speaker, that will be done. Not can be done but rather will be done and this House will not be informed of what has been done. It is nothing less, Mr Speaker, than an attempt to wrap up the final days of GSL in a package of secrecy. Because of the fact that there are public funds in GSL which must be accounted for we on the AACR Opposition will not be supporting this Bill.

MR SPEAKER:

If no other Member wishes to speak, I will call on the mover to reply.

HON J E PILCHER:

It appears, Mr Speaker, that irrespective of the explanations that I have given and the Chief Minister has also given the Opposition either they do understand, or perhaps even more important, they do not want to be understood. What has happened today is that we have discussed what happened in 1990. What has happened in 1991, as far as the Trading Accounts of the Company are concerned even if I brought the Accounts every year between now and the year 2000 all that one could discuss was the trading position of the Company up to the 1 June 1991. All that can be done with GSL is to try and make an agreement by which there will be a subcontract, a sublease, or what you like, to be able to pay GSL so that GSL can in turn repay the loans. That is what we are trying to put in motion. We can do that with the GSL Ordinance or without the GSL Ordinance. It is the land that would be leased, the land that would be subleased. The Gibraltar Shiprepair Ordinance does not talk about the land it talks about the shares of the Company and the funds of the Company. I would not get a half penny for GSL today nor would I have got it in 1988. It was a commercial company from the 1 January 1989. It has no go public funds in it or floating around it. It owes money to the Government like many other commercial companies do. I hope that what Mr Caruana or Mr Britto, do not want us to have an Ordinance so that everybody who owes money to the Government has to bring the Accounts to the House of Assembly. The only money outstanding at the moment is money which is owed to the Government through the normal mechanism, Mr Speaker. When

I made the offer to show the Management Accounts to the Members opposite, it was so that they would see what had happened to the trading year of the Company up to the end of June. However since they are not happy with that then I assure them that they will not even get that. Thank you, Mr Speaker.'

HON A J CANEPA:

The question of the Accounts was not the point that I was making. I was saying that that would not give us an opportunity to discuss the Accounts. We have received information from the Honourable Minister 'In confidence', notably for instance on GBC for which we have been grateful because this has kept us informed about the situation and no doubt having Management Accounts showing the operating position for six months is better than having nothing. But quite honestly I would prefer a repetition of the situation that we have had. Of course, I would want to see those Management Accounts because I want to see how the end of an operation, the beginning of which I was associated with, has been concluded. The other point that I would ask the Honourable Mover to consider and perhaps if he is not able to answer then the Chief Minister himself will do so. Once this Bill goes through the House and it is gazetted and becomes law, will that same gazette contain an Order under the Constitution whereby the Honourable Mr Joseph Pilcher will no longer be Minister for GSL?

HON CHIEF MINISTER:

Mr Speaker, as far as I am aware, the Ministerial responsibility of any Minister has nothing to do with any Ordinance. We have Ministers here that are Chairmen of other Companies. The fact is that there is one Ordinance covering one Company requiring that one Company to have the Accounts tabled in the House because that is the way the AACR introduced the Company as a result of the £30m given by the UK Government. The UK Government made it a condition that it had to be done in this particular way because there were UK funds being provided. The Companies that we have set up since 1988 have not been set up through Ordinances and we have made it clear that we are not prepared to have a situation where we debate the Accounts of those Companies here. That, Mr Speaker, is our policy. That is the policy on which we stand. It is the policy of the GSLP. This Ordinance now seems to have finished its useful purpose, if it ever had one as far as we are concerned, because certainly it did not provide the Opposition in my time with any right to ask any questions on anything. As the Member must know when the House passed this Ordinance for the first time, the Members in the then Government made it clear that there was no constitutional responsibility. There was no need to have a Minister for GSL and there was no Minister for GSL. The Financial Secretary was Chairman, in a temporary capacity, then Mr Simonis became the Chairman and after that nobody answered any questions, even though there was an Ordinance. So why should they find that there absence of an Ordinance will change anything? Before, Mr

Speaker, they were so enthusiastic that they did not put anybody in charge.

HON A J CANEPA:

We had an Ordinance.....

MR SPEAKER:

Order, order. I think that the Minister who moved the Bill must speak now.

HON J E PILCHER:

As the ex-Minister for GSL, Mr Speaker, as far as I am concerned and, I think, that the Chief Minister made the point ably, when we came into Office on the 25 March 1988 we made it absolutely clear that the political responsibility for GSL with an Ordinance or without an Ordinance was going to be carried out by the elected representatives. Mr Speaker, the Party decided that since I had been shadowing GSL since 1984 that I should be Minister for GSL and whether I am technically or constitutional Minister for GSL or not, Mr Speaker, I will continue to be the person, as Chairman of GSL, who will continue to try my best to solve the future prosperity of the Yard by having some future operator continue with the repair of ships. I will do that even if I am not Minister for GSL and just Minister for Tourism. That has no bearing directly on what the Honourable the Leader of the Opposition has raised. No bearing whatsoever.

HON P R CARUANA:

Mr Speaker, I concede that I would like to know what treatment is eventually given to the unpaid PAYE and Social Insurance? The only way that I can be guaranteed of knowing that is by asking questions about a particular taxpayer. The only way that the Members on this side of the House will ever know, whether the Government has written off the unpaid Social Insurance and PAYE is through the Accounts of GSL. So I do not mind conceding to the Honourable Minister that that is one of the reasons why I want these Accounts. If, as the Honourable the Chief Minister and the Honourable Minister for Tourism have said the timing of this Bill is a matter of complete indifference to the Members opposite and they have nothing to gain by enacting this Bill then would they humour the Members on this side of the House, at no cost to themselves, by simply leaving this Ordinance on the Statute Book for a while longer.

HON J E PILCHER:

We take our business very seriously and we do not humour anybody, Mr Speaker. The answer is no.

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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members voted against:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon P R Caruana
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

The Bill was read a second time.

HON J E PILCHER:

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 TRAFFIC (AMENDMENT) ORDINANCE, 1991

HON J C PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Traffic Ordinance be read a first time.

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

SECOND READING

HON J C PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the main amendment to the Ordinance is the amendment to Section 92 and which really gives more precise indication to the Magistrates when looking at cases where some vehicles are towed away as a result of public notices having been put up. It concerns the nature of the offence in respect of the positioning of those notices in relation to the positioning of the car. The other amendments concern fines and are part of the exercise which the Attorney-General's Chamber is doing in updating all the fines for criminal offences. I might also just add that

it obviously does not include clamping or parking tickets. Those are not being increased. They concern criminal offences arising out of the Traffic Ordinance. I think no further explanation is necessary at this stage but I am willing to answer any questions that Honourable Members might ask. I commend the Bill to the House.

MR SPEAKER:

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

HON K B ANTHONY:

Mr Speaker, we are not going to vote in favour of this Bill as it stands at the moment. We are in full agreement with the rising of the penalties to the standard levels that have been laid down in law. We have no objection to that. But it is the amendment to Clause 92 that we are against, in principle. It states that the requirement of traffic signs placed that they should be no more than seventy metres apart and thirty-five metres from the vehicle to the nearest sign. Seventy metres or seventy-five yards, Mr Speaker is we feel too far a legal distant. I take the point that it is for clarification of the law and for the benefit of the Magistrate and I agree, Mr Speaker, that on a day like today when it is sunny one may well see the sign thirty-five metres away from your car. However looking at the worst conditions, possibly a rainy night in February and you park your car and are you expected to go walking up the road for thirty-five metres looking to see if there is a traffic sign? This, Mr Speaker, is what the law says one should do and it means that the motorist will be the one who has to bear the brunt. Therefore I would suggest, Mr Speaker, that if the Government want our support that they should amend this distance from seventy metres to a much shorter distance and make it a more realistic figure for the motorists of Gibraltar. Apart from that, Mr Speaker, we have no objection. But unless this is done we will not be voting in favour of this Bill.

HON P R CARUANA:

Mr Speaker, I shall not be supporting the Bill for the reasons that the Honourable Mr Anthony has said which I will expand on during Committee Stage. I object, in principle, not to the raising of fines in all Ordinances to a realistic level that brings the level of fines up to inflation, I do not object to that, nor do I object to Statutory fines being fixed by reference to a fixed scale appended to the Criminal Procedure Ordinance, what I do object to is the fact that under the Criminal Procedure Ordinance, those scales can then be changed by Regulation. So that once the Ordinance is passed the future level of fines for Criminal Offences in Gibraltar will be established, not by this House, but by one or more Members sitting opposite by Regulation. That is another usurping of the powers of this House. The fact that under the Criminal Procedure Ordinance the level of fines under the Standard Scales can themselves be amended by Regulation and for that reason I will be voting, not

really against this Ordinance, but on principle. I therefore will be voting against any Ordinance that changes the fines by reference to those scales unless and until the Criminal Procedure Ordinance is amended so that the scales themselves cannot be changed by Regulation.

MR SPEAKER:

Does any other Member wish to speak? If not I will call on the mover to reply.

HON J C PEREZ:

Mr Speaker, the Criminal Procedure Ordinance which the Honourable Member refers to was passed in this House and the stand that the Honourable Member wishes to take is something which he is free to continue to take. It was taken by his predecessor in this House so if he wishes to make it an issue every time that the Ordinance refers to this then he can do and we can continue to do so in abbreviated form because we all know his point of view. We all knew the position before he even spoke, Mr Speaker. On the questions that the Honourable Mr Anthony has raised, I am afraid that he might not find seventy metres practical but it seems that in the United Kingdom people find seventy metres practical because we are following UK practice. It also seems that the Police in Gibraltar find it practical because we are following their advice and the Traffic Commission finds it practical and that those, involved in this matter from the DTI Road Section also are quite happy. I can assure the Hon Member that the Minister has not invented the seventy metres rules. It has been the experts that have recommended it and we have checked with the United Kingdom and we have found it to be practical. But again, if the Hon Members wish on a matter of principle to abstain or vote against then they are free to do so and I understand their point completely, Mr Speaker.

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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members voted against:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon P R Caruana
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

The Bill was read a second time.

HON J C PEREZ:

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.

THE SAVINGS BANK (AMENDMENT) ORDINANCE, 1991

HON J C PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Savings Bank Ordinance be read a first time.

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

SECOND READING

HON J C PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the main point in the Bill is covered by the amendment to Section 7(A), which is introduction by the Post Office of debentures. The reason why this is being done now is because some of the Gibraltar Government's debentures will be maturing this summer and we are offering those people whose debentures mature the possibility of re-investing in the Post Office Savings Bank. The other issue that the amendment deals with is the transfer of responsibility from the Financial and Development Secretary to the Accountant General. This is connected with the restructuring of the Civil Service and we are still not quite sure whether we are going to do this now and that is why we may not enforce this part until a later stage. It will depend on how the restructure of the service goes in that area. I commend the Bill to the House.

MR SPEAKER:

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

HON LT-COL E M BRITTO:

Mr Speaker, a very similar amendment to the one just referred to by the Honourable Minister in his introduction, was brought to this House on the 15 November 1988, when the basic principle of not using funds in the Post Office Savings Bank for the purposes of Gibraltar was done away with and the idea of using the funds directly in the Improvement and Development Fund, in the Consolidated Fund and in the Gibraltar Investment Fund, were introduced in the Bill that came before the House and eventually became law on the 8 December 1988. Although in the Opposition we

HON J C PEREZ:

What relevance does that have, Mr Speaker?

HON LT-COL E M BRITTO:

Mr Speaker, I am coming to the relevance. I am saying that the principle was done away with the using of the Savings Bank for the purposes of Gibraltar. Although we had had reservations when studying the Bill, Mr Speaker, subsequently in this House, the Opposition supported the Bill, mainly because of the explanation given by the Chief Minister at the time that it was common with the practice in UK of using borrowing and not distinguishing between a Savings Bank and other types of borrowing. Secondly, because in fact, we appreciated that it had the effect of being a gilt-edged investment in that the Savings Bank was supported by Gibraltar Government. However, in his introduction to the Bill, Mr Speaker, the then Honourable Financial and Development Secretary, the Honourable Brian Traynor, said sarcastically but with a certain degree of foresight apparently, and I quote from Hansard, Mr Speaker, "In any event the requirement to seek the approval of the Secretary of State can be regarded almost as an archonistic and colonialistic feature as the Office of the Financial and Development Secretary". I say this, Mr Speaker, because the Bill before the House today reinforces this principle of using funds for the Accounts of Gibraltar. What it does change, and the Minister has already mentioned it very fleetingly and we would want a more detailed explanation of the reasons before we are prepared to accept this Bill, Mr Speaker but what it does is effectively to remove any say by the Honourable the Financial and Development Secretary, in the use of these funds. The original amendment said in November 1988, "The monies in the Investment Accounts may, at the discretion of the Financial and Development Secretary". In the Bill before the House today that reference to the discretion of the Financial and Development Secretary has been done away with and originally in the Bill before us, the approval was sought from the Accountant General but in a subsequent amendment to be moved at Committee Stage, that approval is now required from the Governor and not from the Accountant General. The Governor, of course, this being a defined domestic matter, meaning in effect the Council of Ministers. Similarly, in the amendment to Section 13, we have again the removal of any say by the Financial and Development Secretary in the way these funds are produced. Therefore what we would want to know, Mr Speaker, before we are prepared to accept this Bill, is why it has been found necessary to remove the powers of the Financial Secretary? Is it a reflection, I am sure it is not, on the part of the Government on the Financial Secretary, or is it that there has been some basic principle at stake which the Financial and Development Secretary has not been prepared to support and therefore the law is being changed so that a Civil Servant who is an employee of the Government can be made to support the Bill? We would want that explanation, Mr Speaker, before we are prepared to consider supporting this Bill.

HON P R CARUANA:

Mr Speaker, like the Honourable and Gallant Col Britto, I would welcome, if indeed the Government attaches any value to having the support of this side of the House in the passage of its legislation, I would welcome an explanation or if an explanation is putting it too strongly, information, as to why it is sought to replace the Financial and Development Secretary, who has certain constitutional responsibilities with the Accountant General, who does not. And, in that context, the Honourable the Minister for Government Services said that one of the purposes of the Bill, was the transfer of responsibilities from the Financial and Development Secretary to the Governor. Well, the Honourable Member opposite may think that he is transferring responsibilities, but the Honourable the Financial and Development Secretary will know better, because he knows that under Section 3, of the Public Finance (Control and Audit) Ordinance, the responsibility rests with him to supervise the finances of the Government of Gibraltar and that therefore he cannot transfer responsibilities which are in law imposed on him. So, even when this Ordinance is passed, the Financial and Development Secretary will continue presumably to discharge, until the Public Finance (Control and Audit) Ordinance is itself amended, which of course the Honourable Members opposite are free to do, then he cannot by this Ordinance wash his hands of the responsibilities for Government finances insofar as they are affected by the Savings Bank, for which of course the Government is ultimately responsible. The other aspect that arises is the question of the Governor being ultimately responsible, that is true but the control of the Financial and Development Secretary gave a degree of confidence to depositors in that there was control of a non political nature. Now, Mr Speaker, we can go into all sorts of arguments as to whether we should have the Constitution that we have or whether in this day and age we should have a Constitution that places all the responsibility on the elected Members of the House and that would make a very interesting debate but the fact of the matter is that whilst we have the Constitution that we have the citizens of this community are entitled to know that their affairs are being conducted in accordance with it. The citizens of this community should now know that unless the Financial and Development Secretary has taken to heart my opening comments and that when they place funds on deposit with the Gibraltar Savings Bank there will no longer be a degree of non political supervision of a Constitutional kind because although the Accountant General can provide that supervision it would not be within the framework of the Constitution and whilst, in principle, I have no objection to the Bill I would like an explanation of the Government's thinking on the transfer of responsibilities and I hope that the Honourable Member opposite when he replies, will consider that it is appropriate to give that explanation.

MR SPEAKER:

Does any other Member wish to speak?

HON CHIEF MINISTER:

I have not checked what happened in November 1988, so I will have to rely on my memory, Mr Speaker. But if my memory does not fail me what I told the Member opposite was that, in fact, the amending legislation that we brought in 1988, did not do what he has just said it does. It does not do it and it did not do it then. The Hon Member did not understand it then and he does not understand it now. I do not suppose I am going to leave him any more enlightened on this occasion than I did in 1988. What I did say was that in fact in the UK the National Savings deposited in the Savings Bank of the Post Office in the UK are free for the use by the Government of the UK in whatever they want. I did not say that that is what we were doing in Gibraltar. We were not doing that in Gibraltar. We did not do it in 1988 and we have not done it now. In fact the Ordinance says the opposite, Mr Speaker. The Ordinance says that the funds of the Post Office are not generally available for expenditure of the Government. What we introduced in 1988 was a provision that the money could be advanced to the Gibraltar Improvement and Development Fund or the Consolidated Fund or the Investment Fund but it is an advance which is already, in any case, provided for in all the other special funds under the Public Finance (Control and Audit) Ordinance where the Financial and Development Secretary can, in fact, make advances from any fund in surplus to any fund in deficit in order to balance the books. If the Member opposite cares to go back to any Audited Accounts of any year since the 1968 Constitution then he will find that it was being done regularly with all those funds and continues to be done today. The only Special Fund which was not covered by that proviso, was the Special Fund which constituted the Government's Savings Bank, because it was a fund created by an Ordinance as opposed to a fund created under the General Powers of the Public Finance (Control and Audit) Ordinance. All that we did, in fact, in 1988 was to allow a situation where if we had, if the Member looks at this year's Estimates of Expenditure, in the Improvement and Development Fund then he will find, as I explained at the time of the Estimates, that we were showing a situation where we had a deficit of £10m in the Improvement and Development Fund. Obviously, if we spend £10m in the Financial Year more than we receive then where do we get the £10m from? When the Audited Accounts for the year appear the Member will find that there is a page in the Audited Accounts which shows the balances of all the Special Funds which are either owed by or owed to the Consolidated Fund. In 1988, we created legislation which enables the Financial and Development Secretary and looking at it really from the point of view of managing the Improvement and Development Fund rather than from the point of view of the Savings Bank, that if the Savings Bank had cash which was being deposited in a clearing bank then it made more sense that the Financial and Development Secretary should advance that money to the Improvement and Development Fund than for the Government to go to the bank and borrow the money. Because the money that the Bank would be lending us was really the money that

the Savings Bank had deposited with them. Why should the Bank then make a profit on our own money. That is what was done in 1988. Nothing in this Ordinance alters that at all. It did not however allow us to make use of the money as if it was Government revenue and it does not allow it now. Putting the Accountant General in the place of the Financial and Development Secretary does not alter in any way how the money can or cannot be used.

HON LT-COL E M BRITTO:

I do have the Hansard of 1988 in front of me. I apologise to the House because when I had an interruption earlier on from the Honourable Mr Perez asking for the relevance of the comments that I was making on the funds and I shall come to it in a minute, I did in fact skip that particular point which is relevant to what the Chief Minister has said now. Let me make two points, Mr Speaker, firstly that the Member who led from this side of the House on this debate in November 1988, was not myself, but the Honourable Mr Peter Montegriffo, who has now left. And secondly, that although the Chief Minister has been much clearer in his explanation today, the point that I had intended to make and which I did not make before was that in November 1988, the Chief Minister's comments were, if nothing else, ambiguous and certainly apparently contradictory, because he did say at the bottom of page 125, "about the policy of the Government to use monies in the Savings Bank, to make advances to the Consolidated Fund or the Improvement and Development Fund or the Gibraltar Investment Fund, what we have done is to introduce discretionary powers to be able to do this should it be considered desirable at any time but certainly it would not be the policy of the Government to do it". There he is saying it is not.

HON CHIEF MINISTER:

No, no, Mr Speaker. I can tell the Hon Member.....

HON LT-COL E M BRITTO:

Mr Speaker, can I finish? Later on towards the end of that speech, the Chief Minister then said "at the same time with a source of revenue for the Government that will be running the Savings Bank profitably and with an access to funds for Government projects". So this is where the confusion lies and the clarification that I intended to ask. Is it or is it not Government's policy to use money for Government projects?

HON CHIEF MINISTER:

Well, Mr Speaker, obviously I have not clarified it well enough. In fact, the quote, I did not check it but I have just looked at it now that the Member has brought it to my attention and what I said last year was precisely what I am saying now. "In the United Kingdom National Savings are treated no differently from the rest of the money raised to meet the Public Sector borrowing requirement by the

Government". I did not say that we were going to do it. We did not create the power to do it. The power that we created was to enable the money in the Savings Bank to be advanced, if it was decided that it was needed, as other surpluses in other Special Funds could already be advanced. In fact, that power, since 1988, has never been used and we have no particular reason at the moment to think that we are going to need to use it anyway. It is however a useful thing to have because if we have £48m in the Savings Bank it would be a nonsense if you had a temporary shortage of funds in the Government and to go and get an overdraft when an advance of that money would be a solution and then repay it. It is however one thing to advance money and another thing to be able to use it. Using it means appropriating it and spending it and we can only appropriate money as a result of an Appropriation Bill and that has to be from the Consolidated fund. We could say that if we have a surplus in the Savings Bank that the Savings Bank Ordinance allows us to say well we will transfer that surplus into the Consolidated Fund. Once we do that it ceases to be Government Savings Bank property and it becomes Consolidated Fund property and then you can spend it. But, making an advance is like drawing an overdraft it is a facility we created in 1988 in the Savings Bank, because we envisaged in 1988 that the Savings Bank would have much more funds than what it had had until then. In 1988, when we brought in the legislation, the Savings Bank had about £2.8m on deposit and today it has £48m. Mr Speaker, whether you had the power or you did not have the power before 1988 what you had was peanuts anyway, so it was not a very useful thing to be able to draw on if all that you had was a couple of million pounds in the context of a Government budget that runs at £100m. We are talking about a situation where your normal turnover is £2m a week, so if all that you can do is make an advance of £4m from the Savings Bank to the Government then you are talking about three days expenditure. It is irrelevant, Mr Speaker. Today we are talking about the Government Savings Bank having much larger funds on deposit and therefore what we did in 1988 was to give ourselves the same power that we already had under the Public Finance (Control and Audit) Ordinance over balances in all the other Special Funds. However in practice it is not that we intend, as a matter of Government policy, to plan expenditure on the basis that we are going to use the money in the Savings Bank it has never been used. The power is there but we are not changing the power we are just saying that instead of it being exercised by the Financial and Development Secretary it will be exercised by the Accountant General. This is on the basis that the Accountant General will effectively take more of the day to day running of the Savings Bank than he has done in the past if we proceed with the expansion of the Bank along the lines that we plan. We have at the same time a contraction in other Government activities and this will create spare capacity in the Accountant's General Department who in fact, has control of day to day investment decisions. The Accountant General is already involved in the investment of most of these funds through the Crown Agents in London. With regard as whether this indicates that the Financial and Development Secretary

is happy or not happy or anything else as far as we are concerned the Government of Gibraltar consists of people who are elected and people who are employed to carry out the policies of the Government of Gibraltar and whether the policies are carried out through the Financial and Development Secretary or through the Accountant General we answer politically for all the decisions that are taken independent of which Civil Servant is doing it and if the people of Gibraltar feel that their money is safer under the Financial Secretary than under the elected Government then the people of Gibraltar can take a decision on that at election time next year. I am not sure whether the advancement of civil rights covers that point or not, but those who believe in seeking the advance of civil rights can defend that philosophy. We certainly do not defend it and as far as we are concerned, we think that the position of the Financial and Development Secretary is a peculiar one in our Constitution. It is certainly peculiar even in a colonial set-up, let me say because most other colonies have had Ministers of Finance for the last thirty years. But at the end of the day, Mr Speaker, it is a question of using the manpower that we have in the most practical way. Its overall and ultimate responsibility for public finance is not altered in any way under Section 3 of the Public Finance (Control and Audit) Ordinance as the Honourable and Learned Member has pointed out and, in fact, the policy decision on the investment is taken by the Governor under the existing Ordinance. When we altered LLC the way that it was amended in the Bill originally published inadvertently meant that the Accountant General would be free to take decisions on investments without clearing it with the Government. That was not acceptable to us and it is not what the Financial Secretary has to do now. What we were doing was retaining the relationship between the Official and the elected Government that exists in the present Ordinance but having a different Official. Mr Speaker, for us all Officials are the same and they all get paid by the taxpayer to carry out the policies of the Government, irrespective of their titles.

HON P R CARUANA:

Mr speaker, can the Chief Minister give way? Before he moves on because I would just like to take him back to and I apologise to him for not interrupting him immediately, his explanation to the Honourable and Gallant Mr Britto when he expressed the view that Government power to borrow from the Savings Bank or the funds of the Savings Bank, was really of the same nature as the powers that already exists to borrow a surplus from a Special Fund.

HON CHIEF MINISTER:

No, Mr Speaker.

HON P R CARUANA:

That is how I understood it. Well the question that I would ask him and then he can perhaps correct me and answer in

the same intervention, is, whether the Chief Minister agrees that borrowing from the Savings Bank is equivalent to borrowing from a commercial bank? They are not Government monies that might be contained in a fund. Does he take the view that the Borrowing Powers under the Borrowing Powers Ordinance are relevant when it comes to borrowing money from the Savings Bank?

HON CHIEF MINISTER:

The answer, Mr Speaker, is that I am not talking about borrowing. The limitations on borrowing public debt are laid down in the Loans Empowering Ordinance, and that has a ceiling of £100m. What the Public Finance (Control and Audit) Ordinance permits is advances to be made which do not count as public borrowing. Because otherwise effectively every time you have a temporary cash-flow problem and you are borrowing the Public Debt would grow consequently. Now, in practice, what you do is that you have a series of vehicles, funds of which one is the Consolidated Fund and the other one is the Improvement and Development Fund and where we are voting to spend a certain amount of money in anticipation of receiving that amount of revenue. So if we have voted this year to spend £70m out of the Consolidated Fund and £60m out of the Improvement and Development Fund, we are expecting during the course of the next twelve months to spend £130m and to receive £130m. But, they do not happen simultaneously. There are every day of the week situations where the money coming in is in excess of what you are spending and other days when the money that you are spending is in excess of what you are receiving. So at the end of business, at 5 o'clock every day, those funds are either in the black or in the red. Technically, on paper they are made to balance by a book transaction by an advance from another fund. Until we amended the law in 1988 that could be done with cash balances, unvested money of all the Special Funds except one which was the Government's Savings Bank. We introduced the possibility of being able to do it in respect of the Government's Savings Bank but only for investment accounts and not for ordinary accounts. This was on the basis that since investment accounts are accounts which people have committed for longer terms and therefore have to give longer notice to get it out. If therefore you are effectively balancing your daily cash-flow by a temporary advance you cannot afford get caught in a situation where the depositor says, "I want to have my money back" and you cannot pay him because in fact you have made a temporary advance. So the mechanism was extended in 1988 to be able to use it in respect of cash balances in the Post Office but in practice to date there has been no need to make use of it and in fact the Bill before the House in no way alters that mechanism.

HON P R CARUANA:

Mr Speaker, if the Honourable Chief Minister will give way? I am grateful to him for his explanation. My confusion was based on my misapprehension which I now know to be wrong

in that the Savings Bank is a Special Fund and I was not aware of it at the time that I intervened and interrupted him.

HON CHIEF MINISTER:

The 1988 amendment would have been totally unnecessary because it would have already been covered by the existing law. I do not quite know why it is, I think, that it is probably a historical accident in that in all probability the Savings Bank preceded the Public Finance (Control and Audit) Ordinance and preceded the 1968 Constitution. So because in fact the Government Savings Bank Ordinance is much older the concept of the Special Fund and the concept of the availability of money from one Special Fund to another to meet cash-flow requirements came subsequent to the enactment of the Government Savings Bank. Mr Speaker, I think I have, in fact, answered the points of the Members opposite. As I have said at the moment, frankly, whether we will actually eventually proceed down this road or not we are not entirely sure because it depends on other changes taking place within the Civil Service and if we feel that the workload of the Accountant General or the development of the Bank in other directions would be better served by continuing with the present system and continuing with the responsibilities under the Financial and Development Secretary then we shall be doing that. We however wanted to have the option to move in one direction if it was really needed and as we develop the facility we will find that we are better off organised the way we are and we intend to retain the existing situation. As far as we are concerned, Mr Speaker, it does not alter in any way the relationship between the political responsibility for the policy and the mechanical bureaucratic role of the professional engaged in carrying out and putting into effect those policies and that is irrespective of which Officer happens to be doing the job. As regards the new introduction of bonds, I think, perhaps it is opportune although this was planned, of course, before the BCC situation arose, primarily for the reasons that my colleague has given that we obtained £1m which is maturing in August/September and we want to give people the opportunity of re-investing that money instead of taking it abroad or taking it elsewhere. But of course, I think, in the light of what I said this morning in answer to the points made by the Honourable Mr Mascarenhas clearly the vehicle that we are creating gives us a flexibility to create perhaps things which are competitive in the Market without in any way producing a risky situation for the investors and it is better if our people invest their money in the Peoples' Bank.

MR SPEAKER:

If no other Member wishes to speak I will call on the Mover to reply.

HON J C PEREZ:

Mr Speaker, the Honourable the Chief Minister has left little for me to reply to. Other than to say that perhaps all

is not lost because it does seem that if you repeat the argument often enough then it does reach some people. I am not sure whether Mr Britto has been or has not been swayed by the arguments but certainly the GSD representative who last time, voted against now seems to have been swayed by the argument. So we might have a situation where the GSD has changed its position in the House as a result of the explanations. We might still have Col Britto following the previous deputy Leader of the AACR and one time Leader of the GSD who has resigned, so it is an interesting situation which we will all be watching.

HON A J CANEPA:

Mr Speaker, I think I have the right to know how we are going to vote. Having consulted the Members of the Association for the Advancement of Civil Rights, we take the view that we would like to put it to the people in our election campaign. We ought to advance Civil Rights and that there should be greater devolution to the elected Members of the House. However, having regard to the number of elected Members of the House who have invested in the now defunct Bank we have doubts as to whether the electorate might prefer to leave the matter in the hands of the Government or the Financial and Development Secretary. Insofar as the Members of the Gibraltar Labour Party are concerned since there are not enough here for me to consult we therefore shall be abstaining.

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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon P R Caruana
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

The Bill was read a second time.

HON J C PEREZ:

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 PROCEDURE (AMENDMENT) (NO.2) ORDINANCE, 1991

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Procedure Ordinance be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, in a few words, this Bill is yet another exercise in implementing into the Criminal Legislation in Gibraltar provisions which have existed in the United Kingdom now for several years. I have given notice of my new amendments which I will be moving at Committee Stage, but that does not affect what it is now appropriate for me to say so far as the general principles of the Bill are concerned. Part 2, of the Ordinance, deals with arrest and search and Section 39 and 40, deals with the powers of the Police and the Court, to take, or as the case maybe order the taking of photographs and fingerprints. The provisions which this Bill seeks to insert into the Ordinance have been adapted from the relevant provisions contained in the Police and Criminal Evidence Act 1984, which in the United Kingdom it is known as PACE. Clause 2 of the Bill merely amends the relevant subheading and Clause 3 amends Section 39 by extending the powers of the Police to take, not only photographs and fingerprints and measurements, but also other prints such as but not exhaustively speaking, Mr Speaker, palm prints or foot prints, non intimate samples and samples of saliva or urine. At the present time such can only be taken from a person who has attained the age of at least fourteen years and this Bill does not seek to alter that, Mr Speaker, the age limit will still remain at fourteen years. Clause 4, amends Section 40 of the Ordinance. Similarly extending the Court's powers and Clause 5, which inserts a new Section 40(A) and defines what is meant by other prints, non intimate samples and intimate samples and requires that an intimate sample must be taken by a duly registered Medical Practitioner. The new Section also deals with the inferences the Court can properly draw in cases where a defendant has refused to submit to the taking of an intimate sample without good cause after having been requested so to do. The Bill has been prepared, Mr Speaker, as a result of difficulties arising from a particular recent case and I am happy to say has the approval of all Members of the local judiciary. Obviously, Mr Speaker, it will only be in clearly appropriate cases where these additional powers would be used and where it is necessary to seek a Court Order for making a refusal of such an Order

is of course entirely a matter for the exercise of the relevant Court's discretion. I do hope, Sir, that Members opposite, who will have no difficulty in supporting the Bill, which I now commend to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, we have no difficulty in going along with the provisions of this Bill. We welcome them. The only problem that we had when considering the Bill, was to find where it is that as explained in the Explanatory Memorandum by Order of the Court where those powers are enacted. We have assumed that there are existing powers presumably under some part of this Ordinance, whereby by Order of the Court, such samples may be taken, but we were not able to find those and we just wish as a matter of clarification to hear what the Attorney-General has to say about that.

HON K B ANTHONY:

Mr Speaker, I think my colleague, the Honourable the Leader of the Opposition was referring to Section 40, where the Magistrate orders these to be done. There is only two points that I would like to have clarified by the Honourable the Attorney-General. The extension beyond photographs and fingerprints now to other parts of the body, measurements, samples of saliva and urine, presumably all Police are now going to be trained on how to take these because obviously they must go from the Police Station presumably to a Medical Practitioner for checking before they go back to the Court with the samples. Secondly, I notice that there is no mention of sex of the offender over fourteen. Will it be the policy for male Police Officers to take samples from females who may be the age of fifteen? Could the Hon the Attorney-General please clarify? Apart from that we will support the Bill.

MR SPEAKER:

If no other Member wishes to speak I will call on the mover to reply.

HON ATTORNEY-GENERAL:

Can I say firstly, Mr Speaker, I am very grateful to the Members opposite for their support of the Bill. We have not heard from the Honourable Mr Caruana, but I presume that he supports the Bill also as he has not said anything to the contrary and indeed he is indicating his support for it and I thank him also. Mr Speaker, the Honourable Mr Anthony, has indeed answered correctly the point raised by the Honourable the Leader of the Opposition and it is Section 40, where the powers that the Honourable the Leader of the Opposition was enquiring about do indeed exist. So

far as the taking of samples is concerned, Mr Speaker, I do not envisage any difficulties so far as the taking of intimate samples are concerned. I have said already that the Bill stipulates that they must be provided or taken by a duly registered Medical Practitioner and there is nothing and there never has, as far as I am aware, been deemed to be anything wrong about a doctor of a male sex examining a person of a female sex and vis-versa, female doctor, for example, taking a sample from a male person. There has never been any difficulty with that. But, certainly, so far as the taking of non intimate samples are concerned, Mr Speaker, I have already spoken to the Commissioner of Police and expressed the view that when it comes to the taking of a sample from a male person, that it should of course be taken by a male Police Officer. Similarly, then perhaps even in more rare cases where a female suspect is required to give a non intimate sample, that of course should be taken by a female Police Officer and happily we do have a few if not many female Police Officers in Gibraltar. So far as the training of the Police is concerned, Mr Speaker, no arrangements, I understand have been made yet to send Officers on any particular course. The Commissioner does not feel it is necessary since the analysis of any samples taken is likely to be carried out not in Gibraltar but in the Forensic Science Laboratory at London. This is the present practice and it is proposed that this particular practice will continue. Mr Speaker, I hope that I have dealt adequately with the comments made. I will give way as it is being indicated to me, the Honourable Col Britto wishes to raise a point.

HON LT-COL E M BRITTO:

Mr Speaker, just to clarify this question of Section 40. The way that I understand the Explanatory Memorandum, it provides for prints and samples by consent or by Order of Court. The way I read Section 40, it provides only for measurements, photographs and fingerprints and not for samples intimate or non intimate.

HON ATTORNEY-GENERAL:

No, Mr Speaker, Section 40 does at present, but Clause 4 of the Bill, as the Honourable Member will have noticed seeks to amend Section 40, by omitting the existing relevant words and fingerprints and substituting the words fingerprints, other prints and non intimate samples. Now intimate samples, I think Mr Speaker, I have not got the actual Ordinance in front of me at the moment so I am a little bit at a disadvantage. Apparently my point is accepted, Mr Speaker, so I do not think that there is any further point to say anything further. I am obliged.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE, 1991

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Offences Ordinance be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, I am very pleased to be able to tell the House that my address in presenting this Bill will happily be extremely short. Section 277 1(B) of the Criminal Offences Ordinance at present precludes sea bathing at any of the beaches mentioned only when there is a notice exhibited at such beaches and at Central Police Station to that effect. Clause 2 of the Bill replaces that paragraph and renders bathing unlawful at any of those beaches when there is a red flag displayed. The sole object of the Bill, therefore, Sir, is to effect that minor amendment to take account of the revised arrangements which are about, indeed may well have already been put into operation, warning the public when it is safe or unsafe to bathe in the sea at those locations. The maximum penalty for transgression of those provisions, Mr Speaker, remains a maximum fine of \$50. Sir, I commend the Bill to this House.

MR SPEAKER:

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

HON K B ANTHONY:

Mr Speaker, we have no objection at all to supporting this Bill. The only thing I wonder is why is not the word red included instead of using a flag because it should actually be made clear no problem at all. But apart from that we will still support the Bill, Mr Speaker.

MR SPEAKER:

If no other Member wishes to speak I will call on the mover to reply.

HON ATTORNEY-GENERAL:

Thank you, Mr Speaker, once again I express my appreciation for the support of the Opposition. The reference to red flag was purely my reference in addressing the House, Mr Speaker. There is no inclusion of the word "red" in the amendment which the Bill seeks to impose. I simply used the word "red" myself because I gather it is a flag of that colour which is intended to be used on those occasions when it is considered appropriate to display a flag at all.

HON J E PILCHER:

Mr Speaker, to answer the Honourable Member opposite, the colour of the flag is actually in the beach regulations. At the moment internationally, it is red, but if there was a situation where internationally the colour of the flag were to change then we would have to change the law if it had red. So it is better to have flag and then it is the Beach Regulation which specifies the colour of the flag.

HON K B ANTHONY:

Mr Speaker, I do take that point. I was concerned about the EEC Regulations. They come out every day and there are hundreds and if they say the flag should be yellow or pink or something else.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE IMPORTS AND EXPORTS (AMENDMENT) (NO.2) ORDINANCE, 1991

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir I have the honour to move that a Bill for an Ordinance to amend the Imports and Exports Ordinance be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The need for this Bill stems merely from the need to address a clerical error. The referencing in the Amendment Bill to a new subsection (d) did not reflect the existence in existing Subsection (d) approved by the House at its previous sitting and which has in fact yet

to be brought into effect. I regret the need to take up the time of the House in this way, but nevertheless I commend the Bill to the House.

MR SPEAKER:

Before I put the question does any Honourable Member wish to speak on the general principles and merits of the Bill? If no other Member wishes to speak I will call on the mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have nothing further to add Sir.

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 5.00 pm.

The House resumed at 5.25 pm.

HON A J CANEPA:

Mr Speaker, before we go into Committee, perhaps you will allow me to make a short statement by way of clarification. This morning when we were discussing the question of BCCI, I referred to a question in a radio interview and I have now seen the full transcript of the interview. The question that I myself had objected to was one later on in the interview where the interviewer asked "What impression do you think this is going to give of Gibraltar for the rest of the world now even though this is not similar to Barlow Clowes and it is really international and out of Gibraltar's control? In fairness to the interviewer that question was asked after two interviewees were the ones who had made the point that they had lost confidence in Gibraltar and he himself had earlier made the point "Is it not unfair though to have lost confidence in Gibraltar because really this is a very large international company and you really cannot pin this one on Gibraltar because it is different. So perhaps in the context of the whole interview the particular question that I took exception to and another Member took exception to, was not as bad as all that and the interviewer did try clearly to retrieve the position having regard to comments that were made by two interviewees. So I would accept that in the context of the whole interview the matter was not so bad.

COMMITTEE STAGE

ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Gibraltar Heritage Trust (Amendment) Bill, 1991; The Patents (Amendment) Bill, 1991; The Limited Partnerships (Amendment) Bill, 1991; The Port (Amendment) Bill, 1991; The Births and Deaths Registration (Amendment) Bill, 1991; The Companies (Amendment) Bill, 1991; The Petroleum (Amendment) Bill, 1991; The Licensing and Fees (Amendment) Bill, 1991; The Stamp Duties Bill, 1991; The Gibraltar Shiprepair Limited (Repeal) Bill, 1991; The Traffic (Amendment) Bill, 1991; The Savings Bank (Amendment) Bill, 1991; The Criminal Procedure (Amendment) (No.2) Bill, 1991; The Criminal Offences (Amendment) Bill, 1991 and The Imports and Exports (Amendment) (No.2) Bill, 1991.

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

THE GIBRALTAR HERITAGE TRUST (AMENDMENT) BILL, 1991

Clauses 1 to 3 were agreed to and stood part of the Bill.

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

THE PATENTS (AMENDMENT) BILL, 1991

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 LIMITED PARTNERSHIPS (AMENDMENT) BILL, 1991

Clauses 1 to 3 were agreed to and stood part of the Bill.

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

THE PORT (AMENDMENT) BILL, 1991

Clauses 1 to 10 were agreed to and stood part of the Bill.

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

THE BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL, 1991

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

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

THE COMPANIES (AMENDMENT) BILL, 1991

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move in Clause 2(b) that the word "statutory" be omitted and the word "standard" be substituted therefor.

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

Clauses 3 to 14 were agreed to and stood part of the Bill.

New Clause 15

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have given notice of my proposal to insert a new Clause 15 in the Bill to the effect that all private companies will be required in future to have a minimum of one director. Mr Chairman, with the indulgence of Honourable Members I can take the proposed text I circulated as read. As the House is aware from recent legislation Government attaches considerable importance to the re-enforcing of the obligations of Company Directors to ensure that the legal obligations of the Company are met. It has come to my attention that a number of private companies on our Company Register have no directors at all against whom such obligations can be enforced. There are situations where for private companies under our Companies Ordinance, as it stands, and it is a potential hindrance, for example, in Government's efforts to enforce tax debts. The new Clause requires that there must be at least one Director for a private company as opposed to two Directors already obliged in respect of public companies. Perhaps one other point that I should draw to Members attention is that an EEC Directive now in draft is understood to require at least one Director for what is defined as small companies. Therefore in proposing this amendment, we are in some ways anticipating the trend of EEC obligations. As a consequence of this proposal Clauses 15 to 20 will be renumbered 16 to 21 appropriately if Honourable Members agree.

Mr Speaker put the question which was resolved in the affirmative and new Clause 15 was agreed to and stood part of the Bill.

Renumbered Clauses 16 to 21 were agreed to and stood part of the Bill.

New Clause 22

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have also given notice of an intended new Clause 22 to the Bill, seeking to introduce a new Part 9A to the Ordinance. Following suggestions that some of the

technical details of the proposal needed further definition I have more recently circulated, it should be on Honourable Member's table at the moment, a more simple version of the new Clause 22, which enables those details to be specified in regulation and I should emphasize following consultation with practitioners. Proposals have been made that an extra string to the bow of our Financial Services Sector could be achieved by enabling the migration to Gibraltar of Companies domiciled elsewhere in Europe. This is known internationally as re-domiciliation. On the assumption that the House would welcome an opportunity to broaden the activities of our Finance Centre, the proposed new Clause would, with the safeguards proposed give effect to this objective. Re-domiciliation of the Company from its existing country of domicile is a facility offered by a number of other jurisdictions. In the proposals before Hon Members it is intended to limit the facility to companies currently registered and domiciled elsewhere in Europe. This is to ensure in the first place that the facilities is only open to other European companies which have been formed in accordance with EEC Directives and which of course Gibraltar has a mutual obligation with all Member States as to the minimum requirements. Furthermore, it can be seen as a positive step that Gibraltar is taking in the process towards the concept of a Euro Company. We envisage that such relocation may be attractive to the Companies that we hope to attract to Gibraltar with the new physical and service structure that is currently being created. It is considered necessary that certain safeguards should be adopted to ensure that such a facility is not abused by a Company changing jurisdiction for other illegitimate reasons. These would include, for example that a Certificate of good standing would be required from the competent authority of the Country in question. In addition evidence would be required that the outward re-domiciliation is permitted under the laws of the Member State, for example, that those protecting the interests of creditors and shareholders have been observed. In addition it is intended that the regulations would provide for a transitional procedure to be followed in respect of the process of migration about which the Company in question effects that its structural changes necessitated by the move into Gibraltar's jurisdiction. I apologise to the House for introducing this amendment at Committee Stage but I hope that Honourable Members will be able to support the new Clause in view of the opportunities that the concept presents for the growth of our Finance Centre. If the proposals are agreed the subsequent Clauses 23 to 27 of the Bill will be renumbered 24 to 29.

HON P R CARUANA:

Mr Chairman, I am grateful to the Honourable the Financial and Development Secretary and indeed to the Members opposite generally for having listened to me during the course of the lunch adjournment in relation to observations that I had in relation to the original amendment as proposed. Would the Honourable the Financial and Development Secretary confirm that in relation to the regulations which will now need to be drafted in order to give effect to the proposal that

is before the House, which is really an enabling section, will he simply repeat what he has already indicated to me that he will consult the Finance Centre in whatever form of consultation he considers appropriate so that there is the greatest possible input as to the structure that he hopes to create through those regulations.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I will consult in that way, Mr Speaker.

New Clause 22 was agreed to and stood part of the Bill.

Renumbered Clause 23 was agreed to and stood part of the Bill.

Renumbered Clauses 24 to 28

HON P R CARUANA:

Again, Mr Chairman, on a purely secretarial point. I do not know if we have got to the Section on the renumbering. But are we now covering old Clause 27 of the Bill? And if we are, in 27 is the reference to Section 10 not a mistake for Schedule 10?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have given notice of the proposed new proviso to both Clauses in the new numbering 24 and 25, which deal with the prospectuses in relation to foreign incorporated companies. Since the Bill was published, representations have been made that a full translation of the prospectus for the purposes of registration is burdensome where the subject of the prospectus is only to be marketed in the EEC Country of the language in question. It is therefore been supervised under the marketing rules of that Country. It is proposed therefore in the proviso to allow in these circumstances a synopsis in English to be registered together with the foreign language version of the full prospectus where the synopsis is certified by a lawyer. This further extends the principle reflected in Clauses 24 and 25 of relying on home authority supervision in keeping with the EEC market integration objectives. It is felt that there is little point in obliging the cost of a full translation which can be substantial if the effective supervision is in fact being exercised in the language of the Country in question.

HON P R CARUANA:

Mr Chairman, I have not said that I do not agree with the rationale behind that proposal but I think it must be objectionable in principle for any document to be filed at a public registry in an English speaking Country in a language in which it cannot be understood by those exercising their Statutory rights to search the public register. It defeats the whole purpose of the public register and frankly

if this proposal is intended to attract to Gibraltar operators that consider the £500 cost of the translation now that it can be done by computer to be excessive then I would question whether those are the sort of operators to which the whole proposal is intended to attract. I would urge the Members opposite to acknowledge the principle that documents in public registries of Gibraltar should be registered in the English language so that they can be understood by those who exercise the right to search that register. In relation specifically to prospectus, may I say, that the result that will ensue from allowing prospectuses to be filed in a foreign language, is that the legal profession who may be called upon by third parties to advise on whether that document complies with the laws of Gibraltar, or whether it contains anything which is inimical to the laws of Gibraltar they will not be in a position to render that advice because the document will not be in an intelligible state. If the object of this particular amendment and the one that follows it is to save a potential user of Gibraltar the cost of translating a document then, in my opinion, that is an insufficient reason to abandon the principle, longstanding, that public documents should be filed in the language of the State.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think, Mr Chairman, that the Honourable Member misses the point a little bit. In this Clause we are dealing only by definition with prospectuses that relate to a product to be marketed in the Country in the language in question. Under those circumstances the only people likely to be interested in the prospectus are those coming from that particular Country. However, having conceded the point on the previous amendment, Mr Chairman, that I will take the question of re-domiciliation back for consultation I am in fact quite happy to withdraw this one as well as there is no urgency about it and I will undertake consultation with the Finance Centre institution in the same way. I will withdraw the amendment.

HON P R CARUANA:

Mr Chairman, that is wholly reasonable and I am grateful to the Honourable Member for adopting it.

MR CHAIRMAN:

Could I ask the Financial and Development if he is withdrawing those amendments?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am withdrawing the proposed amendments to the new Clauses 24 and 25, Mr Chairman.

Mr Speaker put the question which was resolved in the affirmative and renumbered Clauses 24 to 28 were agreed to and stood part of the Bill.

Renumbered Clause 29

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, as has already been referred to there is a typing error in this Clause. The word "Section" should be substituted for the word "Schedule".

Mr Speaker put the question which was resolved in the affirmative and renumbered Clause 29, as amended, was agreed to and stood part of the Bill.

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

THE PETROLEUM (AMENDMENT) BILL, 1991

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

Clause 2

HON P R CARUANA:

Mr Chairman, I understand that the principles of this Bill have already been debated, but I think, subject to your guidance, that I will be allowed to make a point at Committee Stage. Mr Chairman, are the Members opposite aware that as drafted this Bill in effect re-introduces the death penalty to Gibraltar for offences under the Petroleum Ordinance. Clause 2 of the Bill says half down just before the brackets "spillage or escape of petroleum, the Court by which he is convicted, in addition to dealing with him in any way may make an order requirement to carry out inspection". That presumably is not intended to give a Court the power to deal with an offender under this Ordinance in any way. That presumably means instead of imposing any other sanction available to the Court, it is not leaving open-ended the penalties that a Court can impose for offences under the Petroleum Ordinance. What it actually says at the moment at the risk of repeating myself is "in addition to dealing with him in any way". And I am sure that is not the intention and I would propose that the words "In addition to dealing with him in any way", be deleted and substituted by the words "instead of imposing any other sanction available to the Court".

HON ATTORNEY-GENERAL:

Mr Chairman, if I can deal with the point raised by the Honourable Mr Caruana. It is a fascinating thought which I would like to have time to contemplate to re-introduce the death penalty, thumb screwing, flogging and the like but I think, if I make any attempt to do so in Gibraltar, I will be accused of acting unconstitutionally and breaching that fundamental right afforded under the Constitution which protects persons from cruel, inhuman or degrading treatment. No, of course, Mr Chairman, that is not the intention in any way proposed by this Bill. The Court's powers on conviction are clearly set out and what the Bill says is that in addition to exercising the powers which are available

to the Court under the provisions of the Ordinance, and I think that has been made clear with respect to the point my Learned friend the Honourable Member has tried to raise and I cannot see it is necessary at all, Mr Chairman, with respect, to accede to his suggestion that amendment should be effected. It seems to me clear already that the Court in addition to exercising the legitimate powers available to it which are committed by the Ordinance can exercise the powers in appropriate cases, if it wishes, in the exercise of its discretion set out in subclause 2 of Clause 2 of this Bill.

HON P R CARUANA:

Mr Chairman, with the greatest of respect to the Learned Attorney-General, I simply do not agree. Where is it made clear in the new proposed Subsection 2, that the powers of the Court to punish an offender is limited by reference to the penalties properly imposable by reference to other parts of the Ordinance? What the Section actually says is the very opposite. What the Section says simply is that the Court may deal with him in any way and that is not statutory language that I have come across in relation to any Ordinance imposing a penalty. What that means is precisely what it says "that the Court may deal with an offender in any way" and those words are not susceptible to any other interpretation. They are three very short simple words, their meaning is clear in the English language, they deal with him in any way. In any way means, in any way, and not by reference to any way that has been established beforehand.

HON ATTORNEY-GENERAL:

No, Mr Chairman, I do not accept that, with respect, and I am not prepared to engage in lengthy legal arguments in this House because it is not the appropriate forum. I am satisfied, it is not unconstitutional or unlawful in any way to express this Bill in that manner and if the Honourable Member wishes to assert otherwise there is an appropriate place for doing that and this, with respect, is not the place to make such assertions and argue at length on legal points.

HON P R CARUANA:

With the greatest of respect, Mr Chairman, I do not accept that extraordinary proposition either. The fact of the matter is that I am a Member of the Legislature, at Committee Stage of the Bill, and that this is precisely the place which I should be making these points. The fact of the matter remains that here is a badly drafted Section. I am making what I would have thought was a perfectly simple point and the Learned Attorney-General, for reasons of his own, appears not to be willing to recognise the obvious, that the Section gives the Court this power, and it says so, "In addition to dealing with him in any way". Now which of those words does he find ambiguous, contrary to the sense that I am suggesting that they have? I do not propose to

make this point again, it must be so obvious that the Government can use the majority if they so wish to give the Court the power.

HON A J CANEPA:

I propose, Mr Chairman, that the words "As provided for under this Ordinance" be added after the words "in any way" in Clause 2(c), Subparagraph (2) of the Bill and that will mean that we are doing our proper job as legislators and not engaged in confrontation in a Court of law. My proposal is that we add the words "as provided for under this Ordinance", after the words "in any way", which appear in Clause 2(c)(2) thereof.

HON J C PEREZ:

Mr Chairman, the amendment that is being proposed by the Honourable the Leader of the Opposition is one which limits it to this Ordinance and the offences can be punishable under other Ordinances. The position of the Government really is that we take the advice from the Attorney-General and if the Hon Attorney-General says that this does not say what the Learned Member opposite says it says, then we will vote with the Attorney-General.

HON ATTORNEY-GENERAL:

Mr Chairman, it is very comforting and reassuring the support I am getting from so many persons. But, Mr Chairman, I stand fully with what I have said and I do not seek to renege in any way from that. I am quite sure in my own mind personally irrespective of what, with great respect, the Honourable Mr Caruana has said, that it is clearly implicit that the Court can only do what the Court is empowered by legislation to do when imposing a sentence but if it will ease any fears or unease which the Honourable Members on the opposite side of the House may still have, I would be happy, subject to anything that other Members on this side of the House wish to say about the matter. I would not be unwilling, personally speaking, Mr Chairman, to support an amendment, if after the words "in any way", the following words should be inserted, we should perhaps miss out the comma for the time being after the word "way" and we should insert the words "in any way permissible under this or any other Ordinance". And if the words "permissible under this or any other Ordinance", were inserted, perhaps that would ease, with respect, unnecessary fears, I think, which the Honourable Member has.

HON P R CARUANA:

I am grateful to the Honourable Member for humouring me. That is the second time that I have asked to be humoured today and at last I have succeeded. But I cannot agree with his interpretation although I am gratified to learn that the Honourable Members opposite undertake to take your advice on all occasions.

MR CHAIRMAN:

Is the Honourable Attorney-General going to put this as his amendment?

HON ATTORNEY-GENERAL:

Yes, I am not the proposer of the Bill, Mr Chairman, but unless anyone else wishes to move the amendment.

HON P R CARUANA:

For the sake of consistency, Mr Chairman, would the Learned Attorney-General note that the same point arises in relation to Subclause (7) at the foot of the other page, "and in addition to dealing with him in any way may order that the cost thereby incurred by the Licensing Authority should be reimbursed". So can I propose that he moves the 'same motion or perhaps he would like somebody from this side of the House, I would happily move it, the same amendment to that.

HON ATTORNEY-GENERAL:

As we are only about five months away from the season of goodwill, Mr Chairman, we all seem to be on amicable terms at least at this moment. I am happy to accede to the suggestion made by the Honourable Member and to propose that a similar amendment be made to Subclause (7) in my terms. What I am moving is that in Subclauses (2) and (7) of Clause 2 of the Bill, in each case after the words "In any way", we omit the comma and insert the words "permissible under this or any other Ordinance". In both Subclauses (2) and (7).

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

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

THE LICENSING OF FEES (AMENDMENT) BILL, 1991

HON A J CANEPA:

We are happy to support, Mr Chairman, Clauses 1 to 15.

Clauses 1 to 15

On a vote being taken on Clauses 1 to 15 the following Hon Members voted in favour:

The Hon K B Anthony
The Hon J L Baldachino
The Hon J Bossano
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon M K Featherstone
The Hon M A Feetham

The Hon G Mascarenhas
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon Dr R G Valarino
The Hon K W Harris
The Hon P J Brooke

The following Hon Member voted against:

The Hon P R Caruana

Clauses 1 to 15 stood part of the Bill.

Clause 16

On a vote being taken on Clause 16 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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Member voted against:

The Hon P R Caruana

The following Hon Members abstained:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

Clause 16 stood part of the Bill.

Clause 17

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have given notice of two minor amendments to Clause 17. Firstly, by omitting the symbol "f" which is incorrect and should be deleted. Also in paragraph (k) by omitting the expression "Part II" and substituting therefor the expression "item 11".

HON K B ANTHONY:

The Head in part 1, "Cramage Charges", I think that should be "Cranage Charges", in Section 17.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, and I move that in subparagraph (h) that the heading referred to in Part I should read "Cranage Charges".

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

The Hon K B Anthony
The Hon J L Baldachino
The Hon J Bossano
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon M K Featherstone
The Hon M A Feetham
The Hon G Mascarenhas
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon Dr R G Valarino
The Hon K W Harris
The Hon P J Brooke

The following Hon Member voted against:

The Hon P R Caruana

Clause 17, as amended, stood part of the Bill.

Clause 18

On a vote being taken on Clause 18 the following Hon Members voted in favour:

The Hon K B Anthony
The Hon J L Baldachino
The Hon J Bossano
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon M K Featherstone
The Hon M A Feetham
The Hon G Mascarenhas
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon Dr R G Valarino
The Hon K W Harris
The Hon P J Brooke

The following Hon Member voted against:

The Hon P R Caruana

Clause 18 stood part of the Bill.

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

THE STAMP DUTIES BILL, 1991

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

Clause 5

HON P R CARUANA:

Mr Chairman, in relation to Clause 5, it reads "except where express provision to the contraries made by regulation". I would like to make a point, that it is not customary Parliamentary practice to enable Ordinances to be overridden by regulation and my point there is that nothing that is said in a Regulation under an Ordinance can override as a matter of standard drafting technique, what is said in the Ordinance. I would object to the inclusion of the words "either by regulation".

HON ATTORNEY-GENERAL:

Mr Chairman, what the Honourable Member misunderstands, I think, is the provisions of Section 23 (d) of the Interpretation and General Clauses Ordinance, which says "no subsidiary legislation must be in conflict with the provisions of any Ordinance". That is not what Clause 5 says here. Clause 5, in effect contains an express enabling provision to make regulations for appropriate purposes, notwithstanding any expressed provision to the contrary in any Ordinance. That is very different, Mr Chairman, from not having such an enabling power and nonetheless making regulations which specifically are in conflict with the provisions of an Ordinance. I think the Honourable Member needs to understand, with respect, the subtle distinction between those two matters.

HON P R CARUANA:

The Honourable Member both understands the position and disagrees with the explanation as to the distinction just given by the Learned Attorney-General. It is not a point upon which we are going to agree but I do not accept the distinction that the Learned Attorney-General makes.

Mr Speaker put the question and on a vote being taken on Clause 5 the following Hon Members voted in favour:

The Hon K B Anthony
The Hon J L Baldachino
The Hon J Bossano
The Hon Lt-Col E M Britto
The Hon A J Canepa

The Hon M K Featherstone
The Hon M A Feetham
The Hon G Mascarenhas
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon Dr R G Valarino
The Hon K W Harris
The Hon P J Brooke

The following Hon Member voted against:

The Hon P R Caruana

Clause 5 stood part of the Bill.

Clauses 6 to 25 were agreed to and stood part of the Bill.

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

THE GIBRALTAR SHIPREPAIR LIMITED (REPEAL) BILL, 1991

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

HON P R CARUANA:

Yes, Mr Chairman, only in relation to the explanations that the Honourable Members opposite have given in relation to the Bill. It seems interesting to note that the only part of the Ordinance that this Bill proposes to retain is that part which serves the Company and everything else has been repealed.

HON A J CANEPA:

We are going to vote against this Bill in the Third Reading. We have voted against at the Second Reading so to be consistent we should vote against all the Clauses. Mr Chairman, there are very few Clauses. I do not think we ought to vote against Clause 3.

Clause 2

On a vote being taken on Clause 2 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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members voted against:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon P R Caruana
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

Clause 2 stood part of the Bill.

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

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

THE TRAFFIC (AMENDMENT) BILL, 1991

Clauses 1 to 24 were agreed to and stood part of the Bill.

Clause 25

HON J C PEREZ:

Mr Chairman, in Clause 25(a)(ii) where it says "provide", it should read "provided". So it is a substitution of one word by the other.

HON A J CANEPA:

Mr Speaker, earlier today, during the Second Reading of this Bill, the Honourable the Minister for Government Services, referred to the advice that he was being given by Officials. Now I know that he does not drive a motorcar and I would warn him for his own sake about the extent to which he is continually taking advice from the experts on the question of traffic. There is, I can tell the Honourable Member, a considerable amount of harrassment of motorists going on. Life is not being made easy for any motorist, particularly someone wishing to park his car. And, what is being provided for under this Clause, whereby, whether it is done in the United Kingdom or whether it is not, I can tell him, that whereby when one parks ones car, one is supposed twenty four hours later to come and check whether seventy metres away there is not a sign saying that the car should not be parked there, moreso in winter when it is dark at an early time and it could be raining and, this in my view, is an unnecessary harrassment of the motorist. This is not an isolated instance, it is part and parcel of a package of measures in which I fear that the Minister is taking the advise that he is being given a little bit too readily. I have heard him comment about the need, of course for refuse collectors to have to collect refuse and of cars parked in such a way that it does not enable that operation to take place or streets to be cleaned and so on. This is another matter altogether and I can tell the Honourable Member that there are parts of Gibraltar where these signs are put up far too readily making the life of the motorist a misery.

HON J C PEREZ:

Mr Chairman, the Hon Leader of the Opposition is missing the whole point. He made that point at the time of the Budget but this Ordinance has nothing to do with it. The fact that I have taken the advise of using the yardstick of 70 metres instead of 50 metres, if he would read, he would see that it is 35 metres from the place of the alleged offence. So we are cutting that by half on the argument put by his colleague.

HON A J CANEPA:

No, because if you park your car and you have to go 35 metres one way and then come back to your car 35 metres and back again.

HON J C PEREZ:

Not according to the Ordinance that is in front of the Honourable Member. Mr Chairman, the Honourable Member is being a bit critical of me for taking advise from the professionals. I agree with him that on some occasions the professionals are too professional about it. But, frankly, whether signs of "No parking" should be put 50 metres away or 70 metres away is not a very grave issue for me to go with a measuring tape and measure the distance to see whether it is right or not. It has nothing to do with knowing how to drive or not knowing how to drive.

HON K B ANTHONY:

Mr Chairman, I listened carefully to what the Honourable Minister has said. He said in his earlier contribution that he has taken advise from the Transport Commission in accordance with the law, but he has not asked the advice of the largest body of persons concerned, the motorists. Has the Hon Minister asked the motorists?

HON J C PEREZ:

Well, I might have a referendum on it, Mr Chairman.

HON K B ANTHONY:

It is not a matter of referendum Mr Chairman, it is simply that it is the motorist who is at the wrong end of the stick.

HON J C PEREZ:

Does the Honourable Member think that the Traffic Commission have no motorists? Or that the Police have no motorists?

HON K B ANTHONY:

I reiterate what I said earlier Mr Chairman. 70 metres between signs is too much.

HON J C PEREZ:

Mr Chairman, I will inform the Traffic Commission and the DTI Road Section what the Hon Member feels about this matter and I still might be even able to accommodate the Honourable Member.

HON K B ANTHONY:

It is quite true, Mr Chairman, that the Hon Minister can choose the lesser measure, but in law he does not have to, and that is the point that I am making.

HON J L BALDACHINO:

I have been listening to the Honourable Member saying that 70 metres is too far a distance but he has not come forward suggesting what he thinks should be the appropriate distance.

HON K B ANTHONY:

Mr Chairman, if the Government is inviting me to make a suggestion?

HON P R CARUANA:

Mr Chairman, for my part, I think that Statutory provisions such as these have to have an element of presumption of good faith on the part of the people that enforce the legislation. If I had to pick a quarrel with the words of this Section, it would be Section 92 which it amends and speaks of in the vicinity. It does not actually say "even in the same street as". So this is intended to clarify for the benefit of the Magistrate what "in the vicinity" means. It says that the Magistrate should bear in mind that "in the vicinity" means no more than 35 yards from the scene of the crime. That however might be round the corner. In other words the way this is drafted one could put in Casemates Hill a sign that says that there shall be no parking in Line Wall Road! My only proposed amendment would be that if the point is regarded sufficiently important then because the old Section speaks of the vicinity and that it should be centimetres apart and in the same street. Thirty five metres and in the same street. In other words it cannot be round the corner.

HON J C PEREZ:

Mr Chairman, those that need to apply the Ordinance are satisfied with this proposal so let us give it a try. Before perhaps that might have created a situation where the Honourable Member opposite might have had to clarify the matter in Court but I do not think that that amendment is justified. I think, clearly that a lot is being made of this issue unnecessarily. I think, that the yardstick of 70 metres is to give an indication to the Magistrate of what is meant in the Ordinance as it is today which is vague enough and now we are going into the interpretation of what 70 metres is or what 70 metres should be. Perhaps it is a bit too much, Mr Speaker.

HON P R CARUANA:

Yes, the point is, Mr Chairman, that as Section 92, stood before, it is unconceivable that a Magistrate would have interpreted the word 'vicinity' to mean to allow an offence to be committed when the sign was in another street. By the amendment it is clarifying it in the wrong direction. You are actually saying that so long as there is no more than 35 metres, even if it is in another street, it is for the legal purposes still in the vicinity. The Honourable Member says that he does not think that an amendment is necessary. That is a matter of judgement for him. At least will the Hon Minister confirm that he would regard it as intolerable if the prohibition sign were, in fact, not in the same street to which the prohibition relates? The fact of the matter is that as the amendment stands there is no need for the sign to be in the same street and the Hon Minister does not think that it should be.

HON CHIEF MINISTER:

Mr Chairman, the Member may not know it but there is a street called Prince Edward's Road which happens to come to a peak and one can be on one side and on the other side and not see anything and one is still 35 metres away. Now we are not going to produce an Ordinance with a map of the whole of Gibraltar in order to draft a clause. The Government, as a matter of policy, wants the Authority to be able to implement efficient traffic laws. If they tell us that the rules, as they are at the moment, are imprecise and they need to be improved in this particular way then we do it in the way they claim will produce a better service for the motorist. This is to fine the people who do not care about the other motorists and protect the people who are conscientious and pay attention to signs. If we find that, in fact, in practice this does not go far enough or it goes too far may need to come again and change it. It is not a matter where the Council of Ministers has sat round the table in No.6 Convent Place with a measuring tape and measure the distance of the parking sign. The policy is a simple policy to give political support to what we are assured is needed practically. We are not qualified to judge the practicability of it, quite frankly, Mr Speaker.

HON K B ANTHONY:

Mr Chairman, may I just add one word. We have heard twice the fact of going round with tapes measuring distances but somebody has to do it. Are the Police going to go round with tapes measuring to make certain that it is 70 metres?

HON J E PILCHER:

Mr Chairman, first of all, I think, it has already been stated that the measure of 70 metres is because at no stage can you be further than 35 metres away. Normally about 30 metres because the length of a normal car has to be taken into account and it is the same distance as by law one has

to read a registration plate when you pass your driving test. We are taking into account, I think, honestly this House is acting in an unprecedented manner because the putting of the signs are not going to be put in a way that is not practical. Those who implement the law will act in a commonsense manner and they have asked the political arm of the Government to implement the law. What we are doing is we are going round in circles about signs being 70 metres apart which has nothing to do with the law itself. The point that the Honourable the Leader of the Opposition was making about the overall Traffic Regulation is also a point which has nothing to do with where you put the signs. Mr Chairman, I assure the House that, as a motorist, if I get down from a car 35 metres away from signs which are placed in areas well above the normal you can at a glance see whether there is a sign or not. It is meant to protect the responsible motorist against the irresponsible one, Mr Chairman. So let us not go round in circles about signpost when really what the Honourable Members opposite are saying is that they are not happy, in general, with our policy, Mr Chairman.

HON LT-COL E M BRITTO:

Mr Chairman, we are going on and on about something which is relatively minor but, I think, that what Members on that side do not seem to understand is that we are not trying to torpedo the legislation, we are trying to improve it. The question of "in the same street" is a valid point. One is not suggesting that people are deliberately going to place signs in such a way as to trap the motorist but it does lend itself to confusion when there is a curve or when there is a crossroad. I appreciate that it is difficult to define but by including something like "line of sight" or "in the same street" would be an improvement to the clause. We are not trying to destroy the spirit of what is being done, we are trying to make it less ambiguous and easier for the motorist as well as for the enforcing officer.

HON J C PEREZ:

Mr Chairman, we do not agree that that is practical. We think, it is impractical and that it will not work because one does not have Oxford Street here which is three miles long. One street ends and another one starts and when you are putting signs up eg you put signs all along Casemates, through to Main Street into Referendum Gates and one street leads to the other. If we are going to differentiate between streets then it is going to create a hell of a practical problem. Mr Chairman, we do not intend to accept the amendment and we intend to use our majority to pass the legislation as it is.

Mr Speaker put the question which was resolved in the affirmative and Clause 25, as amended, was agreed to and stood part of the Bill.

Clauses 26 to 30 were agreed to and stood part of the Bill.

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

THE SAVINGS BANK (AMENDMENT) BILL, 1991

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

Clause 2

HON J C PEREZ:

Mr Chairman, I beg to move an amendment that Clause 2 of the Bill be amended: (1) by omitting paragraph (a) and substituting therefor the following new paragraph: "(a) by - (i) inserting after the figure "7A" the figure "(12)". (ii) Omitting all the words before the words "the Director" and substituting therefor the expression "Subject to the approval of the Accountant General". I would like to move a new amendment, and that is, that during the recess I was approached by the Honourable Member opposite, Mr Caruana, who said that Clause 2(b)(2), could be interpreted as the Governor, in this case in the Ordinance, myself, having the power to decide which person was exempt from tax on what debentures because it reads "any person". So to humour the Honourable Member and in so doing so humour myself and my colleagues, I am prepared to change that so that it reads "All persons" rather than "Any person". So I am also asking that the words "Any person" in Clause 2(B)2 should be substituted by the words "All persons", so that there is no interpretation that one could pick and chose which person is exempt from tax in the debentures mentioned. Also, Mr Chairman, I have just been told that in line 4 of the same paragraph, the word "deberture" should be substituted by the word "debenture".

HON A J CANEPA:

Mr Chairman, just a comment that it should not be necessary for the House to correct typographical errors where they are clearly seen to be typographical errors. If for example the word debenture appears three times and if on one occasion it is mis-spelt then I think, that we can assume that the printers are sufficiently intelligent when they produce the Ordinance to get it correct and there is no need to move a formal amendment to correct a spelling error. I think we are just being pedantic.

HON CHIEF MINISTER:

I agree with the Honourable Leader Mr Chairman, but of course, we do not want to have to bring an amending Ordinance in future removing the "deberture" and putting "debenture". So just to be on the safe side we are looking at the spellings of everything.

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

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

Clause 4

On a vote being taken on Clause 4 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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon P R Caruana
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

Clause 4 stood part of the Bill.

Clause 5

HON P R CARUANA:

Mr Chairman, is there a Member opposite that is prepared to offer me at this late stage an explanation as to why the qualification after the words "The Consolidated Fund, the Improvement and Development Fund and the Gibraltar Investment Funds" have been deleted? In 1988, that would read "The Consolidated Fund in aid of the general expenditure of the Government" and it used to read "The Improvement and Development Fund for the purposes of that Fund and the Gibraltar Investment Fund for the purposes of that Fund". Unless these deletions are entirely gratuitous, there must be an explanation why he wanted to leave them out.

HON CHIEF MINISTER:

Mr Chairman, the explanation is that the original phraseology was entirely gratuitous, because in fact, if you make an advance to a fund it has to be for the purpose for which the Fund has been set up because the money cannot be spent on any other purpose. It just simply will remove in the process redundant language.

HON J C PEREZ:

Mr Chairman, I move that Clause 5 of the Bill be amended by omitting the words "Accountant General" and substituting therefor the word "Governor".

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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon P R Caruana
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

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

Clause 6 was agreed to and stood part of the Bill.

Clause 7

On a vote being taken on Clause 7 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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon P R Caruana
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

Clause 7 stood part of the Bill.

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

THE CRIMINAL PROCEDURE (AMENDMENT) (NO.2) BILL, 1991

Clause 1 was agreed to and stood part of the Bill

Clause 2:

HON ATTORNEY-GENERAL:

Mr Chairman, in Clause 2, can I move that we omit the word "heading", where it appears in lines 2 and 4 respectively and that they be substituted in each place therefor by the expression "Sub-heading".

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

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, can I move an amendment merely to correct a minor spelling error. In Clause 3(b)(i), by omitting in the first line therefor the word "lawluf" and substituting therefor the word "lawful".

HON M K FEATHERSTONE:

Mr Chairman, where a person that is being discharged or acquitted and his fingerprints and photographs etc are going to be destroyed, can we have an assurance that they are destroyed to the satisfaction of that person concerned.

HON ATTORNEY-GENERAL:

Yes, Mr Chairman, I am happy to be able to give that assurance. Certainly the practice in the almost seven years that I have been in Gibraltar is that if the defendant who is charged and has had samples or fingerprints, photographs, whatever taken from him and who is acquitted, or perhaps the proceedings against him are discontinued in some way he thus becomes entitled to have what has been taken from him destroyed. He is entitled or at least he is allowed to be present to satisfy himself that destruction has taken place. That was the practice adopted by the then Commissioner of Police Mr Joseph Morello, when I first came to Gibraltar in 1984 and I know that that is the practice which has been continued and will continue to prevail during the time that Mr Canepa, the present Commissioner is in Office, and I have no reason to think that will change at any time in the foreseeable future.

HON P R CARUANA:

Mr Chairman, and does the rights of destruction extend to the record in addition to the sample? That is to say, if a blood sample is taken of mine and I am acquitted, in

addition to destruction of the sample, am I also entitled to a destruction of the record that the Police then has of what my blood group is?

HON ATTORNEY-GENERAL:

Yes, of course. That goes with the sample.

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.

Clauses 4 and 5 was 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, 1991

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

Clause 2

HON ATTORNEY-GENERAL:

Again, Mr Chairman, despite the comments of the Leader of the Opposition, and with respect to those comments, I feel it necessary to move a minor amendment to Clause 2 of the Bill, simply to correct a spelling error. The word, of course or expression should be "Little Bay" and not "Litte Bay" as the Bill indicates.

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

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

THE IMPORTS AND EXPORTS (AMENDMENT) (NO. 2) BILL, 1991

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.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Gibraltar Heritage Trust (Amendment) Bill, 1991; The Patents (Amendment) Bill, 1991; The Limited Partnerships (Amendment) Bill, 1991; The Port (Amendment) Bill, 1991; The Births and Deaths Registration (Amendment) Bill, 1991; The Companies (Amendment) Bill, 1991, with amendment; The Petroleum (Amendment) Bill, 1991, with amendment; The Licensing and Fees (Amendment) Bill, 1991, with amendment; The Stamp Duties Bill, 1991; the Gibraltar Shiprepair Limited (Repeal) Bill, 1991; the Traffic (Amendment) Bill, 1991, with amendment; the Savings Bank (Amendment) Bill, 1991, with

amendment; the Criminal Procedure (Amendment) (No.2) Bill, 1991, with amendment; the Criminal Offences (Amendment) Bill, 1991, with amendment; and the Imports and Exports (Amendment) (No.2) Bill, 1991, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker then put the question and on a vote being taken on the Patents (Amendment) Bill, 1991; the Criminal Procedure (Amendment) (No.2) Bill, 1991; the Criminal Offences (Amendment) Bill, 1991; and the Imports and Exports (Amendment) (No.2) Bill, 1991, the question was resolved in the affirmative.

On a vote being taken on the Gibraltar Heritage Trust (Amendment) Bill, 1991; the Limited Partnerships (Amendment) Bill, 1991; the Port (Amendment) Bill, 1991; the Births and Deaths Registration (Amendment) Bill, 1991; the Companies (Amendment) Bill, 1991; the Petroleum (Amendment) Bill, 1991; and the Stamp Duties Bill, 1991, the following Hon Members voted in favour:

The Hon K B Anthony
The Hon J L Baldachino
The Hon J Bossano
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon M K Featherstone
The Hon M A Feetham
The Hon G Mascarenhas
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon Dr R G Valarino
The Hon K W Harris
The Hon P J Brooke

The following Hon Member voted against:

The Hon P R Caruana

On a vote being taken on the Licensing and Fees (Amendment) Bill, 1991, 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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Member voted against:

The Hon P R Caruana

The following Hon Members abstained:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

On a vote being taken on the Savings Bank (Amendment) Bill, 1991, the following Hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
The Hon P R Caruana
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

On a vote being taken on the Gibraltar Shiprepair Limited (Repeal) Bill, 1991; and the Traffic (Amendment) Bill, 1991, 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 L Moss
The Hon J C Perez
The Hon J E Pilcher
The Hon K W Harris
The Hon P J Brooke

The following Hon Members voted against:

The Hon K B Anthony
The Hon Lt-Col E M Britto
The Hon A J Canepa
The Hon P R Caruana
The Hon M K Featherstone
The Hon G Mascarenhas
The Hon Dr R G Valarino

The Bills were read a third time and passed.

PRIVATE MEMBERS' MOTIONS

HON K B ANTHONY:

Mr Speaker, I have the honour to move the following motion that stands in my name:

"This House considers that any new arrangements affecting the future of GBC should safeguard the following:

- (1) The interests of those employed at GBC;
- (2) The vital role that public service broadcasting plays in the life of the community, particularly with regard to:-
 - (a) local current affairs, information and news.
 - (b) cultural and sporting activities."

Mr Speaker, you may well remember that when we debated the Appropriation Bill, you allowed me a great deal of tolerance when we discussed the subvention. I am very grateful for that. We learned a lot in that debate because the Honourable Minister responsible for GBC disclosed some of the things that were in hand. I would like to start, if I may, Mr Speaker, by going into the background of GBC because I think it is important in leading up to the situation that exists today. It was started by a local entrepreneur in 1962 and the initial budget was £100,000. The equipment was old, some of it was ex-RAF, all second-hand and GBC went on the air three hours nightly, it was all in black and white. Most of the films were information programmes and we had some old BBC programmes in those days. It was not good television but it became compulsory viewing for everybody in Gibraltar. Already in those opening years GBC started getting together its staff, some of whom are still with GBC, the staff have stayed loyal to GBC from that early start. Then in 1964, the Gibraltar Broadcasting Ordinance was enacted and a Board of Management was set up. A little later on in January 1965, viewing hours increased from three hours a night to four and a half hours a night. Then in 1969 the frontier closed and people had to look for other entertainment and into Gibraltar rather than going over the border and television really came into its own when the frontier closed. It became absolutely necessary, not only for information, but also for entertainment. Moving on another five years, in 1974, there was an ODA sponsored Report, the famous Rikard and Sizer Report. This Report recommended that the then agents who were running GBC, Thompson International, should be dropped. These agents used to provide equipment, programmes and it was suggested that GBC should become an autonomous body. This it did. In 1976 a Select Committee of this House supported the Rikard and Sizer Report and they also made another major recommendation that GBC should go colour. Colour began, in fact in May 1978. So really, in sixteen

years GBC made, what can be called, a quantum jump, from a primitive black and white station starting on a limited budget of £100,000 to becoming a highly motivated colour television station. One could say that it became of age and was able to provide a very good spectrum of quality television. Of course as a result of this costs increased and has reached the figure which today questions its existence. I am now going to look, Mr Speaker, at the question of staff. I said at the beginning, Mr Speaker, that GBC started building up a highly motivated, highly professional staff and there is no doubt that they are very professional and very highly motivated. Some of them do have memories going back to the dark days at Wellington Front where they used to get constant flooding, problems with equipment that was always breaking down and which required a constant effort to ensure that pictures went out on the screen night after night and ninety nine times out of one hundred they succeeded. They worked long hours at very very low salaries. The team and I am calling it a team deliberately became experts in very specialised fields. TV producers, I think everyone at GBC has been to the United Kingdom to qualify in their particular field, the Engineers are all highly qualified professional men. Radio Producers, News Editors, Sub Editors, Broadcasting Recorders in fact the whole lot now are very very skilled professionals. It is important to keep this in mind, Mr Speaker, because broadcasting is not a job, it is a career over and above a job. Broadcasters often work long hours well above what anybody else works because they are motivated. It is a very satisfying career, far more so I would say than a career in Banking or working in a shop. I feel that if we put their jobs in jeopardy that will be a disaster not only for them personally but a disaster to broadcasting generally in Gibraltar. It is a specialised field and many of the staff at GBC will find it very hard to find a comparable job outside broadcasting in our community. I agree that a Typist can become a Typist elsewhere and possibly an Accountant but a TV Producer, a Radio Producer or a Sub-Editor will find it very hard to find an equitable job outside. I heard comments, as we all have, Mr Speaker, about the extremely high salaries at GBC. I would like to go back again to pre-parity in Gibraltar when an attempt was made to equate the staff of Gibraltar Broadcasting Corporation with local jobs in our community and a Committee was set up to try and evaluate comparable jobs in the community. I remember that the Broadcasting Engineers were equated to Telephone Engineers, both of them highly skilled in their own fields but one could not do the job of the other. It was not a very fair equation. I remember, Mr Speaker, that the Radio Organiser was equated to the Cemetery Supervisor and after all these years I am still trying to get the logic of that into my head because I still cannot understand it. It did not work. The point is, Mr Speaker, that when parity did arrive in Gibraltar, parity throughout Gibraltar, it had to apply to the Gibraltar Broadcasting Corporation as well and it was necessary to go to the United Kingdom and look at comparable

jobs over there. Not at the BBC or ITN in London where they have a higher weighting but at smaller Regional Stations. I think, I speak for everybody in this House when I say that nobody wants to under-rate the staff and the skills of the staff at GBC, I feel that if salaries go up in Gibraltar as they do annually, based on parity of wages, and salaries, then the salaries of the people at GBC must also go up. They cannot stand static. I would like to say that contrary to popular belief most Broadcasters in Gibraltar do not earn astronomical salaries. I did a little bit of checking up and most of the Broadcasters and the Radio Announcers, for example, earn salaries that are very close to the salary of a qualified Police Constable with a number of years of service. They do not equate to Police Sergeants, Police Inspectors or Superintendents, but to Police Constables who have a number of years of service. I fear sometimes, Mr Speaker, that the odd exceptionally high salary that is sometimes quoted in newspapers is taken as the norm throughout GBC and that is not the case. Let me look now at the current situation, Mr Speaker. Over the past nine months the Government has been looking at ways to economise on the subvention that they give to GBC. Since 1984, the subvention has been paid at £570,000 per year and during the past seven years the Management of GBC has been trying to economise. They have been trying to effect economies of their own and as a result the annual departmental bid has, over the past seven years, been unrealistically low in their efforts to try and keep costs down. Now, unfortunately this has been a false economy because this year the subvention to keep GBC going has to increase from £570,000 to £1.2m. GBC feels that it cannot manage on less and I am not in a position to argue with that. I do not know whether or not that is a true figure but that is what they feel that they require. We now come to the options that face the Government. I feel that there are four options, Mr Speaker. First of all the status quo agree that £1.2m is needed and pump the money in. I do not think the Government is prepared to consider that option and I think it is an option that Members on this side of the House would have doubts about supporting. The second option is to try and find an organisation to take over GBC. An organisation that would inject money into GBC and try and turn it from a loss making organisation to a profit making organisation. The third option is to try to reshape GBC to make it as economically viable as possible and I suppose that this could be achieved in some fields by economy and an effort to increase the income to GBC as much as possible. The final solution is a drastic one and that is simply to close down GBC. This would put sixty jobs in jeopardy and say goodbye to our local TV and Radio Station. I am going to say at this stage that I do not think that the Government nor any Member of this House want to see GBC close down. So, I think, there are basically three options. To leave the situation as it stands and pump in £1.2m this year and nobody knows what it might cost next year but I do not think that is a viable or feasible possibility. So

that leaves us with two other options. There are a number of firms that have shown an interest in taking over GBC. We had RTL quoted and we had an Italian Company. I believe there is also a local Company that showed an interest. For a number of reasons the Italian Company and RTL did not follow the matter through and the local Company was unacceptable. The best solution that could be made to bring it to a successful conclusion might be to get somebody in, much as with GSL. But in the absence of anybody coming forward we are left with only one option. This is the one that is currently under consideration and during the debate on the Appropriation Bill, the Honourable Minister opposite did reveal some of the ideas that he has about the future of GBC. They may not be the total ideas but they are ideas that were revealed then. Firstly GBC would drop all their purchases ie they stopped buying from the UK. They would relay BBC Europe via an encrypted signal, with the inclusion of local programmes on a regular basis. An intensive sales campaign to raise more revenue together with the sale of decoders to non-residents and the invitation to the members of the staff at GBC over forty-five to accept voluntary retirement. Presumably with possibly compulsory redundancy for some members of the staff to reduce the salary bill. Finally to pass legislation disbanding the Board of GBC and replacing it with a Management team with the Minister chairing the Management team and possibly an Opposition presence to ensure political impartiality. Now, Mr Speaker, these factors may well be a step in the right direction but I have a feeling that it is going to be many months, if ever, before GBC is in a position to say yes we are making money and we are a profit making organisation. I would like to think that they are going to do it, but, I think, it is going to be a long long stony road before they do it. I am going to quote some figures now, Mr Speaker, because I have some figures which I think are of interest. Sales, now one of the sources of income for GBC in 1982, were able to raise £200,000 annually. In 1988 the target went up to £800,000 annually but now, there is another big stumble, a very big stumble, as the Minister is well aware and the sales income is diabolically low to put it mildly. It is very very poor indeed. The financial crisis that faces GBC is public knowledge and this in turn has led to an advertising crisis. There is a drop in advertising prior to the present crisis of about 30%. I am sure that there are a number of very bad debts from Costa advertising and the drop in advertising revenue has now increased to about 50% of what it was previously which is a very very high figure. I fear that local advertising will never ever be able to finance the backlog that we face. Capital Expenditure is high. Broadcasting is a very hightec operation and equipment is very very expensive and when you have equipment that is in use daily for many hours a day then it has to be replaced, it has to be maintained and this is a very high Capital Expenditure. Of course, the programme costs cannot be ignored because programme costs are also very very high. Nowadays with the channels available the programme makers

are the ones who are coining money hand over fist. Broadcasters have to have programmes to fill the gaps and therefore they can virtually ask their own fees and therefore programme costs are going up every day. We come back again to staff costs in terms of salaries. Again this is something that we have to face. There is approximately a staff of sixty at GBC and if you say that the average is £10,000 per year, you are facing an annual wages bill of £600,000. Although, I think, that the reality is nearer £900,000.

HON J C PEREZ:

Over flm.

HON K B ANTHONY:

I will accept the over flm costs which is an even more drastic figure than I anticipated. I think that this is a very drastic situation because we have to face the fact that all these people have to be paid. Mr Speaker, at the moment the licence fee as the present subvention will not even cover the salary bill. The licences raised £210,000, the subvention is £570,000 and the salaries, as the Honourable Minister has just said, is well over flm so therefore we are in a situation that is very very difficult. I fear that staff cuts may well be the big item to come under the knife. It is not a thing that I particularly want, Mr Speaker, because we have a situation where at the moment GBC cannot survive without a subvention. At the moment GBC needs equipment, it certainly needs to inject new equipment. They also need programmes and although it may be more economical to rely on BBC Europe than buy programmes BBC Europe still requires to be paid. Therefore although there might be a saving, it is still an expenditure in the long run. At the moment GBC must have staff to run the Station and the question may well be asked, "Do they need so many?" Well, Mr Speaker, it is quite true that if you have contract workers in any organisation they are easy to get rid of. But, it is felt certainly by the staff at GBC, that contract workers are doing an important job. If not they would not be there on the first place. So that is one fact that must be remembered. Also I do feel that in terms of money the amount of salaries paid to contract workers is small compared to the overall bill that faces GBC. The cost of £2m annually. In fact Mr Speaker, I have spoken to the staff side at GBC and they feel that at the moment the staffing level is about right. In fact, they do feel that they might even need more staff and I will explain this later on. I am sure that the Minister will have a heart attack when he hears this! So the bottom line might well be "well let us make an economy and let us get rid of some of the staff". I however feel that this is not the answer. I must say this quite categorically. I do not feel that that is the answer. Apart from the frustration of losing his job to which he has dedicated his life to learning a very specialist

field in a job that has a marvellous sense of achievement, and as an ex-Broadcaster, Mr Speaker, I can say that, one might also find that these people have not only lost their jobs for which they had a great interest they might also be transferred to a job that might have a lower salary band, a lower wage band, and I feel that it is wrong that a person should have to suffer a salary cut through no fault of their own. I must therefore insist that I do not feel that it is the fault generally of the staff at GBC for the present situation. Even more important is the fact that GBC might be depriving themselves at a very critical phase of a highly motivated and highly skilled staff at a time when they are most needed to try and lift GBC from its desperate situation and to go forward into a positive money earning future. I would like to call upon the House to support me in my argument with respect to the future of the staff of GBC to do all they can to ensure their skills and their talents are retained and their livelihood protected. They should not be sacrificed for the sake of minor savings in the Annual Balance Sheet of GBC. If I can go back to what I said at the beginning, Mr Speaker, I feel that the way forward would be to persevere and try to find some company with funds who are willing to invest in GBC to retain as many of the staff as possible and I feel that may well be the way forward. It may well be a combination of that and what is going to be done in the future. I am waiting to hear what the Hon Minister has to say when I finish my contribution. I would like to move on now, Mr Speaker, quickly to the second part of my motion. I do not think that anybody here will argue that Public Service Broadcasting is a necessity in our community. I am going back to the years when the frontier closed in 1969 and I can remember clearly two programmes that were very good. One run for over sixteen years and that was the Spanish language programme "Discos Dedicados", where families on both sides of the frontier were united by playing requests. They paid a very minor fee in those days, I think it was something like sixpence for a record to be played. It however kept families together and it was a vital part of our community and this was a very popular programme. Everybody listened to it. Many of you in this House will remember the other programme by the late Manolo Mascarenhas which went out every Sunday afternoon and was called "Palabras al Viento". Manolo Mascarenhas did a fifteen minute summary of the current situation and he cheered people up. He raised the spirits of the despondent and he did a great deal for the morale of Gibraltar during those years when the frontier was closed. It was perhaps the best example that I can give of early community broadcasting in the way I see community broadcasting, by the people for the people. This is very very important. Now in 1991 I appreciate that times and the situations have changed. With satellite TV and, I think, most people who have satellite TV with possibly fifteen, sixteen or seventeen channels to choose from and yet every public poll that has been carried out, and I have read every one of them, shows clearly that the people of Gibraltar want Public Service Broadcasting. They want their local programmes because they feel that it is essential. There is no doubt that the local news is watched by many

people every night. I would say a large percentage, well over the 60%; watch the local news every night at 9.15 pm. The lunchtime programme "Focus at Lunchtime", which airs different matters of interest in our community, is also compulsory listening for most people and we still have to face the fact that politically Spain is still laying siege to the people of Gibraltar. They want to take over our Airport, our Port and the whole Rock if they possibly could so, I think, that this is another reason why we must have Public Service Broadcasting. We have to present our news and we have to have a platform for our views, not necessarily political views, but our views. We have to highlight our sporting activities. Our sportsmen have an international reputation. Our Hockey and Basketball Teams play all over Europe. We have our Special Olympics representatives that have been to Scotland and soon are off to America for the second time. All of this is vital. We have our musical talents and we all know what musical talent we have in Gibraltar. Our culture. Cynics may say we do not have much culture but that is not true. Those of us who attend our Festivals every year whether our Arts Festival which the Honourable Minister for Education backs every year will know that we do have a great deal of culture in Gibraltar. Our standards must be high. This brings me back to the point I mentioned before about the false saving by getting rid of highly motivated staff. If we do go into a situation where BBC Europe is going to be relayed to the local population through GBC together with local programmes inserted on a regular basis during the week, then those programmes will have to be of a very very high standard because they will be compared with those of BBC Europe between which they are sandwiched. Which means that the standards of the programme makers must be of the highest standard. The presentation must be of the highest standards. We cannot afford to be down compared to the other programmes that are on the same network. Therefore, I think, it would be a very false line of thought to say "Get rid of a lot of the staff and get rid of the contract workers". I say no to that. Keep them for the moment because you are going to need them. The programme makers to give us a standard of programming that is equal to or even better than BBC Europe. That is the target. That is what we have to aim for. So, Mr Speaker, I do not want to keep this House much longer but I think that I have made the main points that I wanted to make. I would like to see a way forward with an outside firm if possible injecting money into GBC so that it can go from a loss making to a profit making situation. I would like to see at least in the medium term a continuation of the present subvention even if it is on a monthly basis. I think the Minister has already indicated this is in the Appropriation Bill. We have had the subvention for this year and I hope that that will continue until GBC lifts up. Thirdly, I would like to see as many of the staff as possible retained to help GBC raise itself to a higher position which we all want. That they can reach a stage where they say "thank you very much but we do not need the subvention from now on". I would like to see that day. Mr Speaker, I commend my motion to the House.

Mr Speaker proposed the question in the terms of the Hon K B Anthony's motion.

HON P R CARUANA:

Mr Speaker, very briefly. From my point of view this debate is a little bit premature because having aired our views at the Budget Session there is really no new material on the table in relation specifically to what Government may or may not be proposing or what ideas they may or may not be hatching. So I suspect I shall keep my contribution as brief as possible in the knowledge that much of what I now say really I have said to this House very recently before. My view in relation to the future of GBC, really can be summarised in this form. The first is that I share the views expressed by the Honourable Member next to me that the maintenance of Public Service Broadcasting in Gibraltar is essential for the preservation of the identity of this community. The fact of the matter is that this community is in many spheres being swarmed by input from abroad, be it from the Finance Centre, the labour market, the development market and there are very few institutions left through which this community can speak collectively through one voice. I think, there is probably no Member in this House, and I say it knowing that I have not discovered sliced bread, that there are probably no Members of this House that think that it would be good for this community that Gibraltar ceased to have its own Broadcasting Station in the sense of Public Service Broadcasting. I believe equally strongly that it is a complete waste of money to be broadcasting the sort of stuff, for want of a better word, that can easily and cheaply and probably free of charge, be watched on any satellite station that subscribers may care to tune to. Therefore, as I see it, the parameters of this problem are very simple. The Government must find a way of enabling the Public Service Broadcasting of GBC to continue. That might very well involve a much smaller workforce. It might very well mean less by way of infrastructural facilities and I reserve comment until the Government has made proposals that hopefully will meet my minimum expectations with relation to GBC. But having said that, my views on the need to maintain Public Service Broadcasting are so firmly held, that whatever the price is, obviously within reason, it is essential to have that minimum Public Service Broadcasting that I am sure this House is unanimous that Gibraltar requires for the preservation of its identity and for the discharge of its political, social and cultural life, that is a sum of money that we, as a community through our Government, must be prepared to spend by way of subvention, if necessary, to GBC. Because the view that I am not prepared to endorse is that there is no sum of money that we as a community should not be prepared to spend in order to have Public Service Broadcasting. There are many public facilities in Gibraltar which cost the taxpayer and here is a facility which if the community believes is a worthwhile facility then it must be prepared to put its money where its views are. Of course, in saying all this, I am not actually

criticising the Members opposite, because they have not yet put up a package of proposals and they might well put up a package of proposals that meet my minimum expectations. There is one amendment that I would propose to the motion of the Honourable Member opposite, and that is, that a little (3) be added reading as follows: "The freedom of GBC from influence or control by the Government of the day", it is a view which I and my Party hold that any proposals that are made in relation to GBC must leave the Corporation, not only free in fact, but free of the suspicion by outsiders that he who pays the piper is calling the tune. It is therefore important in keeping with the vast majority of civilised democracies in Western Europe that any proposal that might be made in relation to GBC leaves the Corporation free from the control of those who might be paying the bill. Therefore I would move an amendment to the motion adding as I have said: "(3), 'The freedom of GBC from influence or control from the Government of the day'. Thank you, Mr Speaker.

Mr Speaker proposed the question in the terms of the Hon P R Caruana's amendment.

HON J C PEREZ:

Mr Speaker, I would like to speak on the proposed amendment. This issue was mentioned at Budget time and I myself said that I was thinking out loud since they would not be forming part of the proposals of the problems that GBC have at present. I did mention that the Government was of the opinion that the freedom of the newsroom was something that needed to be safeguarded. I still say that and I do not think that the amendment that is being proposed by the Honourable Mr Caruana does that. It goes much further, Mr Speaker, and I think it is unfair that the Government should not have control in the affairs of GBC on things which are not connected with the newsroom or how news is relayed. I am sorry to say that I do not feel that it is right that the Government should not have any control on the expenditure of GBC in terms of where money might or might not be wasted when it is public money that is going into the Corporation. I agree totally with the independence of the professionals and the independence of the newsroom should be safeguarded but if the Government and the public is going to continue to subsidise GBC to the tune of £600,000 per annum plus, then, I think, that a certain amount of control, should be introduced into the Corporation on how that money is spent. I remind the House that when thinking aloud I said that it might be an idea that at one stage there might be a Government representative in the Board and the Honourable the Leader of the Opposition said that if that time came the Opposition might want to be included in such a forum and I agreed that this would be the case. I am not sure that that is the right way to go about it but the amendment by the Honourable Mr Caruana is too far reaching for the Government to support. We support the independence of the professionals, we support the independence of the newsroom, the independence of the journalist and the independence

of the management's prerogative in terms of political broadcasts and so on but there must be some financial control by this House of Assembly, if not by the Government, over the finances of GBC, if the public is going to continue to provide funds for the Corporation. Therefore, Mr Speaker, on that basis, I cannot support the amendment unless the Honourable Mr Caruana amends it further so that it is more specific about what it is that he wishes to protect.

HON A J CANEPA:

Mr Speaker, it is a question of what it is that we want to see GBC free from control or influence. At the moment, GBC is not free from control because it operates under our Ordinance and it operates with financial constraints, in that the Government is only prepared to give them so much money. So there is an element of control already. GBC at the moment is not exempt from influence by the Government of the day or by the House of the day. The Government of the day may wish and may be entitled, in certain circumstances, to exercise an element of influence in certain situations. Those certain situations could have to do with morality, for instance. It could have to do with the cultural slant that we want to give this community. For instance, if GBC wished to broadcast entirely in Spanish, it now broadcasts entirely in English, but if it wished to broadcast entirely in Spanish, the community might feel that the Government was entitled to try to influence it from that course of action and ultimately, it might need to use the control of the purse strings as the only way of disuading the Corporation from taking a course of action that the community as a whole might not support. I have no doubt that we all want to see GBC free from political pressure, impartial in the Party Political sense, having editorial freedom and allowing its professionals to so exercise their freedom. For instance, I myself and I gather that that was the attitude of Members generally, that GBC should not have had the story that they had on Bank of Credit and Commerce in the manner in which it was carried out. However if their professionals expertise demands that it should be then that is a matter for them. What we are really after is that we want to see a Corporation that is politically impartial. That will allow all sectors of the community, be they political parties or pressure groups, to be able to put across its point of view freely and that the Corporation should not be influenced by the Government of the day in doing something which politically would be partial. That is what we are after. Therefore, what I think is required, because if that is what the Honourable Mover of the amendment is after, one cannot quarrel with him. What is required, I think, is a more specific amendment that would deal with that point. I do not know whether the insertion of the word "editorial" before "freedom" would meet the point, or that the matter should be qualified by some other form of words. Mr Speaker, we want them to be at arms length from the Government and we want them to be fully independent of the Government in its editorial policy. I think we are all agreed on that and therefore we should be more specific. If the Honourable Member really has in

mind that his amendment should go as far as it is now being interpreted by both Mr Perez and myself then that it should be amended by him to make the point abundantly clear before we vote on it or before we try to amend it to be more specific;

MR SPEAKER:

Does any other Member wish to speak?

HON J C PEREZ:

It might be an idea, Mr Speaker, if the Hon Mr Caruana clarified his position.

HON P R CARUANA:

Mr Speaker, the point is this that, of course, what I want to secure by my amendment is what the Honourable the Leader of the Opposition suspects that I want to secure. In reality editorial freedom is not secured just by saying to somebody that you are free to have whatever editorial input you want. The fact of the matter is that you have to give due consideration to the fact that journalists are human beings and that if you are working in a small organisation where you may have an in-house political master in the form perhaps of a Chairman of your Board and he is saying to you "you must not buy this piece of equipment", or something similar thereby influencing by subtlety rather than by a direct attempt to influence the editorial content of a programme. But, I accept, and I do not mind amending my amendment in that respect. I accept that what I want to achieve is that GBC must be free from influence or control in relation to the journalistic product, not just in terms of the newsroom but in terms of current affairs programmes, interviews etc etc, that it should be free from control or influence, direct or indirect, from the political paymaster. I accept that to the extent that putting words in this motion is not going to satisfy my most cynical fears. I am satisfied with simply putting in the motion a clear statement of what it is that I want to protect in exactly the position that has been suggested.

MR SPEAKER:

Is the word "editorial" that you are looking for?

HON P R CARUANA:

Editorial is a bit limited. "It is freedom from influence or control by the Government of the day in relation to the material broadcast".

HON J C PEREZ:

I would say by the House of Assembly, rather than by the Government only.

HON P R CARUANA:

Well, the House of Assembly is not at liberty....

HON J C PEREZ:

Yes the House of Assembly is the one that votes the funds!

HON P R CARUANA:

I was mindful of the Speaker's direction to me that I should not reply to your original comments. I have a lot to say on that in order to decipher your comments. What I am trying to secure is that provision that leaves the Government representative on the Board or whatever form that the Government's representation takes, that it should be limited to matters of finance and that there should be no influence or control, direct or indirect, in relation to the programme that goes out. In other words, the product broadcast.

HON CHIEF MINISTER:

Am I right in thinking that the Honourable Member opposite is worried about something that might happen in the future and it is does not suggested that it is happening now or has happened in the past?

HON P R CARUANA:

Mr Speaker, in reply to that but not in exercising my right to reply, there is a difference and this was going to be the subject matter of my right to reply in full. I see a clear difference between the level of influence in control that this House, which is the one that votes the subvention and not the Government, presently exercises as the only link between GBC and the world of politics voting of the subvention. Not the Government and certainly there is indirect influence in the sense that we can withhold the subvention and put the Corporation in economic dire straits but that is the only extent to which theoretically we are able to influence GBC. This happens once a year when we vote the subvention at the beginning of the year and then we do not have an opportunity to chastise it until the next Budget Session. The proposals which in fairness to the Honourable Minister for Government Services, and on which my point is based, has been no more than a casual expression of early thinking on his part but which he has compounded in my opinion by comments that he has made in reply.....

MR SPEAKER:

I have to call the Member now to order because what we want now is really an amendment to an amendment. If another Member can make it will be easier.

HON A J CANEPA:

Having given way to the Honourable Member and to the Chief Minister, I would propose, Mr Speaker, that the amendment

moved by the Honourable Mr Peter Caruana be further amended by the insertion of the word "editorial" before "freedom" and the addition of the words after the word "day" "in relation to the broadcasting of journalistic material". In other words that is intended to include news, current affairs, discussion programmes and so on. So paragraph 3 would then read "The editorial freedom of GBC from influence or control by the Government of the day in relation to the broadcasting of journalistic material". I think that should cover the points that we are trying to put across.

Mr Speaker then proposed the question in the terms of the Hon P R Caruana's amendment.

HON CHIEF MINISTER:

Mr Speaker, we are prepared to support this amendment because quite frankly we consider it to be totally redundant and at the end of the day since we do not have the remotest interest in controlling the way that GBC deals with news and we cannot imagine that any other Government would nor can we imagine that in Gibraltar, where everybody knows what everybody has said five minutes before it is said, that anybody could do it and get away with it. It seems to us the whole debate is entirely academic. In fact, the point that I had been trying to make when I interrupted the Member earlier was that if we are saying now that in all the time that GBC has been in existence, and which we want to ensure manages to survive, and we all hope that it does and, we also hope that if there are so many people that want them to survive then all those people are prepared to foot the bill when the bill is quantified, then we are presumably not interested that it be interfered with because I assume that we all agree they have not been interfered with until now. I think what is important to put on the record is that we are not laying down new rules of non interference from now on. I mean after all the Honourable Member opposite was quite upset in relation to the interview on the demise of the local Bank about how the journalist control of that interview went and he subsequently read the whole thing here to say that perhaps he had over-reacted until he had read the whole thing in context. But, in fact, for us in this House to say that GBC is doing damage to Gibraltar by getting somebody from up the Coast and saying to them "Do you think this is as awful as Barlow Clowes was?". I mean, if we then express an opinion on whether they ought to be doing that in the public interest, when they are being paid by the public then are we interfering with their freedom to put the news in whatever way they want whether it damages Gibraltar or not? Mr Speaker, it is all too easy to come up with amendments to amendments on the spot in a situation where nobody that believes in democracy will want to muscle GBC or the Chronicle or anybody else. On the other hand we expect that anybody that is Gibraltar based and cares about Gibraltar and cares about its future will exercise a certain amount of discipline in his journalistic freedom like everybody else does everywhere else in the world. I think that sometimes,

frankly, I personally feel, as a Gibraltarian, not as Chief Minister, that our own media does not seem to realise that they give ammunition to other people by perhaps feeling that they have to be purer than the purest and I am not now talking about domestic quarrels. I think in terms of domestic quarrels that is a matter for us to sort out our own internal divisions of views and philosophies because we are all ultimately on the same side when it comes to putting Gibraltar's interest. There is a limit to the exercise of that freedom particularly with a publicly financed, publicly subsidised broadcasting service when it comes to dealing with the outside world and the attacks that we tend to be subjected to from our neighbours media who clearly, whether they are reporting on a political event or reporting on a sporting event, have no doubt that the news always says that the Spanish version is always right. They have no doubt about that. I think that is the only comment that I wish to make. In making sure that we understand that the spirit in which we are saying this is not that we are saying we are now going to give them new freedoms to do things which they did not have before because we want to see a situation where they continue to enjoy the freedom that they are entitled to have and that they should not be subjected to pressures to slant news or anything else. But at the end of the day, I also think, that as a public Corporation if it was a privately owned station well you could say they reflect the views of their owners or shareholders, owned by Gibraltar and subsidised by Gibraltar they have to take into account what is ultimately good for Gibraltar which is obviously ultimately good for GBC as well. I also think that in terms of the concerns that we have it is simply a matter of stretching a stretched budget and which is something that the House knows about. Frankly if GBC was able to make ends meet, if they had not had the drop that they have had in advertising revenue, then we would not have even dreamt of looking for any alternative. However it is something that will not disappear because it is a question of having to spend £1m one year and perhaps £1.5m the next and one cannot, as a responsible Government, give an open-ended commitment. We cannot say that we care so much to have our local Station that it will continue irrespective of the cost. Mr Speaker, it cannot be irrespective of the cost. That is the only concern that we have. We certainly do not want to have any interference but we have had situations when the House has been in fundamental disagreement with GBC. The Honourable Mr Caruana may not be aware of this but, in fact, we have had a situation when we were in Opposition when it came to the broadcasting of the House and there was a very serious clash between what the House thought ought to be broadcast and what GBC thought that it ought to broadcast. In many respects we were concerned paradoxically about protecting GBC's independence and the issue which brought about the situation I have just mentioned concerned the editing of what was being discussed in the House and which might lead to a situation where there could be all sorts of accusations levied because everybody felt that they were being more edited than another speaker and thereby being discriminated

against even though there was a consensus between both sides of the House. We were then in Opposition but we agreed, in fact, it was the Leader of the Opposition who was the one who felt strongly about it and we agreed with his view and supported his view on this and yet GBC felt that this desire to protect them from accusations of political bias was political interference. Therefore, Mr Speaker, before we all go overboard, I think, we need to be conscious of the fact that we have had occasions when what we had felt had not been political interference was considered by somebody else on the other side to be political interference.

HON P R CARUANA:

Mr Speaker, if the Hon the Chief Minister will give way so that I can put my position into context. My motion is not intended to imply or rather my amendment is not intended to imply as a matter of fact that there is presently, in the existing arrangements such interference but the Honourable the Chief Minister, Mr Speaker, has to put into context the preamble of the motion itself, which is "That this House considers that any new arrangements affecting the future" which presupposes that we are going to depart from the existing structure of the Statutory Corporation. Therefore all my comments seek to add, is in the context of "new proposed arrangements" which are still hypothetical and we do not know what they are. All that the motion seeks to say is that in changing the status quo, the structure of GBC, let us not change the status quo as it presently exists in the context of non-political interference.

CHIEF MINISTER:

I am grateful because, in fact I think, that needed to be placed on record so that we are all sure that we are talking about the same thing.

MR SPEAKER:

If no other Member wishes to speak I will ask on the mover to reply.

HON A J CANEPA:

I think that was a very valid point made there at the end which really clarifies the matter. I think we are all speaking in the same language.

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

HON P R CARUANA:

Very briefly, Mr Speaker, because the time is getting on and I have said a lot of what I would have said in my reply already. Mr Speaker, I accept that if any Government in Britain is pumping money into the BBC, just to get out of the context of Gibraltar less sensitive Members opposite

think that there is an insinuation of attack, it is reasonable to expect that the British Government is not going to write a blank cheque to the BBC and allow them to spend it as they like. But, the way that the Government in Britain keeps control on the expenditure of public funds by the British Broadcasting Corporation is not to have Ministers of the Crown sitting in Bush House or on the Board or looking over managers to see what equipment they are buying or not buying or whether they are squeezing the rates sufficiently on programme buying or on commission agents or whatever. It is by nominating to the Board of Directors of the Corporation individuals in whose judgement they have confidence. The fact of the matter is that the way that the Government of the day influences, keeps control of the Corporation is not by politicians themselves sitting on the Board, which frankly will be unprecedented in any civilised democracy. There is no civilised democracy in the world, of which I am aware in which elected Ministers of the Government sit on the Board of Directors of the Public Service Broadcasting Company. But what would be entirely legitimate for the Honourable Members opposite generally and the Honourable Member for Government Services in particular, is, that when he reconstitutes the Board of GBC, he nominates people to that Board in whose commercial, financial judgement he has confidence. It is not by doing the job themselves that he secures protection of public funds. At the moment, as the Honourable Minister has said, it is unfair that Government should not have control excepting the newsroom. In the event of exchanges that followed that remark, I think that that was a rush remark because I know that he now accepts that the freedom from control must extend beyond the newsroom. It would be no consolation to me that a Member of the Opposition should sit on the Board either because that is just as objectionable as a Member of the Government. The fact of the matter is that this has to be free. GBC has got to be free not from Government control but from political control from whatever source it comes. This is not "a keep out of Government's hands" measure it is "a keep the politicians hands off" measure. Therefore it is no consolation to me that we both have the same degree of "hands on". The principle is still not safe, by equating the extent of political control. The Honourable the Leader of the Opposition said that at the moment GBC is not free from constraints and he is right and I will not go into this again because I said so when I was speaking on the amendment to the amendment. The sort of control that presently exists on GBC firstly is from the House and not from the Government and secondly it is in the form of an annual subvention and not on the basis of a Minister having an office.

HON A J CANEPA:

Mr Speaker, it goes further because there are the Directives of the Governor-in-Council.

HON P R CARUANA:

Yes, the Directives of the Governor-in-Council I would not

regard subject to the Constitutional argument that no doubt this House would one day have to have in general. That is not political control from the Government of the day. It is a safeguard but it is a constraint and I accept that it is a constraint. But there is a difference between all the constraints that presently exists and which some would argue should or should not exist. It is different from what might result if GBC because a wholly-owned Government company in which a Minister sat as Chairman of the Board. It is a different ball game, Mr Speaker. The important point, Mr Speaker, is not that there, in fact, is no political interference because it is equally important that the outside world and I do not mean outside Gibraltar, I mean outside this House, should be confident that there is no reasonable opportunity for political control. In other words, that there should not be the suspicion that there is political control. My final point was going to be one that I have already covered and therefore I will not bore the House, Mr Speaker.

HON J C PEREZ:

Mr Speaker, let me say that certainly the Honourable Mr Caruana has focussed his whole argument on something which has nothing to do with the present crisis that GBC is going through. In his contribution he has dedicated himself to focussing the whole matter on the editorial control of GBC and on what might one day take over the Directions of Governor-in-Council. This is what needs to be done away with as part of EEC legislation and which is what put in question the ownership of GBC as I mentioned at the time of the Budget. But that, is not an issue which is being addressed today.

HON P R CARUANA:

Mr Speaker, it is actually not true. As I recall what I said was that I have concentrated in my address on the motion only to the question of editorial freedom. It was the last point that I made in an address that might have lasted ten minutes and that is when I proposed my amendment. I started off by accepting the question of financial constraints stating that I wanted only Public Service Broadcasting. It is not true to say that I dealt only with this aspect.

HON J C PEREZ:

Mr Speaker, the main thrust of the Honourable Member's contribution is not totally but certainly mainly at what I have said. The Hon Member wants to try and blind us and say that that is not so and he has become very upset because I compared him to a particular political party in our neighbouring Country. Mr Speaker, I now wish to reply to the fundamental points being put by the Honourable Mr Anthony and his preferred option that there should be a third party coming in with cash and with the possibility of investing and taking over the Corporation either on a Joint Venture basis with the staff having participation or on its own. That has been the preferred option of the Government all

along except that what has kept those people at bay and what has not made it possible for those people to come in is precisely the bill of the sixty employees. That, Mr Speaker, was too high a price for anybody to pay to link their signal from a satellite to Gibraltar and retransmit in Gibraltar. They would prefer, I think, to continue doing local programmes and to safeguard part of the Public programmes that form the Public Service Broadcasting but not with the present structure of GBC. So I do not want to try and pre-empt the result of those discussions but, Mr Speaker, the package that I came up with as a result of negotiations with GBC, at the moment already saves the Corporation £300,000 per annum in royalties and in buying films and whether people might agree that the programming is of one particular standard or another, it at least provides to the people of Gibraltar with eighteen hours of television. It also helps us to reorganise ourselves and concentrate ourselves solely on producing local programmes. So already without touching the question of staff there is already an important saving of £300,000. There is a cost to everything and there is an initial investment that has to be made in decoders because the BBC will not retransmit without those decoders. So therefore the saving on an annual basis, I think, justifies the nominal expenditure that has to be made at this stage. But, Mr Speaker, we want to arrive at a situation in GBC that allows us to look at all the assets of GBC and its potential economic benefits to try and exploit those assets to a greater potential economic return. We have seen how the advertising market has collapsed in a year and how £800,000 in one year was converted to £250,000 in the following year. Now that collapse of the advertising market must be as a result of more than one factor. There must be more than one factor responsible for that because the market is like that and particularly when you look at other local newspapers and see how well they are doing on advertising. So we have to tackle that as well. The BBC arrangement also gives us a potential to maximise GBC's frequencies and GBC's channels which are assets that the Corporation now needs to put to better use commercially so that they give a third or fourth source of revenue to the Corporation independent of advertising and independent of the Government's subvention. I think that potentially, for the future, that is where GBC might be making money and as it grows or as those potential areas are exploited economically then the Capital Expenditure that is needed will materialise but the Government at this stage with the crisis that GBC has and which we do not know how it will end the year requires quick solutions. GBC has already taken up a third of this year's subvention where we are going to start saving about £150,000 as a result of the BBC coming in and where the extra revenue that we foresee coming in in the future has not yet materialised and an injection of capital is needed for the purchase of decoders. So there is little else economically that, in my view, will be seen this year other than the restructuring proposals which I have in mind. Let me say that I am not going to negotiate those restructuring proposals. I am going to make proposals to the Management and the staff

in a discussion document and it is up to them to discuss it and to come up with a viable solution to the problems that I am going to pose. I am certainly not going to get myself into a position where I am negotiating with the Management and the Staff. I shall be making proposals on how I see the situation and on how I see that they can improve themselves. It is up to them to get together and to discuss together how best they can bring about savings in the Corporation. I am not in a position, as has been suggested, to say to anybody in GBC that they should be made compulsorily redundant or otherwise. I do not want to be in that position either. I think that the Chief Minister has explained the situation fully but I am in a position to explain to both sides management and staff that it might be in their best interest if savings in staff of a particular nature were made today. Let me, Mr Speaker, say, that Management have done a very good job in negotiating that agreement with the BBC and they have produced a result where at least twice as much time as is presently used in what is called Public Service Broadcasting has been guaranteed from the BBC. We are also not constrained to broadcasting BBC productions as long as the quality of what we broadcast is high. So when we are in a better financial position we might decide to buy a very high quality film somewhere and interposing between BBC programmes as part of a GBC production. That in itself is a potential to buy advertising or to sell advertising not only in Gibraltar but possibly up the Costa del Sol as well. So, without wanting to pre-empt any further negotiations that have taken place, I think, that if we take the point that the Chief Minister made quite clearly, which is that no-one can say that the interest of those employed at GBC will be safeguarded or that the Public Service Broadcasting will be safeguarded and that the local current affairs, cultural and sporting events and that the freedom of the press which we will all want to safeguard but everything has a price and if that price is too high, then we need to think again and we need to think whether the public really want that service at that price. It has to be the public and ultimately this House that has to decide. I think, the points raised in this motion are being met and I foresee that they will continue to be met but, I think, also that it is not a one-sided affair we have to put a proviso that there is a limit to how much money can be given in order to meet those targets and that if those targets were to increase in cost greatly then one would have to come back to the House and say this is the situation and in order to safeguard point 1, 2 and 3, this is what it is going to cost the taxpayer and we might have to decide whether it is worth it or not. Thank you, Mr Speaker.

HON LT-COL E M BRITTO:

I had not really intended to make a speech on this debate so I will say at this stage that if the Hon Minister wants me to give way I will give way. But, I think, that it will be valuable to put on record some points that were submitted to me recently. I think, it has been well established in what both sides of this House have said that even in the satellite age, the House wants GBC to continue and has shown

a determination today to find a way of getting it to continue. Also that within what has been said the priority to be given to Public Service Broadcasting is obviously inherent in the contributions of both sides of the House. But, I think, that what we have not gone into, except in the amendment to the amendment, is what we really mean by Public Service Broadcasting. What I would like to do, Mr Speaker, is to put on record the BBC guidelines on Public Service Broadcasting and which is the sort of thing that we will be looking for on this side of the House as the constitution of the final package that the Government produces for GBC. I quote, Mr Speaker, "(1) to provide information, education and entertainment;

HON J C PEREZ:

If the Honourable Member will give way. He can put an amendment to the motion but I am speaking to a motion that says "The vital role of Public Service Broadcasting gives to the life of the community, particularly with regard to local current affairs, information and news, cultural and sporting activities". If the Hon Member wants to interpret Public Broadcasting in a different way then he should put an amendment but what we are saying is not necessarily what the BBC Public Service broadcasting is all about. We are talking about Public Service in Gibraltar and not in the United Kingdom with sixty million people. So I am not prepared to go along the lines of an interpretation of Public Service in the BBC when his own colleague has already interpreted what his Party thinks Public Service should be in the motion.

HON LT-COL E M BRITTO:

No, Mr Speaker, I am sorry but I cannot accept that at all. The motion says specifically "That any new arrangements affecting the future of GBC should safeguard the following and (2) is the vital role of Public Service Broadcasting plays in the life of the community".

HON J C PEREZ:

Mr Speaker, particularly in those two areas?

HON LT-COL E M BRITTO:

Yes, Mr Speaker, particularly in those two areas. I am not proposing an amendment to the motion, Mr Speaker. What I am saying for the record is that the BBC guidelines of Public Service say and which are in line with what has been said by my colleague. I am a little bit more explicit in some areas and what we would like to see on this side of the House. The second point, Mr Speaker, is that the Public Service Broadcasting should not be run for profit but be administered in the public interest available to all and therefore supported by public funds. This is being done at the moment and obviously needs to be continued. The point that I am making is that at no stage can GBC be seen

as a profit making organisation. That would be ideal obviously but it cannot be a proviso for its existence. Point No.3 is not seeking to maximise audiences at all times but producing a wide range of programmes catering for minority interests as well as majority interests and of high quality. Point No.4, not administered under day to day control by the Government of the day, but at arms length from Government and fully independent of Government in its editorial policy. Again, part of this has been reflected in the motion, as amended, but I stress the first bit about not administered under day to day control by the Government of the day and I reiterate what has already been said by the Honourable Mr Peter Caruana and which coincides with our views in the Official Opposition. We do not like the idea mooted by the Honourable Mr Juan Carlos Perez, of a Board of Management headed by the Minister, even if there were to be a Member of the Opposition, and I share the views expressed already.

HON J C PEREZ:

Mr Speaker, if the Honourable Member will give way. I have already said that that is not the issue that is concerning us now. Let me point out to the Honourable Member that if he wishes us to keep to the targets of the BBC then regardless of the fact that they have sixty million people and we twenty-five thousand people and regardless of the number of viewers, you would have to inject the same amount of capital to get the same amount of programmes of quality. Because one Broadcasting Station can produce as much as the other, except that here we are doing it for twenty-five thousand people and in UK for sixty million people. So you cannot obtain the targets of the BBC when you have sixty million people paying for them in UK and twenty-five thousand people paying for it here. That is the difference, Mr Speaker. We have a viewing public which is much smaller and although we would all like to have programmes of wild life up the Rock which might be able to be afforded in the United Kingdom we cannot afford it. It is a very costly and expensive exercise which we might have to do without because the numbers here are very small. So we cannot attain the targets and the objectives of the BBC which is costing the UK taxpayer a hell of a lot of money and which is being put in question in the United Kingdom at the moment with all the private broadcasting channels.

HON LT-COL E M BRITTO:

Sorry, Mr Speaker, but once again, I cannot accept that point. I am talking about general principles and whilst I do accept that Great Britain is much bigger and that the BBC has a much bigger budget and that obviously the level of programmes is superior the principles laid down apply irrespective of the size of the Broadcasting Station. Finally, Mr Speaker, the fifth point is not taking an editorial view of its own on issues of public controversy but reporting news and reflecting the variety of views within society accurately and impartially and in the belief that the provision of information is to the public. May I say,

Mr Speaker, that I believe that that is something that GBC have been doing up to now and I have no reason to believe that it will stop. In conclusion, Mr Speaker, I would just like to say that whilst appreciating the difficulties in finding an alternative solution to the problems of GBC, I am not convinced that the BBC package is the ideal solution or that it will work in the long term, because the BBC transmissions to Europe are more of an information type channel than of an entertainment channel and as the aim is obviously to recoup the advertising that GBC has lost it is not going to attract the lost advertising market with that type of broadcast.

HON J C PEREZ:

Mr Speaker, surely, the BBC option is not the ideal one we all know that but it is going to save us £300,000 per annum and we are here to save costs. Now, in making an analysis of viewing patterns in Gibraltar and if the Hon Member has seen all the opinion polls he will have seen that people used to tune in to GBC to see Public Service programmes. With regard to entertainment programmes then GBC cannot compete with Satellite TV or Spanish television and people were tuning back to the other channels. So what we are saying is that we could not compete with the entertainment part and it was costing us £300,000 a year so we instead replaced that by something which is much cheaper and which gives us eighteen hours of programming and which allows us, if we get financially better off to buy very good quality programmes for inter posing. That is the best we could get out of a bad situation but it might not be the ideal solution but it is better than paying £1.3m at the end of the year. It is a better solution and it is the basis for cutting costs and, I think, Mr Speaker, that the BBC programming is not everybody's cup of tea but there are very good educational programmes in their programming which I am certain should be transmitted here as part of the Public Service. In fact, they are programmes of the standard that you were referring to in terms of Public Service that the BBC attains.

HON LT-COL E M BRITTO:

Mr Speaker, the Honourable Minister will be glad to know that this time I do agree with him. But he is making, in a different way, exactly the point that I am making. I agree with him that up to now people have been watching the Public Broadcasting programmes on GBC and then have been flicking away onto the satellite channels. The point that I am making is that I am not convinced that they are going to stop doing this. That I do not think that the BBC programming is going to hold the local viewer. That is the point that I am making. I do not know whether there is a better solution at this stage since I do not have all the information at my fingertips but I am not satisfied that this saving of £300,000 is going to be compensated by the increase in advertising that GBC is looking for. Time will show, Mr Speaker. Finally, Mr Speaker, I think

what needs to be done now is for decisions, to be made, practical decisions to be taken and for action to happen. Deadlines of August or September were given sometime back. I think, from my understanding these deadlines are probably impractical now but the sooner action is taken the sooner we can get on with it and the better it will be for everyone at GBC.

MR SPEAKER:

If there is no other contributor I will ask the mover to reply.

HON K B ANTHONY:

Mr Speaker, I have listened with great interest to all the contributions that have been made to the debate. It has clarified in my mind that everybody is concerned about GBC and everybody is concerned in a constructive manner and I think that is very helpful. I appreciate the amendment moved by my Honourable Learned friend on my left and it goes beyond my original motion, but I think, it is a good thing to have editorial freedom as regards journalistic material. GBC, to the best of my knowledge, has always had this and I would like to think that it will always retain this. The Chief Minister, in his contribution, said he wants GBC to survive and I am delighted to hear that and I accept fully his analysis that the sales slump has led to the drop in revenue. This is a very important factor that we cannot overlook. I also accept the premise that you cannot stretch to £1½m or to £2m budget in the subvention which could arise every year. I am glad to hear that the Honourable Minister agrees that a third party injecting funds would possibly be the best solution and I also accept his argument that the staff with their high salaries is a factor that is very discouraging for anybody being asked to invest money. It draws, once again, the parallel I have made before with Kvaerner and the cost of the money that they would have to put in. Nobody can argue with that. I would like to see the Honourable Minister persevere with this and as he said later, there are some restructuring proposals which the management and staff will discuss. But I do feel that the best answer is to obtain money from outside. In the meanwhile the news that we are going to save £300,000 per year with the BBC, I think, is a very meritorious one, because as many people know, BBC is less entertaining than informational and educational. They do have the odd entertainment programme but not as many as we would like. Therefore the Minister's suggestion that it might be possible to get high quality films and programmes from the BBC for sponsorship which would boost the advertising, I think it is also a step in the right direction. So I would like to end, Mr Speaker, by simply saying that I am delighted once again that there has been so much interest shown in this motion and all of us on this side of the House, in particular, will be keeping a close watch to ensure that GBC survives the crisis through which it is going at the moment. Thank you, Mr Speaker.

Mr Speaker proposed the question in the terms of the Hon K B Anthony's motion, as amended, which was resolved in the affirmative and read:

"This House considers that any new arrangements affecting the future of GBC should safeguard the following:

- (1) The interests of those employed at GBC;
- (2) The vital role that public service broadcasting plays in the life of the community, particularly with regard to:
 - (a) local current affairs, information and news.
 - (b) cultural and sporting activities;
- (3) The editorial freedom of GBC from influence or control by the Government of the day in relation to broadcasting of journalistic material."

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now 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 8.20 pm on Tuesday the 9th July, 1991.