



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 2.15 p.m. – 6.55 p.m.

Gibraltar, Tuesday, 4th June 2013

## The Gibraltar Parliament

*The Parliament resumed its sitting at 2.15 p.m.*

[MR SPEAKER: Hon. A J Canepa GMH, OBE *in the Chair*]

[CLERK TO THE PARLIAMENT: M L Farrell Esq RD *in attendance*]

## Order of the Day

### GOVERNMENT MOTION

#### **Parliamentary and democratic reform Report of the Independent Commission Debate continued**

**Hon. P R Caruana:** Mr Speaker, it is yet another sign of my fall from a great height that I have drawn the short straw of the speaking slot immediately after the luncheon adjournment and I rise to speak for myself, as a backbencher, and as someone who is, as all hon. Members know now, close to the end of his political career and in the hope that my experiences both of the proceedings of this Parliament and, indeed, of General Elections in Gibraltar, may be of some value to those of us all who I think are now doing a good job in this exercise of re-designing and improving the way our Parliament works for the benefit of what might be more than one generation to come.

I think the Government – I think I said it recently – I think the Government is to be congratulated for giving this matter priority and whilst we are slow in this House to recognise each other's achievements, I think on this occasion the hon. Members are indeed entitled to feel a degree – a significant degree – of self-satisfaction at the amount of progress that they have already achieved in the way this Parliament has been working. I think it would be churlish not to recognise that the Parliament is now working in a significantly different and better manner than it has been in the past. And speaking very much as a parliamentarian, I would just take issue with the, I think it was the Hon. the Deputy Chief Minister, who when he was listing the beneficiaries of the Government's steps so far, I think put them in an order, I

cannot remember the first three, but there was the public, the staff and then, fourthly, Members.

Well, I would have put them in the other order: Parliament is primarily about Members of Parliament and although it is right that we should seek to make Parliament more accessible to the public, more of interest to the public, at the end of the day the most important aspect about the way the Parliament works is that the parliamentarians, the Members of it, should be able to do their very important function, whether you are in Government or in Opposition, in the best possible way.

I think it has also been said – and I would just like to associate myself – there have been statements on both sides of the House about this, and I would just like to personally associate myself with them, that this exercise that we are engaged in represents an important further step in our collective journey as a Parliament and as a political class in this community, following on not just from the very seeds of the birth of democratic enfranchisement and self-government of Gibraltar, as the Hon. the Deputy Chief Minister has correctly summarised, but indeed also in terms of how we are going to conduct that exercise in the future. It is an important step. The new Constitution I think created a platform, it finally converted this place into a proper Parliament and, for that reason, I would urge recognising that governments have majorities which it is always legitimate for them to use, but for that reason I would urge both sides of this House to seek as much consensus as possible in this exercise so that the public at large get the sense that we are, together, creating something, not just for this Government and this Opposition, or to the taste of this Government and the taste of this Opposition, but rather for our successors on both sides of the Parliament and, generally, in seeking to improve the architecture of politics in Gibraltar and the Parliament in Gibraltar.

If I could just, Mr Speaker, comment on one of the things that the Chief Minister said, before I express a view on some of the Recommendations. I think the Chief Minister helpfully floated the idea that the members of the Commission should be heard by the Select Committee: I think that is a good idea and I hope it happens. He then said something which I think is not necessary and that is when he said that you, Mr Speaker, will not be able to do it; I do not see that there is a need for that. (*Interjection*)

I will give way, yes.

**Hon. Chief Minister:** I am sorry if that is the impression that I gave, Mr Speaker. What I meant was that you could not do it from your position today and that is why you would do it as the Chairman of the Commission in the meeting with the Select Committee but not from the Chair in which you are sitting today.

**Hon. P R Caruana:** Oh, I see. Because the point that I was going to make – I am grateful to the Hon. the Chief Minister for that clarification, because, of course, we must not lose sight of the fact that the Speaker is constitutionally part of this Parliament as much as he or I. As a part of this Parliament, the Speaker, perhaps not from the Chair whilst he is presiding over the debates across the floor, but in any other part of the parliamentary output methods, I think the Speaker, as a Member of Parliament, is *entitled* to express his views and, indeed, contribute: indeed, not just the Speaker, but the other people who are constitutionally, under Section 25 of our Constitution, also officers of the Parliament.

The hon. Members will recall that, under the new Constitution, the Principal Auditor, the Ombudsman and the Clerk of the Parliament are also, constitutionally, now officers of this Parliament whose experiences and, indeed, needs deserve also to be taken into account and at least listened to before final decisions are made. So I would not discourage the Select Committee from inviting not just the Speaker, in the capacity as Speaker, ignoring the coincidence that he is also the Chairman of the Commission, in the *capacity* of Speaker, there is no reason why the Select Committee should not invite the Speaker to put in his – and the other officers that I have mentioned – to contribute whatever they think they may wish to.

Well, Mr Speaker, as is inevitable in a Report of this kind, it is almost impossible that all the contents will be to anybody's liking and it is inevitable that there will be mixed views on individual recommendations and I am certain, that when the Commission crafted this Report it had no expectation that it should be implemented or accepted in full and, indeed, it is necessarily itself the views only of the majority of the persons that sat on the Commission. In other words, it is itself a compromise amongst the Members of the Commission and therefore it should come as no surprise that there will be, on both sides of this House, differences of view on them.

I think, Mr Speaker, if I could just start, I am not going to speak at length on all thirty odd Recommendations and, indeed, most of them I will not mention at all. There are some that I will mention in slower order. In terms of Recommendation No. 1, I think the Chief Minister said that requiring Parliament to hold a minimum of ten meetings a year and enshrining that in Standing Orders, or in the Act, may raise a constitutional issue. Well, of course, that would require careful analysis and careful thought. I doubt that it would, however. I think the Constitution establishes a minimum and, so long as you do not do something that is inimical to the Constitution you are perfectly entitled, I would have thought, to impose, by legislation, the need for more. I think what the Constitution says there is you cannot have less than three.

**Hon. G H Licudi:** Will the hon. Member give way?

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**Hon. P R Caruana:** I will.

**Hon. G H Licudi:** Mr Speaker, just to clarify that particular point, I have looked at the Gibraltar Constitution Order 2007 in this particular context and sections 37(3) says that

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‘There shall be at *least* three meetings of Parliament... [except in an election year] when there shall be at least two meetings...’

So there would be nothing in conflict with the Constitution if we either had rules or primary legislation which sets out a higher minimum. It would be entirely consistent with the Constitution.

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**Hon. P R Caruana:** I am glad that that view might be taken because having established, as a matter of policy, monthly meetings, if it is found to work I think it is right that it should be enshrined, if possible. In other words, that way we consolidate into the practices of this House, as many as possible of the things that are found to be improvements, regardless of which side of the House they may have emanated from. That would be my personal view of the matter.

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Moving to Recommendation No. 3, as to whether the Chief Minister’s Questions should be guillotined. I think there are arguments on both sides and I think, on balance, I would share the Chief Ministers view that it ought not to be guillotined by time. Of course, the difficulty with guillotine by subject matter is that I am not sure it is true to say that a supplementary has got to relate to the original Question. Supplementaries are also legitimate if they relate to answers given in the answer to the original question or to the immediately previous supplementary. For example, as he knows, Questions to the Prime Minister in the House of Commons have no subject matter. The question is, ‘Will the Prime Minister tell this House what he is doing today by way of official business...’ and, therefore, necessarily, every supplementary does *not* arise either from the original question or, indeed, in his case, not even from the original answer, which is normally that he says, ‘Well, this afternoon... you know, I am meeting the Prime Minister of France...’ The first *real* question is the first supplementary.

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Now, that is a tradition that I do not think we should adopt but certainly I think we need to take care, when we select a guillotine by subject matter, that the guillotine should be correctly defined as relating not just relevance to the original Question, there has to be scope for asking supplementaries arising from the answer, not just arising from the original Question.

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Indeed, the whole purpose of supplementaries is to seek further clarification on the answer given, not a second bite at the cherry of your own original question. So I think it is right that we should not... and I am gladdened that the Government is not minded to impose a time guillotine, but in choosing the alternative guillotine I think that care needs to be taken.

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Recommendation No. 4, which I think goes in consequence, and is another reason why I am glad that the Government is not minded to support Recommendation No. 3 is this business of, well, if you ran out of time to answer Oral Questions then they just get postponed to Written Answer. Of course, that would be terribly dangerous politically because, of course, the Government chooses the order in which they answer Questions. So by stacking all your awkward political Questions at the end, you could *always* help yourself to Written Answers and always avoid the much more difficult political task of defending yourself orally across the floor of this House. I think that would be a serious shortcoming in Recommendation No. 4, which is only relevant to take into consideration I think if Recommendation No. 3 were to prosper.

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Mr Speaker, a very small point in relation to Recommendation No. 7, which is:

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‘...that motions for adjournment should, after giving due notice to the Speaker, also be permitted to be moved at the last sitting in any month if Parliament is not to be adjourned *sine die* at the end of that sitting.’

I think that is a sensible suggestion and the Government agrees with it, which means that it is likely to prosper, but for that purpose it would be important for the Opposition always to know which is the second last sitting, and the Opposition does not always know which is the second last sitting. In other words, if you can only bring a motion on the sitting, but not the one in which it is adjourned *sine die*, then you always need to know that your current sitting is not the sitting for adjournment *sine die*, otherwise you are locked out. So it would require that tweaking with the timetabling to make sure that the Opposition always knew at least what was the second last sitting or rather that every sitting, which sitting was not the last sitting.

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Mr Speaker, I tend to agree with Recommendation No. 8. I think Oppositions traditionally have made insufficient use of motions, substantive motions and motions on the adjournment and I think that we ought to take heed of suggestions that perhaps better use should be made of motions. I think the Hon. the

140 Leader of the Opposition has expressed understandable frustration about these things always inevitably coming late on a Friday evening, as it was historically. That may not be so now, but that is not a reason, I think, why this important weapon in the armoury of parliamentary debate should fall into disuse and, indeed, we need to make sure that it does not.

145 In terms of Recommendation No. 9, the importance of making statements in Parliament rather than outside of Parliament – I have been trying to look for it but have not found it – I understand that this is not *just* a question of preference: I think that the Speaker in the United Kingdom has made statements about the importance of Ministers making important policy statements in Parliament and not outside of Parliament. At the very least, even if this Recommendation does not prosper, or advantage is taken of the fact that it is stated as a preference to bear it in mind rather than an outright suggestion, at the very least I think, Mr Speaker – and I make this statement not being consciously aware of whether we ever fell into the trap of doing it when we sat on that side of the House: if we did, it still does not invalidate the view – at the very, very, least, I think Governments should avoid making *public* statements about things about which Questions have already been tabled in the space between tabling of the Question and answering of the Question. I think that is abusive. It is abusive of the fact that the Opposition needed to give you notice and because the Opposition needed to give you notice, they are no longer able to take you by surprise in the context of the parliamentary cut and thrust but that should not be a reason why a Government then rushes to answer the Question in a more benign environment of a public statement in the five days between notice of Question and answering in Parliament and I think that that view might be taken, regardless of the view taken on the main suggestion in the Commission's Recommendation.

150 I tend to take a different view on Recommendation No. 10; I think the Commission's view that there ought to be a Public Bills Committee of this House I think *does* deserve some consideration by the Select Committee when it is established and I think the hon. Member may have not so much missed the point as skirted the issue when he spoke this morning in explanation of why the Government was not in favour of this recommendation and focused exclusively on the opportunities that now exist for public consultation. This is not about public consultation; this is about the process to which a Bill is subjected once it is in Parliament and going through the parliamentary legislative process. I think it is good. I think we initiated the practice in Gibraltar of legislative consultation at least on the main items of legislation. I think the Government have taken that one step further and I think that that is laudable, too. But the opportunity for members of the *public* to express the view to the *Government* about a Bill that the Government proposes to bring to the House is not an alternative to this Parliament giving the Bill proper legislative consideration when it does get to the floor of the House.

160 Mr Speaker, the reality of it is this – isn't it? – there may be issues, from time to time, for legislation that are so politically sensitive, – I don't know, the age of consent or things like that – where there is broad political debate within the Cabinet, for example, about it, or amongst the Opposition Members in their regular meetings. But that is the minority. That is the exception, rather than the rule. The reality of it is that most pieces of legislation are technical, long and involved and really only the Minister moving the Bill and perhaps the Opposition spokesman answering the Bill, really get to read it properly and form an informed view of it.

175 So I calculate that, for ninety something per cent of the legislative process in this House, legislation is *probably* being made and, therefore, the quality of it – and the opportunity to improve, which is thereby being missed – reflects the work really of two Members of Parliament out of seventeen, for the vast majority of the legislation. Of course, a greater use of a Public Bills Committee I think would require at least the Committee members to get to the bottom of the Bill and there would be more people that would thereby bring to bear their views and their experience and, indeed, their ability to spot points in the Bill and I think there would be an improvement to the legislative process. It may delay the legislative process and the Government may regard that, in certain circumstances, particularly on EU Directives or things of that sort, a handicap, but perhaps it might be possible to build in a Public Bills Committee system with some sort of timetabling involved so that the Government could build it in to its legislative chronology, in the knowledge that it could not delay the Bill by more than a period of time to be discussed. In short, I think that greater scrutiny of the Bill by more people than presently give it, but fewer than the whole House when we sit in committee, I think would be an instrument for the further improvement of the quality of our legislation.

180 If I could move on to Recommendation No. 11, about the Deputy Speaker, well here I would just like to say a little bit more about that. I personally think it is a good idea. I *used* to subscribe to the view that there might be a constitutional issue. In fact, not only is there not a constitutional issue, but indeed the problem may be more urgent than the Hon. the Chief Minister believes, precisely by virtue of what the Constitution says. Far from... far from... First of all I should say that legislation does not need to *reflect* the Constitution; legislation needs not to be inimical to the Constitution. This Parliament is free to legislate anything that is not inconsistent with... in other words, anything that is not prescribed by higher legislation, which is what the Constitution is... Did I say prescribed? Yes. Now, if you look at the new regime in the Constitution, and the reason why I say it may be more urgent than the hon. Member thinks

is that probably what is now unconstitutional is for a Member of this House to take the Chair during the Speaker's absence.

205 Section 26 of the new Constitution says, first of all, 'The Speaker is now appointed across the floor of the House by a motion of the Chief Minister in consultation...' Then it says:

'No person shall be qualified for appointment as Speaker...'

210 – and this is still old measure –

'No person shall be qualified for appointment as Speaker if  
(a) he is an Elected Member of the Parliament.'

215 In the past there was a provision, *I think*, about a Member of Parliament taking the Chair. That is out. That is not there any more so there is now no provision about a Member taking the place... there is now a provision that says that a Member is not eligible and the sub-section about filling vacancies says that the vacancy can only be filled by someone who is eligible to be appointed Speaker, which is *not* a Member. So, in fact, if there was a vacancy, if the Speaker, God forbid, were to be taken ill today, we would have to suspend this session of Parliament or, otherwise, now, vote to select a new Speaker under the substantive provisions.

220 But, in any event, be that as it may, I do not think that there is any constitutional issue arising from any Bill or Standing Order that might appoint a Deputy Speaker for reason that

225 'The Speaker of the Parliament shall be appointed by the Parliament by resolution passed by a simple majority of its Members and presented by the Chief Minister acting after consultation with the Leader of the Opposition.'

Then subsection 5, which is the 'vacancy' section, says:

230 'If the office of the Speaker is vacant, or if the person holding the office of Speaker is absent from Gibraltar, or is for *any other reason, at any time*, unable to perform the functions of his office, those *functions*'

- so there is now suddenly a distinction between office-holder and carrier-out of functions –

235 '...those *functions* may be performed'

- not office-holder, somebody who may perform the functions of the office-holder,

240 'by such person (being a person qualified for appointment as Speaker) as may from time to time be designated in that behalf by the Parliament upon motion being presented by the Chief Minister acting after consultation with the Leader of the Opposition.'

245 And I believe that that mechanism would allow the Parliament, by motion, to appoint, after consultation between the Chief Minister and the Leader of the Opposition, a person as Deputy Speaker, to carry out the functions of Speaker *only* when the Speaker is vacant, the office is vacant or the Speaker is absent from Gibraltar or is, for any other reason *at any time*, unable to perform the functions of his Office. So if the Speaker says 'Look, Chief Minister or Leader of the House, there is a sitting of Parliament on such and such a day: I am afraid I cannot because I have got a holiday booked, or I am not going to be in Gibraltar or whatever...' a person appointed under this provision by Parliament, in my view, could be a sort of a standing vacancy filler to perform the functions, and we could choose to call it Deputy Speaker, if we want to –

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**Mr Speaker:** Speaker's Deputy.

255 **Hon. P R Caruana:** – or Speaker's Deputy, but I think there is nothing in the Constitution which prevents you from using the nomenclature of 'Deputy Speaker'. The fact that the Constitution says... (*Interjection*) Yes, alright, but that is very different, (*Laughter*) that has not got colonial overtures. (*Laughter*) Again, the fact that the Constitution says that 'there shall be a Speaker' does not mean that the Constitution does not allow for a Deputy Speaker, or that the Deputy Speaker, so even under the terms of the Constitution there is no reason not to use the term Deputy Speaker. So I think that, if there were a consensus around the House for that, I think that is something that the House could get on with quite quickly if it was minded to.

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265 Just moving on, I am anxious not to speak for a disproportionate amount of time in this debate. Yes, Mr Speaker, coming to the point that caused a degree of controversy this morning about the news media. I have to say that when I read this particular section I was surprised that this particular comment was introduced. We have heard this morning that it was a comment by one individual and I think a comment by one individual has been disproportionately highlighted, in a way which is unnecessary for the purposes

of making the recommendation, which is otherwise a perfectly salutary one. I think, in relation to the debate that ensued this morning, I think it really is churlish to suggest that it is not a reference to the *Seven Days* when the very subject matter of the comment that surprised me when I read it, reflects precisely the view that the hon. Members, when they were then in Opposition, were making considerable political hay about, I think is a little bit disingenuous.

Look, whether it suggests politically an allegation of corruption or not, I think is moot and for another place at the end of the day. As I recall the jibes that I used to get from the then Leader of the Opposition on practically every... certainly every Budget time... whether it was ventilated at other times as well I do not now remember, was basically that I was using the public chequebook to write cheques to keep my party political newspaper in funds. I mean, whether the hon. Member takes umbrage at the suggestion that some people might view that as political corruption, I do not know, but it should not surprise them that it is open to that possible interpretation. If it is not political corruption, it is political impropriety. I am not sure there is a great difference between the two in political terms. So, and I think this was a red herring and I would urge the hon. Members that we do not allow the exercise in which we are involved in, to get bogged down in really quite unnecessary side debates about the use of words, 'corruption' or not.

I was the principal victim of the remark, of the political attack, (*Interjections*) and I was surprised to see it in here because, really, there are not more examples of this. In the whole Report, this is the only politically charged comment attributed – I do not doubt that it was said by a contributor – attributed to a contributor, relating to something which was politically controversial and politically charged between both sides of the House. For that reason alone it surprised me because, of course, in relation to other Recommendations, it is possible also to have made politically charged observations.

If I could just leave that commentary to one side and just say something about the Recommendation itself, which I think is a sensible one. Two things, really. First, if there is a preference, I think what should not be the case is that the Government should be unaccountable (*Interjections*) for the money that it pays out, and to who, for advertising or for anything else. I think the first point to record, of course, is that that was not the case. Whenever the Opposition... you know, Question Time is precisely to elicit information, so a distinction has to be drawn between spontaneously available information and information that you only have if you ask for it. But I do not think that anybody could seriously argue that the information was not made available when asked for and, therefore, it is not the case that, in the past... it did not take the implementation of *this* recommendation to make sure that Parliament could find out what newspapers were getting what sum of money. Parliament always found out when asked, when the Government was asked. That the Government and, indeed, the Commission consider that it is more appropriate for the information to be available *without* the Government having to be asked, well, that is a qualitative difference which may, indeed, be an improvement, but it not the distinction between the information being available and not being available in the past.

The other thing that I would say is that I would also be careful, when the Select Committee considers how it might want to implement this Recommendation... is to be careful... Sorry, am I not speaking in the right place? I should stand here, should I? (**Clerk:** Yes please.) Okay.

Yes, in agreeing to a solution we need to be careful not to mis-characterise the sin or the problem. As it is stated in the recommendation, it says

'Media Director... report on the activities of his department, which should include a detailed statement...'

etc. etc. on the basis that the sin, which is the one that I am complaining about, is that the Government is accused of having given media outlets that have supported the political views of the Government in a manner that may not have been justified.

We just need to be careful about that, that we are not rendering it illegitimate for a Government to advertise in a newspaper, *simply because* it is supportive of the Government. In other words, it is not a disqualification. There may be degrees which the Commission may think abusive, or which others may think abusive, but we cannot accept, and it should not be accepted, if not least, for the reasons that the Leader of the Opposition has said, that it would render, for example, it illegitimate for the *Panorama* or any other newspaper that may emerge or that currently exists, that whilst not being an in-house political publication of a political party, is nevertheless *aligned* in terms of support to a political party. Newspapers are *aligned* –

**Hon. Chief Minister:** Not every day!

**Hon. P R Caruana:** Sorry...

**Hon. Chief Minister:** Not every day!

**Hon. P R Caruana:** Yes. Not every day, well that is true. I am not saying... So this is about degree

and transparency, it is *not* about suggesting that Governments should not be free to advertise in newspapers that are supportive of its position.

330 Well, perhaps I think enough has been said about Standing Orders. I have to say, Mr Speaker, that I just want to associate myself from the back benches, with the remarks made by my leader in relation to the expansion of Parliament. I think that anything that allows people to contribute to the governance of Gibraltar, to political debate in Gibraltar, to the quality of legislation in Gibraltar, in whatever measure they are able to, widens the net of people who are available for political activity and Parliamentary participation and thus enriches the quality of parliamentary activity in Gibraltar.

335 I am not going to repeat the points that I think were so ably articulated by the Hon. the Leader of the Opposition this morning, except to say that, to the extent that the objection appears to be based on cost, it might even be possible to create a tier of enlarged backbenchers for no stipend, or perhaps only for an attendance fee, a small attendance fee on the days that they do attend sittings of Parliament, something which need cost perhaps very little but it would allow people to be Members of Parliament and to stand for being Members of Parliament, without necessarily exercising an option to stand for Ministerial position at that particular stage of their lives.

340 I personally think that that would be a fulfilment of the reason why this was included without dissent in the Gibraltar delegation which, as you know, is cross-party, of parties represented or not represented, in Parliament at the time of putting that particular measure in. For debate – and a difficult one it will be – if what mechanism you use to choose the backbenchers... I am not suggesting that we should lengthen the ballot paper and give people twenty-five votes, instead of eight or ten or anything like that, but there are lots of mechanisms by which a second tier of MP, elected on a different basis and remunerated on a different basis than the original seventeen, could be devised, I would have thought quite easily.

350 I was also a little bit disappointed to hear the Chief Minister not expressing a great enthusiasm – although I am grateful to him for indicating that his mind was open to listen to arguments to the contrary – on the question of the Electoral Commission. I think to sort of pass off the Electoral Commission as a badge of maturity in those countries that have them, I think is understating the function and the purpose of electoral commissions in those countries. I think having an Electoral Commission is a sign both of mature and immature democracies. In immature democracies it is needed to guarantee the integrity of the electoral process: I do not think any of us would argue that that would be the reason why it is needed in Gibraltar but, as he himself pointed out, electoral commissions are part of the electoral architecture even in the most mature democracies – indeed the mother of all democracies, the United Kingdom. And I think the principal reason for that is not simply to ensure that the UK's reputation for a sort of an independent and free democracy is maintained, but also for it to be visibly demonstrable that delicate decisions about new policy, about new suggestions, about rules and regulations and guidance notes, about the conduct of elections, about the resources available for the conduct of elections, should not be seen – demonstrably be seen – to be out of the hands of the executive, outside of the hands of *the Government* that will be a contestant in those elections and in the hands of an independent statutory body, a sort of an independent regulator. It has that qualitative virtue to it, that it separates, just as the hon. Members, in one or two other areas of life, have extolled the virtue of independence – they have extolled the virtue of greater independence to the board of GBC and greater independence to the Gibraltar Regulatory Authority, in areas of life which are much less important than the conduct of elections in a democracy. And therefore, it would not be so odd if the same philosophy were carried forward into the conduct of... In other words... a visible... No-one was suggesting that the GRA was not independent, which is not to say that it did not benefit from being *seen* to be more independent. I think the same philosophy could be applied to the Electoral Commission which would deal with all the things, with many of the things that we have touched on this morning. So it could deal with the electoral role, and the administration of the open lists... it could deal with election accounts and expenses and the monitoring and supervision, and things like that... well all the things that one man is presently doing now could be done by a statutory authority, called the Electoral... the conduct of the election, appeals... if one of the parties wanted to object, or a member or a citizen wanted to petition, this would be done to the Electoral Commission rather than... the whole question of donations, that we have spoken about this morning, indeed the whole question of the introduction of technology, and whether it would enhance or increase the risk of degrading the integrity of the electoral process... That is something that could be viewed at length by a statutory body, an independent statutory body called the Electoral Commission.

375 At the end of the day, we had this issue also with the Public Audit Office and to a certain extent with the judiciary. There comes a time when there are activities which are *independent* of the Government but which are carried out for us here, in effect by Civil Servants which, rightly or wrongly, are seen to be employees of the Government, and I think the integrity of the system depends – and thank goodness we have always had people who have delivered it – on the attitude by the individual officeholder, to act independently even though he is a member of a body called the Civil Service, which is really the administrative arm of the Government itself. I do not think the world will stop spinning on its axis if we do not have an Electoral Commission. I do not think it is a 'die-in-the-ditch' issue, at least it would not be

390 for me, it would not be a ‘die-in-the-ditch’ issue in terms of obtaining consensus for a list of measures, but I think that it deserves some consideration before it is finally abandoned.

In terms, Mr Speaker, of Recommendation No. 22 –

395 ‘We recommend that section 14(2) of the Parliament Act should be revoked and that all election expenses incurred at any time before the date of the poll should be taken into account to arrive at the total amount of election expenses incurred’

– I agree entirely with the assessment made of that Recommendation by the Hon. the Chief Minister. I think it is unworkable. From when do you start? How does it work? How is it policed? It really deals with the same issue as election contributions and perhaps ought to have been put closer together in the Recommendations, in terms of Recommendation No. 25, which is about election donations: there is something that I would like to say on that, too. The Recommendation says:

405 ‘We recommend that every donation over £100 incidental to an election campaign –’

Well, as of when would these contributions need to be declared? Any contributions throughout the four year term of the Party? There are *practical* issues about when a contribution to an election campaign is declarable unless, of course, the rule is going to be that all contributions to political parties, regardless of whether they are in the context of an election, should be so declared because it cannot be so easy to defeat...

**Hon. Chief Minister:** Will you give way?

415 **Hon. P R Caruana:** Yes, go on.

**Hon. Chief Minister:** I am grateful for him giving way. Just if I can explain to him what my approach to it was and see if this finds some favour with the point he is making.

Recommendation 25 and Recommendation 26 I think need to be read together because it talks about being separately declared in the return of election expenses – this question of the donors – and then the question of the definition of election expenses. So the way *we* read it was that, when you have got a definition of ‘election expenses’ and this return, which has to be put in to demonstrate what you have spent, those £3,000 that you are able to spend, then it makes sense because then you are reflecting who has funded those £3,000: who has funded that campaign, in effect. I think that is what the Commission intended, because it includes the words ‘election expenses’ in Recommendation 25 at the end of the last full sentence and then it asks us to come up with the definition in Recommendation 26 of what election expenses are. That is how *I* linked it.

430 **Hon. P R Caruana:** Well, I can tell him now what the answer will be. The answer will be that nobody funded it because it was funded by the Party out of its general reserves. Of course, reserves created by people contributing money to the Party during the three and a half years leading up to the election. In other words, either we want to know who is funding political parties because we think that they might be doing it for ulterior purposes or we do not, but simply to want to know that information in the context of a particular period of time called General Election time, is both illogical and almost impossible to police because the treasury, the Party’s war chests, will simply be filled up during the non-election period and then be available. Then no-one will have funded the General Election campaign!

435 In addition to that practical difference, I think, Mr Speaker, we need to be careful... and of course there are plenty of models around Europe that we could cannibalise, to borrow a phrase that he used in another context this morning, to get ideas for a regime of this sort. But I think, as with everything, we just need to be clear that there are some differences. There are very few places as small as Gibraltar which elects a Government as powerful as the Gibraltar Government and as influential and powerful as seen locally. As far as the outside world is concerned, we are the Government of a place, small physically and small in numbers, but the perception of the people of Gibraltar is that the Government of Gibraltar is a very powerful body indeed – and is a very powerful body. It is not a false perception, it is a real perception in terms of the community that we are.

440 That leads people, rightly or wrongly – and I hope the hon. Members will allow me to make this point without suggesting that I am making it of them, or inviting them to make it of me, when they answer – it is an inescapable reality that, rightly or wrongly, Gibraltarians, or residents of Gibraltar – not Gibraltarians, residents of Gibraltar – will have a reluctance to be seen to have funded a political campaign and then that their side lost. Rightly or wrongly – let us say wrongly, let us say completely

445 without justification –



**Hon. Chief Minister:** They fund both sides!

455 **Hon. P R Caruana:** That is what they usually do, as he knows! (*Laughter*) That is what they usually  
do, as he well knows, (*Laughter*) but we need just to bear in mind that if we are going to create a regime  
where we are making people who contribute £100, or even £200, to actually identify themselves publicly,  
we can do it – and there are countries that do do it – but I think that what will happen is that it will  
discourage political donations to political parties, except from its diehard supporters, who are already  
460 identified and do not care. But a citizen who is just wanting to, for example – just to use it as an example  
– fund the GSD at the next election will be *less* inclined to do so if he believes that the GSD may not win  
the next General Election, commensurately will be *more* inclined to do so and be identified, if he is  
certain that the GSD is going to win the election, and that is defeating the purpose of the exercise, which  
is that donations should not be for payback gain depending on the result of the election.

465 There is nothing wrong with financially supporting a political party: indeed, the community ought to  
be encouraged to make politics viable by contributing to political parties. What is wrong is that they  
should do so with the expectation of dividend collection if they back the right side and it wins. I think that  
is something that, when we sit in committee or when the House sits in committee, should... but if it does  
go for such a regime, I would agree with the hon. Member that the figure ought to be higher than £100  
and I suspect by a little bit more than just £250. But, anyway, at that point it becomes a detail.

470 Yes, we had an exchange of views, or the Chief Minister expressed his views, on the question of exit  
polls. Of course, the famous exit poll – the one that is to blame for the fact that it is even in here – had no  
prospect of affecting the election result because it was announced after the polls had closed. What we  
should be concerned is not... I mean, if a particular exit poll publisher, not to mention GBC, if a particular  
exit poll publisher wants to send its viewers up the garden path for a nervous period of six hours between  
475 the time of the closure of the poll up to the moment of the announcement of the result, which is all that  
happened, fine. But it does not affect the result. That is not true of exit polls that are published during the  
course of the day, which are the ones that the hon. Member must have had in mind when he said what he  
said.

480 For example, there is nothing to stop a local newspaper, or a local one of these internet news things  
now, services now, at two o'clock in the afternoon standing outside a poll, asking people how they voted,  
and then rushing back and putting it online at four o'clock in the afternoon, where it is still capable... I  
think that that *is* something that the Commission is right to signal should be dealt with. But not only that.  
If it is right to deal with exit polls because it is something that is unscientifically done, in other words a  
false statement, it does not *accurately* reflect what it purports to reflect because it is not properly done, if  
485 that is the justification, then it is not true *only* of exit polls on polling day, then it is true of normal polls in  
the run-up to polling day. In other words, I believe that there should be regulation of the way polls must  
be conducted. Forget exit polls, normal polls should be conducted from the moment that an election is  
called because, of course, we all know that public opinion can be, in some measure, led and formed by  
statements, predictions of who is going to win and who is not going to win. A poll which is not properly  
490 conducted and suggests that the hon. Members are bound to lose the next General Election by a margin of  
15% should rightly be objectionable to them, just as it would be objectionable if it happened to the  
Opposition party. I believe – and I am not suggesting... I am not, sort of, inventing sliced bread here –  
there are many Western democracies, particular in continental Europe, where the conduct of polls are, in  
some countries highly regulated and in other countries, prohibited during the election campaign period. I  
would urge the Select Committee to at least consider what degree... but I accept also the comment made  
495 that the whole area of the regulation of polls, whether they be exit polls or normal polls, is fraught with  
difficulty and is not simple. I think that the Select Committee, in my view, but should consider that as  
well.

500 In terms of the technology of voting, which is Recommendation No. 32, Mr Speaker, I will just say  
that I am not a great fan of it. True, I am a little bit of a reactionary Luddite when it comes to these things,  
but it would have to be not just something which avoids the hanging chads problem, with which,  
arguably, the result of an election was affected, but indeed it is important that the results should be  
verifiable and the moment you introduce technology, confidence is lost in the audit trail, because the audit  
505 trail is what appears on the screen when you press the button on the equipment. There is no sense that you  
can physically recount votes. At the end of the day, you are asking the same machine that made a mistake  
to check whether it made a mistake or not. Well, I have yet to find a machine that can spot its own  
mistake in that way. Perhaps they have invented computers now that spot their own mistakes but,  
probably having made it once, it is likely to repeat it when you ask it to check again.

510 In terms of the change to the counting process physically, I think that one of the charms and one of  
the, sort of, traditions of our electoral system is the John Mackintosh Hall on polling night. It is part of  
our democratic heritage, of our democratic tradition. It does not take *so* long. I think most political  
observers look forward to it – most political participants who are not candidates – look forward to it.  
Well, alright, not the people who have got to do the hard work, Mr Clerk, as Returning Officer,

515 *(Laughter)* but there is always a demand for tickets... I think it is part of the process of ushering in a new Government or not ushering in a new Government. It only takes a few hours and I would urge the Select Committee and the Government, when it comes to a final vote, just to not introduce unnecessary change at the expense of heritage, at the expense of things that are valuable, and of some value, simply in the name of rushing to the use of technology. Technology has its uses; it also has its dumbing-down consequences, and the balance between the two should not be lost.

520 I agree with – for what it might be worth to him – the views expressed by the Chief Minister on the registration of political parties. In my view, it would be wholly retrograde to register political parties for this purpose, for the purposes stated here, of course. Members of the House, some will be aware and some may not be aware that the system of registration, not political parties, is common place throughout Europe, including the United Kingdom. But the reason why political parties require to be registered are normally for reasons different to the ones that are suggested here. It is not to see that they are democratic, 525 it is not because the state has any interest in whether one particular Party has what degree of internal democracy. This idea that there is some public interest... Look, it is up to the members of the Party to decide how they want to run their Party. The reason why registration of political parties' regimes exists is because of State funding of political parties. In other words, if the State is going to fund a political party, 530 it wants to know... there has got to be some eligibility qualification, there has got to be some means of deciding what is a political party and what is not, otherwise everybody, come election time, would just be sticking their hands out for the State subsidy of elections and political parties. So, if we were introducing a system, which might not be a bad idea, as an alternative to the contributions, if we were introducing a system – I believe the Australians have it, and the Spaniards have it – of State funding of political parties 535 as an alternative – Although, I think in Spain it appears that it runs in parallel, the two systems *(Laughter)* – then that would almost certainly require this.

The other point is this... the other objection to the suggestion is this. How can you have a system where two or more individuals, if they stand together, have to go through a registration process but independents do not? If I stand by election by myself, I am not a political party and it does not matter 540 whether anybody supports me, whether my emblem is obscene – did it not say something about obscene emblems here? – whether I keep proper accounts or whether I do not... but if there are two of us and we call ourselves a political party, then all these things become important to this debate. I do not support it. I think that it is not in our tradition and, certainly, I personally would not vote in favour of a regime of registrations for these alleged reasons, which is not to say that there are not *proper* reasons and *proper* 545 purposes in which you might want registration, but then registration would not be policed by reference to these criteria. There would have to be some more reasonable, less intrusive criteria.

I have said, in terms of Recommendation 34, this is the point at which the Hon. the Chief Minister said that he was not persuaded about the question of an Electoral Commission. The call for an Electoral Commission and having... I am sure, when the Commission recommended the Electoral Commission, 550 they were not impugning or even suggesting an impugning of the integrity of any of our elections in the past and I do not think that would be a sufficient reason not to do it.

I entirely support the referenda Recommendation and I am heartened that the Government will be supporting that.

555 In terms of what I call the 'diaspora vote', which is Recommendations – really they are linked – Recommendation No. 36 and No. 37. No. 36 is the one about whether there should be more than a six month residential period. Well, I personally, if the House will just allow me to express my *personal* view on the matter, I personally believe that it should be greater than three months. If you have been in Gibraltar for three months and happen to be British – **(A Member: Six.)** I beg your pardon, six months – you are not a Gibraltar 'belonger' because you have been in Gibraltar for six months. We had this issue 560 with the referendum on sovereignty and things of that sort. At what point do you draw a difference between the governance of a place and the sort of question that you might ask in a referendum?

I think that, frankly, the voting eligibility should now be much more residence-based and the idea that because you happen to be British that you are regarded as an eligible Gibraltar voter after a very short period of time harps back to the past in a way which I think is no longer, perhaps, appropriate. I think a 565 longer period than three months... how much longer then is for discussion, and to see what such examples there are from other places. The diaspora vote, which is Recommendation No. 37, is a different issue. I know – and I do not want to introduce political considerations into this debate – but I think we need to make sure that, if we are rejecting ideas which are both good and conventional and fair, we should not do so because it suits, or does not suit, a particular side at any given time. There was a time – which may no longer be the case, for all I know – where it was thought that Gibraltarians who lived in Spain were much 570 more likely to be GSD supporters than GSLP supporters and, that for that reason, it was always thought likely that the GSD would change the electoral rules to do it – which we did not do – and that the GSLP would not, for the opposite side, the flip side, of the same coin. I think we should continue to resist the temptation to make the judgement along those lines.

575 I think the diaspora, that is to say Gibraltarians who do not reside in Gibraltar or, rather, the diaspora

580 in many other countries, votes, as the hon. Members know, not just in the United Kingdom but in Spain and in most continental European countries allow... In the UK I think you get the vote for a fixed period of time for  $x$  years and, after you have left, in some other countries – America and France – I think it is indefinite. But I think in the UK you get to vote for  $x$  number of years after you have moved out of the UK. So I am not arguing for a particular model of diaspora voting but I think the notion that your links to Gibraltar justify your having the right to participate in the election of its Government, go much wider and much deeper than whether you happen to be *residing* in Gibraltar at that time. The idea that a Gibraltar who moves off to work somewhere for three or four years – not a student – is somehow thought by our electoral laws to have broken the links with Gibraltar to a sufficient degree to give him no legitimate stake in the choice of Government in Gibraltar I think, is too strict a view of it. Of course, the difficulty is that we have a very particular problem with diaspora voting in Gibraltar and that is that, in most other countries, people who would benefit from non-resident voting rights have actually left to go somewhere further afield whereas, in Gibraltar, the vast majority of these people may well be people who simply live in Spain but, otherwise have, and they are still regarded as part of the community, politically relevant, perhaps even politically active in the local political scene. That is what I think clouds the judgement in a debate in this place, in a way that it might not be clouded in a similar debate in the US Congress or in the French Parliament or even in the British Parliament.

585 Whilst taking issue with *some* of the criteria selected by the Commission, I personally, with some modification of those criteria, would have supported, and would support, a carefully thought through and carefully legislated and articulated process of giving a certain defined category of people a vote, even though they do not reside in Gibraltar and I would not necessarily limit it to people who work in Gibraltar. There are circumstances in which I think people who go from Gibraltar to live in France for a year or two, or three, should also retain the right to vote.

600 The final point, on which I would just like to express a view, is in relation to Recommendation 39. I have been highly complimentary in the past about this Government's decision to prioritise the renewal of this Chamber. I will be less complimentary of a squeezed approach to squeezing more facilities out of the already limited space in the back room. If there was no alternative and that is all that could be done, well, fine: something is better than nothing. But in terms of parliamentary offices, there are several factors that need to be taken into account. Firstly, it is not right that space should be shared between the very people whose independence we have been extolling in the rest of this debate – the Clerk and his staff – that they should have to sit and work and live cheek-by-jowl with Members of Parliament doing constituency work in a sub-divided space of an already limited room, which involves our constituents necessarily coming in here and interacting, perhaps, with members of staff. It is just too cheek-by-jowl and I think that the idea that there should be parliamentary offices is a good one, I think that this Parliament, in physical terms and in quality of work terms and in facilities terms, of which this really is a monument, this first phase, would I think be taken to a very significant additional level if there were proper and dignified offices, not *just* for Members of Parliament but, indeed, for the staff of Parliament, who cannot be said, even with the space that they have, to be working in appropriate conditions. If the space now has to be shared and sub-divided between their uses and a new use then, of course, they will necessarily be reduced into even less appropriate quantitatively and qualitatively, premises.

615 The obvious solution is one to the unviability perhaps of which I inadvertently contributed when I was in Government, because the *ideal* building is the Guard House. The Guard House, which was an empty Government-owned property – and approximate to Parliament – is the ideal building to have, on different floors, both proper working conditions for the staff of Parliament and for the electoral function when they change hats from Parliamentary staff to electoral staff: and also, on a separate floor, upstairs or downstairs, proper meeting rooms, perhaps even committee rooms for Parliament and proper meeting rooms for MPs. I am sure that the Chief Minister, who has demonstrated some flair for charm and persuasion, would be able to persuade the Gibraltar Heritage Trust to accept some alternative and equally dignified premises, and to release those back to the Government for use as an annexe to the Gibraltar Parliament building, which I am sure they would regard as an important contribution by them to an important part of the heritage of Gibraltar, which is our political process and the facilities available to our Parliament.

I am obliged to the House for indulging me at such length.

630 **Hon. G H Licudi:** Mr Speaker, this is an important occasion for this Parliament. It represents not just a debate and a discussion on parliamentary reform in general or even just the principles of parliamentary reform, but a debate and specific discussion on specific proposals and recommendations which have been put forward by the Commission.

635 This is, of course, part of a process that we have embarked on and it is a process, Mr Speaker, that started simply with a conviction – an unrelenting conviction – by the parties which today form Government that it was necessary, not just desirable, but necessary to enhance the quality of democracy in Gibraltar and to enhance the business, the manner, in which this Parliament and this House, as it used

to be, goes about its business.

640 The process started with that conviction, it translated itself into a Manifesto commitment, was clearly Government policy, the Commission was set up, a consultation paper was issued, a Report for Parliament was prepared and I would not say that today is the culmination of that, but today is an important step in that process, which will lead to other steps, as the Chief Minister has already mentioned, which will include further consideration, in detail, with regard to implementation of specific proposals by the Select Committee and then coming back to this House for ratification and actual implementation of the reforms.

645 A reform of this Parliament, Mr Speaker, is not just to be *welcomed* by everyone, it is, in fact, overdue. That is not to say that nothing has happened over the years. The Hon. the Deputy Chief Minister recounted how we have come from a debating Chamber to a Legislative Council to a House of Assembly and then, in 2007, to Parliament and, in particular, with the changes made in the Constitution in 2007, increasing the number of the Members of Parliament to seventeen and some additional changes like the specific office of the Minister for Justice.

650 The fact that there was a need for reform is not just something that was recognised by *this* side of the House or the Parties on this side, it was also recognised some time ago by the Party opposite when they were in Government. Going back to the opening of Parliament in 2007 – I seem to recall it was 8th November 2007 – the then Chief Minister, Mr Caruana, said this:

655 ‘We need to reform and modernise the way this House conducts its business.’

660 That was in November 2007. Then we had a motion, I seem to recall it was in 2011, where we discussed parliamentary reform and a Select Committee but, as I have stated in a different context, it is simply not enough to pay lip service to principles or conviction, it is actions that are required in order to put those principles and those convictions into practice.

665 Back in 2008 in my very first Budget speech, shortly after becoming a Member of Parliament in 2007, I recalled in that Budget contribution the words of the then Chief Minister in November 2007 and I went on to say:

670 ‘Almost seven months down the line no indication has been given as to when those reforms will be put in place or will be started. There is an *urgent* need for that reform. Regular Question Times are required and if the British Prime Minister is required to make time available to attend Parliament and answer Questions every single week, unless Parliament is in recess, there is no reason why *this* Chief Minister should not be required to attend *this* Parliament regularly for the same purpose. Of course, that would mean that topical issues can be raised at any time, at a time when those issues remain topical. I would urge the Government...’

– this is how I ended the quote –

675 ‘I would urge the Government to start that process of reform immediately. We need to make this House a more dynamic and living organism, with the appropriate level of interaction between Government and Opposition and every reasonable opportunity afforded to the Opposition to hold the Government to account while issues are still topical.’

680 That is what I said in 2008: there was an urgent need and we needed to put things in place immediately. That is exactly what *we* did when we came into office in 2011 and although this is a process of parliamentary reform we have already seen, again as the Deputy Chief Minister has remarked, the changes which have been made and which, in fact, have been recognised today, by Mr Caruana, as being changes which have brought into effect a different form of Parliament, and in fact a *better* way of conducting business. In particular, with the result that Members opposite are able to ask Questions and hold Government to account while issues are still topical, as opposed to what happened previously. Those were my views in 2008, they were the views of the GSLP Liberals, they became the views of the Government and that is why we are here today with this particular motion being presented.

690 I do not propose... because the Hon. the Chief Minister has already gone through the whole of the Report, Recommendation by Recommendation, and there are only a couple of Recommendations on which I will have anything to say, Mr Speaker. The first one is in relation to Recommendation 7, which deals with motions on the adjournment. The Chief Minister has already alluded to the fact that Standing Orders provide for motions on the adjournment. The Standing Orders do not mention that it needs to be an adjournment *sine die*: there is a reference in Recommendation 7 to that. The question really is, do we need any modification or any clarity to resolve any ambiguity?

695 The fact is that we now have monthly meetings except, for example, the end of July, when we may adjourn until September, and the intention *must* be – and it is perhaps something the detail needs to be considered by the Select Committee – to see whether there is any need to change the specific Standing Order. But the intention must be that every time there is a meeting of Parliament, one of the monthly meetings, on the adjournment to the following month there should be an opportunity to present a motion on the adjournment. I do not read in Recommendation 7 the reference to ‘the last sitting in a month’ as meaning only the last sitting in any calendar month because, if we are in a sitting, for example in June,

700

and we are on 30th June and we are going to extend to 1st July to the final day of that sitting, we do not believe that what we should have is a motion on the adjournment on 30th June and then another motion on the adjournment on 1st July because then we adjourn *sine die* on 1st July. What we should have, and perhaps we just need clarity to avoid ambiguity in the rules, is that at *every* monthly meeting of Parliament there should be one opportunity for a motion on the adjournment and that is a principle which I believe we subscribe to.

Mr Speaker, Recommendation 10 deals with the legislative process and the possibility of Bills which are lengthy and complex having to undergo legislative scrutiny by referring it to a particular committee. A question may arise as to what does 'lengthy and complex' mean and when does that engage? Is it just a number of pages? There may be some potentially... any legislation could be complex, regardless of how lengthy it is, and I am not sure that the hon. Member Mr Caruana, when he mentioned the Chief Minister's contribution, understood exactly what our position is. Mr Caruana said that this is not about public consultation and the fact that there are Command Papers and Bills published for six weeks is not the same as legislative scrutiny. That is correct. But to the extent that there is a period of time, not just the six weeks, but the additional period in which the Command Paper is given, gives not only an opportunity to the public to look at the Bill in a little bit more detail but also gives the opportunity to the Opposition.

The fact that, for new legislation, we have set ourselves the principle of issuing Command Papers for at least two weeks, does not mean that it *has* to be two weeks in every single case. There is a fundamental difference between what happens now and what happened previously. With the regularity of meetings now, if we have a Command Paper stage in which the hon. Members will clearly have an opportunity to look at the Bill and not necessarily comment to the Government at that stage, but certainly to consider any proposed changes that there should be, or any improvement to the Bill. Then there is a six week period. Then we come to Parliament. There is always the opportunity in any particular case for Opposition to suggest to the Government that a particular Bill, even when we get to Committee Stage, should be adjourned to the following month so as to give the opportunity of further scrutiny.

There is even the opportunity of a particular Bill being adjourned not just to a Committee of the Full House but to a particular committee which will look at *that* particular Bill. So we think that there are sufficient safeguards in the process now to make any changes unnecessary. We therefore suggest that the process gives sufficient time and opportunity, particularly because of the monthly meetings and although, as the hon. Member has said, Government will have a timetable and some Bills will be urgent, there will be occasions where there is a need for further time and adjourning a Bill to the following month to allow that further scrutiny to take place.

**Hon. P R Caruana:** Will the hon. Member give way?

**Hon. G H Licudi:** Absolutely.

**Hon. P R Caruana:** Yes, Mr Speaker, the point that I was making was that no-one is suggesting there is not enough time. If a Member of this Parliament is not going to read a Bill in six weeks, to say that he has eight, instead of six, is hardly likely to increase the chances that he will: it is about process. I mean in the United Kingdom... Everything that the hon. Member has said would apply to the United Kingdom legislative process as well, where they do not conclude that the Committee Stage should not be done on a basis like it is being recommended. No-one is suggesting that there is lack of opportunity, and no-one is denying that, whereas the opportunity before was six weeks, now it is eight or more if the Government gives a longer than two week Command Paper publication period. It is about the obligation by which a group of Members of this House, who have been tasked by the rest of it to particularly look at a Bill, that will oblige a greater number of Members to input into the quality of legislation. He will recall that I made the point that, in effect... let us take the example of a Bill with which he was intimately involved on both sides of the House, the Crimes Bill, or the other one, the PACE equivalent.

I mean, who is pretending that anybody other than the Hon. the now Leader of the Opposition and the now the Hon. the Minister for Justice were familiar with the terms of that Bill? So, in a sense, *they* were the House for that, *they* were the House for that and his nine colleagues voted because *he* said it was okay and these guys here voted – we voted – because *he* said it was okay. That is all I am saying, that a committee system... it is not about time or opportunity, it is about obligation, it is about architecture of the way this part... the architecture of the resources of this Parliament for giving legislative scrutiny: which is not to say that legislation in the past has been *bad*, but if we are looking at ways of making this Parliament function more like parliaments in other countries who, presumably, do things for a reason, the speed with which we legislate in Gibraltar is one of the things that characterises our parliamentary tradition in the past. Normally, legislation going through other parliaments tends to take longer and, really, it is only in Gibraltar that you could, with the Opposition's support, get a Bill through in twenty-four hours. You could publish it – before the Constitution, the new one – you could publish a Bill on a Thursday and Friday of next week it could go through all its parliamentary stages and, indeed, the Royal

765 Assent, if you could find the Governor before midnight on Friday. If we are looking at ways of making this Parliament more – I don't know, I don't want to use a word that characterises where we have come from – this would be one,

As I said before, this is not –

770 **Mr Speaker:** It is not for me to contribute to the debate but I might clarify a matter here that, as Chairman of the Commission, I am aware of. The three barristers who were members of the Commission were particularly concerned about Bills which are of a *complex* nature and they thought that, in the informal setup of a Public Bills Committee of the House, where legal draftsmen could be involved in the exchanges, the product that would emerge from Parliament would be – could be – a far better one.

775 **Hon. D A Feetham:** Would you give way? (*Hon. G H Licudi agreed to give way*)

Mr Speaker, thank you very much to the Minister for giving way. Indeed, in relation to the... he may recall that, in relation to the Crimes Bill and the Criminal Procedure and Evidence Bills, each Bill was seven hundred and something clauses, with twenty-four separate parts to it. It took me, I think it was, three and a half hours to go through my speech on the Second Reading on the merits of the Bill. It is impossible for anybody to actually keep attentive on something as technical as those two Bills for three and a half hours unless they are really, really interested in the subject matter of it! So as my Learned and Hon. Friend, Mr Caruana, says, probably the only two people that actually followed the debate was the Hon. Mr Licudi and myself and it is the way – this device – is a way of involving more people in the nitty gritty of the Bills. We have seen actually that even in relation to the Crimes Bill and the Criminal Procedure and Evidence Bill, there have been, because of its size and the fact that even with *my* team looking at it for the amount of time that we looked at it – I think it took something like three years to produce those two Bills – it was impossible to spot everything that might have potentially gone wrong with the Bill. There has been occasion already, where the Hon. the Minister has had to bring amendments – small amendments, but still amendments – to this House in order to amend those Bills. Perhaps that could have been avoided had we had a larger team, cross-Party, looking at both Bills.

785 **Hon. G H Licudi:** Mr Speaker, the hon. Member is certainly right that, in that debate, the main... I do not recall whether we were the only ones, but the main contributors in that debate were himself, the Leader of the Opposition now, and myself. But that debate was on the Second Reading. It was not at the Committee Stage. That was the Second Reading, which would happen in any event. With a Second Reading involving as many Members of Parliament as want to be involved in that debate on the general principles. That did not involve the specific legislative and in-depth scrutiny that would be involved at Committee Stage. What we then did was adjourn to a Committee of the Full House, as we generally do. There is no reason why, in any particular case, we cannot adjourn to a specific committee set up to look at and scrutinise a particular Bill.

800 Sometimes it is true, there will be – no matter how lengthy or complex the Bill, or how much the scrutiny – things that will be missed and we can improve things by bringing draftsmen in but these particular pieces of legislation that have been referred to, there have been one or two teething problems, there have been one or two issues which have been identified as needing to be improved and those things have only come to light on implementation of the Bill.

805 All I am saying, Mr Speaker, is that the process that we have had in the past, I certainly do not recall a situation, since I have been in Parliament since 2007, where I have sat there and felt 'Well, we are really rushing through this legislation, we are resulting in a bad law.' I have not had that feeling at all in the time that I have been in Parliament.

810 I might not have agreed with the legislation that has been introduced or was proposed by the then Government and not all legislation that we introduce will be agreed by the hon. Members opposite, but that is different from bringing in a piece of legislation that is essentially good law and implements the policy of the Government, and the hon. Member wants me to give way –

815 **Hon. D A Feetham:** Yes, but can he sincerely say that he has been attentive in relation to every single Bill and that he has not fallen asleep on some of the Bills that have been brought to this House. I mean that is the point that, of course, if something strikes you as being odd occasionally or that is beyond the pale or unconstitutional... but, you see, the problem here is that, on some of these very complex, lengthy Bills, half the House just cannot follow the debate or have not read a Bill – these two Bills were huge, huge Bills – except the hon. Member and myself. The point is to try and include more people in the nitty gritty, the detail of the actual Bills.

820 **Hon. G H Licudi:** Well, Mr Speaker, I can safely say that I have not fallen asleep once whilst listening to contributions when I was in Opposition, no matter how lengthy the contribution that may have been made by hon. Members.

830 The suggestion seems to be that we need to involve more people, yet it seems to me that the Recommendation is precisely the opposite, to include *less* people because, at the moment, we have a Second Reading where the whole House participate and whether one, two or three Members participate, that is a matter of choice. There is absolutely nothing preventing *all* Members of the Opposition looking in detail at any particular Bill. Why the system would be improved if they all suddenly went into a huddle, into a committee, as opposed to being part of the House in a Second Reading, I am not sure. In any event, at Committee Stage, we have a committee of the whole House: what is suggested is that the numbers should be reduced, rather than there should be greater participation. The system now provides for as much participation as is possible, depending on the choice of individual Members.

835 But there will come a time, I am sure, that there will be specific Bills where, in any particular month and, although the hon. Member says, yes, on occasions we have gone through legislation in a particular day, we go through the First, Second, Third Reading, then we go to Committee Stage if all Members agree, then we go back, or rather we come back, for the Third Reading and we pass legislation in a day. But there will be occasions where it will be possible for that greater scrutiny to happen and for the Bill to be adjourned. It is much easier now, as I have already mentioned, because the House is adjourned generally from month to month and, therefore, adjourning a particular Bill for greater scrutiny to the following month will not be a big difficulty in practice.

840 As I anticipate may well happen, the Bill that the Hon. the Chief Minister mentioned, which I hope to be bringing to the House in the not too distant future, that is the reform of the Companies Act – there will be a Companies Bill which is published as a Command Paper – but even before that, there will be a draft circulated for consultation purposes. As the hon. Member knows, because this was set up during *his* time as Minister for Justice, there is a Company Law Reform Committee of the Finance Centre Council that makes certain proposals and I know that he looked at all those proposals in detail at the time and I have had the benefit of seeing what it was that the hon. Member agreed to or disagreed to. We have acted on those proposals agreeing, by and large, to most of them and when that is ready, hopefully very, very soon indeed, that will be circulated in draft *before* the publication of a Command Paper to that Committee and there is no difficulty at all in making that draft for consultation purposes available to the Opposition.

845 That is the kind of Bill that will be lengthy, that will be complex, that will introduce new concepts into Companies Law in Gibraltar that we have not had and that will require a certain level of scrutiny. I believe that the system we currently have will allow that. If when we come to Parliament and we go through the Second Reading, there is a need for further time, then such further time as may reasonably be required will be given. All I am saying, Mr Speaker, is that we think the process we currently have in place has built into it the necessary safeguards to deal with all these matters.

850 There is only one other matter that I want to mention and that is the issue of Recommendation 37 and who should be entitled to vote. The House will have heard the contributions on both sides in relation to this matter and I simply want to draw attention to the position of students in full-time education. The Chief Minister said, traditionally, students who are in full-time education have always been allowed to vote and there is a very simple reason. We do not believe that students lose their residence simply because they go off to study. They are temporarily absent, albeit for three terms in a year, they are temporarily absent from Gibraltar and therefore they *maintain* their residence in Gibraltar, they *maintain* the right to vote and it is important that they should continue to be included in the electorate and should continue to participate fully in the electoral process in Gibraltar. We do not see that that is going to change or that there is a need to change legislation or the rules in order to achieve that.

855 Thank you Mr Speaker.

860 **Hon. D J Bossino:** Mr Speaker, I will be dealing with Part III of the Report, which is entitled Electoral Reform. The views which I will be giving will set out basically the views of the front bench of the parliamentary team because, having heard the hon. the backbencher, Mr Caruana, a few minutes ago, I must say that there are some points in respect of which, there is some divergence of views.

865 Mr Speaker, this part of the Report is obviously very wide-ranging and encompasses many of the possible issues which can be considered relevant in the context of electoral reform. Certainly, when I think of electoral reform, I think of particularly the voting system and it is interesting – very interesting indeed, Mr Speaker – that this element of the Report has been relegated to the last point in the section when one would have expected – it is my personal view – to have been at the beginning. It is also interesting that there is no formal recommendation box in the electoral system section, although we appreciate that the Commission does, in effect, recommend a retention of the LV, the limited vote system.

870 Many of the points set out in Part III, Mr Speaker, are not, in principle, objectionable. It is clear that the Commission has been making moves towards greater openness in the way, for example, that Parties are run, how they should conduct themselves during an election in terms of election expenses and how to deal with donations to Parties. But it is, indeed, arguable that these are issues which require a debate on their own, at least insofar as the detail is concerned – and I think the hon. Chief Minister has made that precise point – because the devil, in respect of many of these provisions, will invariably be in the detail

890 and this is very much the case in the context of reform of the system of voting. But at least we may be able to move forward today on matters of principle. I would just like to dwell, before I deal with the electoral system *per se*, in greater detail on the question of the enlargement of Parliament, which has been already canvassed by the Leader of the Opposition.

895 We have already stated what our preferred option is: we want to see the enlargement of this House and this is a fundamental point which will permeate and impact, in my view, on many of the other recommendations contained in Part II of the Report. For example, the Public Bills Committee which has already been dealt with, Select Committees, frequency of meetings and, indeed, as already stated by the Leader of the Opposition, none of these initiatives will, in our view, properly work unless there are more Members of the House and that they have a backbench status. The other argument in favour of enlargement is the one which says; well, it allows other people to enter into public life, as already dealt with by Mr Caruana, without necessarily forming part of any of the front bench teams. In many large  
900 Parliaments this is, in fact, normally the way it works. You spend some time as a backbencher after you have first won the seat and then make your way up the ladder. Such an avenue also allows people to, using the words in the Government's 2011 motion, 'cut their political teeth in Parliament and front line politics' before committing yourself in a more involved way.

905 There is, therefore, a very powerful case, Mr Speaker, in favour of increasing the seats of this Chamber. If one looks at page 25 of the consultation paper and one does a very crude and basic analysis of the table which is there – of the consultation paper, not of the Report – without considering matters such as the level of sophistication of their politics or, indeed, of their societies or the level of engagement of their peoples in a political light of that particular community or, indeed, the level of their constitutional development, one can see various examples where there are populations, tiny populations some of them,  
910 in some instances less than us, and they have more than 17 Members. For example, in the case of the Cook Islands, with 20,000 inhabitants, they have 24 Members of their Parliament – and there are other examples set out in the table.

915 One point which I do not think has been made during the course of this debate and which may have been missed in the past, is the added pressure which *this* particular legislature in Gibraltar has, as a small jurisdiction, because it is tasked with the implementation of many and varied EU legislative initiatives so that the ability to scrutinise many of these legislative initiatives with more time and in greater detail, in the context of a Public Bills Committee, would I think be certainly very welcome indeed and would assist in the workings of this Parliament. In our view, again, this can only be reasonably and more effectively done with more MPs and certainly with more time.

920 If I can deal with the, I think it is the last bit of the, the last section of Part III first which is obviously other than the conclusion which is 3.15, Electoral Systems, first. As stated in the general points that I have referred to, this is a matter which merits very careful scrutiny. We, in the Opposition benches or, indeed, in the Government benches, have not had the benefits of reviewing *all* the recommendations which have been submitted to the Commission. All we have seen, and had the benefit of seeing, are Mr Vasquez's minority report, as set out in the consultation paper, which provides a very interesting – sorry,  
925 and the very interesting analysis – set out in the consultation paper, which has not then found its way into the Report, of the various types of electoral systems. We support the continuation of the limited vote system for the election of an enlarged Parliament of 25 but we are willing to consider the introduction of a different voting system. The retention of the LV system is our starting position, as already stated.

930 What are the arguments in favour of the LV system? I am sure they are many and varied, but these are some of them: firstly, I think it is a system which has provided us with stability in Government for a very long time and I suppose the argument is 'if it ain't broke, don't fix it'. Secondly, it may be one of the factors which have contributed to the development of the Party system in Gibraltar, a system which has often been knocked as producing an overly adversarial style of politics: it has also been attacked – I  
935 remember the elections in 1988 – for failing to produce the best brains, with the committee system in the Channel Islands being offered as a panacea, when that system itself has been the subject of criticism and change in these same jurisdictions. But now is not the time to list the benefits of the Party system and the contribution which the block vote has already made in that regard, but simply to say this, and that is that our current system gives a very real choice to the electorate between different and sophisticated programmes of Government on which the Parties are judged every four years at election time.

940 Fifteen votes Mr Speaker, *could* open the possibility for independents and third Parties – and both the Chief Minister, the Leader of the Opposition, the Deputy Chief Minister and I, have been in that position in the past, when we have been Members of third Parties – to break in. The theory, Mr Speaker, would be that more people than has hitherto been the case, would use their excess votes in favour of such a Party or  
945 an independent. However, and I say that with this caveat, given the way that the block vote phenomenon has been instilled in our electoral system hitherto, there is a view that it is highly unlikely that that will happen, even with an increased number of seats and therefore votes available.

Although I have outlined what our starting position is, we do not fear, Mr Speaker, the possibility of opening up for consideration an alternative voting system. The minority report suggests that the issue of



950 electoral reform should not be closed and that we, as a Parliament, should not get that impression and I think that Mr Vasquez, in that regard, is absolutely right. It is something that, if we all share and believe in greater democracy and fairness, should be debated and considered further. Again, I recall my GNP and Liberal pastures for one further moment, Mr Speaker, when during the period 1992-96 we campaigned very strongly for a change in the system of voting because it was precisely that election result, i.e. I think  
 955 it was the January 1992 election result, which brought into sharp focus how it was possible that the GSLP, which had won the greatest number of votes in percentage terms at least, in a very long time – I think it was 72 or 73 per cent – yet could only enjoy eight seats in the House and yet the GSD, at the time with 20 per cent of the votes, enjoyed seven seats on the other side of the House.

960 Mr Speaker, consideration should be given to an alternative voting system in respect *at least* of the balance of seats beyond the 17-Member compliment and perhaps LV for the core 17 Members. That is our preferred; we have already said that LV is our preferred choice. In other words, Mr Speaker, adopting a mixed system in a way that the additional Member system works in elections for the, for example Scottish Parliament, in that context we would have the best of both worlds. We would maintain a strong and steady Party system but give, at least in theory, when we need to test it on the ground, a greater  
 965 chance for third Parties and independents to break through. Although again, perhaps arguing against myself, an interesting analysis of the electoral system in percentage terms, as provided I think it is on the Parliamentary website, if one adopted the system that I have just advocated, would only have resulted in Mr Joe Pitaluga's Independent Democratic Party on 24th March 1988, which brought in the first GSLP administration and, in effect, spelled the end of the AACR hold on power for many years, Mr Speaker, as no doubt you will recall, even in those elections, it would have resulted in Mr Pitaluga achieving one seat at 12.4 per cent. I have done an analysis – because I am a geek when it comes to these things – of applying the d'Hondt calculator, which is available online, in respect of all the other following elections and I am afraid that the hon. Dr Garcia would have not won a seat when he stood in 1996 together with the GNP, and certainly not in 1992. *(Laughter)*

975 Mr Speaker, I now very quickly go on to review the specific recommendations set out in Part III of the Report and starting off with Recommendation 21, which deals with the rolling register. This is something which has obviously become... Obviously, it has, in fact, as a matter of fact, become topical: we, as a Party, issued a press release yesterday on the matter, when we are encouraging the Government to do something about this. The Opposition supports – and I note that the... I think that the Chief Minister also supports – Recommendation 21 and this must be, Mr Speaker, a very reasonable and sensible  
 980 Recommendation. This system will allow the flexibility which will be required in order to ensure that we, at any given time, have an up to date Register, thereby improving and ensuring fairness. There are – I was just about to say many people – I do not know how many people scientifically, who no doubt are now eighteen and were not eighteen at the time of the last General Election in 2011, or those people who have  
 985 now become Gibraltarian citizens and reside in Gibraltar –

**Hon. Chief Minister:** Would the hon. Gentleman give way, just on that point?

990 People who have turned eighteen since the last Register was opened or closed and compiled, *are* entitled to vote in this by-election if they have turned eighteen. The issue is that there may be some who were not registered by their parents, or who forgot to register, but there will be a large rump of people – the majority – who have turned eighteen and are now going to be able to vote.

995 He should not allow himself to be led down the path of thinking that people who have turned eighteen are not going to be able to vote in this by-election. It is only those whose parents failed to fill in the form accurately at the time who will not be able to vote in this election, if they were left out of the Register for that reason. That is the position.

**Hon. D A Feetham:** We quite understand what the position is.

1000 I think the point that is being made by my hon. Friend Mr Bossino is that – and I do not want really for the debate to turn on this particular issue now because it is separate and we have issued a communiqué on it – but the point that is being made now is that those people who are eighteen today ought to have, and were excluded, either were excluded from the list by mistake in December 2011, either because their families did not register them or, alternatively, that became of age – eighteen years old – after that date but are eighteen now, ought to be allowed onto the list now. That is the point.

1005 **Hon. Chief Minister:** If he would just give way... I do not want this to become controversial in the context of *this* debate.

1010 People, who have turned eighteen after the date of the last election and after the date that the Register closed, are on the Register and are able to vote if they have turned eighteen. That is the position in law. That is the position in the Register, as it is today. People who could not vote on 8th December 2011, because they were not yet eighteen, have turned eighteen thereafter, will be able to vote in this election as long as whoever was responsible for them, when they were under the age of eighteen, filled in the form

1015 accurately. We are, therefore, dealing with an extremely small number of people because there is an extremely large number of people, who are turning eighteen and are able to vote and are on the Register. Therefore, please, the hon. Gentleman should not think that there is anything in the Register barring people who turned eighteen after the date of the last election from voting in this by-election.

1020 They are on the Register and they are able to vote. There is of course always the possibility that somebody has not been registered, whether they were under eighteen at the last election or whether they were thirty-five at the last election and they missed out on registration in the last Register for whatever reason. That is why we agree that there should be a rolling register. But, the argument that they have both put, if they look at *Hansard* and the way that they have put it, is that there are people who have turned eighteen after the Register was completed who cannot vote. Only those who failed to register, but all those who registered and that is ninety-seven per cent to give you a figure: the rump of those who are turning eighteen after the 8th December 2011 and before 4th July 2013, will vote.

1025 **Hon. D A Feetham:** Mr Speaker, I understood the point the first time that the Hon. the Chief Minister made it.

1030 The point that we are making and it is relevant to this debate, because we are extolling the virtues of a rolling register, is that simply because your parents did not register you in December, just before December 2011, for *that* election, should not deprive somebody who is eighteen today but was not registered *then*, of the ability to vote at this by-election or a future by-election. I mean, I do not know whether I registered – may I say to the Chief Minister – I do not know whether I registered my, at the time, my son Alexander. It may well be that, at the time, I thought, ‘Well, he is only fifteen years of age, why should I register him?’ (*Interjections*)

1035 Please, may I continue...

**Mr Speaker:** Order, order.

**Hon. D A Feetham:** May I continue... may I continue.

1040 Perhaps – I do not know whether I registered it – but there must be some people who thought ‘well why would I register somebody who is under age then?’ But, indeed, look, if there is another by-election – my son is sixteen now – if they were to win this by-election now and there is another by-election prior to the next General Election he may be eighteen, but because I never registered him *then*, then he does not have the right to vote.

1045 We could say it is the fault of the parents for not registering but, at the end of the day, voting is a fundamental human right. It is a fundamental right pertaining to the individual and in the same way as we say that, yes, we agree there ought to be a rolling list which would deal with this particular problem, we also think that, at this particular election, the Register ought to have been open so that those people who, by mistake... I am not suggesting it is the fault of the Government and if the Government does not sit, or the Hon. the Chief Minister does not sit, behind every single parent, has no responsibility to tell every single parent, you have got to sit behind them saying ‘You have got to register your children’. Look, mistakes happen. These things happen and if we are talking about fundamental Human Rights and the right of people to vote, then the Register ought to be opened.

1055 **Hon. Chief Minister:** Mr Speaker, I am grateful to the hon. Gentleman for giving way again.

1060 Look Mr Speaker, I think the position needs to be understood by the hon. Gentleman. The Register that we are dealing with was compiled when *they* were in Government. The forms that are prepared and which are circulated actually say ‘If your dependent turns of age before *x* date, then you put him on this form’, and *x* date is forward quite considerably – I mean the Clerk knows this better than I do – two or three or four years and actually covers 4th July 2013. So we are genuinely of the view that voting is a human right because you should not be in Parliament unless you think that voting and the franchise is a human right. But the issue that the hon. Gentleman Mr Bossino, who was speaking on the subject, made is a different one and I therefore wanted the House to be assured that the position has not changed, that the Register that *they* compiled is the Register that is current now. Obviously, it is compiled by the Returning Officer, they were in Government at the time.

1065 It is impossible to give a percentage but the numbers of people who are *requesting* that the Register be opened, compared to what the exercise for opening the Register is today, it will not be... because we all agree that we should have an open Register in the future. It will not be... but the exercise of opening the Register today, with the amount of work that needs to be done in the context of a by-election and the time that there is available for it, does not justify that the Register should be opened for these small amount of people that we are talking about, who were not eighteen at the time. Those who have turned eighteen, the vast majority of them are now going to be able to vote, if they turned eighteen between 8th December 2011 and 4th July 2013. It is very easy to talk, in emotive terms, about the ‘right to vote being a human right’ and all the rest of it, but people also have a *responsibility* themselves to register themselves and if

1075 the Register has been properly dealt with, then the Government will defend that in the context of the work that has to be done.

I have always believed in the rolling Register and when we introduce it, these problems go away and that is why it is our policy.

1080 **Mr Speaker:** I really –

**Hon. Chief Minister:** Sorry, may I just say that I note that the communiqué that they have issued is in fairly belligerent terms and not conducive to the sort of politics that we are enjoying at least today in this House, so I am not going to stray into answering *that* here but will do so in another place.

1085 **Mr Speaker:** I really think the Hon. Mr Damon Bossino should be allowed to conclude his contribution.

1090 **Hon. D J Bossino:** I am grateful, Mr Speaker, and I think if I could just develop the final point that the Hon. Chief Minister has just made, that we really ought to try and make every effort, I think most Members who have spoken on this debate in this House hitherto have said that we ought to make an effort to make this as consensual as possible. In that context, what I would say is that, clearly, I think there is agreement in this House that there ought to be an open – as the Chief Minister puts it, and as the Report puts it – a rolling Register and that, I think, finds agreement on both sides of the House.

1095 But, certainly, just to clarify one point... In fact, as I understand it, I have only briefly looked into it, under section 5 of the Parliament Act 1950 it only allows for publication of the Register every four years, starting from 1st August 2007 so that, for example, if the Chief Minister decides to call an early election or, indeed, the case that we currently face with the by-election, we are basically caught by the position in the Register as it stood in 2011, subject to the point that the Hon. Chief Minister said, if your parents did register you in 2011 as coming of age during the course of the life of the following four years. But there is also – again, I have not looked at this point in any detail – I think there is the possibility for the Minister responsible for elections under that same section, i.e. Section 5, to provide for a supplemental Register which could cure the issue that is now currently the subject of public debate.

1100 But, Mr Speaker, if I could just move on to the following Recommendations and those are, if I could bunch those three recommendations together, Recommendation 22, 23 and 26, which deal with election expenses. I jumped Recommendation 24 and 25 because 26 makes, I think, the very wise recommendation – which we accept – that there ought to be an extensive definition of what ‘election expenses’ amount to. That is certainly something, when I was looking at this from a logical intellectual perspective and legal perspective, I thought that made a lot of sense because, obviously, there is going to be a problem with what is ‘deemed’ an election expense. For example, the banners, the flags and all the other material which was used in both our general meetings recently, would that be caught under that definition? So it is something I think we would need to discuss in quite a lot of detail at the Select Committee which the Chief Minister has suggested he will be establishing.

1105 We would also want to look, in relation specifically to Recommendation 22, at perhaps extending the buffer period of time of one month: that could be a solution to a greater period of time set out in Section 14.2. At the moment it is one month, and if we extended it, say, to six months, it may go some way, Mr Speaker, to addressing the unfair advantage point which is made by the Commission members in its narrative, which is the preamble to that particular Recommendation. One of the technical points which I think we will be making to the Select Committee on this matter is that if any dispute arises as to what amounts to, or does not amount to, an election expense, that there is a procedure set out in the legislation which could allow, maybe, a reference to a judge, or to the Registrar of the Supreme Court or to a Magistrate. We certainly welcome and agree to the setting up of a prescribed form for the election expenses return, which we think would be very useful indeed.

1115 Moving on to Recommendation 24, which deals with the inspection of election expenses, again we agree to that, Mr Speaker, and I concur with the Hon. the Chief Minister entirely. In fact, there is no timeframe, when I looked at this, set out in the statutory provision as to how long those particular documents are allowable for inspection in the House, so it was not clear in my mind why there was that particular *administrative* practice which limited inspection to one day. Again, consideration can be given to providing, within the statutory framework, the provision for challenges and whether these challenges could be made subject to a statutory limitation period, say, for example, the life of a Parliament.

1120 Moving on to Recommendation 25, which deals with donations over £100, again this has been dealt with extensively by the Hon. and Learned Friend Mr Caruana in his contribution. In a place as small as this, Mr Speaker, this particular Recommendation struck me as being one which will herald a major development. But, certainly, coming from a Party which upholds the principle of greater openness and transparency, it is something which we, in principle, welcome. The point has already been made, and I would repeat it, that we could consider increasing the threshold from £100 to, say, £1,000 or something

around about that figure because I assume that it is the public interest consideration behind such disclosure – that it should really bite against corporate donations in particular. I make that recommendation subject to the same source point which is made in the preamble to that particular recommendation, which we obviously support. One should, however, Mr Speaker, take particular care that publication of information of that nature does not make it more difficult for Parties, usually in Opposition, or those Parties which are deemed unlikely to win a General Election – it could be a governing Party – to lose financing because people are less willing to donate to that particular Party. I think that is addressed in the UK, but I could be mistaken, by a system of State financing.

In relation to Recommendations 27, 28 and 29 – I will bunch those three together – which deal with, amongst other things, early absentee voting: that is Recommendation 27. Again, so long as the procedure is safe, fair and subject to scrutiny, we agree with it. Anything which facilitates greater flexibility, with a view to increasing the opportunity for the electorate to cast a vote, will be welcomed from this side of the House. But, again, the devil will be in the detail. We note that the conclusion to investigate the possibility of secure internet voting has not found its way in any of the recommendation boxes in this section but, of course, it would be a technological advancement which would increase the speed within which the votes are counted.

Increasing the time limit, as suggested in Recommendation 28, would undoubtedly lessen the administrative burden of the Returning Officer and his staff and I note that – I have not done the calculation in my mind as to whether it applies, following the Hon. Chief Minister’s intervention this morning – but, certainly, the time period suggested by the Commission in these Recommendations, basically what it does is that the extensions of time between election calling and the date of election and the time... sorry, the period of time between the election calling in respect of the date of the election and the time for presentation of candidates have each been extended by an equal number of nine days. Certainly, interestingly, that would probably allow more time for *postal* votes to get here on time and certainly more time for campaigning.

In relation to Recommendation 30, Mr Speaker, which deals with broadcasting during the election campaign, again, of course, in principle, we support this Recommendation but with this caveat, that the detail on enforcements has to be considered very, very carefully indeed. We need proper safeguards in statute and it is something we can consider further at Select Committee, rather than in this Chamber, whether, in fact, the GRA should be the body responsible for enforcement of this type of activity.

In relation to Recommendation 31, which deals with exit polls, we have no firm view and will probably, by and large, leave matters on the basis of self-regulation, i.e. as they currently are, save perhaps with regards to the prohibition on publication on polling day. It is fair to say that, other than in 2007, the reliability of these polls, which I think are conducted by GBC, has been quite high in the past, although I do take note of the novel point which was made by the Hon. Mr Caruana that perhaps regulations should be considered and applied in respect of opinion polls conducted not only on polling day but also during the course of the election campaign. Certainly, the prohibition on timings of publication has been adhered to in practice. This is a *crucial* prohibition, so as to avoid the influencing of voters on the day of the poll and we are persuaded the case for codification of our laws in respect of at least *that* particular point, given the importance that we attach to it.

Moving on to Recommendation 32, which deals with vote counting, again we support anything which imposes efficiency, or which introduces, rather, efficiency, particularly where – certainly, if our recommendation would find the light of day and support from the other side of the House – there were more Members, and therefore, there were potentially more Members in this House and certainly more candidates, it is something that would need to be looked at very seriously indeed. Of course, again any moves on this particular front would have to be subject to the absolute requirement for reliability and, again, my Learned Friend Mr Caruana made the point, which I was thinking about when I was drafting, when I was reviewing and researching the Report, that there is something in the *ambiente* when we are vote counting at the John Mackintosh Hall, which I would certainly not want this community to lose, if the matter... like, for example, in Spain, I think by ten o’clock, eleven o’clock, we have an election result, which makes matters, I think, rather boring.

In relation to Recommendation 33, which deals with the register of political parties, this is a matter which is regulated, as has already been mentioned in this House, in the UK by statute. It is the Political Parties, Elections and Referendums Act 2000, which tasks there the Electoral Commission with the responsibility for the regulation of Parties. We do not support, however, the wide-ranging nature of the proposal, as set out in the Report in, I think it is Appendix 1, particularly A4, which I think is probably too much of an intrusion. The first point to make in relation to that, Mr Speaker, is again, there isn’t any... this is a matter which we see no pressing need for in Gibraltar. It is not clear what mischief any such legislation would seek to address and the matter was debated extensively by us internally and we thought why should any law or outside body dictate how the leader of any particular Party should be elected, for example. We certainly agree with the point made by Mr Perez – I think he is the Chairman of the GSLP element of the governing Party – in a recent Viewpoint debate, when he said – I think he made

1200 precisely the same point that I just made myself... Really, what he was saying is that political parties should regulate their affairs as they wish. Therefore, we do not agree that with *that* particular paragraph. In fact, I am not sure, Mr Speaker, that the statutory framework in the UK – it is certainly in England and Wales – intervenes in the way that is suggested in this particular Appendix in terms of the running of political parties. I think what they are more interested in is the accounts side and matters of that nature.

1205 There are other elements, discreet elements in the proposal, which we have less difficulty with and see the rationale behind them – for example, that a Party should have its name, logos, filing of accounts and issues like that – but, of course, I also note the backbencher’s position in relation to non-support of this particular Recommendation.

1210 Mr Speaker, if I could swiftly move on to Recommendation 34, which deals with the Electoral Commission: again, this is not an issue in respect of which we have a firm position. What did strike us as odd, when we were analysing this particular narrative, is that there seems to be no case made, on the basis of 3.12 for the setting up of such a body. Indeed, some of the respondents did express the view, which I think carried some favour, certainly on this side of the House, that it was unnecessary to have ‘yet another Commission’, with the inherent unwarranted expenses. But, again, much would have to be debated on the detail of the proposal, although I note the Government’s position in this regard, which is that they will not be supporting the Recommendation, unless it has been persuaded by anything that has been said more forcefully by my Learned and Hon. Friend Mr Caruana.

1215 In relation to Recommendation 35, the holding of referendums – I am conscious that I may not be pronouncing the Latin, or using the Latin correctly – we agree with the Recommendation, although we have no issue with the way that referenda have been conducted in the past which, of course, have been devoid of legislative basis. But, again, it is something that we would want to look very seriously at the detail.

1220 The two final Recommendations that I am dealing with, Mr Speaker, are Recommendations 36 and 37. Number 36 we have already discussed and deals with the residency period requirement. Again, there may be some divergence here, in the sense that, in fact, following my research, I have not been able to find any – and I stand to be corrected – residency requirements in the UK. The UK is obviously a larger nation than us and there are probably merits to having a residency requirement in Gibraltar. There are residency requirements in relation to Commonwealth citizens but British citizens, apparently, do not have to reside.

1225 We see no pressing need to extend the residency requirement in Gibraltar. Again, on the basis of the narrative preceding, this particular recommendation box we have not been able to identify a compelling case for extension of the requirement. Reference was made here, in the narrative, to the Commission members being convinced by the ‘strong arguments’. We have not had the benefit of seeing what those strong arguments are and analysing them. At this stage all I can say is that what we have had now is a tried and tested system which has been in place for many years and we would, I think, have to be *persuaded* by a stronger case than that for change. Again, it may be something that the Opposition Members comprising the Select Committee team may be persuaded by any arguments put by the other side.

1230 In relation to Recommendation 37, the diaspora vote which was referred to earlier, again we would actually agree that, or view this as a Recommendation, certainly a Recommendation which is a step forward in the right direction. As I said earlier, in the UK, in fact, there is no – as far as I could see, but, again, I stand to be corrected – no residency requirement but, equally, there is no requirement for permanency of employment, for example. This is an issue which we have been considering internally and, as part of our debates, we have considered whether it is unfair that somebody who has contributed to Gibraltar previously, whether simply at the lowest possible level of having a job, and is now retired, or at a higher level – I can think of one particular example: people who have contributed to Gibraltar’s political life and have been Members of this House and no longer reside in Gibraltar – whether they should have the right to exercise their right to vote and decide the Members of this Parliament in any electoral process.

In fact, in the narrative before the particular Recommendation, the final paragraph says:

1250 ‘We have concluded that the franchise should be extended to registered Gibraltarians who live outside Gibraltar for as long as they continue to keep close ties with, or interest in, Gibraltar.’

1255 Now, that is something I think we need to look at a bit more closely and see whether that sort of Recommendation, conclusion, that principle, can be extended because if you transpose that Recommendation, or that conclusion, into the... or, rather, you compare that particular conclusion with Recommendation 37, it seems to have not found its way in that particular Recommendation because the requirements set out there are much stricter than what the conclusion provides.

I see that there is what I thought was a security lock – but the Chief Minister, perhaps, might have persuaded me that there may not be such an effective security lock – which is the ability to have a... rather, that it is applied to Gibraltarians, those people who enjoy Gibraltarian status. And thinking about

1260 it, I suppose there are people who are British nationals, who have married in Gibraltar, as a result of that  
 marriage enjoy Gibraltarian status and then they divorce but, as I understand it, Gibraltarian status still  
 applies to them wherever they may go. So, in circumstances like that, if you do not have these  
 1265 qualifications, then they may be able to exercise the right to vote and I think that would be unfair. But the  
 point I am making is that there are arguments on both sides but that does *not* mean to say that we should,  
 as a result, slam the door in the face of those people I have mentioned and described earlier, i.e. those  
 people who have contributed to Gibraltar, they have retired and now, for whatever reason, live in Spain or  
 elsewhere.

Mr Speaker, I think I have concluded my contribution.

1270 **Mr Speaker:** We now have a recess of fifteen minutes.

**Hon. Chief Minister:** May I just... I understood that the Hon. Mr Netto wanted to speak and it was  
 certainly my intention to recess after that, in order to prepare the amendment. If I could prevail upon you  
 to allow –

1275 **Mr Speaker:** I understand that the contributions from Mr Netto and Mr Reyes are going to be short.

**Hon. D A Feetham:** Mr Speaker, yes.

1280 **Mr Speaker:** If you prefer, we can conclude their contributions, if there is no other Member of the  
 Government, other than you, to exercise your right to reply, then we have a break and you prepare  
 yourself for that.

1285 **Hon. Chief Minister:** Not so much prepare myself, Mr Speaker, but it may be that we need to have  
 occasion to have a conversation after all the contributions are heard, because we are dealing with this  
 debate in, sort of, a different way to the usual.

**Mr Speaker:** Yes, alright. Right, I call upon the Hon. Edwin Reyes.

1290 *[Technical interruption]*

**Hon. E J Reyes:** Right, Mr Speaker, I shall behave and follow instructions and start again.

I said that I am going to comment briefly upon matters raised at Part IV, where the Commission has  
 rightfully decided to include here other matters that the respondents had raised: the Commission has  
 1295 decided to include four points, two of which carry specific recommendations, and those are  
 Recommendations 38 and 39, but I shall also comment very briefly on the other two points, although  
 there may not be any specific and concrete recommendations.

On the first of these matters, Mr Speaker, on the fixed term of Parliament, the Commission rightly  
 1300 reminds us that, at present, section 37(1) of the Gibraltar Constitution Order 2006 sets the maximum  
 period of time between the dissolution of Parliament and the issue of a writ for a General Election as  
 thirty days *and* the maximum period of time between the issue of a writ and the holding of a General  
 Election as three months. The Recommendation put forward by the Commission says that

1305 ‘We recommend that a maximum period of time between the issue of a writ and the holding of a General Election should be  
 reduced from three months to forty-two days.’

I know the Hon. the Chief Minister already mentioned before that it is not something that he rules out  
 completely for the future, I just want him to know that, from this side of the House, we are not opposed in  
 any shape or form to a Recommendation given by the Commission.

1310 In fact, our feeling, from the general public’s views, is that once the term of office of a Parliament  
 expires after four years, three months on after the thirty days in which notice has been given does look  
 rather undemocratic in this day and age, so reducing that time to forty-two days is certainly something  
 that we tend to believe the general community would welcome. It is their way of perceiving that this  
 Parliament does not prolong its life without a proper mandate and that a caretaker Government does not  
 1315 really exceed and stretch it’s time to the full limits: and if no Parliament sessions are being held it does, in  
 many ways, sound a bit contradictory to the new method of monthly meetings, which both sides of the  
 House have now embraced, and we are sure is something that is going to stay with us for a long time. So  
 in keeping with that regularity of meetings and so on, I would rather see it in the more near future rather  
 than the distant future that the three months be reduced to, say, forty-two days, as the Commission has  
 1320 rightly put in Recommendation No. 38.

Mr Speaker, as well, on point 4.3 the offices for Leaders and Members of the Opposition, I made a

1325 quick note and have to say that I agree with the Chief Minister, not only the Leader and Members of the Opposition but even Members sat on the Government benches. There are times and occasions when there are parliamentary matters... you could even view it as being an all-Party matter and therefore it may be extremely useful that adequate facilities are made available to all Members. I note – and I do not think it is a mistake – I think if I know Mr Speaker correctly, I think he has purposely included the words... the final words of his Recommendation are that

1330 ‘...facilities for the Leader and Members of the Opposition’

– and we are now even extending that to Members of the Government, as well –

‘should be made available *near* the Parliament.’

1335 Yes, Mr Speaker, the backbencher spoke before of the over-crowding of these facilities. Certainly, we know that Mr Speaker has by no means an ideal position, in that he sort of has to toss a coin with the Clerk of the House to see who can attend to private business within the office and the poor Clerk, at times, as I recall having wanted to have a quick word with him in preparation for matters to do with our attendance at the CPA Conference in Sri Lanka and he, being a polite man, said, ‘Yes, but we cannot take over the office or the desk because Mr Speaker may need to attend to some parliamentary business’ and it is un-gentlemanlike not to say – I would even dare to say against the rules – to make Mr Speaker wait outside whilst the Clerk and I have a rather casual conversation trying to make logistical arrangements to attend to parliamentary matters, be it in the wide ambit of the CPA procedure.

1340 So, yes, Mr Speaker, near the Parliament as far as possible would be fine. That would also reinforce what the Hon. the ex-Leader of the Opposition was saying: we can, from there, work as parliamentarians and an example that comes to mind, Mr Speaker, the Minister for Justice is now much, I think in many ways, to be commended, issuing the Command Papers, as an example, before the formal publication of the Bill. Sometimes, the ordinary man in the street wants to talk about those issues with a parliamentarian. As present circumstances stand, the only place where I can get a little bit of privacy is to invite that ordinary voter to come, perhaps to the GSD office, and that person should not be forced to have to come and identify with any one political Party but is rather, as an ordinary citizen, who is entitled to be fairly and democratically represented by Members of Parliament, whatever side of the House, it would be ideal if he had a place here in this building, or *near* the building, as the Commission has said, so that we can actually meet and discuss and then that all it is going to do is help to contribute to a wider variety of opinions when the time comes for proper discussion or the Bill here in this Parliament.

1355 There are, of course, Mr Speaker, occasionally other matters that pop up that one does not necessarily want to make it come under a Party whip. I am thinking of past examples where we had a Private Members’ Bill, where a particular Party had decided to allow a free vote amongst the MPs on his side and, again, that would be ideal if a situation arose where we had some facilities. Also, Mr Speaker, if I take into mind the Chief Minister did announce, at the very beginning of this term of Parliament, that they were working to be as green as possible, to become as paper-less as possible in many things and so on and I have, on occasions, had to come here and seek assistance from the Clerk in helping me find and locate these charts, these statistics, that Government now publishes on its website and I am conscious that I am infringing upon the work of the other ordinary clerks. I know the Clerk is so generous that he says no, but I do feel, at times, that I am there, members of the public come in and he, like a gentleman, says, ‘Well, wait for a minute’, because there is a time and a place for all sorts of business. So any other facilities that is made available, either in the building or as near the building, will help as well in many ways to ensure that the Clerk remains, and even increases, his efficiency in his contributions to help Members on this side of the House, pose their Questions and make sure that we all have as up-to-date information as possible.

1370 Mr Speaker, I take you to point 4.4, where it says about a purpose-built parliamentary building and the final paragraph there says:

1375 ‘We consider that this subject matter is not within our remit but we are conscious of the fact that the present accommodation for the Speaker, the Clerk and staff needs urgent improvement.’

1380 I want to leave you, Mr Speaker, in no doubt that this side of the House – and I already gather that the other side of the House – all feel that you deserve better physical accommodation, whatever possible, and therefore, although there is no specific recommendation either on purpose, because Mr Speaker did not want to appear to be selfish recommending something or whatever, but that goes hand in hand with the facilities that I think should be made available for the Leader and Members on the Opposition side.

Finally, on point 4.5, Mr Speaker, the composition and procedures of statutory bodies. The Commission says that they have considered a suggestion there should be a review of the composition and procedures of statutory bodies, authorities, commissions and Government-related entities to ensure that

1385 these work better and are more responsive to the public and are more independent of Government. I think,  
Mr Speaker, that in the same way that today we have been able to agree upon many things, I am almost  
certain that there must be a way forward on this. If I may, with respect, remind the Hon. Chief Minister  
1390 what he said when he was sat on this side of the House: he said that he continued to believe that it was, or  
it is, time for the method of appointment to the board – and he was specifically referring to the GBC  
board, which I am just using as an example – to be changed, and that a more representative system be  
introduced to ensure that there is no *de facto* ability for any Government to control the corporation's  
board by the manner of appointment of its members. With that spirit in mind, Mr Speaker, I am sure that,  
1395 if need be, at Select Committee time we can come together and find a modern way forward, where both  
sides will be satisfied. One that has been mooted already is that the Leader of the Opposition be allowed  
to make one nomination to the board and so on. But, again, let us not bog ourselves down in this one  
today but I want the Chief Minister to bear that one in mind because there is room for discussion and I am  
sure there is plenty of scope for agreement on that.

And, Mr Speaker, on behalf of if – I may as well with your leave, on behalf of the hon. Lady, who had  
asked me at one stage whether I would give way to her but she has had to go to attend to a school matter  
1400 in respect of her younger son, the hon. Lady wished to offer this comment in respect of matter 4.5. The  
hon. Lady, in her notes has left me, saying that, where necessary, composition of boards and so on should  
be changed to improve the constitutional checks and balances on governmental power. She believes that  
this cannot happen without proper representation from members of our diverse community. This means  
reflecting the composition of Gibraltar society on these statutory bodies, enabling meaningful checks and  
1405 balances on the Government of *all* Gibraltarians, not of a majority of white, middle-class males. In order  
to address this balance, she has publicly stated before, and wishes to reinforce, that it would mean  
actively inviting more women and minority representatives to sit on these bodies. Out of the statutory  
bodies gazetted so far, only ten per cent of the composition are women, some of whom are the secretaries  
of the boards, and even less from different ethnic backgrounds. This improvement to composition can  
1410 be done quite simply with a little more consideration and active positive discrimination when inviting  
individuals to sit on these statutory bodies. Membership of a statutory body is not through a process of  
applying for the role, the assessment of applicants and recruitment of the best person for the job, it is  
simply through an invitation by letter from either the Chief Minister, or the Minister responsible, to join  
and form part of a statutory body.

1415 And, with that, Mr Speaker, I give way to the Leader of the Opposition.

**Hon. D A Feetham:** Yes, Mr Speaker, I just rise in relation – I am very grateful to the hon.  
Gentleman Mr Reyes for giving way – I rise to comment on the final sentence of the first paragraph, 4.5,  
1420 where it says

'Furthermore, the Police Authority and GBC, for example, should have members on those bodies proposed by the Leader of the  
Opposition.'

I think the Government ought to really give serious consideration to this. It really prevents the kind of  
1425 exchange that perhaps we have had in relation to GBC. I have no difficulty for example in saying to the  
hon. Gentleman that I think that some of, *some of* the names that – some I do not know, some of the  
names that he proposed in relation to the GBC board, for example its Chairman, Albert Mena, are  
excellent choices and I am sure Mr Mena will be an excellent Chairman of GBC (*Interjection by the Hon.  
Chief Minister.*)

1430 May I please finish? I will give way if the hon. Gentleman –

**Hon. Chief Minister:** I am grateful, Mr Speaker, because, you see, this debate is about the  
recommendations in the Parliamentary Reform Commissions Report, not about re-running the issues that  
1435 we are fighting about in press releases... but I am going to come to the point made by the hon. Gentleman  
for Mrs Ellul-Hammond. In particular, the hon. Gentleman has issued a press release, saying that one of  
the disqualifications for another one of the members of that board is that they are a very close friend of  
mine. He has now alluded to another individual who I have appointed to that board and praised him. I  
should just like him to know that he, too, is a very close friend of mine.

1440 **Hon. D A Feetham:** Well, Mr Speaker, I am very glad that he is a very close friend of his: he is  
probably not as close a friend of me.

What I am saying is that, in relation to Mr Albert Mena, he is, he would be... I am sure he will make  
an excellent Chairman of GBC. The problem that we had, certainly on our side, was not in relation to Mr  
1445 Albert Mena but in relation to the four names that the hon. Gentleman attempted to introduce to the list  
that was originally the subject matter of consultation with my predecessor, Mr Caruana.

The point I am making for the purposes of *this* debate is that if the Government were to accept the



1450 view expressed in the Report, which does not find its way into a Recommendation, but it is certainly the  
 1455 view the Police Authority and GBC, for example, should have members on those bodies, proposed by the  
 Leader of the Opposition, it would obviate the kind of exchanges and the kinds of comments that we have  
 seen on the question of the composition and the consultation to the GBC board that we have seen. I urge  
 the Government to give serious consideration to this. I can tell him that, should we find ourselves on that  
 side of the House after the next election, certainly we *will* introduce provisions allowing the Hon. the  
 Leader of the Opposition the power to effectively have positive input into the appointment of at least one  
 member of GBC and also the Police Authority.

**Mr Speaker:** Do I take it that the Hon. Mr Reyes has concluded his contribution?  
 If so, I will call upon Mr Netto.

1460 **Hon. J J Netto:** Mr Speaker, I am grateful for the opportunity of making a contribution to this  
 important subject of parliamentary reform. May I, from the very start, state that what I am about to say is  
 as an individual Member of Parliament and in no way a contribution by the GSD Opposition. Also, I  
 make no apologies for the fact that the subject matter is controversial. I will be addressing *all* Members of  
 Parliament, regardless of party political affiliation, on the question of the recital of the Prayer at the  
 1465 beginning of every parliamentary session and, as I will argue in a minute, why, in my opinion, there is no  
 longer a need to continue with this practice.

But before I do this, I would like to take the opportunity to congratulate the Leader of the Opposition  
 and, indeed, my fellow colleagues in the Opposition benches, in allowing me to speak on this matter of  
 individual conscience, in the same tradition as the previous GSD Leader, the Hon. and Learned Peter  
 Caruana QC did when we were in Government, on sensitive issues of conscience, such as the equalisation  
 1470 of the age of consent for sex at the age of sixteen, even though not all of my colleagues, then or now,  
 agree with my views. These are issues where the GSD Party does not hold individual Members within a  
 three line whip but, rather, allows each and every individual Member to express their own conscience,  
 regardless of Party affiliation, a tradition worth maintaining.

1475 Mr Speaker, the Hon. Chief Minister, in his speech at the first session of Parliament after the  
 refurbishment, did say, *inter alia*, that the new Prayer which is now recited is due, in large measure, to the  
 contribution the late Charles Bruzon made in order to update the language from the previous one and that,  
 in the opinion of the Chief Minister, this would remind him of Charles Bruzon for the great man he was. I  
 would like to say that Mr Charles Bruzon was to me a very good friend, in which I had the honour of  
 1480 sharing many good memories either in Parliament or outside. Indeed, our friendship extended to the many  
 CPA Conferences we both attended together, jointly defending the collective Gibraltar position and rising  
 above party political differences, as is common at such conferences. Also, given that I happen to be one  
 of the longest serving Housing Ministers, often in private I would provide him with some useful advice  
 on how to cope with what is one of the most demanding ministries.

1485 However, that said, among the many good qualities that Charles had, was that he was a true democrat  
 and would accept the principle of anyone raising a contrary point of view to the one he would  
 passionately hold: something that I will do now. Mr Speaker, the recital of the Prayer at the beginning of  
 each parliamentary session probably goes back to the period before the House of Assembly. No doubt,  
 this, like many other things we do in our Parliament, is due to the political evolution in Gibraltar from the  
 1490 British political class, predominantly from the House of Commons. In that political evolution and most  
 specifically in the context of our new Constitution, we have reached a new qualitative stage in our  
 political emancipation that we should, in my opinion, no longer be speaking in Parliament in terms of  
 conducting our proceedings under the cloak of some ancient or religious doctrine.

1495 First of all, when we as parliamentarians get elected into this Chamber we do not exclusively speak on  
 behalf of Roman Catholics *per se*, Anglicans, Presbyterians, Muslims, Jews, Hindus, Jehovah Witnesses,  
 agnostics, or as atheist. We speak on behalf of all the people of Gibraltar, regardless of any religious  
 views or orientations. Therefore, to impose any Prayer on those people who are not religious, or even to  
 those people who are religious but would keep matters of State and Religion separate is, frankly, an  
 undemocratic act. Mr Speaker, our Constitution may not be perfect, although I would say hardly any  
 1500 constitution in the world is, but we have gone a long, long way in showing the world how politically  
 advanced we are in Gibraltar.

In fact, if we look at the various tenets running through our Constitution, whether the fundamental  
 rights and freedoms of the individual, the protection of freedom of conscience and the protection from  
 discrimination on the grounds of race etc., it is implicit that the text and vocabulary therein, the  
 1505 manifestation of a secular framework, which is the only way that we can bind together people of different  
 personal views without offering a preferential treatment to anyone or to one group of people over others.

Living in a secular society and practising secularism in Parliament means adopting the principle of  
 neutrality in a public discourse. Neutrality means just that, neither standing in favour or against religion  
 or any other views. It also means that when we act in a parliamentary session we do so by leaving behind

1510 any private interest. That is, we act in the public interest of all our community. I believe, Mr Speaker, that there should be a clear separation of Church and State and, in particular, the way we run Parliament. To quote Thomas Jefferson, one of the founding Fathers of the American Constitution and the third President of the United States, he said:

1515 'Believing... that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legislative powers of Government reach actions only, & not opinions, I contemplate with sovereign reverence that the act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church & State.'

1520 That was a letter to the Danbury Baptists in 1802.

The wording of the new Prayer, despite its non-denominational basis, still continues to be an affront to the principle of equality that should enshrine the rights of all individuals in our society here represented in our Parliament. There is no need to prefix language of

1525 'counsel, wisdom and understanding'

to an Almighty God. In this political Chamber, the counsel, wisdom and understanding that we need to project collectively is derived from the individual Members of Parliament, regardless of Party membership and from the rules and contribution that we all make in the course of our parliamentary life and from the experience of those parliamentarians that have been here before us.

1530 When the new Prayer says

'We',

1535 as in

'We humbly ask you to guide and assist us in our deliberations and in our work',

1540 this means that Parliament is being converted into a Church public event. In other words, Parliament is being converted into a state itself in prayer, manifest in a commitment to religious beliefs and observance. This, therefore, negates the democratic principle of preserving each and every person's right to freedom of thought, conscience and diversity.

1545 I am not saying that, for those Members of Parliament who *do* wish to have the opportunity of praying before Parliament starts, that they should not have the facility to do so *outside* this Chamber. I am quite content for some room to be made available to them so that, before entering the Chamber, they can ask for guidance to their respective gods, if that is their wish. Just as I think I should not infringe their rights, they, in turn, should not infringe *my* rights either.

1550 Mr Speaker, I suppose that, for those who may wish to sidestep the rationale of my argument, they will say why it has taken me seventeen years of parliamentary life to now raise the issue. In response, I would say that it is for a number of reasons. Already I have alluded to the fact that we do have a new Constitution that is, in my opinion, a much clearer secular one from the one that we had before. Secondly, the fact that we have a new Prayer, and the timing of it, comes at a time in which we are almost simultaneously having a discussion on parliamentary reform. Therefore, it is absolutely right that, at this juncture, I should bring up the matter for discussion. As people know, I am an atheist and I make no apologies for the views I have.

1555 In the light of what I have said, Mr Speaker, I would humbly suggest to the Leader of the House, the Hon. Chief Minister, that, on this matter alone, to provide a free vote, as was the case in the Scottish Parliament, so that each Member of Parliament can express and vote in accordance with their conscience. The Leader of the Opposition has told me that he will not impose a three line whip on this issue, even if he does not support a change of the practice. What I find difficult is to continue to stand whilst a Prayer is recited, knowing that this infringes *my* freedom of conscience and having to acquiesce to a situation in which it negates the principle of equality amongst some Members of the Legislature.

1560 No Member should receive an inferior treatment, as we have all been elected by the people of Gibraltar. I hope hon. Members understand what the issues that I bring to bear for consideration are and that we move forward from a position of respect to everyone.

1565 Thank you.

**Mr Speaker:** May I say, since I am responsible for the Prayer, in the sense that I begin the proceedings of the Parliament with a Prayer, the House I am sure will wish to hear my views on the matter.

1570 When I was a Member of this House at the time of Mr Speaker Vasquez, Mr Speaker Vasquez not only said the Prayer at the beginning of the meeting, but whenever there was a long period because the

1575 House had adjourned from one day to another, a number of days after the event. I gave some thought to the matter myself this morning, having regard to the fact that we had not met for a week and a half and, having regard to the fact that the business of this House today was a very important business for the good of our community, I gave the matter some thought and I desisted from asking Members to stand for the Prayer. Instead, what I did was – being a believer – I paid a short visit to the Blessed Sacrament and asked my Lord Jesus to help me today in conducting the business of the House in the manner that it should be conducted.

1580 Today, in the world in which we live, atheists are much more militant than what they were forty years ago. I am aware that there has been a Member, another Member in this House since 1972, who also is not a believer but who has always respected the desire of the majority to put our affairs in the hands of He whom we believe is our creator and is our God. The hon. Member has quoted parts of the Prayer but he has also left out another part. He says that he comes here and Members – regardless of whether people are Muslims, Jews or what have you – we are here to look after the interests of all. Indeed, the Prayer reflects that. The Prayer says:

1585 ‘May we act honourably in pursuit of true justice for *all* our people.’

1590 Let me tell the hon. Member that I do not think that the majority of Members here who are believers should necessarily have a room outside for their prayers. It is not an imposition. The business of the meeting does not begin... the Agenda does not begin with a Prayer. If he, or any other hon. Member, has any objection to the Prayer, what he can do is to join the House after the Prayer. For as long as I am a Member of this House, for as long as I am the Speaker, unless Members tell me otherwise collectively, I will continue at the beginning of every meeting to recite this Prayer and ask God to enlighten all of us here who are trying to work for the good of Gibraltar.

1595 We will now recess for twenty minutes.

1600 *The House adjourned at 5.15 p.m. and resumed its sitting at 5.32 p.m.*

**GOVERNMENT MOTION**

1605 **Parliamentary and democratic reform  
Report of the Independent Commission  
Debate concluded: Amended motion carried**

1610 **Mr Speaker:** Does any other hon. Member wish to speak before I call on the mover to reply?  
The Hon. the Chief Minister.

**Hon. Chief Minister:** Mr Speaker, it has been a long day and a very constructive debate and I think it is important that we now try and take this debate on this motion to an equally constructive conclusion. There have been some things said during the course of the interventions which deal with the Recommendations in the Report and I want to go through some of those.

1615 There have been some things said during the course of the interventions which are slightly party political and, with your leave, I am going to at least just put markers down in relation to that but I do not think is in anybody’s interest that we should delve into deeply controversial partisan territory during the course of this debate, so I am going to try and avoid that whilst simply saying, I am not accepting by simply not dealing with them, any of the points that have been put during the course of the afternoon.

1620 The first one, which is one of the issues that the Hon. the Leader of the Opposition started with, was this question of whether the current Constitution delivers the maximum possible level of self-government. He knows our position on that and it is important that we all understand that the debate today is not about any of those issues and the detail of any of those issues, it is about the detail of the reform proposals and where we want to go, so I am not going to delve on any of those issues.

1625 He went on to talk about whether, in certain instances, he had been left to debate motions or ask Questions on cold and late Friday evenings – what he called the parliamentary Siberia – and that motions would not be dealt with at peak times and therefore there would be less interest.

1630 When we are looking at parliamentary procedure, we have to understand what parliaments are. We have got to be careful also not to try and turn ourselves into a circus and we have got to try and understand what peak timing is. It may be, Mr Speaker, that with cameras active in the Chamber, a Friday evening that is otherwise cold and bleak at nine o’clock in this place is actually peak viewing time in the warm homes of those who may be watching on television. So yesterday’s Siberia, with the cameras active in the House may become prime time viewing. I think it is important that we reflect that what is going to

1635 happen when the cameras become active – something, as I have said before, I hope will happen soon – is  
 that those who operate news agencies – in particular, in Gibraltar it is GBC and now also the nascent  
 YGTV – will be able, whenever a Member has spoken, whether they have spoken at a time which is peak  
 1640 time or not peak time, if valid points have been made, they will be able to extract the relevant part and put  
 it on our screens. So I think the technology will help in that respect but he has to understand that  
 parliamentary procedure around the *world*, not just in Gibraltar, puts Opposition motions last on the  
 Agenda unless you are dealing with the adjournment motion that we are going to look at the procedure of  
 in more detail so that Members on both sides of the House may be able to make use of that particular  
 mechanism more often.

1645 Then there is, of course, Mr Speaker, a reference in the hon. Members address to the issue of  
 enlargement of the Parliament and their policy of enlargement to twenty-five. Well, I think that there *is*  
 an argument and I have not developed this argument any further but I think there is, potentially, an argument  
 that the number of Ministers need not necessarily just be ten. I think there is potentially an argument that  
 it could be eleven because the Chief Minister, if he takes no portfolio, can appoint, in my view, ten  
 Ministers and be Chief Minister himself, absent a Ministerial portfolio. I do not know how it would work  
 1650 in terms of remuneration, but the way that the Constitution operates is not necessarily always the way that  
 it has always deemed to operat, and if we look at it in some detail, it may be that there are flexibilities  
 there that we had not originally identified.

I am making that point not because I seriously believe that there *should* be eleven Members on this  
 side of the House, even with the current setup of numbers but because there is another point that I think  
 flows from it quite usefully. That is that they have demonstrated – in fact, in this debate perhaps more  
 1655 than in others – that it is possible, with the numbers that they have in the Parliament today, to have  
 Members who are on the back bench and I want to thank the Hon. the previous Leader of the Opposition  
 for his contribution today – I will come to it in a minute – but he has made it as a backbencher and, in the  
 course of the contributions from other Members of what we might call the front bench of the Party  
 opposite, they have said that they are not entirely aligned to the points made by the Hon. Mr Caruana.

1660 We have demonstrated and, fortunately, for all the reasons that we are aware of in the past six weeks,  
 that it is possible also to run a Government with one Minister less. We are running Gibraltar with nine  
 Ministers. There is, therefore, the potential, with the existing number, that if we were to gain a seat in the  
 coming by-election with a successful GSLP / Liberal candidate that that person might not need to be  
 appointed a Minister. You would, therefore, have a situation in this Parliament – without enlargement, Mr  
 1665 Speaker – where the GSD in Opposition have the benefit, as they see it, of a backbencher and we could,  
 potentially, have what was Mr Bruzon’s seat occupied by a Member to whom the Chief Minister does not  
 give a ministerial portfolio. It is a possibility. I am not going to present that option to the people of  
 Gibraltar when it comes to the by-election. I am going to ask them to return a GSLP / Liberal candidate  
 so that I have another Minister available in the delivery of the Manifesto but we have now demonstrated,  
 1670 in this debate today, that you can run a Government with nine, even in this context, without an Attorney  
 General and without a Financial Secretary, and that you can run an Opposition with six, with one  
 backbencher. So enlargement is not a *sine qua non* for there to be backbenchers available in the context  
 of this House.

1675 Of course, Mr Speaker, one might be tempted, in the knowledge that it is still possible to convene a  
 parallel election for 4th July for another seat, to invite those who might be holding backbench places here,  
 now that they would not add to the expense of the by-election –

**Hon. P R Caruana:** Will the hon. Member give way?

1680 **Hon. Chief Minister:** Of course.

**Hon. P R Caruana:** I thought he had just welcomed my contribution as a backbencher (*Laughter*)  
 and, with the very next breath, he wants me out of the Chamber! Well, can he make up his mind?

1685 **Hon. Chief Minister:** Mr Speaker, I did welcome the contribution. That is why I was about to say  
 that I was tempted to invite him to resign his seat... but, of course, it is a matter *entirely for him*. It is a  
 matter entirely for him.

1690 Mr Speaker, I do not think that the Report lacks focus on the issue of enlargement. I think that the  
 Commission has dealt with the issue of enlargement actually very clearly and just because the  
 Commission’s majority view is not the Leader of the Opposition’s view on enlargement, I do not think  
 that that demonstrates that the Report is in any way lacking in focus.

1695 The Hon. the Leader of the Opposition also said, in dealing with this issue of backbenchers that, in the  
 lexicon of other parliaments, other MPs had said that one of the most enriching experiences is to defy the  
 Party whip. Well, I think we have just seen one of those ‘enriching experiences’ just before the break and  
 we will see how enriching it is! (*Laughter*) But, look, I think we need to understand what Party whips

mean. Party whips are about votes, not about opinions. Very often, in other parliaments, a Member may get up and say 'I do not agree necessarily with all the reasoning that my Party leadership is advancing on this issue' and yet that Member may, nonetheless, be prevailed upon by the whips system – not something I think we should wish to replicate in Gibraltar – to vote with the Government or with the Opposition on a particular issue. Sometimes, they may just be prevailed upon not to make statements because they are contrary to the opinion that is being advanced by the leadership of the Party.

All of those things which the Hon. the Leader of the Opposition prayed in aid in support of his arguments for enlargement, I think have been demonstrated today, for the reasons I have already given, not to be relevant.

Mr Speaker, you have, in my view rightly, taken issue with Members on both sides of the House in the way that we had unfortunately grown accustomed to deal with each other at Question Time. We might take the view that you have sometimes been too harsh with us. We might even take the view that you have sometimes been too harsh on *them*. Not a view that somebody who had been in this Parliament perhaps in the 1970s and 80s, when you were here, might take. But for those of us who have been brought up in what I might call the more liberal environment of the past ten years, I think we have all felt the strictures that you have imposed on Question Time and I think, actually, that is a very good thing, although I feel the strictures myself. You are the Speaker and I think it is important that we all recognise, in this Parliament, that you are much like the referee in a football game and, therefore, the referee has to make decisions which are final and players on the pitch need to understand that, even when they think that the referee has got it wrong, defiance of the referee is not an option that should be displayed.

I am not going to suggest that the Hon. the Leader of the Opposition's remarks today, in the context of this debate about the subject, have amounted to defiance, but I would say this that, in the occasion that we were talking about, I detected an element of defiance of the Speaker. If *we* have ever fallen into that trap, then it is something that we should never fall into and I would commend to the hon. Members opposite that, even when we all might take the view that Mr Speaker is being unduly harsh, or we might take a different view on one side or on the other, the recourse in this Parliament should never be to *appear* even, to defy Mr Speaker on an issue. I think Mr Speaker is approachable enough that we can, in a recess, take up issues with you that we might think have been unfair, almost as if we were asking to view the replay in that football match that I was trying to suggest was a good analogy, but we have to be very careful in the example that we set, not just to keep our debate not personal, which you are imploring us to do – and I think that is a very good thing and we had fallen into the habit of being more personal and I think we should not be – not just to continue to be very vigilant to keep our supplementaries and our answers relevant and informative and, where possible, it is not just a question of not being personal but also trying not to be too partisan when we are dealing just with the movement of information, although we are free to be partisan in the context of motions, but also to set an example in the way that we deal with Mr Speaker's rulings and to be respectful ever and not defiant.

Can I just take up the Hon. the Leader of the Opposition's example, when he was dealing with the issue that he wanted to raise today, which was this issue of the point put to the Hon. the Minister for the Environment about whether or not he had briefed a particular mayor and his answer and whether the Members opposite had a document which suggested the opposite. These things, I think we need to understand, are almost becoming like a cross examination, where a document is produced to put to a witness that demonstrates that he said something which is not quite true. And Question Time, Mr Speaker, is not about that: it is about information. It is not about cross examination in order to prove a point. The Punch and Judy show that we see at 12.15 on Wednesdays at Westminster is not that. Of course, there are political points made but it is not 'Ah this... and here is the document and here is the rest of it.'

The Question Time that the Hon. the Deputy Prime Minister, the Rt Hon. the Deputy Prime Minister Nick Clegg was dealing with, which I actually saw the whole of, where he had a document produced to him which had his photograph and his commitment, before the election, to put to the Referendum question, is different for this reason: I wonder whether the Hon. the Leader of the Opposition would just take this point from me. The gentleman who got up at what was Prime Minister's Question Time but had become Deputy Prime Minister's Question Time, in the absence of the Prime Minister in a Brussels meeting, put the question with the document as his question. The difference is that, in the context of what happened here, what was put to the Hon. the Minister for the Environment was one of many supplementaries at the end and Mr Speaker's ruling was about relevance... (*Interjection*) Well, the third or the fourth... about relevance to the issues that were being debated.

I think there is a *huge* value in Question Time continuing to be political and I accept that that is an important part of what makes Question Time exciting. It is not just the Government as an encyclopaedia exchanging information across the floor of the House. We may as well just put that on a website. But it is about that context of information flow and the politics being interlaced into that without it becoming a legal cross examination, although there are too many lawyers in this Chamber, perhaps, for all of us not to fall into the trap of trying to make it that. So I think, and I will give way to the hon. Gentleman in a

1760 moment, that your strictures in respect of Question Time are appropriate and must be welcomed by both  
 1765 sides as long as they continue to be equally applied to both of us, the answers must be short and sharp and  
 1770 informative and not delve into the partisan, so long as the Questions are short and sharp and do not delve  
 1775 into the partisan. And if we fall into that rhythm, Mr Speaker, with a lacing of flavour of the political,  
 then we can actually – and I think this is what the Leader of the Opposition would like and I would  
 certainly like – then we can certainly find ourselves with a situation *like* Prime Minister’s Question Time,  
 which *is* the bear pit but moves quickly, *is* about information, and has reached almost that gladiatorial  
 moment in the week, which everybody who is slightly interested in politics tunes in to see. But I think it  
 requires us all to understand that those strictures are relevant in some way.

I will give way to the hon. Gentleman, if he wishes, now.

1770 **Hon. D A Feetham:** Mr Speaker, thank you very much to the Chief Minister for giving way.

Mr Speaker, by the very nature, Question Time is partisan. We are in many instances, in some of the  
 questions that we are trying to ask, not only trying to obtain information but may lead us on a trail of  
 enquiry that may lead us then to make a political point, but we are trying to make a political point in  
 relation to some of the Questions by the virtue of asking that Question.

1775 In relation to this particular episode that I have used as an example, and that the Hon. the Chief  
 Minister is also using as an example, I have to say that the Hon. the Chief Minister was not here at the  
 time. No doubt, he heard it on the radio. But he was not here at the time because it was the Hon. the  
 Minister Cortes.

1780 The answer that was given – and it is verifiable by *Hansard* – was, that, as far as he was aware – that  
 is what he said – ‘As far as I am aware, the Mayor of La Línea has not been briefed on the Fishing  
 Report.’ And I had a statement and the point that I was going to make is, well, how can that answer be  
 sustainable in the light of a statement that has emanated from No. 6 Convent Place after a meeting with  
 the Mayor of La Línea, saying that she had been briefed on aspects of the Fishing Report. To say that  
 that, somehow, is beyond the pale of Question and Answer sessions, I do not think that is, with respect to  
 the Hon. the Chief Minister, sustainable.

1785 I think what we have got to watch out for in Question and Answer sessions is for those sessions to be  
 getting out of control, for it to be personalised. As long as people follow and observe good standards of  
 reasonable behaviour that we all expect from Members of Parliament in this House and as long as the  
 question, the supplementary, is relevant to the subject matter of the original Question, whether it is  
 political or whether it is statistical in nature, even if it is political, I do not see that it is objectionable. And  
 1790 of course also, we have got to have regard, as I am reminded by my predecessor, the former Chief  
 Minister and Leader of the Opposition, Mr Caruana, that this arose out of the answer that the Hon. the  
 Minister gave to a question that Mr Netto had asked. In fact, it was the second supplementary – it was not  
 the fourth or fifth supplementary – and matters were not getting out of hand. I was just simply going to be  
 asking ‘Look, how can it be sustainable?’ I think that is not beyond the pale, so to speak.

1795 I accept that we cannot always get it right and none of us – none of us – I accept that we cannot  
 always get it right... I have my views in relation to this. Other views were expressed. I do not think that I  
 went – indeed, it has been subject of comment by former politicians. Mr Maurice Xiberras has also  
 expressed his views, the Editor of the *Chronicle* has also expressed his view in an editorial. I do not think  
 1800 that I over-stepped the mark or that my conduct at the time was beyond the pale and we have got to guard  
 against a situation where this becomes... we are treating each other with kid gloves at Question time. That  
 cannot be right: it is just going to put people off.

1805 **Hon. Chief Minister:** Mr Speaker, if I may, the issue is not so much the *subject* of what was going  
 on, you know the hon. Gentleman says he has a document which contradicts what the Minister says. As  
 ever in these instances, it is very likely that when we look at the document it does not entirely contradict  
 what the hon. Member says but that is the substance of the matter. The issue for me is, Mr Speaker, and  
 what I am talking about in particular, is that what we cannot do is defy the Speaker when we think Mr  
 Speaker may have got it wrong.

1810 What we cannot do, with respect, Mr Speaker, is become – and I do not want this to become a very  
 partisan debate, but because we are talking about Question Time and how it is structured, when we *think*  
 you get it wrong Mr Speaker – what we cannot do is become petulant and say ‘Now we are not going to  
 ask any supplementaries. ‘Industrial action’ of that sort, although it was very welcome by the  
 Government, because we were able to fly through Question Time, I do not think was conducive to the  
 way in which we have to deal with those issues.

1815 I think that we are *all*, Mr Speaker, learning lessons about how we are going to get to the right tone  
 and level of Question Time. I think it is right that we are embarked on that journey and that you have  
 taken us there and are putting us on the right track and that is, I think, what I am sure will deliver the right  
 balance so that we get to a PMQ style debate which is as exciting for Members opposite as it is for  
 Members on this side of the House and for those who are watching whilst, at the same time, being

1820 primarily about information and then, as I said, the partisan flavour or the partisan lacing that would make that exciting.

Mr Speaker, I think that to say that we are not doing enough in terms of the timetable that we issue is to ignore what the practice of this Parliament has been for forty years. Again, I –

1825 **Mr Speaker:** For twenty!

**Hon. Chief Minister:** I am obliged, Mr Speaker.

1830 For twenty years... Because I think it is fair to say that we are going out of our way to provide a timetable. I think that if we have a Select Committee which looks at the issues that we have discussed constructively, it may be, as I was saying to the hon. – can I just call him the hon. the backbencher: it is easier than the Hon. the-former-Leader-of-the-Opposition-now-the-backbencher – it may be possible to come up with a formula so that all of us know when in the month we need to be where. That makes it easier for all parties and the issue of the timetable becomes even *less* relevant. But until we have that...  
1835 the hon. Members opposite, some of them understand what it is like to be in Government, and they used to call three meetings of the House a year: calling them on a monthly basis, and sticking roughly to where we are, is a relatively hard job and I still, nonetheless, try and make sure that Members know who is going to answer Questions on what day. I do not know whether they are getting the timetable but we certainly try and make sure it is out as soon as possible, so that they have an idea of where we are going to be.

1840 But, of course, then the *other* issue is this: if you want to have the Minister for Justice, Education and Financial Services between 9.00 and 11.00 on the third Wednesday of the month and then the Minister for Social Services between 11.00 and 1.00, then we have got to have a time guillotine and that is what Members opposite were proposing. I was saying we should not have a time guillotine. Absent the time guillotine, I found myself compiling for this last session a timetable of Question Time which kept  
1845 changing because we did not reach the end of particular Member's Questions by the time that we thought we would reach it – although I must say on the last day it flew!

I think Members have to understand, it is *either* the clear timetable that we can all stick to because we have got time limits, or it is the substance guillotine that is going to allow them to continue to ask questions whilst Mr Speaker indulges them and the subject matter of the supplementaries continues to be relevant. In that context, if we move to a timetable, would it be easier, not just for single mothers, but for  
1850 all of us who are professionals, to plan our time better, whether we are in Government or still in the professions – of course, even for Mr Speaker and other Members of the staff of the House – to plan their lives better? I think we should strive for that. The Blair Reforms of the late 90s were designed to try and deal with the influx of what was known as the 'Blair Babes', a very large influx of women Members of  
1855 Parliament, who had responsibilities for families that, therefore, required that the time-honoured traditions of the House of Commons be changed.

I think we have changed the time-honoured traditions of this House to an extent, at least for the time that I was here because we no longer sit as late as we used to sit. We try and ensure that we get through the business of the House. The hon. Member talks about Siberia, 8 o'clock on a Friday evening: perish  
1860 the thought that you might be involved in a debate, eating take-away food at 10 or 11 o'clock in the evening: not unknown in the period before us. So I think that they need to understand that they have in the Government an ally in trying to ensure that we find a rhythm for the timetable which is as useful for Ministers and for the future Members of Parliament, who might be attracted to an easier running institution, but we have got to then, in the Select Committee, look at that balance between setting  
1865 timetables or keeping things relevant during the course of debate because they remain subject-matter relevant.

I do not know whether he wants to make a point.

1870 **Mr Speaker:** May I explain why I made the comment of twenty years.

I honestly think that Parliament today, with the timetable that it has, is conducting its affairs better than what the House of Assembly used to do at Question Time between 1972 and 1992. In Question Time what used to happen was that there was no proper timetable, other than that it was known that the most junior Minister would answer Questions first and so work up in order of precedence, as it were, of seniority, to the Chief Minister. Now that meant, effectively, that all Members of Government had to be  
1875 sitting on the Government benches throughout the meeting and, invariably, all Members of the Opposition in the same way. So, in a way, we were the slaves of a timetable which had no flexibility whatsoever. In that sense, I commend what Members have been trying to do. I think it is a better system. It does not mean that a Minister who is busy – otherwise busy – and needs to attend to Government business, has to be sitting here in case he needs to answer Questions if they go through very, very quickly,  
1880 or that a Member of the Opposition, who is only a part-time Member really, is also obliged to be here present.

So I do not want the House to think that, because I made that comment, I was disparaging the present practice. On the contrary, it is something that I support.

1885 **Hon. D A Feetham:** Yes, Mr Speaker. The problem that we are finding on this side of the House in relation to the timetable is... Of course, we know the order in which Questions are going to be taken, but what we do not know is, more or less, when a particular Minister is going to be questioned because we have had, in the past, say, for example, Chief Minister's Question Time at 3.00 p.m. and then there is an adjournment to the next week: or we have started with, I do not know, the Minister for Education and then, instead of continuing into the afternoon, it has been adjourned from a Monday to a Friday.

1890 Our preference, in order to give greater certainty to this question to solidify the timetable, is to have... we do not mind having a situation where the Chief Minister is questioned for three hours, or that Mr Licudi is questioned for – well, Mr Licudi is probably a wrong example because he is the Minister with many portfolios – but somebody like Mr Cortes is questioned for two hours in relation... and to have specific dates at specific times for those Ministers. That then allows everybody else to plan around the diary.

1895 He knows, and I am very grateful... Indeed, it gives me an opportunity to thank the Chief Minister for the adjournment the last time round: when it came a couple of weeks ago, it was my birthday. My wife had organised a trip away for three days for me and her: it was the first time in ten years that my wife and I were out of Gibraltar without our children. Now, she organised it, she asked me beforehand and I said 'Well, on this particular weekend I do not think there is going to be a Parliament on the Friday because the Chief Minister's Question Time usually is the third week of the month', so we planned it with the sort of more-or-less timetable, the way these things are going on now.

1900 But, of course, the Questions were then... We started off on the Wednesday, then it went on to the Thursday and then it went on to, I think it was the Tuesday, and then it got adjourned... I think the initial proposal was the Friday and I had to speak to the Hon. the Chief Minister and I am very grateful that, instead of having *this* Parliamentary debate on the Friday – although it would have been a bad day because it was the UEFA day – that he agreed to have the debate on this particular day.

1905 With a more certain timetable those things do not happen, because we are then able – everybody is then able – to plan their entire... their diaries, around Parliament. I think that is *one* of the reasons why we would not... why we are in favour – although not the only reason – of having specific slots of specific times in which we can deal with Questions of Ministers. Certainly, we are prepared to discuss this in the Select Committee when the Hon. the Chief Minister convenes it.

1915 **Hon. Chief Minister:** Happy Birthday! I did not realise that that was the reason. Happy Birthday. I did not realise that was the reason for the trip.

**Hon. D A Feetham:** Thank you very much. That would have explained it.

1920 **Hon. Chief Minister:** No, not that part, but anyway... Anyway, Mr Speaker, the issue of the timetable used to affect me. I was a Member of Parliament for eight years when I was not in Government and we have had all of these issues ourselves and we have been fairly roughly treated in the context of those eight years but it has made us who we are today so we are not even going to decry those eight years... Being a Member of Parliament involves responsibility and, unfortunately, sometimes of course, times change and what we have experienced may actually be something that is dealt with by the notice change. In other words, if there is seven days notice for Questions and not five, then it may be easier even to have all Answers to Questions ready in time: very often, some of these adjournments are led by needing to have Questions answered by those who are preparing the Answers. I think what we are all saying is that this needs to be looked at in the context of the Select Committee, so let us get on with it: it is not an issue that we need to labour.

1930 The hon. Member made the point about two terms and said that if he were ever elected as Chief Minister he would only do two terms. All I will say, Mr Speaker, trying to be as non-partisan as possible, is thank goodness for little mercies. If he ever does make it, at least we will have enough on record to make sure that he goes after eight years! (*Laughter*) Thank you. But he will understand, Mr Speaker, sometimes that it is particularly galling to hear those issues about the timetable when we have introduced the concept of the timetable and we are trying to pursue it.

1935 The hon. Lady, who is not here to hear this reply, talked about 'marathon sessions'. Well, a budget session is a marathon session but it is usually – I think in the time that we have been leading the House – it is the *only* marathon session and it is, perforce, a marathon session. It is one of the issues that I think – one of the debates, rather – that has Members most interested in what it is that *they* are going to say about their particular areas of responsibility. Usually it works, Mr Speaker, on the basis of speakers talking on the Government side about the year to come and speakers on the Opposition side about the year that is past. But it is the moment when each of us speak about a portfolio: it does get partisan and it is almost the



1945 high piece, the high set piece, of the Parliamentary year. I think it is right that it should be but, even then, the marathon is relatively constrained and we do not, I think, sit beyond seven or eight in the evening, just in the interests of getting through the speeches as quickly as possible.

1950 So, Mr Speaker, the issue of televising the House I think is now something that is going to enjoy, even when it comes to the rules, a fairly easy wind across the floor of the House and I think that is going to be a great opportunity for people to actually *see* the workings of this place, not just hear it. That, I think, will be a very good thing that the hon. Lady was talking about and that we all agree on. Then she came to this issue of Recommendation 18 at Paragraph 2.1.4, where the hon. Lady said that there was this allegation, I seem to hear her say, of ‘corruption’, and the hon. the backbencher, Mr Caruana, also referred to it. We did not read it in that way but there are clear issues that I have referred to before in respect of the funding of *Seven Days*. I think I was very clear on what my position was in Opposition. I did not make submissions to the Commission and neither did I ask anybody to make them on my behalf because I knew that I was going to have this opportunity to address the Parliament on them.

1960 But, in our view, and I have said before to the Hon. Mr Caruana when he was Chief Minister, when he was Leader of the Opposition, that his moral political compass went wrong on the *Seven Days* issues. There are issues there and it is right that they should be addressed. We think that they are now fully addressed by the publication – the *clear* publication – of all the amounts paid to media on the Government website and, although we will consider this in committee, I think that is quite enough and that is now quite clear. But, given how they have taken it, it may be that there is an issue to look at.

1965 I think there is *this* point to be made, given what was said by Members opposite. It is quite different to *advertise* in a publication than it is to *fund* a publication and I would say the difference is this, Mr Speaker: if a publication features advertisements from thirty, forty, a hundred different Parties and one of those Parties happens to be the Government, then you are advertising in that publication. If a publication only features advertising from the Government and *no* other Parties, or perhaps one other Party on an occasional week, then you are funding the publication. The Hon. Mr Caruana knows my argument. I have explored it a hundred times when I was in Opposition and we remain of the view that something went wrong there.

1970 Mr Speaker, the issue of petitions, I think, is one that needs to be considered by the Select Committee very carefully. Other parliaments have modernised the way that they deal with petitions, as I said in my earlier interventions. We already have the opportunity, if a petition is brought to the House, to debate it. It is tabled and we can consider it, as I said. But the hon. Lady said that, perhaps, with 1,000 signatures, a petition should have to be debated. Well, Mr Speaker, we all have, and put, different arguments as to our opponents’ relative political strengths but I dare say that they can muster 1,000 signatures and we certainly can. If we were in Opposition, we could stymie the workings of this House by bringing up six petitions every meeting of the Parliament signed by 1,000 people and I am sure that they could bring ten signed by 1,000 people and stymie the workings of this House and force us to debate petitions that are signed by 1,000 people.

1975 I think it is right we should look at modernising the petition procedure but I think that setting a number like 1,000 may be making each other hostages to fortune because we could each ensure that all we do in this Parliament is debate each other’s members’ petitions. So I think the Select Committee needs to consider that issue very carefully.

1980 I agree with Mr Caruana that this reform is not just about workings of Parliament although, of course, it is, but it goes beyond that. It goes further into our development as a people. As we develop our Parliament, and I think we do that in two ways – which I will come to – we also develop ourselves as a people. I think the two ways that we develop our Parliament is (1) as we are doing now and (2) in the context of further constitutional reform with the United Kingdom when it comes. Both of those have the effect of modernising and taking us forward in our journey as a people.

1985 The hon. Gentleman also talked about the ‘engagements’ question in the United Kingdom Parliament, which is in the context of the debate on Question Time, which is the question put to the Prime Minister to ask him about his engagements. I think it is right to say that those are not all the questions that are put to the Prime Minister. As I understand it, there are two or three of those put during the course of the day. Other than that, the Prime Minister *does* have notice of the questions that are put to him. I thought I heard him say that he did not, but he knows what is coming in respect of *most* of the questions that are put to him and there are three questions in the half hour where he is blind-sided by any issue that anybody wants to put to him. Very often those are put by backbenchers so they are very easy bowls of ‘Will the hon. Gentleman agree with me that he is doing an excellent job getting the UK economy back on track?’ so it is hardly the most challenging of questions that is put when the engagements question is put and I just want to deal with that by way of information to the House.

1990 He said that there was a Speaker’s ruling in the United Kingdom about what things the Government *should* say in the House and what things a Government should feel free to make statements about outside. Of course, again in the context of the United Kingdom Parliament, although it sits in terms, when it is sitting it is in permanent session and the Prime Minister can go to Westminster at any time to make a

statement. I think that is the difference with our Parliament, as well, that even in the renewed monthly setup, the Parliament would really only be in session for a week or two unless we have this power to bring it back and I would not want to be bringing Members back simply to make a statement. It would have to be something quite dramatic to bring Members back.

2010 And this question of public statements, once a Question has been put, which has also arisen on a number of occasions in the past months, I think it is important that that be understood. I think it would be wrong – although it was done on some occasions previously – to answer an Opposition Question with a public statement if somebody knows that there is a Question on the order paper and you had not already planned to make a public statement, because the other side of the coin there is that an Opposition Question could be used as a brake for a Government initiative. So, for example, if the Government announced – as we had – that we were going to advertise for a new power station by a particular date, I think it was the end of May, and I think two days had passed after the end of May and the advert had not appeared but had been sent to the press. If the Opposition Question comes in, does the advert go without the press statement, does the Question stop the press statement? I think these are also questions of degree, where the Government will want to respect the primacy of Parliament and deal with issues that are down for debate in Parliament in Parliament but also cannot allow its agenda to be stymied by the Opposition. That is a question of balance and degree, not so much an issue for the Select Committee but one of balance and degree that we have to get right. But, of course, if the Opposition were to say – and they do not say it in this way – but say, for example, they were to say, in their public statements about the Questions *they* had filed, ‘We have asked the Government why they have made these corrupt payments’, well, I think to ask a Government to wait nine days to answer something like that, I think would be an imposition. In that context, where the Opposition has said we have asked this Question, which is highly provocative, I think the Government is entitled to say ‘We are going to answer it in this particular way’. Again, it is a question of balance and degree that needs to be judged.

2030 Mr Speaker, I am not persuaded that there *has* to be a Bills Committee. I am persuaded that there is, voluntarily, the opportunity for the Government to consider these things in a committee, if we consider it appropriate. I think the Standing Orders already provide some mechanism for it and, again, it may be that this is an issue of awareness when it comes to particularly lengthy Bills, all of which are going through a longer period of public consultation. The point is this, and the Hon. Mr Licudi alluded to it. The longer periods of public consultation and the Command Paper process also enables Opposition and Government to engage on Bills for longer. We have six weeks after the new Constitution, eight if you add the bare minimum that we would consider appropriate in the context of a Command Paper. So that long a consultation period can also help for the Parties to engage, if not across the floor of the House formally, then less formally on a particularly lengthy Bill.

2040 I heard what the hon. Gentleman said about the Deputy Speaker and the irony was not lost on him or me as he moved to talk about there not being a requirement that Deputies be referred to in a Constitution, as to one particular intervention, one particularly memorable intervention he made in this House. I think he is right: that the fact that a post is not referred to in the Constitution does not mean that it cannot be made to exist by a legislative act. But I think it is also about understanding – [Interruption] Sorry?

2045 **Hon. P R Caruana:** A legislative act?

2050 **Hon. Chief Minister:** A legislative act, yes, or otherwise. As long as there is not a law that says you cannot call yourself the ‘Deputy Parrot’, then people can go around calling themselves the Deputy Parrot. (*Interjections*) But whether they have the power to then come and sit is different. Now, in that context, I think his intervention is a useful one. I think it is one that we need to follow up in the Select Committee. I am not so concerned about Members not being able to take the Chair because I think that the process is not that they take over as Speaker, but that they take over the *functions* of Speaker or that they at least take the Chair. So there may be an issue of further research to be done in that respect. But I think the Select Committee needs to do that and we have all agreed that the recommendations to have a Deputy Speaker are appropriate and now we need to find the mechanism to do that.

2060 The hon. Gentleman said that one of the reasons for allowing the expansion of Parliament was that anything which allows people to contribute to the political life of Gibraltar should be encouraged. If I may say so, I never felt encouraged by him in the time that I was here but that was part of the toughening-up process for this job, I guess! (*Laughter*) He is right that anything that encourages people to become involved in politics should be welcomed. But that does not necessarily *have* to mean in this House. I mean different political parties like different football clubs have different ways of recruiting. There are some football clubs that are known for having the ability to train youngsters in-house and to create stars in-house. There are political Parties in this House, those on *this* side, that believe that they have got a good, what you might call *cantera*, without the need to have Members brought up in the House on the basis of being backbenchers etc. I think there are other mechanisms for that but I think it is appropriate to also recognise that perhaps the backbench system might be one model. I just want to make the point that

it is not the *only* model.

2070 And I give way to the hon. Gentleman.

**Hon. P R Caruana:** Yes, Obligated, Mr Speaker.

There is a point that I had a note to make but then did not see my scribble in time to make it and it does dovetail well with the historical review that the Deputy Chief Minister gave us. The reason why there is no back bench in this Parliament is because we were a legislative Assembly.

2075 It is *typical* of legislative Assemblies that there is only a Government front bench and an Opposition front bench because it is not a Parliament. Only in a Parliament do you have Members of Parliament from which the executive is drawn but not in full to the executive on the Government side. It is one of the *trappings* of our history as a Chamber that we celebrate having left behind but seem determined not to do anything about. In other words, it is *not* a coincidence that there is only a front bench on both sides of this House: it is one of the characteristics of an Assembly as opposed to a Parliament.

2080 There is no parliament in the world with only front benches on both sides because that is not what parliaments are. Parliaments are not about Government and Opposition, they are about Members of Parliament, multi-party on both sides of the House, sometimes more than two sides of the House, from which is drawn, on one side, the winning side, a front bench – the side that commands the majority support – a front bench and, on the other side, a shadow front bench. But parliaments, as opposed to Assemblies, are not just about executives and Oppositions to executives and, for so long as there is not a back bench on both sides of this House, we will struggle to look to the outside world like a real Parliament, in my opinion.

2090 **Hon. Chief Minister:** Thank you for the point that the hon. Gentleman has made. Of course, now there is a back bench on that side and there could very well be a back bench here on the 5th July, if we are successful in the by-election. The question is whether enlargement is a necessary feature of having backbenchers and I think, at least for the sake of argument, he has demonstrated that it is not and I think that we have also demonstrated the possibility that there should not also be all front-benchers in this Parliament, even if we have done so in the context of these very tragic circumstances.

2095 I heard what he said about the Electoral Commission. I had said I did not have a fixed view and was willing to listen to what the hon. Member said. Mr Bossino also addressed the subject and we will consider those issues in the Select Committee.

2100 Mr Speaker, one of the issues that was raised was the question of this enfranchisement of the diaspora. Some of the examples that were given I think we need to pause and consider. For example, yes, United States Citizens are entitled to vote for their President wherever they are in the world, however long they have been there out of the United States, so long as they remain citizens of the United States and they carry that passport. As he will know from his practice, and perhaps even from his time in politics, they are also liable to pay the Exchequer of the United States, the IRS, tax on their worldwide earnings, wherever they may be living. It is really that principle of no taxation without representation that they are able to rely on, even if they spent the past twenty years in Australia. If they had wanted to retain their American passport, they continue to be liable for their American taxes and they continue to be chased, they continue to be chased around the world for their taxes by the IRS. Of course, they have the other side of the coin, which is the benefits coin, which means that they are entitled to vote in the US Presidential Elections and they are entitled to all the other benefits of being a US passport holder.

2110 I think it is important that if we were to accept the argument that the hon. Gentleman put about other nationalities being able to continue to vote, even when they have not been resident of their place where they were born and exercise the voting for many years, whether they also continue to have liability for taxation.

2115 **Hon. P R Caruana:** If the hon. Member... [*inaudible*] I beg his pardon. He knows that that is not the case in the UK, that the UK tax system is based on residence, the American tax system is based on citizenship. The UK tax system and our tax system are based on residence, therefore the American tax system taxes, whether they have got the vote or not, on the basis of residence and the UK allows the vote whether you pay tax or not because tax is based on residence not on whether you have the vote. A UK citizen who votes, notwithstanding that he lives in Australia, does not pay tax in the UK simply because he has the right to vote there.

2125 **Hon. Chief Minister:** He is absolutely right, Mr Speaker, but they do not retain the vote for good. They retain the vote only for a short period after having left the United States: I do not know whether it is two years in the United Kingdom. I do not know whether it is two elections or otherwise, but it is not for life and, in the American context, it is whilst you continue to hold your American passport, however long you may have moved out of the United States. So all I am saying, Mr Speaker, is that it is not as easy to say that, in other cases, others continue to have that right even though they have moved away. And if you

2130 were to approve, for example, Mr Speaker, in the Select Committee, the same example as the United Kingdom citizens, then we might find that there are a lot of people who live very close to Gibraltar who, after two elections, would lose the vote because they have been living out of Gibraltar in areas very close to Gibraltar for more than ten years. So it is right that we should look at this but, Mr Speaker, we are not going to be persuaded that those models that have been referred to us are determinative of the issue.

2135 Mr Bossino dealt with a lot of the issues that the Hon. Mr Caruana also dealt with and I note that there is some divergence of opinion between what the GSD front bench have referred to the House as their point of view and those points put by Mr Caruana. *(Laughter)* We note that difference of opinion. It helps today to inform the House of different potential solutions for the Select Committee to look at but we do, of course, note that there is a division on a number of issues.

2140 The Hon. Mr Reyes said that the context of when Parliament lives out its time and an election is called automatically, a Government is presently entitled to three months of life, in that context, with Parliament dissolved, they would not even have the monthly meetings and that seemed quite anti-democratic. That is exactly why I said that I felt that in that context was the only context that I could see that this question of changing the three months for forty-two days might be relevant but I do not see that it is relevant in any other context because the Chief Minister has that ability to call the election for whatever date he wishes and simply hold back, or not hold back, until he hits that buffer, which is the four year anniversary of the ceremonial opening of the House and, in that context, I understand it.

2145 Mr Speaker, it is late in the day and the issues that were raised by Mr Reyes for Mrs Isobel Ellul-Hammond, I venture to say, hit a very discordant note because they were very partisan points relating to an issue that we have been fighting over in press releases. I am not going to go into this issue of the GBC board: we have explained our position as to what the GBC board is today and what it deals with today and what it used to deal with before, which included editorial decision-making or appeals from editorial decisions by political parties and how it does not do those things today. But I was struck by the statistic that was put to us by Mr Reyes, as if it were a bad thing. Well, Mr Speaker, I must say, I think that statistic has improved considerably since 8th December and one of the things that the GBC board does is now reflect more women on the board than ever before, a member of the Jewish community on the board, a member of the Hindu community on the board, something which I think the Hon. Mr Caruana established when he was appointing the board – that was representation of those communities, So in terms of representation of minorities and representation of women, I think they picked exactly the wrong board on which to take issue. But those issues have been ventilated in press releases and I do not think there is any further need for us to consider the matter further.

2150 The Hon. Mr Netto made an intervention, which was a personal intervention, to which Mr Speaker has replied, giving his view. I respect Mr Netto's right to put that view and propose to him, Mr Speaker, that he should put an amendment in the terms of what he was proposing in the context of his speech and that all Members should then have an opportunity to vote on that proposed amendment so that he can test whether there is any traction for his view in the context of the Parliament as it is today. Can I just therefore end, Mr Speaker, this first part of my reply, by putting to Members a proposed amendment – a proposed amendment to the motion, where what I would do is delete the words '**WILL NOW CONSIDER** in this meeting those recommendations in detail' and insert the following alternative paragraph, and Members are getting a letter which sets this out.

2170 *"Having today debated and considered the recommendations of the Report;  
WILL REFER the Recommendations of said Report to a Select Committee on the Implementation of the Recommendations of the Independent Commission on Democratic and Parliamentary Reform (to be known as the Select Committee on Parliamentary Reform) which is hereby established to consider the implementation of appropriate recommendations of the Report."*

And I think that leaves open...

2180 **Hon. P R Caruana:** Would the hon. Member give way?

**Hon. Chief Minister:** Yes, I will.

2185 **Hon. P R Caruana:** I do not have the remote possibility of an amendment of an amendment, with all the complications that would bring for rights of reply.

The text has not reached me but did I hear him say that the brief for the Select Committee was to make decisions on the implementation, (**Hon. Chief Minister:** Yes.) as opposed to reviewing which of the Recommendations may be acceptable? We do not want to use language which assumes that they are all acceptable and we are just going to discuss the implementation of them.

2190 **Hon. Chief Minister:** The language, Mr Speaker, I thought was the language that he and I had agreed this morning and discussed also with the Leader of the Opposition, which was that *all* the

2195 recommendations should be sent to the Select Committee so we do not just choose today and in the Parliament, by Government majority, which should be put to the Select Committee. We send them all to the Select Committee, the Select Committee is then free to come back with the Recommendations to the Parliament. I think we have heard what the positions of Government and Opposition are in respect of each of the particular Recommendations and then we can come back, if he sees the last sentence, ‘*to consider the implementation of appropriate Recommendations of the Report.*’ So that the Committee can then take the view of appropriateness of those Recommendations.

2200 I am quite happy to consider language if he wants –

2205 **Hon. D A Feetham:** Mr Speaker, perhaps before he moves this amendment because, again, for reasons that my colleague the Hon. and my Learned Friend Mr Caruana has said that we shorten the exchanges. If we adopt this particular wording and refer ‘*the Recommendations of the said Report*’, what we are not referring to the Select Committee is on anything on which the Report does not make a Recommendation. So enlargement, for example, there is no Recommendation...

2210 I would just simply write: we will refer ‘*the said Report to a Select Committee*’ rather than the Recommendations. It is ‘*the said Report to a Select Committee*’ and then they can consider the – and I think that deals with the point.

**Hon. Chief Minister:** I told him this morning, Mr Speaker, I have no difficulty with that and I did not intend by this amendment not to leave that out, so I am happy to say ‘*will refer the said Report to the Select Committee*’ and I think that then deals with the point.

2215 **Hon. J J Netto:** Mr Speaker, just before the Hon. the Chief Minister sits down, will he be able to indicate to me when is it possible for me to make an amendment to the motion. Is it –

**Hon. P R Caruana:** We are not there yet.

2220 **Hon. J J Netto:** We are not there yet.

2225 **Hon. P R Caruana:** My point was slightly different and it arises in the second line, which is: ‘*will refer the Recommendations or the Report*’ – whichever of the two – ‘*to a Select Committee on the Implementation of the Recommendations...*’ In other words, the Select Committee, unless that is what the Hon. Chief Minister means, is not a Select Committee to *implement*, it is a Select Committee to *consider*. Presumably, the implementation ....

**Hon. Chief Minister:** Is this in the last sentence?

2230 **Hon. P R Caruana:** Yes.

**Hon. Chief Minister:** ‘*To consider the implementation of appropriate Recommendations*’?

2235 **Hon. P R Caruana:** Yes, but by what process is whoever is going to decide going to decide which of the Recommendations are accepted. Is the hon. Member suggesting, which could be one way of doing it but just so long as we are clear, is the hon. Member suggesting that it is *this* Committee, the Select Committee, that would decide on the Recommendations which to accept and *then* go on to consider the implementation details of those that *it* has decided will be accepted, as opposed to this Select Committee considering and discussing the Recommendations from which both the Government and the Opposition will be able to measure the degree of consensus that exists, leaving the process of *actual* adoption of Recommendations to the House. It should be the House that decides which of the Recommendations it accepts, *not* a Select Committee. The Select Committee should consider and then, on the basis of the discussion, and, hopefully, the consensus-building that is in that Committee... Yes.

2245 **Hon. Chief Minister:** Yes Mr Speaker, it is not the intention that the Committee should then run off and implement. The Committee has had the benefit of today. It could then, after today, determine and implement. I do not think it is *empowered* to do that because a lot of what is going to require implementation is actually going to require motions to amend Standing Orders, legislation to amend the Parliament Act etc. etc. So, necessarily, the work of the Committee needs to involve a referral back to this Chamber so that, as a Chamber, either we adopt those parts of the consensus that the Committee can put to us, and there may be some which have to be dealt with by way of partisan vote on the 10:7 basis. So I am quite happy, if the hon. Gentleman considers it appropriate, I think this does the job and this is what it was intended that we should be able to deliver.

2250 So, on that basis Mr Speaker I therefore move the amendment that I have given you notice of without

2255 the words “*Recommendations of*” in the first sentence that starts with “*will refer*”.

**Mr Speaker:** May I ask the composition of the Select Committee: is that to be deferred to a later date?

2260 **Hon. Chief Minister:** Mr Speaker, I said, during the course of my intervention, that I believed it should be three Members appointed by the Chief Minister – or including the Chief Minister, if he wants to be on it – and two Members appointed by the Leader of the Opposition. I have not reflected that here: I said that during the course of the debate. I am happy to reflect it here or, if the hon. Gentleman wants to take it as read and the Clerk will make a note, then we can make those composition notes.

2265 **Hon. P R Caruana:** Mr Speaker, yes, I think, as a matter of procedure, the Select Committee has to be established by resolution of the House, so it is not just about referring this to the Committee. I think there ought to be a paragraph establishing the Select Committee.

2270 **Hon. Chief Minister:** ‘Which is hereby established?’

**Hon. P R Caruana:** And the composition of it, I think, is also required...

2275 **Hon. Chief Minister:** Put it in there?

**Hon. P R Caruana:** Yes, I think it is a requirement.

2280 **Mr Speaker:** I am prepared to be very liberal. Is there any reason why Standing Orders should not be suspended, with the approval of all Members, and a separate motion dealing with the composition of the Select Committee can be taken...

**Hon. P R Caruana:** We could, alternatively, just add here: ‘...*which is hereby established and consisting of two Members nominated by the Leader of the Opposition and three by the Chief Minister.*’

2285 **Hon. Chief Minister:** Yes, it would simply say: ‘... *is hereby established to include three members appointed by the Chief Minister and two by the Leader of the Opposition to consider the implementation...*’ and then we have got it.

So I formally move that amendment.

2290 **Mr Speaker:** Let us see whether we can have copies of the complete amendment.

In the meantime, while we await the complete amendment, I am prepared to propose – so that we can get on with the debate – I am prepared to propose the amendment in the terms moved by the Chief Minister and, therefore, I invite Members of the Opposition to express a view. (*No Member rose to speak*) Okay, in that case, we shall await until we receive the actual amendment and then we can put it to a vote.

2295 **Hon. P R Caruana:** In the meantime, we might be able to proceed with any other amendments. Ah, yes.

2300 **Mr Speaker:** Now, is the Hon. Mr Netto moving an amendment to *this* amendment?

**Hon. P R Caruana:** No, to the motion, as amended. (*Interjections*)

2305 **Mr Speaker:** To the motion after we amend it? (*Interjection*) We vote on the present amendment. (*Interjection*) No? (*Interjection*) Let me now read, for the record, what the amendment proposed by the Chief Minister is. The amendment is to delete the words ‘**WILL NOW CONSIDER** in this meeting those *Recommendations in detail*’ and insert therefore the following alternative final paragraph:

2310 “*Having today debated and considered the Recommendations of the Report; WILL REFER the said Report to a Select Committee on the Implementation of the Recommendations of the Independent Commission on Democratic and Parliamentary Reform (to be known as the Select Committee on Parliamentary Reform) which is hereby established to include three members appointed by the Chief Minister and two members appointed by the Leader of the Opposition to consider the implementation of appropriate recommendations of the Report.*”

2315 That is the amendment. Does the Chief Minister wish to exercise a right to reply.

**Hon. Chief Minister:** There is nothing to reply to.

2320 **Mr Speaker:** No.  
I will then put the amendment to the House.  
All in favour? (**Members:** Aye.) Those against? Carried.  
We now, therefore, have the motion – the original motion, as amended.  
Now, the Hon. Mr Netto.

2325 **Hon. J J Netto:** I am grateful, Mr Speaker.  
I would like, if I may, to bring an amendment to the motion and therefore seek a vote so

2330 *‘That the recital of the Prayer is not continued when Parliament is in session in the Legislative Chamber, this to ensure that we can draw a separation of Church and State during the proceedings of Parliament for the reasons alluded by me at my speech, thereby maintaining a position of neutrality and respect in the freedom of everyone, regardless of opinions of consciousness.’*

2335 **Mr Speaker:** May I have a copy of the proposed amendment.  
The Hon. Mr Netto is moving an amendment to the effect that the following be added to the amended motion now before the House, and the following being:

2340 *‘That the recital of the prayer is not continued when Parliament is in session in the Legislative Chamber, this to ensure that we can draw a separation of Church and State during the proceedings of Parliament for the reason alluded by me at my speech, thereby maintaining a position of neutrality and respect in the freedom of everyone regardless of opinions of consciousness’.*

Does the hon. mover wish to speak in support of this amendment.

**Hon. J J Netto:** Not really, Mr Speaker, because I would be regurgitating what I said earlier on.

2345 **Mr Speaker:** Okay.  
I therefore invite any hon. Member who may wish to do so to speak on the amendment now before the House.

2350 **Hon. Chief Minister:** Mr Speaker, if I may just say this: the hon. Gentleman spoke passionately about his beliefs and, in that context, engaged an issue of belief and therefore, certainly on this side of the House, Members should be free to vote with their own conscience on issues which affect belief and there will not be any question of any Party whip to vote in a particular way.

2355 **Mr Speaker:** Does any Member of the Opposition wish to speak?

**Hon. P R Caruana:** Yes.

**Mr Speaker:** The Hon. Mr Caruana.

2360 **Hon. P R Caruana:** For my part, I shall be voting against the amendment. I have every respect for my learned colleague Mr Netto. I do not think that anybody’s freedom of conscience is assailed or attacked or undermined by this House maintaining its traditions. The Prayer is carefully worded in that respect. I think that the tradition of starting our meetings with a Prayer is firmly established, it forms part of the heritage of this trust.

2365 I do not personally accept that equality of anything requires those of us who value the Prayer to be obliged to desist from uttering it and that tolerance works both ways. It means respecting the wishes of those who do not believe but also respecting the wishes of those who do believe and tradition is in favour of not changing the *status quo* in that regard. So I would urge this House to defeat the motion moved by Mr Netto and that way we maintain the equilibrium of respect that has always characterised this community, in terms of tolerance of conflicting religious views or those people who have no religious convictions of any kind.

2370 **Mr Speaker:** Does any other hon. Member wishes to speak. The Hon. Leader of the Opposition.

2375 **Hon. D A Feetham:** Mr Speaker it is a matter of conscience for my hon. Friend Mr Netto that is why on this side of the House where we have a tradition on matters of conscience not to impose a three line whip so to speak on those issues and to allow a free vote. That is why I have allowed Mr Netto not only to raise it but also, as Mr Netto quite rightly pointed out in his speech, on this side of the House we will

2380 certainly have a free vote on this particular issue.

I have to say that I personally do not agree with it, I do not agree with it for much of the very same reasons that the former Chief Minister and Leader of the Opposition, Mr Caruana, has articulated during his short intervention, but I think that it is a sign of the maturity of this Parliament and this place that, at the very least, that we allow people such as Mr Netto who have strong views on issues of this nature, to ventilate and articulate those views and for us to be allowed, on both sides of the House, because the

2385 Chief Minister has also made the point, to vote freely without any kind of party whip on an issue such as this, one of conscience.

**Mr Speaker:** Does the hon. mover wish to exercise his right to reply?

2390 **Hon. J J Netto:** Not as such, Mr Speaker, but I would like to say whether we can have a division of the votes when voting on this amendment.

**Hon. Dr J E Cortes:** Mr Speaker, I would like to make a very brief contribution.

2395 **Mr Speaker:** Yes.

**Hon. Dr J E Cortes:** Mr Speaker, I too will be voting against the amendment for the simple reason that my beliefs and any Prayer that I may say at the opening of a session in Parliament will never affect my position of neutrality in respect of the freedom of everyone, regardless of opinions of conscience.

2400

**Mr Speaker:** Let us make this clear before I put the matter to the vote. Does any other hon. Member wish to speak on the amendment moved by the Hon. Mr Netto.

Mr Bossino.

2405 **Hon. D J Bossino:** Simply to associate myself, Mr Speaker. I will be voting against the amendment and associate myself with your contribution earlier on today and the contribution of both the Leader of the Opposition and my Learned and Hon. Friend, Mr Caruana.

I take the Prayer very seriously. I do require, as an ordinary mortal and human being and certainly a believer, stating my Christian beliefs openly on public television in the past, as a firm believer and proud of my Catholic faith, that I do require the assistance of God Almighty when I am deliberating on important matters in this Parliament. So simply to confirm, Mr Speaker, that I will be voting against the amendment to this motion.

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2415 **Mr Speaker:** The Hon. Mr Reyes.

**Hon. E J Reyes:** Thank you, Mr Speaker.

I will also be voting against the amendment being proposed by my hon. Colleague. May I clarify, Mr Speaker, am I right in interpreting that you hinted from the Chair before, that those who are non-believers, because the Prayer is said, at the moment in time when the matters being taken are still... not forms part of the Agenda, that they may actually stay in the ante-Chamber and, once the Prayer is concluded, come in. If that is the case, even more so why I will vote against this amendment because, that way, I am entitled to carry on practising my Christian beliefs and, at the same time, respect and take no offence that other hon. Members may not wish to come to the Chamber until I have been able to exercise my Christianity.

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**Mr Speaker:** The hon. mover, does he wish to say anything?

**Hon. J J Netto:** Nothing extra to add to what I have already said, other than when the vote is taken I would like to have a division of the votes.

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**Mr Speaker:** Being a free vote, the normal thing would be to have a division.

**Hon. Chief Minister:** Do we call a division now, Mr Speaker. I think it has to be called now.

2435 **Mr Speaker:** Yes, now.

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**AYES**

Hon J J Netto

**NOES**

Hon D J Bossino  
Hon P R Caruana  
Hon Dr J E Cortes  
Hon N F Costa  
Hon D A Feetham  
Hon Dr J J Garcia  
Hon G H Licudi  
Hon S E Linares  
Hon F R Picardo  
Hon E J Reyes  
Hon Miss S J Sacramento

**ABSENT**

Hon P J Balban  
Hon J J Bossano  
Hon Mrs I M Ellul-Hammond  
Hon S M Figueras

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**Mr Speaker:** There are four hon. Members absent, there is one vote in favour of the amendment and eleven votes against the amendment: the amendment is defeated.

So what is now before the House is the motion, as amended and, on that motion, as amended, the only hon. Members that can speak are those who have not spoken already.

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**Hon. Chief Minister:** Mr Speaker, I think that it is left... it has come back to me now as an amended motion and I think that the business of the House –

**Mr Speaker:** But it does not preclude... any Member who may not have participated previously can speak, if they want to, on the motion, as amended.

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**Hon. Chief Minister:** Well, Mr Speaker, I think, with respect, it does but I do not think anybody else wants to speak on the motion because they had the opportunity to speak before I started my reply. This was my reply to the original motion but my only contribution now is to ask you to put the motion, as amended, to a vote.

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**Mr Speaker:** Very well, Mr Speaker, I will now put the motion, as amended, to the House. Those in favour? (**Members:** Aye.) Those against? Carried.

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**ADJOURNMENT**

**Clerk:** The Hon. the Chief Minister.

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, thank you.  
In the context of the motion, if I can just inform the House it will be my intention to call a meeting of the Select Committee very shortly indeed, at least to start the process of timetabling the work of it.  
I now have the honour to move, Mr Speaker, that the House do now adjourn *sine die*.

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**Mr Speaker:** I now propose the Question, which is that this House do now adjourn *sine die*.  
I now put the Question, which is that this House do now adjourn *sine die*.  
Those in favour? (**Members:** Aye.) Those against? Passed.  
The House will now adjourn *sine die*.

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*The House adjourned sine die at 6.55 p.m.*