



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 2.35 p.m. – 6.25 p.m.

Gibraltar, Friday, 30th May 2014

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# The Gibraltar Parliament

*The Parliament met at 2.35 p.m.*

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

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

## Order of the Day

### BILLS

#### COMMITTEE STAGE AND THIRD READING

##### **Prison (Amendment) Bill 2014 – Committee Stage and Third Reading to be taken at this sitting**

**Substitute Clerk:** The Hon. Mr Licudi.

5 **Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Prison (Amendment) Bill be taken later today, if all hon. Members agree.

**Mr Speaker:** Are all hon. Members agreed that the Committee Stage and Third Reading of the Prison Bill be taken today? (**Members:** Aye.)

#### FIRST AND SECOND READING

##### **Public Health (Amendment) Bill 2014 – First Reading approved**

10 **Substitute Clerk:** A Bill for an Act to amend the Public Health Act.  
The Hon. the Minister for Health and the Environment.

15 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, before I move I would like to call attention of the House to the fact that I wrote to Mr Speaker to advise him that there had been an error and the Bill had been published in two successive weeks in the *Gazette*. Therefore the Bill that appears as Item V on the list in the Order Paper should be withdrawn because it is an identical Bill that was published in error on a second occasion.

Then, Mr Speaker, having said that I have the honour to move that a Bill for an Act to amend the Public Health Act be read a first time.

20 **Mr Speaker:** I now put the question that a Bill for an Act to amend the Public Health Act be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Public Health Amendment Act 2014.

**Public Health (Amendment) Bill 2014 –  
Second Reading approved**

25

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

Mr Speaker, as a child, like so many Gibraltarian children at so many times through its history when travel was more difficult and other pastimes scarce, I would spend many hours with my parents and grandparents playing in the Alameda Gardens. I remember the plants and the care that they were given. I would look over the bridge into a magical glade and sit on the old guns dreaming of adventure.

As a youth, already with a keen interest in nature, I would walk through the Alameda on my way to my bird watching outings on the Upper Rock and then I would go into the Garrison Library and research into the rich history of the gardens, relishing the accounts of the travellers of yesteryear.

In the early 1980s I saw the gardens gradually decline; but as the years went by and I became more aware of the silence that backdrops nature, I recognised their potential more and more. When in the late 1980s, through a chance conversation with a friend, the opportunity arose to become more closely involved, I prepared a proposal for their conversion into a botanic garden. This was accepted by the Government of the time, that of the first GSLP Administration.

Since then, through hard work and persistence and with the support of successive Governments and six successive Ministers, the gardens developed from a derelict public park into a real botanic garden, renowned not just in Gibraltar, but around the world too for its beauty, its special plant collections, its educational value, its work in conservation as well as its wildlife park and of course its stunning open air theatre. It is, among other things, recognised as a member of international organisations, such as the International Association of Botanic Gardens and Botanic Gardens Conservation International.

Significantly, Mr Speaker, the gardens have been responsible for the discovery of new species of plants and invertebrates and for the saving of species from global extinction: the Gibraltar Campion, a flower unique to the Rock of Gibraltar.

Mr Speaker, I dedicated two decades of my life to this place and I believe was able to steer it through successive Administrations, keeping it away from political controversy by concentrating on the tasks and challenges I faced. I pay tribute here now to the successive members of staff of the gardens through the years for their vital contribution to this work.

Mr Speaker, the Alameda Gardens are defined in statute, but its role as a botanic garden is not. A botanic garden is as important in defining a country's identity through natural heritage, as a museum is in defining its character through its history. No-one, for example, will question the role of the Royal Botanic Gardens at Kew, nor the fact that its status is equivalent to that of the British Natural History Museum and the British Museum itself as an institution of scientific, educational and recreational excellence.

Mr Speaker, in the same way then that the Gibraltar Museum is defined in Gibraltar law, the Government feels that the Gibraltar Botanic Gardens should be likewise defined and recognised.

Mr Speaker, this Bill seeks to amend the Public Health Act to define the Alameda Gardens as Botanic Gardens, with the roles and functions of any such institution worldwide. It is a particularly fitting time to do this, Mr Speaker, as the gardens were officially opened in April 1816 and so are approaching their 200th anniversary.

With a slight amendment notified by letter, Mr Speaker, which aims not to restrict the enjoyment of the gardens to residents of Gibraltar – important given the increasing number of tourists including those visiting on cruise ships – and in the knowledge that the work of the gardens and its progress have been supported and made possible by both GSLP and GSD Administrations, I call on the support of all Members and commend this Bill to the House.

**Several Members:** Hear, hear. (*Banging on desks*)

**Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?

The Hon. the Leader of the Opposition.

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

Mr Speaker, I am tempted by starting my comments in relation to the Bill by saying to the hon. Gentleman, it does not appear *que tiene abuela*. This morning, I complimented the Minister for Justice quite extensively and he has now complimented him himself quite extensively. (*Laughter*) But look, in the spirit of the way that we have been conducting proceedings so far today, I will not hold it against the hon. Gentleman.

Mr Speaker, we cannot vote in favour of this Bill. We cannot vote in favour of this Bill on a point of principle, and the principle is this, and it is going to be... foreshadow, our attitude also in relation to the Commonwealth Park.

85 The point is this, that constitutionally no Parliament can bind a future Parliament. So any legislation that we introduce now about perpetually setting aside Alameda Gardens, could not perpetually set aside Alameda Gardens for any purpose if a future Parliament decided to effectively change the law.

I do not see why we ought to be introducing legislation of this nature. I want to make absolutely clear that neither the GSD, nor indeed the GSD whilst I lead it or whilst any of the people present today ever lead the GSD would intend to change the use of Alameda Gardens to anything other than what it is today, but I do not think that it is right to introduce legislation that perpetually seeks to effectively bind future Governments when the reality is that is not possible. So all you would be doing really is ensuring that if any future Government wanted to change the law, it would have to come to this House in order to debate the issue. But, quite frankly, there would be such a public outcry if anybody were to try and change the use of Alameda Gardens that it would be absolute political suicide and turkeys voting for Christmas if any future Government decided to do that. So we are not going to be voting against it, Mr Speaker, but we will certainly abstain. We are not voting in favour.

100 Mr Speaker, I would also ask the hon. Gentleman just to explain and to provide some clarity in relation to Section 269(2)(d) which says, 'may allow the public to be excluded from the Alameda Gardens or parts thereof and for a reasonable fee for admission to be charged'.

Can he explain what the intention is in relation to this particular clause that obviously is a different point to the point that I have made.

105 **Mr Speaker:** The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I was in the Ante Chamber, but I heard all of what the Hon. the Leader of the Opposition has said in relation to what he said was the point of principle that led them to indicate that they would not be able to support this Bill, and already to indicate that a Bill that is on the Order Paper is not one that can be proceeded with until after 25th June, almost a month from now, is also not likely to enjoy their support.

110 Can I just ask him to reflect a little bit on the principle that he has enunciated and consider whether in fact there is not actually room for them to come on side with the Government and understand why it is that we are doing this, especially given the fact that he has told the House this afternoon that certainly a GSD under him or under any other person on the Opposition benches at the moment would not, if they were ever to be in a position to do so from Government, be seeking to change the use to which the Alameda Botanic Garden is being put?

115 So in those circumstances, given that we are dealing with a putative third Government – in other words, one not led by anybody in this room today that evinces the intention of not in any way effecting the Botanic Gardens and their use – why would we not want to...let me use this word 'entrench' in legislation the principle that these gardens are going to be used simply as gardens?

120 Well, the hon. Gentleman says that Parliaments cannot bind their successors. Governments cannot bind their successors. Of course, Mr Speaker, that is not true. Governments do bind their successors and he will know, and if the hon. the backbencher were here, he would be able to bear out that in the same way as they in Government were bound by contracts entered into by the GSLP Administration before 1996, the GSLP Liberal Administration of 2011 is bound by contracts entered into by them, some of them on the eve of the Election. So Governments do bind their successors contractually and Governments also bind their successors through legislation – for example, we have passed swathes of legislation this morning which binds the next Parliament and the next Government, unless and until another Government comes to this House or an individual can come to this House on a Private Member's Bill and garners a majority of it and then a Rule can change.

130 The hon. Member's reason for not supporting this Bill is a good reason for not supporting any Bill and of course belies the principle of legal certainty. The principle of legal certainty is that the Rule is on the statute book and must be observed whilst it is on the statute book – of course, an issue that we shall come to perhaps later on when we deal with the motion. But until such time as a Government or individual, a majority of this House however garnered, makes a decision to pass a statute that contradicts or supersedes or in some way overturns an earlier statutory provision, it is on the statute book and must be observed. Therefore, given that we protect the rights of individuals and the rights of corporations and we protect society in so many ways against so many evils, in so many statutes and so many sections, why not extend that protection to the use to which a particular area of Gibraltar is being put.

140 Let me give him another example. We do it today here by statute. In part it is done through the Gibraltar Development Plan. You may have seen in recent weeks, Mr Speaker, reference in correspondence in local newspapers where people have spoken about the relevance and the enforceability of the Plan in relation to

145 the area of Europa Point, for example, and of course Alameda Gardens is an area which in the Development  
Plan is a garden. The Development Plan as it stands does not cover, for example, Commonwealth Park as a  
garden, where it appears as an area of car parking, an open space available for development. We are going,  
Mr Speaker, therefore an extra mile. We are adding a layer of protection and of course it is right. Perhaps  
even for very good reason in future a Government might need to come and say, ‘We need to get rid of the  
gardens’. I doubt there will ever be a reason good enough for John Cortes and perhaps never a reason good  
150 enough for any of us, but who can tell where Gibraltar will be in the 22nd century BC... AD, sorry. Who  
could tell what the needs of Gibraltar then might be?

We think it is right that if there comes a need in order to redevelop that area, that the Government that is  
going to seek such redevelopment comes here and seeks the approval of the Parliament, and in that way the  
approval of the people for that redevelopment. It is simply an extra layer of protection, but I cannot see why  
in principle they would not accept my invitation to *add* that layer of protection to these non-urban areas.

155 I know that the Commonwealth Park is new. That it is our manifesto commitment and not theirs, and I  
know that there has been an element of controversy about that and I can understand why the area of the  
Commonwealth Park might be an area that we might not enjoy their support on, unless they are prepared to  
say, ‘Well, look, it was not our idea, but we think it works and we want it protected’. But the Alameda  
Gardens go back centuries already. They are an area that I think are close not just to botanists’ hearts. I  
160 think they are close to the hearts of all of us in different ways and I cannot see a reason why not to require a  
future Chief Minister to come here and explain to him, or explain to me if I am on that side, or explain to  
any of us, or explain to any generation of Gibraltarian, why it is that this is necessary and perhaps even  
carry the full support of the Parliament because *in extremis* – and we cannot see the future – it may one day  
become necessary. Let us... please, God, that it does not happen.

165 So given the intentions that they have evinced not to touch Alameda Gardens, I think that is genuine and  
I accept that as genuine and I park the Commonwealth Park point, but as a matter of principle, accepting  
that at least until they move the Bill and come to this House and make the explanation, they would find it  
impossible to tamper with the gardens – it is not something that could be done by a DPC or by a change in  
the Development Plan... consider adding that layer of protection in the hands of the elected representatives  
170 of the people, such as they may be at such time were the Bill ever to come in this Parliament.

**Mr Speaker:** Does the mover wish to reply?

175 **Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I am not  
the mover. The mover is Mr Cortes, but I do want to make a short – (*Interjection*) If he asks – (*Laughter*  
*and interjections*)

Mr Speaker, the Chief Minister said just about everything that needs to be said in relation to the point  
that the hon. Member has said, but I rise only because what has been raised is a matter of legislative  
principle, and I rise as Minister for Justice, responsible generally for legislation.

180 Again, asking the hon. Member to consider the point that he has made, because I genuinely believe it is  
incorrect. It is an incorrect position of principle to take. If it is simply, as he has explained, a point of  
principle, rather than a disagreement with the substance of what this Bill is supposed to do, then it is  
important to reflect as to whether the principle is correct.

185 **Hon. D A Feetham:** Will he give way?

**Hon. G H Licudi:** Yes, Mr Speaker, I will be happy to give way.

190 **Hon. D A Feetham:** Mr Speaker, thank you very much. I am very grateful to the Hon. the Minister for  
Justice for giving way.

Mr Speaker, may I just first of all before I deal with this also come back to some of the comments made  
by the Hon. the Chief Minister. There is of course a fundamental distinction between a situation that we  
have here today and a situation where one Government is bound by a contract entered into by a previous  
Administration. As a matter of simple contractual law, the Government of Gibraltar is one continuous  
195 constitutional entity and simply because there is a change of Government does not mean that what a  
previous Government does, does not bind a subsequent Government. I do not believe that the analogy in  
respect of contracts is an apposite analogy for the purposes of today’s debate.

The reality is – and this is the point that I am making – that nothing that this Parliament does today can  
possibly bind a Government in the future. The word that I find... the word that draws my attention – it is a  
200 word that I think is also in the other Bill – is the word ‘perpetually’. If the Government had come to this  
House and basically just simply had this Bill setting aside Alameda Gardens for the purposes of health,  
recreation, enjoyment of all persons resident in Gibraltar, I think we would probably have taken a different  
view. I do not know whether the Government wants to consider an amendment to just simply delete the

205 word ‘perpetually’ and then it would have the support, the cross-party support, because of course if you  
 remove the word ‘perpetually’, the reality is it sets aside Alameda Gardens in a way that, for example, a  
 previous Government...indeed it was the GSLP Government in 1991 and I will have something to say  
 about that when we come to the motion on fishing – that designated the Upper Rock as an area of special  
 importance. Of course a future Government can always de-designate that area and basically open it up to all  
 sorts of development – (*Interjection*) That is possible, provided of course that that Government comes to  
 210 Parliament and changes the law. It is the word ‘perpetually’ that I just find as a matter of principle, if I can  
 use the word, offensive for the present purposes. But, of course, if they are prepared to remove the word  
 ‘perpetually’, then this Bill would enjoy cross-party support. But it is the word ‘perpetually’ that we object  
 to.

215 **Hon. G H Licudi:** Mr Speaker, I will give way to the Chief Minister, who wants to make a particular  
 point.

**Mr Speaker:** I am going to allow this afternoon all this process of giving way, but I should remind hon.  
 Members that you give way for the purpose of clarification. It is not to make a debating point and to bring a  
 220 new debating point into the framework of the debate. It is to clarify something which one Member has said  
 in the debate. It has been picked up by another and replied to and the original Member wishes to clarify  
 something. It has got to be for that purpose and not to continue a debate. But anyhow, we are okay.  
 [*Laughter*]

225 **Hon. Chief Minister:** Mr Speaker, I do hope that this is simply going to serve to clarify the position for  
 the hon. Gentleman in a way that may actually enable us to proceed by way of agreement. He has made his  
 position now very clear. His objection is to that word. If I can simply satisfy him of something, he may find  
 that he wishes to reconsider his position, given that his stated view is that this is something that we can all  
 agree on in respect of the non-redevelopment of the area.

230 No, we cannot move on, Mr Speaker, because the issue is this. The word ‘perpetually’, Mr Speaker, is  
 already in the Act. It is not a word that we are inserting. The word ‘perpetually’ is already in the Public  
 Health Act and what we are doing is extending the protection already in the Public Health Act perpetually  
 to the Alameda Gardens. Therefore, Mr Speaker, I recognise what the hon. Gentleman says. This is a first  
 year law point. We cannot disagree on it. Somebody can come to Parliament in the future and that which  
 235 has previously in law been protected perpetually can disappear and the section can simply be taken away.  
 But when the Public Health Act was commenced – that was in 1950 by the old City Council, precursor of  
 the Legislative Assembly, the House of Assembly and now the Parliament – that language was already in  
 our legislation.

240 Everything that we do today, whether we say we are doing it perpetually or not, we do until such time as  
 Parliament decides again in the future. So in those circumstances, Mr Speaker – and I know that the mover  
 of the Bill has actually identified where in the Act the word ‘perpetually’ appears, but it appears already – I  
 think he may want to reconsider the view that he is taking and see that the word ‘perpetually’ is something  
 that is oft used in legislation, despite the supremacy of each Parliament to overtake and undo the Acts of an  
 earlier Parliament. May I simply remind him that our whole title to this place rests on an agreement said to  
 245 be done in perpetuity, which could be undone by another Parliament at any time of course, over our dead  
 bodies... all of us. But the word ‘perpetuity’ is a word of treaties and is a word of law, despite the  
 established principle of the supremacy of Parliament.

**Hon. G H Licudi:** Mr Speaker, I have given way.

250 The issue, as I mentioned, is this point of legislative principle, whether it is right to include in an Act of  
 Parliament something that goes beyond the life of a particular Parliamentary term. If there was an objection  
 to the word ‘perpetually’ and, as the Chief Minister has explained, this is not a new word, and there is  
 nothing intrinsically wrong in saying –

255 **Hon D A Feetham:** I have not seen the context.

**Hon. G H Licudi:** But that is what the Chief Minister has indicated and that is the position. I understand  
 the mover of the Bill will respond also on this.

260 But if there was anything wrong in saying that something is in a certain way perpetually, there would  
 also be something equally wrong in setting out any period in any legislation which goes beyond the term of  
 that Parliament, because if you have any period set out in any legislation, whether it is five years, 10 years,  
 20 years, you might say you cannot bind a future Parliament. If you set, for example, a perpetuity period of,  
 say, 100 years, what are you doing? Are you binding future Parliaments? No. You are stating that the  
*present* Parliament believes that that is a state of play that should continue for that period of time. In the

265 same way we are stating today that this Parliament believes that the Alameda Gardens should be  
*perpetually* set aside as a botanic garden. That is a statement of intent which we are making forcefully today  
with this legislation. (*Interjections*)

Mr Speaker, if I can refer to the existing provision, which is section 269 of the Public Health Act, which  
is the one that is actually being substituted by the present section, and that is, as we have heard, an Act  
270 which goes back to 1950 and nobody since 1950, as far as we are aware, has ever taken any objection, nor  
sought it fit to change it because in 1950 it bound future Parliaments.

This is what section 269 says:

‘The public gardens known as the “Alameda Gardens” and all the roads, paths, walks and ornamental buildings  
therein shall continue to be perpetually set apart for the health recreation and enjoyment of all Her Majesty’s  
subjects and others inhabiting or being in Gibraltar and shall be managed and maintained...’

275 What we are doing is replacing that provision with a wider provision here... substituting, but the  
principle of the gardens themselves being set aside perpetually for that purpose, that does not originate here  
with this Bill. That is not a new invention of this Government, and even if it was it would not be  
objectionable for the reasons I, and the Chief Minister, have stated. It is not something that we have come  
up with ourselves. It is something we have adopted from what already existed... from in fact what already  
280 exists since 1950, and for those reasons it seems to us that we would just ask the hon. Member to reflect and  
recognise that there is that provision already. All we are doing is continuing the form of wording, but  
substituting certain things. Substituting other things, but that particular wording about the gardens being  
*perpetually* set aside for that purpose, that is just a continuation of what the state of play has been since  
1950 and that is what we want to do.

285 I understand the hon. Member wishes me to give way. I am happy to do so.

**Hon. D A Feetham:** Mr Speaker, thank you very much.

Mr Speaker, I am very grateful to the hon. Gentleman for the way that he has explained the existing  
provisions. Both as a Minister for Justice and also in my capacity as a lawyer, I have never come across a  
290 situation where there has been an Act of Parliament that seeks to do something perpetually.

Acts of Parliament seek to do things and until a subsequent Parliament actually changes what a previous  
Parliament has done, it remains extant – that remains the position – and really to me the word ‘perpetually’  
seemed just simply gesture politics in circumstances where it just simply could not be because you could  
not bind somebody or a future Parliament perpetually.

295 But, Mr Speaker, on the basis of the –

**Mr Speaker:** May I draw...

Perhaps Members may wish to clarify? In 1950 there may not have been a legislature and it may not  
have been an Act of Parliament. It may have been the City Council enacting legislation which was given the  
300 force of law subsequently in the Public Health Ordinance, but it may not have been enacted by this  
legislature which was not inaugurated until November 1950.

**Hon. D A Feetham:** Well, Mr Speaker, I am very grateful for that. Obviously your experience and your  
immense wealth of experience has brought something interesting to bear in relation to this particular debate,  
305 because, Mr Speaker, we are not taking a position here for the sake of being difficult; indeed, I said we will  
abstain because generally it is a worthwhile Bill. We are not going to vote against it. It is just that I  
personally do not like, and we do not like this use of the word ‘perpetually’. Never come across it before in  
legislation and it appeared to me that really it added absolutely nothing and was just simply gesture politics.

310 But on the basis of the explanation that he has given me, which is that really this is just simply a  
continuation of what is there at the present moment, well look, when there is gesture politics where there is  
a matter of principle... really one ought not to be using that particular word or not, the hon. Gentleman has  
persuaded the Opposition to then support the Bill.

315 **Hon. Chief Minister:** Thank you, very much. (*Interjections and laughter*)

**Hon. G H Licudi:** Mr Speaker, I will not labour the point any more in the light of the statement that has  
been made. We are in fact very grateful that the hon. Member has relented and seen that in the context that  
we have put it that this was the right way to proceed.

320 **Mr Speaker:** Does the hon. mover wish to reply?



325 **Hon. Dr J E Cortes:** Mr Speaker, in the light of that, and I am grateful to the Opposition for having  
conceded on that, and grateful to my colleagues on this side of the House for their dealing with that point  
and convincing the Opposition accordingly, I have very little to add other than just to say that I did not  
330 consider my speech to be self-praise, but rather praise for the team that has worked there through the years,  
and I did make a reference to that. It has been a huge task. I remember the state of the gardens back in 1988  
and through... sorry, back in 1991, which is when the gardens were converted and how we were able to  
improve them. The hard work of many people through 20 years is the one that I want to acknowledge here  
and not mine, that is for others to do, although this work has been praised in the past by successive  
335 Administrations, including the Government of the party now in Opposition.

One clarification that the Leader of the Opposition has asked for is the question of charge. This is  
relating specifically to the open air theatre where groups and organisations will put on events and will  
charge for entrance and that is the kind of event that could occasionally, although it never has to my  
340 knowledge, happen elsewhere in the gardens, but specifically this is to allow the continuation of events to  
be charged for at the open air theatre.

Mr Speaker, in finalising what I have to say, let me just say that a botanic garden is a very special kind  
of garden, not at all in conflict with its recreational use. The very part, the essence of its educational use,  
and what this House is unanimously going to do today is a significant step in enhancing Gibraltar's position  
345 internationally. There is a huge following of botanic gardens and it strengthens the involvement of the  
Gibraltar Botanic Gardens in the international organisations that it belongs to, to be able to say that like  
other gardens, like the Royal Botanic Gardens, it is in fact supported by the Statute of the Nation in which it  
is set. (*Interjections*)

345 **Hon. D J Bossino:** He was concluding in relation to the point that in fact I would seek clarification on.  
Is the definition of a 'botanic garden', as set out in the Bill – I think it is literally the last provision  
which lists from (a) to (h) what it in fact means in quite a lot of particularity – is that the effect in summary  
form of what describing the Alameda Gardens as the Gibraltar Botanical Gardens will be? Can he confirm  
that?

350 **Hon. Dr J E Cortes:** Mr Speaker, that reflects the botanical aspects of the work that is being done at the  
moment in the Botanic Gardens. As I said before it is also recreational. It is also educational. But that  
defines the botanical aspects and I believe is taken from definitions in one of the international organisations  
that the gardens belong to.

355 Having said that, I once again commend the Bill to the House.

**Mr Speaker:** I now put the question which is that a Bill for an Act to amend the Public Health Act be  
read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Public Health (Amendment) Act 2014.

**Public Health (Amendment) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

360 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I beg to give notice  
that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

**Mr Speaker:** Do all hon. Members agree that Committee Stage of this Bill be taken later today?  
(**Members:** Aye.)

**Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014 –  
First Reading approved**

365 **Substitute Clerk:** A Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No.  
1005/2009 of the European Parliament and of the Council of 16th September 2009 on substances that  
deplete the ozone layer, as amended by Commission Regulation (EU) No. 744/2010 of 18th August 2010  
with regard to the critical uses of halons...?

370 The Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Yes, Mr Speaker, halons... not halos.

375 Mr Speaker, I have the honour to move that the Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16th September 2009 on substances that deplete the ozone layer, as amended by Commission Regulation (EU) No 744/2010 of 18th August 2010, with regard to the critical uses of halons be read a first time.

380 **Mr Speaker:** I now put the question, which is that a Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16th September 2009 on substances that deplete the ozone layer, as amended by Commission Regulation (EU) No 744/2010 of 18th August 2010, with regard to the critical uses of halons, be read a first time. Those in favour? **(Members: Aye)** Those against? Carried.

**Substitute Clerk:** The Environmental Protection (Controls on Ozone-Depleting Substances) Act 2014.

**Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014 –  
Second Reading approved**

385 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

Mr Speaker, the Bill implements in Gibraltar the Regulation already referred to, with regard to the critical uses of halons. The Act, together with the subsidiary legislation published by way of legal notices, will implement in Gibraltar the Copenhagen 1992, Montreal 1997 and Beijing 1999 amendments to the Montreal Protocol on the Substances that Deplete the Ozone Layer, which Her Majesty's Government of Gibraltar has asked the United Kingdom to extend.

In implementing the Regulation, in clause 3 designates the competent authority in Gibraltar for the purposes of the Bill. The competent authority is the Minister with responsibility for the Environment.

395 Clause 4 sets out the offences for breach of the EU regulation, which are more particularly set out in schedule 2 of the Bill.

The following offences have also been created: failing to comply with an enforcement notice; failing to comply with a notice under clause 11; intentionally obstructing any person acting in its execution or enforcement of the regulation; failing to give any person who acts in the execution or enforcement of the regulation any assistance or information which that person may reasonably require; furnishing any information, knowing it to be false or misleading; failing to produce a document or record to any such person acting in the execution or enforcement of the EU regulation.

Clause 5 sets out the penalty provisions.

Clause 6 deals with the liability of a body corporate for offences committed under the Bill.

405 Clauses 7 to 10 cover the enforcement provisions, which include in clause 7 the Environmental Agency having power to enforce a regulation. Subclause (2) sets out that the Minister with responsibility for the Environment will enforce the Regulations. Subclause (3) sets out that the Minister with responsibility for the Environment would enforce the Regulation in relation to offshore installations. The meaning of offshore installations is set out in schedule 1 to the Bill.

410 Clause 8 empowers the enforcing authority to authorise any persons as may be required for the purposes of enforcing the Regulation.

Clause 9 deals with issuing of enforcement notices for the purposes of requiring a person to take specified steps to remedy or avert a contravention. It empowers an authorised person to serve an enforcement notice upon a person if the authorised person is of the opinion that another person has contravened or is contravening the provision of the EU Regulation. An authorised person has been defined in clause 2 of the Bill. An authorised person means a person authorised by the Environmental Agency or by the Minister under Clause 8.

420 This Clause also sets out the requirements in relation to the enforcement notice. It must state that the authorised person is of that opinion, specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be, specify the steps that must be taken to remedy or avert the contravention, specify the period within which those steps must be taken and state (1) that the person on whom the notice is served has the right of appeal to the Magistrates Court; and (2) the period within which the appeal may be brought.

An enforcement notice may at any time be withdrawn by an authorised person. Also, a person on whom an enforcement notice is served must comply with it at their own expense and if an enforcement notice is

425 not complied with, the enforcing authority may arrange for it to be complied with at the expense of the person on whom it was served.

Clause 10 sets out the special provisions in respect of enforcement notices.

430 Clause 11 deals with the powers of the Minister under the Bill. The Minister with responsibility for the Environment may by notice require a person in possession of a controlled substance or product or equipment containing or relying on a controlled substance that has been produced, placed on the market or imported or is intended to be or is being exported in contravention of the EU Regulation, to dispose of it or otherwise render it harmless in accordance with the notice.

435 Clause 12 deals with the powers of customs officers to detain and seize any controlled substance or product or equipment which the customs officer believes is being imported in contravention of Article 15 of the EU Regulation or exported in contravention of Article 17 of the Regulation. The Collector of Customs is also empowered under this clause to detain in his custody anything detained and seized by customs officers pending proceedings or until it is decided that proceedings shall not be brought.

Clause 13 places a duty on the Minister with responsibility for the Environment to review the Act and submit reports in accordance with the requirements of the EU Regulation.

440 And finally, clause 14 repeals the Environmental Protection (Controls and Substances that Deplete the Ozone Layer) Act 1997 which implements Regulation No 3093/94 on Substances that Deplete the Ozone Layer, as this EC Regulation has been replaced by this one.

I commend the Bill to the House.

445 **Mr Speaker:** Before I put the question, does any hon. Member wish to contribute and speak on the general principles and merits of the Bill?

450 **Hon. D A Feetham:** Mr Speaker, no. Just to say that this is the implementation of an EU directive and therefore it will enjoy the support of the Opposition bench.

**Mr Speaker:** I will therefore put the question, which is that a Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16th September 2009 on Substances that Deplete the Ozone Layer, as amended by Commission Regulation (EU) No 744/2010 of 18th August 2010, with regard to the critical uses of halons, be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Environmental Protection (Controls on Ozone Depleting Substances) Act 2014.

**Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

460 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken, if all hon. Members agree.

**Mr Speaker:** Do all hon. Members agree that Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**Gibraltar Merchant Shipping (Safety, etc) (Amendment) Bill 2014 –  
First Reading approved**

465 **Substitute Clerk:** A Bill for an Act to amend the Gibraltar Merchant Shipping (Safety, etc.) Act 1993. The Hon. the Minister for Tourism, Commercial Affairs, Public Transport and the Port.

**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Gibraltar Merchant Shipping (Safety, etc.) Act 1993 be read a first time.

470 **Mr Speaker:** I now put the question that a Bill for an Act to amend the Gibraltar Merchant Shipping (Safety, etc.) Act 1993 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Act 2014.

**Gibraltar Merchant Shipping (Safety, etc) (Amendment) Bill 2014 –  
Second Reading approved**

**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):**  
Mr Speaker, I have the honour to move that the Bill be now read a second time.

475 Mr Speaker, this is a short, in fact I should say extraordinarily short belt-and-braces Bill to ensure that  
the 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims 1976 is given full effect  
in Gibraltar. It does so by inserting 'as amended from time to time' after the Conventions full title in the  
schedule to the principal Act.

480 Both the Convention and the Protocol were extended to Gibraltar some time ago and the Protocol has, in  
any event, already entered our legislation through an administrative instruction published as a legal notice  
in the *Gazette*, in a Legal Notice 2014/019 of 20th February of this year.

For the information of this House, the Protocol, as reflected in the administrative instruction just  
mentioned, raises the limits of liability for maritime claims and provides a simpler mechanism for future  
increases to the limits of liability.

485 I would also note, Mr Speaker, that an additional benefit of the amendment is that it will cater for any  
future changes to the Convention which affect Gibraltar, without needing to amend the principal Act.

Mr Speaker, I commend the Bill to the House.

490 **Mr Speaker:** Before I put the question, does any hon. Member wish to contribute on the general  
principles and merits of the Bill?

I now put the question, which is that a Bill for an Act to amend the Gibraltar Merchant Shipping  
(Safety, etc.) Act 1993 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Act 2014.

**Gibraltar Merchant Shipping (Safety, etc) (Amendment) Bill 2014 Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

495 **Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):**  
Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if  
all hon. Members agree.

500 **Mr Speaker:** Do all hon. Members agree that Committee Stage and Third Reading of the Bill be taken  
today? (**Members:** Aye.)

**Marriage (Amendment) Bill 2014 –  
First Reading approved**

**Substitute Clerk:** A Bill for an Act to amend the Marriage Act.  
The Hon. the Chief Minister

505 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act to  
amend the Marriage Act be read a first time.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Marriage Act be read  
a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

510 **Substitute Clerk:** The Marriage (Amendment) Act 2014.

**Marriage (Amendment) Bill 2014 –  
Second Reading approved**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to move that the Bill for an Act to amend the Marriage Act be read now a second time.

515 Mr Speaker, the purpose of this Bill is to derive greater economic benefit for Gibraltar from those who are contemplating getting married here or on a Gibraltar flag ship. It does so in two ways. Firstly, by requiring couples who are married under a special licence to spend at least one night in Gibraltar with the attendant hotel restaurant and related spending that this will hopefully entail. Secondly, by permitting marriages by Gibraltar appointed Deputy Registrars to be contracted on board passenger ships registered in Gibraltar.

520 Mr Speaker, with regard to the overnight stay, I should point out that the Government has been careful not to make the requirement onerous or rigid – for example, by allowing the night in question to be either before or after the marriage is contracted and so we are not requiring consummation to now occur in Gibraltar in any way, Mr Speaker, by changing the Bill in this way – and by allowing the parties to choose to meet the requirement by spending the relevant night as the guests of a Gibraltar resident, rather than an hotel, if appropriate.

525 Further, Mr Speaker, this policy of the Cabinet was the result of a detailed consultation by the Minister for Tourism, who would have moved this Bill, but this is a matter of personal status and therefore under my ministerial responsibility, with all the relevant stakeholders individually and via the United Kingdom Tourism Association. I am sure that it will please the House to learn, Mr Speaker, that there was unanimous agreement as to the potentially advantageous effects of this new policy initiative.

530 Mr Speaker, the House will want to note that the one-night-stay requirement – also absent the requirement for it to be consummation – is already (*Laughter*) included in the Civil Partnership Act at section 12.

535 With regard to the amendments to facilitate special licence marriages to be contracted aboard Gibraltar registered passenger ships by Gibraltar appointed Deputy Registrars, the Government expects that over the long term, and given the many other benefits to registering under the Gibraltar flag, these changes to the Act may actually persuade the owners of passenger ships to re-register their vessels under the Gibraltar Flag, which would be a very good thing too.

540 Before I conclude, I stress that the amendments today proposed to the Marriage Act do not affect Gibraltar residents and that the legal requirements remain as before in respect of marriages by residents.

540 Mr Speaker, this Bill is one more example of the Government commitment to promote Gibraltar as a tourism destination and to be innovative in its approach to developing the activities of the Gibraltar Ship Registry.

I commend the Bill to the House.

545 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?

I now put the question, which is that a Bill for an Act to amend the Marriage Act be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

550 **Substitute Clerk:** The Marriage (Amendment) Act 2014.

**Marriage (Amendment) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

555 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

**Mr Speaker:** Do all hon. Members agree that Committee Stage and Third Reading be taken later today? (**Members:** Aye.)

**Gibraltarian Status (Amendment) Bill 2014 –  
First Reading approved**

**Substitute Clerk:** A Bill for an Act to amend the Gibraltarian Status Act.

560 The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill for an Act to amend the Gibraltarian Status Act be read a first time.

565 **Mr Speaker:** I now put the question, which is that the Bill for an Act to amend the Gibraltarian Status Act be read a first time. Those in favour? (**Members:** Aye.) Those Against? Agreed.

**Substitute Clerk:** The Gibraltarian Status (Amendment) Act 2014.

**Gibraltarian Status (Amendment) Bill 2014 –  
Second Reading approved**

570 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

Mr Speaker, this short Bill does two things in respect of this Act. The first is that it provides that so long as a father's name appears on a child's birth certificate where there is a relationship between a father and child, whether it is legitimate or illegitimate, the child will be able to be registered under the Gibraltarian Status Act, something which is not the case at the moment and has caused a lot of angst and hardship to many people in families which these days are not necessarily families that emerge in marriage.

575 Mr Speaker, we think that it is appropriate to make this change. Being registered under the Gibraltarian Status Act means a lot to people, who are Gibraltarian otherwise by blood, and Mr Speaker, the inability to have one's offspring registered under the Act does cause people a huge amount of concern. The Government is happy to move to make this amendment.

580 Mr Speaker, the Act has been on our Statute Book since 1962 and has seen society change. There have been changes made previously to the Act – for example, to allow the children of Gibraltarian women to register as Gibraltarian, whereas before the lineage was dealt with in only the male line. Mr Speaker, it is also true that the changes or the reason for the Act in 1962 was to ensure principally that in a referendum those who were able to vote would be those registered under this Act and not all and sundry who might be resident in Gibraltar.

585 The first referendum came in 1967, Mr Speaker, and it was only those registered under the Act then that were able to vote. The second in our lifetimes – certainly in the lifetimes of those of the younger generation of this Parliament perhaps, the only one we lived through and the one that most of us in this room were able to vote in – was in 2002. In that instance the franchise was extended by this House, Mr Speaker, by common agreement to all British Citizens who were resident in Gibraltar for more than 10 years.

590 Mr Speaker, that brings me to the second amendment, which is the amendment to section 9(f) of the Gibraltarian Status Act, which deals with how people can become eligible to register under the Gibraltarian Status Act if they are not otherwise eligible to be so registered.

595 Mr Speaker, under the existing Act an individual would have to be British and resident in Gibraltar for more than 25 years and at least the last 10 years before they sought registration. In 1962, Mr Speaker, 25 years is what one might call a lifetime – certainly a very long time indeed.

600 Mr Speaker, today, in a world of 24-hour news and instant communication, when somebody gives a country 10 years of their lives, they are probably giving it the equivalent of 25 years of their lives so many years ago. The world is now a very small place. People are able to move from one place to another at the drop of a hat. In the European Union we can move from one state to another without the need to seek permission. So somebody who stays in Gibraltar for 10 years stays because Gibraltar means something to them and that was clearly recognised by this House in extending the franchise to those British citizens who had been here for more than 10 years in the seminal referendum of 2002 that saw off the joint sovereignty proposals of the British and Spanish Governments and, as I said yesterday, of course with the important input that we had from our friends in Parliament through our Gibraltar representative.

605 Mr Speaker, we have therefore taken the view that if in a seminal moment such as came in 2002 we were prepared to exchange the franchise 12 years ago to British people who had been here more than 10 years, it is right that we also extend not just the franchise, but the right to be registered and identified as Gibraltarian under the Gibraltarian Status Act to people who have been here for more than 10 years and who are British citizens. There are people, Mr Speaker, who are here because they love Gibraltar. They love Gibraltar probably as much as we all love Gibraltar. They have made Gibraltar their home. They bring their families to Gibraltar. This is the place where they wish to live the rest of their lives. This is the place where they wish to be buried.

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615 Mr Speaker, in English tax – something much less emotional than being registered as a Gibraltar – one’s domicile is defined as the place where one wishes to be buried. So for many people, even under the much colder tax statute, many of those British people would consider Gibraltar their domicile and would objectively be deemed to see Gibraltar as their domicile. They are part, Mr Speaker, of the Gibraltar family and there is no reason why they should not be able to register under the Gibraltar Status Act as Gibraltarians do.

620 I commend the Bill to the House. (*Banging on desks*)

**Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?

625 I will now put the question, which is that a Bill for an Act to amend the Gibraltar Status Act be read a second time. Those in favour? (**Members:** Aye.) Those against. Carried.

**Substitute Clerk:** The Gibraltar Status (Amendment) Act 2014.

**Gibraltar Status (Amendment) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

630 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

**Mr Speaker:** Do all hon. Members agree that Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**COMMITTEE STAGE**

635 **Marriage (Amendment) Bill 2014;  
Gibraltar Status (Amendment) Bill 2014;  
Public Health (Amendment) Bill 2014;  
Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014;  
Public Health (Amendment) Bill 2014;  
Criminal Procedure and Evidence (Amendment) Bill 2014;  
Prison (Amendment) Bill 2014;  
640 Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014.**

**Substitute Clerk:** Committee Stage and Third Reading.  
The Hon. the Chief Minister.

645 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause: the Marriage (Amendment) Bill 2014; the Gibraltar Status (Amendment) Bill 2014; the Public Health (Amendment) Bill 2014; the Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014; the Public Health (Amendment) Bill 2014; the Criminal Procedure and Evidence (Amendment) Bill 2014; the Prison (Amendment) Bill 2014; and the Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014.

*In Committee of the whole Parliament*

**Marriage (Amendment) Bill 2014 –  
Clauses considered and approved**

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**Substitute Clerk:** A Bill for an Act to amend the Marriage Act.  
Clauses 1 and 2 and the long title.

**Mr Chairman:** Stand part of the Bill.

**Gibraltarian Status (Amendment) Bill 2014 –  
Clauses considered and approved**

655 **Substitute Clerk:** A Bill for an Act to amend the Gibraltarian Status Act.  
Clauses 1 and 2 and the long title.

**Mr Chairman:** Stand part of the Bill.

**Public Health (Amendment) Bill 2014 –  
Clauses considered and approved**

660 **Substitute Clerk:** A Bill for an Act to amend the Public Health Act.  
Clause 1.

**Mr Chairman:** Stands part of the Bill.

665 **Substitute Clerk:** Clause 2.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Chairman, as notified by letter dated 23rd May, 2014, and as I said in my speech earlier, I am proposing to delete in 269(1)(a) the words 'resident in Gibraltar', so that they shall be for the health, recreation and enjoyment of all persons.

670 **Mr Chairman:** Does any hon. Member wish to speak on the amendment?  
Is it agreed to? Carried.  
Clause 2, as amended, stands part of the Bill.

675 **Substitute Clerk:** The long title.

**Mr Chairman:** Stands part of the Bill.

**Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014 –  
Clauses considered and approved**

680 **Substitute Clerk:** A Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No. 1005/2009 of the European Parliament under the Council of 16th September 2009 on substances that deplete the ozone layer as amended by Commission Regulation (EU) No 744/2010 of 18th August 2010, with regard to the critical uses of halons.  
Clauses 1 to 14 and schedules 1 and 2 and the long title.

**Mr Chairman:** Stand part of the Bill.

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**Criminal Procedure and Evidence (Amendment) Bill 2014 –  
Clauses considered and approved**

**Substitute Clerk:** A Bill for an Act to amend the Criminal Procedure and Evidence Act 2011.  
Clauses 1 and 2 and the long title.

690 **Mr Chairman:** Stand part of the Bill.

**Prison (Amendment) Bill 2014 –  
Clauses considered and approved**

**Substitute Clerk:** A Bill for an Act to amend the Prison Act 2011.



Clauses 1 to 5 and the long title.

**Mr Chairman:** Stand part of the Bill.

**Gibraltar Merchant Shipping (Safety, etc) (Amendment) Bill 2014 –  
Clauses considered and approved**

695 **Substitute Clerk:** A Bill for an Act to amend the Gibraltar Merchant Shipping (Safety, etc.) Act 1993.  
Clauses 1 and 2 and the long title.

**Mr Chairman:** Stand part of the Bill.

**BILLS FOR THIRD READING**

**Marriage (Amendment) Bill 2014; Gibraltarian Status (Amendment) Bill 2014;  
Public Health (Amendment) Bill 2014;  
Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014;  
Companies Bill 2014; Insolvency (Amendment) Bill 2014;  
Insolvency (Consequential Provisions) Bill 2014;  
Criminal Procedure and Evidence (Amendment) Bill 2011;  
Prison (Amendment) Bill 2014;  
Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014 –  
Third Reading approved: Bills passed**

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

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Marriage (Amendment) Bill 2014; the Gibraltarian Status (Amendment) Bill 2014; the Public Health (Amendment) Bill 2014; the Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014; the Companies Bill 2014; the Insolvency (Amendment) Bill 2014; the Insolvency Consequential Provisions Bill 2014; the Criminal Procedure and Evidence (Amendment) Bill 2014; Prison (Amendment) Bill 2014; and the Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014 have all been considered in Committee and passed with amendment.

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Mr Speaker, I think the Criminal Procedure and Evidence (Amendment) Bill must be 2014, not 2011, despite the reference in the crib to it.

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**Mr Speaker:** I now put the question, which is that the Marriage (Amendment) Bill 2014; the Gibraltarian Status (Amendment) Bill 2014; the Public Health (Amendment) Bill 2014; the Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014; the Companies Bill 2014; the Insolvency (Amendment) Bill 2014; the Insolvency Consequential Provisions Bill 2014; the Criminal Procedure and Evidence (Amendment) Bill 2014; the Prison (Amendment) Bill 2014; and the Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014 be read a third time and passed.

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Those in favour of the Marriage (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Gibraltarian Status (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

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Those in favour of the Public Health (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014? (**Members:** Aye.) That is carried.

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Those in favour of the Public Health (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Companies Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Insolvency (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Insolvency (Consequential Provisions) Bill 2014? (**Members:** Aye.) Those against? Carried.

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Those in favour of the Criminal Procedure and Evidence (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Prison (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

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**Mr Speaker:** Private Members' Motion?

**Hon. Chief Minister:** Mr Speaker, can I move now that the House recess for 15 minutes?

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**Mr Speaker:** Very well.

The House will now recess for 15 minutes.

*The House recessed at 3.47 p.m. and resumed its sitting at 4.14 p.m.*

#### PRIVATE MEMBER'S MOTION

##### Regulation of fishing in British Territorial Waters – Licences required to fish with nets – Statement from Government

**Substitute Clerk:** Private Member's Motion.

The Hon. D A Feetham.

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**Hon. D A Feetham:** Mr Speaker, I have the honour to move the motion standing in my name which reads as follows:

*'THIS HOUSE calls on the Government to provide an immediate comprehensive statement to the House as to its intentions in relation to the regulation of fishing in British Gibraltar Territorial Waters and whether it intends to require members of the La Linea and Algeciras Cofradias to apply for licences in Gibraltar to fish with nets in British Gibraltar Territorial Waters.'*

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Mr Speaker, it is important to place this debate in its proper context. In 1991, the then GSLP Government introduced the Nature Protection Ordinance, a very worthwhile piece of environmental legislation, which imposed an outright ban on fishing with nets, all types of nets, in British Gibraltar Territorial Waters. Mr Speaker, that was always bound to create a certain amount of tension, because whether we like it or not, whether it is right or not, Spanish fishermen have been fishing in British Gibraltar Territorial Waters with nets for generations.

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Mr Speaker, I had recently the pleasure of talking to a retired doctor and I think that he has published his views in an opinion piece in the *Chronicle*, but I am not going to mention his name out of an abundance of caution, just in case my recollection is not accurate. He said to me that during the 1950s when he was called on board a ship in order to treat a patient on board a ship, he had to navigate very many Spanish nets in the Bay out there in British Gibraltar Territorial Waters. Spanish fishermen have been fishing in our waters for many, many years. Of course, the Nature Protection Act, worthwhile as it is, went much further than similar environmental laws in other jurisdictions. Imagine, for example, Mr Speaker, if Spain and the United Kingdom had decided to impose an outright ban on fishing with nets in virtually the entirety of their territorial waters.

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Mr Speaker, it is of course for Parliament to introduce laws and it is for enforcement agencies to enforce those laws, and from 1991 to 1997 the Nature Protection Act was enforced with a level of common sense that has long been the hallmark of the Royal Gibraltar Police. There is no doubt that Spanish fishermen would come in to our waters. There is no doubt that they would lay nets, but when they were asked to move on by the RGP, they did so. There was never a policy, Mr Speaker, of zero tolerance, as indeed there is not a policy of zero tolerance in relation to many other areas of the law. The RGP had a discretion as to whether

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Mr Speaker, an outright ban does create tension, because sooner or later continued breaches of the law cannot be justified and inevitably lead to the full force of the law to be applied in any particular situation. I make that point, Mr Speaker, because I think that it is worthwhile legislation, and it is a worthwhile amendment, and the Government is not going to be criticised for coming to this House. Indeed it cannot come to this House now because it is going to have to do it by secondary legislation, but the Opposition will not criticise the Government for introducing legislation in Gibraltar that allows Spanish fishermen to fish with some form of EU-compliant nets, because we think it is perfectly reasonable for the Government to

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introduce legislation of that nature and end what is the present situation which is an outright, effectively, ban on the use of nets in most of or large parts of British Gibraltar Territorial Waters.

780 Mr Speaker, from 1997 to 1998 the actions of Spanish fishermen became much more militant. At the time the Government in Spain sought to harness that militancy to try and wage the type of campaign that we have recently witnessed in British Gibraltar Territorial Waters. It culminated, of course, in the arrest of a Spanish fishing vessel *La Piraña* and one curious but important factor that is often overlooked in an analysis of those events is that the Spanish fishing vessel *La Piraña* was loaded with Spanish journalists at 785 the time that it was arrested. It was obvious that its entry into British Gibraltar Territorial Waters was designed to provoke a crisis, with maximum public and political exposure, and it did, because we all know that that arrest, justified as it was, led the Spanish fishermen to block the Frontier in protest and it led to some very ugly scenes indeed.

790 It is in that context, Mr Speaker, that my predecessor, as leader of the GSD, and indeed the Hon. the Leader of the House, as predecessor of the Chief Minister, in what must rank as one of the most intelligent... one of the most *intelligent* moves in Gibraltar's interest by any Chief Minister in the history of this place, managed to decouple Spanish fishermen from the influence of Madrid and managed to cut the strings allowing the puppeteer to control Spanish fishermen as an instrument of conflict against Gibraltar by entering into an Agreement directly with the Spanish fishermen, which completely defused a very difficult and dangerous situation indeed, so much so, Mr Speaker, that the PP Government at the time, whatever Mr 795 Margallo may say at the moment, was absolutely disgusted with the Agreement and condemned it in very, very strong terms, and the reasons are obvious.

By that Agreement, Spanish fishermen agreed to genuflect to our sovereignty to our jurisdiction and control over our waters, and to genuflect and respect the instructions of the RGP and indeed the laws of 800 Gibraltar. Above all what it did... what the 1999 Agreement did was to return to the *status quo* ante the outbreak of the crisis, and of course five of those years were years under the GSLP administration because at the time of the 1999 Agreement this was very much a nascent GSD administration. All the Agreement did was to find a diplomatic solution to a very significant and difficult problem for Gibraltar indeed.

805 That the GSD could have amended the Nature Protection Act, Mr Speaker, in order to allow for regulated fishing with nets. Yes, it could have, but that may be susceptible to criticisms. Perhaps it might be susceptible to criticism. I do not need to defend my predecessor, Mr Speaker, but having spoken to him, he has said that certainly during those early years and large parts of the time that he was Chief Minister, what he did not want to do was to be seen to be legislating under pressure from anybody, least of all under pressure from the Spanish Government. But, of course, we certainly had plans in 2011 to do so and had we 810 been elected into office, we would have amended the Nature Protection Act in order to allow for regulated fishing with nets – in other words nets that comply with EU law – and indeed, we might have allowed fishing during some seasons or parts of the year and not during others. Therefore, again, Mr Speaker, I want to make it absolutely plain and clear that I do not criticise the Government for any plans to allow fishing with EU compliant nets in British Gibraltar Territorial Waters.

815 Mr Speaker, history is a great educator of men and it is a real shame that the hon. Gentleman opposite failed to learn from some of the events in the 1990s. It has never been the thrust of our criticism of the Government, but the Government should not have replaced the 1999 Agreement. It is the sudden confining of the 1999 Agreement to the dustbin of history without carefully thinking about the consequences of not having anything to take its place that has been the main thrust of our criticism. It was described, 820 Mr Speaker, by the Chamber of Commerce as a rookie error, and indeed, I believe that that is a particularly apposite description of the error of the Government in its handling of this particular issue. All it did was to allow Spanish fishermen to make common cause with the PP Government in Spain and not only enter British Gibraltar Territorial Waters to fish with nets, but to do so escorted by the Guardia Civil.

825 So the very thing, Mr Speaker, that the 1999 Agreement did... the decoupling of the influence of the PP Government in Madrid over Spanish fishermen locally to the detriment of Gibraltar unfortunately was the inevitable conclusion of the actions of the present Government. From genuflection of our sovereignty, jurisdiction and control, it turned into an outright challenge of our sovereignty, jurisdiction and control, and the Government must accept responsibility for its part in that.

830 Mr Speaker, for all his championing of the rule of law, the rule of law in British Gibraltar Territorial Waters has not prevailed since he made his decision to tear up the 1999 Agreement. It was as large a monumental mistake as it was avoidable. The result, I repeat, is that the Spanish fishermen are now tools in the hands of the PP Government.

835 I began by saying, Mr Speaker, this part of my address, that history is a great educator of men. I know that the hon. Gentleman thinks that he can learn nothing from the GSD Government. We can speak about the rule of law all we like. The principal job and the principal concern of any Chief Minister of Gibraltar is to keep the people of Gibraltar safe and secure and to avoid anything that creates instability and insecurity within this jurisdiction that we are all here and this community that we are all here to serve and that we all love so much. This has just created, Mr Speaker, a huge sense of instability, insecurity and uncertainty, at a

840 time when it was obvious that the PP Government was looking for excuses, tools and pawns to use as a tool against Gibraltar. It was therefore incumbent, Mr Speaker, on the hon. Member, as Leader of this House and Leader of this community to deal with the situation as expeditiously as possible... a solution to the crisis as expeditiously as possible.

845 From the very early juncture, Mr Speaker, we said, 'Change the law to allow regulated fishing with nets'. Regulation can take a number of forms. You can either require Spanish fishermen to apply for a licence in Gibraltar or you may decide not to, because you may decide to recognise the fact that Spanish fishermen have been fishing in Gibraltar Waters for many, many years, and you decide to say, 'Well, look, if you are a member of the Cofradia of Algeciras or you are a member of the Cofradia of La Linea, we are going to treat you as if you are licensed in Gibraltar'. There are many ways in which to deal with the issue. 850 Likewise, Mr Speaker, one can allow fishing with nets in particular seasons and not allow it in others in order to allow fishing stocks to recover, but what was required was very early intervention and not allowing the wound to fester for years.

855 Had they come to this Parliament at an early juncture to amend the Nature Protection Act, we would have supported it. Instead, Mr Speaker, the hon. Gentleman, Mr Picardo, the Chief Minister has prevaricated and prevaricated to the extent that in my view positions have hardened and it has become much more difficult to deal with the situation. He has become a prisoner of his early mistakes, for reasons that I am going to develop in a few moments. Mistakes that explain his constant ducking and diving and the refusal to answer my questions in this Parliament, as is his obligation as Chief Minister of Gibraltar, because by answering my questions he becomes accountable to the people of Gibraltar, the very same people who elected him to serve as Chief Minister in the first place. (A Member: Hear, hear.) (*Banging on desks*) Before I do so, Mr Speaker – (*Interjections*) I want to give an account of what has happened since the Government decided to tear up the 1999 Agreement in that rookie error in the first place. 860

865 Mr Speaker, on 30th March 2012 the Government issued a press release stating that technical talks were to take place with the Spanish fishermen in order to explain the Government's stance, post the tearing up of the 1999 Agreement. Surprisingly, Mr Speaker, those talks took place with the Commissioner of Police, not with the Government. Of course, the Spanish fishermen came to that meeting armed with their own proposals to deal with the situation, and we saw the unseemly sight, Mr Speaker, of the Commissioner of Police having to be a messenger in between Spanish fishermen and the Chief Minister of Gibraltar.

870 On 17th April, the Government recognised that it would have to deal with the Spanish fishermen directly and not just shelter behind the Commissioner of Police. The Hon. the Chief Minister, the Deputy Chief Minister and the Minister for the Environment met with Spanish fishermen to explain their policy.

875 In May 2012, the Government then announced the creation of a Cross-Border Commission, which would ultimately provide input and inform the production of a Government sponsored report, and I quote, the management... the 'Report on the Management of Marine Living Resources in the Waters around Gibraltar' or colloquially referred to as the fishing report.

880 On 3rd August the Chief Minister met with representatives of the Cofradia de Algeciras and proclaimed that, and I quote, 'very considerable progress had been made by the Commission'. That is in August of the very year of March that Government broke, or tore up the 1999 Agreement and he said that within 10 days preliminary recommendations would be made. All then went quiet, Mr Speaker, except that all the while the Spanish fishermen kept on coming into British Gibraltar Territorial Waters fishing with impunity, either accompanied or not accompanied by the Guardia Civil.

885 And it is not until December 2012 when the Government said that it had received, finally received the fishing report, but of course that fishing report could not be published because, in the words of the Minister for the Environment, the report needed to be formatted. The formatting of the report took another six months until June 2013, when under intense public pressure, Mr Speaker, the Chief Minister bowed to that pressure and decided to publish the report.

890 Mr Speaker, the one indisputable fact about that report is that the report does not recommend, *does not recommend* a change in the law in order to relax the law on fishing with nets in British Gibraltar Territorial Waters. Mr Speaker, a Government is never bound, *never bound* to follow recommendations of a report. It has happened on many occasions that Governments have not followed *all* the recommendations of a report that they themselves commissioned. But it took the Government over a year from when the conflict first broke to the time they decided to publish the report, and then the Government decides not to follow the recommendations.

895 Well, look, Mr Speaker, the people of Gibraltar are entitled to ask what on earth has it all been for? What on earth has the Government been playing at in relation to this particular issue? People can see there is more fishing in British Gibraltar Territorial Waters than ever before.

Mr Speaker, in November 2013, the Government then introduced amendments to the Nature Protection Act to allow for secondary legislation to be introduced to allow, it appeared from public statements made by the Government... it is not clear from the Act itself, but from public statements made by the

900 Government, for regulated fishing with nets in British Gibraltar Territorial Waters. It certainly allowed for those regulations to be introduced.

The Government decided to take advantage of the Opposition, as it was their right to take advantage of the Opposition's absence because of the Credit Finance issue, in order to plough ahead with the debate on the Bill, despite the fact that we had indicated that we would be returning after lunch for that debate. They decided that is their prerogative. But, Mr Speaker, it is not right to say, as he has said, and his supporters have propagated in social media and elsewhere, that the reason why the Government has not provided proper explanations to this House and through this House to the people of Gibraltar is because the Opposition did not participate in that debate.

905 I have asked him questions about what the Government intends to do about regulation in British Gibraltar Territorial Waters on four or five occasions *in this House*, Mr Speaker, and he has refused to answer those questions on every single occasion. If anybody saw the interview that the hon. Gentleman gave after the interview that Stephen Neish did with me precisely on this issue, people would have seen that the Hon. the Chief Minister is simply ducking and diving using every excuse in the book so as not to account to the people of Gibraltar as to the Government's intentions as to what it intends to do in British Gibraltar Territorial Waters.

910 Mr Speaker, he is the Chief Minister who described himself as the new dawn Chief Minister leading the new dawn Government. He is the time for change, Chief Minister, leading the time for change Government. Well, what kind of new dawn? What kind of change? It is a situation, Mr Speaker, where we know that people across the border in Spain know more about the intentions of the Government of Gibraltar, about what it intends to do in British Gibraltar Territorial Waters than Her Majesty's Opposition here in Gibraltar, than the people of Gibraltar, because he has not deigned to make a statement to this House in this Parliament, which after all is here to serve the people of Gibraltar.

915 We know, Mr Speaker, that there have been proposals, that have been put, or certainly a discussion paper that has been put to Spanish fishermen, because the Government itself has admitted that that is so in statements that it has made to the media here in Gibraltar. I understand the difficulty that he has. I really do. I understand that if you take the decision to effectively dumb down the law or relax the law and allow for fishing with nets in British Gibraltar Territorial Waters, the last thing that you want, of course, is to dumb down the law and then have Spanish fishermen coming into British Gibraltar Territorial Waters and still breaking our laws.

920 It is eminently sensible – because I have said it to him before that he should do so – to effectively go to Spain, talk to the Spanish fishermen and try and obtain a measure, *not* an agreement, because that implies that Spanish fishermen will have a veto as to what happens in Gibraltar, which is an anathema to anybody that loves this country and loves this Parliament; but, of course, at the very least explain to them and consult with them in relation to the proposed changes. He is caught on the horns of a dilemma because if they do not buy into the legislation, as it is going to be amended, he is going to have exactly the same situation as is happening now with Spanish fishermen coming into British Gibraltar Territorial Waters breaching our laws, but with a law that is significantly dumbed down and relaxed, and that is not going to be acceptable to anybody, least of all to the people of Gibraltar.

930 Mr Speaker, laws are there to be enforced and the reality is, Mr Speaker, that at some stage we are all going to have to collectively look at ourselves and there is going to be an outcry in this community, in the sense that at some stage we are just simply going to have to enforce those laws. What I urge him to do, Mr Speaker, is to bite the bullet. If he thinks that what is good for this jurisdiction is to introduce proper regulated fishing in British Gibraltar Territorial Waters, go ahead and do it. You have tried to explain it to the Spanish fishermen. They have not accepted it. Well, go ahead and do it, but let us make sure that nobody makes a mockery of our laws in the future. Let us make sure that if having introduced those laws, and those laws continue to be breached with impunity, that something is done about it, Mr Speaker.

945 But, of course, unfortunately, Mr Speaker, because the hon. Gentleman refuses to make a statement in this House and refuses to provide answers to the questions that I have sought, which are very reasonable questions and well within the remit of what is within my responsibility as Leader of the Opposition, we do not know what the Government intends to do and we can only speculate.

950 But I urge the hon. Member to take a leaf out of his own political discourse at the last election and to be transparent, to be open about this particular issue, and to make a full statement about what he intends to do in British Gibraltar Territorial Waters.

Mr, Speaker, I commend the motion to the House. (*Banging on desks*)

955 **Mr Speaker:** I now propose the question in the terms of the motion moved by the Hon. the Leader of the Opposition, Mr Daniel Feetham.

I call upon the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I am grateful.

960 Mr Speaker, I think it is important that after that full frontal attack apparently on my credibility, given what the hon. Gentleman has said, which really puts one in mind of that great phrase of that great defender of self-determination, Margaret Thatcher, that one feels like one has been mauled by a sheep. It is worth reading the motion that the hon. Member has put and not really spoken to.

He says this in his motion:

‘This House calls on the Government to provide an immediate comprehensive statement to the House as to its intentions in relation to the regulation of fishing in British Gibraltar Territorial Waters *and* whether it intends to require Members of the La Linea and Algeciras Cofradias to apply for licences in Gibraltar to fish with nets in British Gibraltar Territorial Waters.’

965 So I guess that is ‘and whether *in particular* the intention would be’, because otherwise they are two statements of intention. Okay, well, that is the motion, and I will go through some of the things that the hon. Gentleman has said about what he likes to call the fishing ‘crisis’, in the context of my reply to what he has said; but I need to draw the attention of the House to the wording of the motion and what the motion, as drafted, tries to get at.

970 He uses the word ‘intention’. Intention means – and this is the longer Oxford Dictionary... the 20 volume one which it was long my ambition to possess and is now in my possession – the action of straining or directing the mind or attention to something; mental application or effort; attention; intent observation or regard; endeavour; the action or faculty of understanding; a way of understanding; the way in which anything is to be understood; the action of intending or proposing; the volition which one is minded to carry out; that which is intended or proposed; a purpose or a design.

975 Mr Speaker, the Government is answerable in this House for the things that it does, but we are not answerable for our thoughts. We are not answerable for simply wanting to consider things and develop them. The hon. Gentleman is not entitled to come into our heads and see what we are thinking about.

980 My old law tutor used to say that intent is something that can never be objective. Somebody who kills another person may kill him in an act of self-defence, where there was no intention to kill. He used to say to me that there is not a light on anybody’s head that goes on when they *intend* to murder and is not on if they kill without intention.

985 The reason for that analysis of what it is that the word ‘intention’ means is very simply this. In the context of asking questions in this House in the context of this motion, hon. Members opposite seem to think that they are entitled not just to reports, but to work done in the context of preparing reports; not just final reports, but *draft* reports; not just ‘what is your policy?’, also ‘what do you think might be your policy?’. Mr Speaker, it is not possible to conduct a Government on the basis of simply telling the hon. Gentleman *everything* we are thinking. You would have thought if they had conducted themselves in Government from a position of giving us *all* their preparatory work, *all* their reports and defending that level of transparency, it would be right for them to demand the same; but they did not even give us the final fruit of work.

990 Yesterday, we looked at what reports they did not give us. They did not give us the report into GBC. They did not give us the report into Customs. Any report which they had prepared they said was internal and for the Government. We went to the Election saying we would be more transparent. We would publish those reports and we would publish any report we obtained, and we will; but it does not mean that we have to give them every scrap of paper on which we may write something whilst we prepare a report. That is not transparency, Mr Speaker. That is absolutely ridiculous. It would be impossible to conduct a Government in that way and the hon. Gentleman knows it.

1000 He knows that by asking us about our intention, he is really intending to put us in an impossible position and I will start replying to the things that he has said by starting at the end, where he said, ‘I understand the difficulty he has.’ You dumb down the law, but the last thing you want is that they – the Spanish fishermen – still come and break our laws. So it is right to talk to the Spanish fishermen. That is what he says, right? Talk to the Spanish fishermen.

1005 Well, he knows, and so does everybody else, that we have had a technical discussion with the Spanish fishermen. We have made no secret of it. We had discussions with them through law enforcement agents. We had discussions with them ourselves. He has set out the chronology of some of them. We have had our technical people talk to their technical people. We have made absolutely no secret of it. But is he also saying – because it is of course nonsense if he is saying it... not that it has ever stopped him before – that all of that has to be played out in the public domain? Namely, if you want to talk to the Spanish fishermen, you must say in this Parliament what you are going to say to them first.

1010 He himself has illustrated what the Spanish Foreign Ministry thought of the Agreement done in 1999. He himself *must* know – of course, not that it matters to his attempt to try and somehow in his Shakespearian dramatic way try and check the Government – that if we were to say what it is we are going to put to the Spanish fishermen and discuss with them at a technical level, the Spanish Foreign Ministry

would quickly type up the *Hansard* of these proceedings themselves and not wait for it to be published, and say to the Spanish fishermen, 'This is not acceptable'. Is he saying that every discussion that we have to have, we have to have not just openly, in the sense that we say that the meeting is taking place, but that we must let the cameras into the meeting? Mr Speaker, it is of course plainly ridiculous for him to suggest that, but that is what he is suggesting. He is saying, 'You are talking to them. You must tell me what it is you are going to talk to them about'.

Are we a little bit here in the Glyn Ford situation, because when we say a year and a half ago, look that we are not prepared to tell you what Glyn Ford is doing publicly, but we will tell you behind the Speaker's Chair and we will give you all the details of his contract? They say, 'No, no, no. We want to know on the record'. In other words, *que se entere España también*, that Spain should know too. We want to know on the record. He does not say to me, Mr Speaker, 'Fabian we spoke over the summer on Privy Council terms. Let me know what is going on with the Spanish fishermen, because you know you have my support', because that is not the reality, Mr Speaker. What he wants to do is grandstand. He wants to say, 'He is saying something to the Spanish fishermen which he does not say to us in this Parliament to the people of Gibraltar'. He is not interested in us reaching an agreement with the Spanish fishermen because he does not want to talk to me about it behind the Speaker's Chair. He wants to grandstand about it. He wants to ask questions in Parliament which are not replied to, according to him, just because we will not tell him what he thinks he is going to hear; but that is him all over, Mr Speaker, because none of this discourse is about what is good for Gibraltar. I do not think it is even about what is good for the GSD. It is about what is good for Daniel Feetham, and he thinks that this is an area which he can really plough in order to try and garner some support.

Let me now go through the things that he has said, Mr Speaker. We do not deny that there have been Spanish fishermen fishing in Gibraltar waters for generations; it is obvious that they have. There was no legislation before. These are men of the sea, who earn their living from a hand-to-mouth existence. They come and go and for them there has never been a frontier here for generations, but from 1991 there was. He recognises that. I daresay he was supportive of it in 1991, and in relation to most of our laws, Mr Speaker, there is no zero tolerance policy. So, in other words, just because *every* Spanish fisherman was not stopped, arrested, had his ship or boat pulled up on the hard between 1991 and 1996, does not mean that the GSLP Government then was ignoring its own laws, because, absolutely right, *enforcement* – and I am glad he has understood this at last – enforcement is not a matter for the Parliament; it is for the law Enforcement Agencies.

That is why I took such issue when he said to some protesters outside the Convent that if he were Chief Minister he would remove the Commissioner of Police because he was not enforcing the law of Gibraltar at sea in the Nature Protection Act. Mr Speaker, I think he denied at the time that he had said it, but we all know that he did. Enforcement is a matter for the law enforcement agencies. It was between 1991 and 1996 in relation to this law, as to all the others. It was between 1996 and 1999. It was not between 1999 and 2011 and it has been since 2011 onwards, and that is the nub of the issue: what happened in 1999?

Between 1996 and 1999, under a GSD Administration, an issue started to occur and for three years there was an issue. For two years, rumbling. For one year, a very important issue that resulted in the closure of the Frontier by the Spanish fishermen. Can I just ask the House to recall that that was just one of the two occasions when under the GSD, in that first term, the frontier was closed by the *Partido Popular* Administration? One by the Spanish fishermen – the Spanish Government did very little to unblock the Frontier at the time – and secondly on the arrival of the P & O ship *Aurora* at some stage. In fact, I cannot put my hand on my heart and say it was before 2000. It may have been during the first or second GSD Administration when the *Partido Popular* in Spain closed the Frontier... a real crisis.

So between 1997 and 1998 these things start to bubble over. The *Piraña* incident occurs. Nothing like the *Piraña* incident has occurred on this occasion. There has been no closed Frontier situation, but to hear the hon. Gentleman... forget that it is Daniel Feetham, *anyone*, Mr Speaker, describe the utter capitulation of the Chief Minister of Gibraltar to the people who illegally blocked the frontier in 1999 as one of the most intelligent moves in Gibraltar's interests that decoupled the Spanish Fishing Federation from the Spanish Government, is really to see 'capitulation' described as genius. It is absolutely ridiculous. I do not think even they believed it at the time. They might have tried to sell it as something that there was no alternative but to do, but to say that with a gun to your head you give up and do what you are being asked to do, not by the huge Government of the giant that is Spain, but by a couple of guys who burn a tyre from *La Atunara*, I mean, frankly... well, I suppose it demonstrates what sort of backbone some people have.

But I am pleased to hear him describe the 1999 fishing agreement as an agreement, because in the past two and a half years we have even heard him say that that was not really an agreement. Well, certainly, Mr Speaker, it was not something that required the Spanish fishermen to genuflect to the jurisdiction of Gibraltar and its Parliament. One is almost tempted to say, 'Look, we are not going to support the motion. Let's put it to a vote and let's just vote... you know, eight/three, and defeat this, because standing up to have to challenge these sorts of remarks is really quite difficult to do.

So people understand what the Leader of the Opposition is saying, the Spanish fishermen wanted to do (a), (b) and (c). The law of Gibraltar prohibited (a), (b) and (c). The Chief Minister of Gibraltar entered into an Agreement that the Spanish fishermen, but nobody else and certainly no Gibraltarians, could do (a), (b) and (c). The Spanish fishermen came and did, against the law of Gibraltar, in keeping with that Agreement, (a), (b) and (c). That is them genuflecting to the jurisdiction of Gibraltar and to this Parliament's rights to legislate for those waters. It is such nonsense, Mr Speaker, that it does not really bear replying to.

Somebody can say to me, 'Look, we did it. It was convenient and in the scheme of things that was better than continuing the quarrel'. That, although I do not agree with, I can accept. It is possibly the dividing line between the two parties that one might be more pragmatic, as people politely refer to that sort of capitulation, than the other. I can accept that, Mr Speaker. But to try and get the public in Gibraltar to believe that the fishing agreement, which allowed the Spanish fishermen to do the things they wanted to do and which were against the law, meant that they were genuflecting to our laws is such drivel that it should not have passed his lips, because it shows utter disrespect for the mental capability of anybody who may be listening to this debate. It is really quite incredible that we are still hearing those arguments a year and a half or two years on.

Mr Speaker, he then himself says that under the Agreement all that happened was that we went back to the stage between 1991 and 1996 of non-zero tolerance. Well, I do not know how he gets there, Mr Speaker, but he seems to be happy with the period between 1991 and 1996 when there was no agreement and when there was not zero tolerance, which is more or less really where we are now. So I do not see why it is he does not just catch me in the Ante Chamber, congratulate me and not raise these points. But anyway, it is true that in 1999, having done the Agreement, they did not move to make an amendment to Gibraltar law, because the feeling was that if they did they might be seen to be capitulating the law of Gibraltar to what Spanish fishermen were dictating.

Do you know what, Mr Speaker, although I entirely disagreed with the Agreement, I can see their point in 1999; but in 2000, 2001, 2002, 2003, 2004, *PSOE* Government already, 2005, 2006, 2007, 2008, 2009, 2010 and 2011, how can you be doing something under pressure of something that occurred in 1999 if you had done it then? It does not actually mean anything not to have changed the law if they were going to do it. But today, at least we have had an explanation of why they did not change the law between 1999 and 2011, because they were going to change it in 2012. (*Laughter*) They were ready to do it, Mr Speaker, (*Laughter*) but they lost the Election. (*Laughter*) But why did they not turn up to the meeting with the Gibraltar Federation of Sea Anglers that the PDP and the GSLP and Liberals turned up to when we were being asked our views on these issues and say, simply, 'Do not worry brothers. Oh, anglers all of us here. We are going to change the law for you in 2012'. It does mean that he is slightly lacking in credibility, even on that point.

He says that history is a great educator of men. Mr Speaker, of course history is a great educator of men and it should have taught any Gibraltarian that surrendering to Spanish pressure is not actually going to get us anywhere. It is not going to get us anywhere whether it is pressure about fishing or pressure about tobacco or pressure about a reef or pressure about Another issue, insert as you will, when there is a *Partido Popular* Government in place, usually but sometimes even under the Socialists.

Mr Speaker, because somebody in the Chamber of Commerce may have described something that we have done on this side of the House as a matter of policy and in keeping with a manifesto commitment as a rookie error, believe me, we will not be losing one moment's sleep. That description by somebody – it is in the Report – is absolutely and utterly irrelevant to the Government. We did not consider that something like that should be done – going back to the law of the land – simply as a whim. This is a manifesto commitment of this Party. If it is a rookie error, it is a rookie error of every single person that voted for this Government. We have a mandate to return to the Nature Protection Act and undo the fishing agreement. So look, the fact that someone in the Chamber has said that it is a rookie error, well, look, you know, the hon. Gentleman puts great store by it; but, so what? I would describe much of his last 18 months as Leader of the Opposition as a collection of rookie errors connected by press releases. (*Laughter*) I assume it means very little to him, so he can understand perhaps in that way how little it means to us.

Mr Speaker, if the fishermen in Spain were making common cause with the *Partido Popular* as a result of us undoing the fishing agreement of 1999, then what of every other sector? Are we to believe that any sector that disagrees with the Government of Spain is a sector that is somehow going to be in our favour all the time? I have not heard anyone in Spain recently express very clearly their view that Gibraltar should *not* be Spanish, but he seems to have persuaded himself of the Spanish argument. His whole thesis in this debate is the thesis of Margallo and the thesis of Landaluce that all of this is befalling Gibraltar. All of this, what he calls crisis and which I call just exactly the same thing that was happening between 1996 and 2003 when they were in Government, is just normal *Partido Popular* behaviour.

He fails to grasp and analyse one aspect of the historic period between 1996 and 2003, which is: what happens after the fishing agreement? Whether he describes it as genuflection that they come to fish or I describe it as a breach of the rule of law, forget that. What happens at the frontier? Exactly the same thing that was happening the day before, except that the fishermen are not blocking it? So the *Partido Popular*



Government of Spain turns the screw on Gibraltar from 1996 to 1997... or 1997 when they are elected, even with them in Government, and continues to turn the screw after the 1999 Agreement. So the idea that somehow they broke the common cause between the fishermen and the *Partido Popular* Government and somehow gave us any advantage is utterly ridiculous... *utterly* ridiculous.

And then he says that by having undone the fishing agreement, what we have done is make the Spanish fishermen tools in the hands of the *Partido Popular* Government. As if they needed a tool. As if they needed an excuse. Mr Speaker, they would have gone for tobacco. They would have gone for anything as any excuse to attack Gibraltar, but he says, in what I think he thinks is the most well thought out and best scripted attack on me that he could ever come up with, that the principal job of any Chief Minister is to keep people safe and secure and avoid anything that creates instability. That is the point, Mr Speaker. I am not a Chief Minister that will tolerate the instability that comes from the rule of law being broken and the rule of law is broken when a Chief Minister does an agreement... in fact, the rule of law is mortally wounded when a Chief Minister does an agreement that allows one sector of a group of foreign individuals to come into our territory, our undisputed land and water, and do something there which nobody else is allowed to do. Unless you enshrine that in legislation, if you do that by agreement, the rule of law is dead, and that is not just my opinion, it is clearly the opinion of anybody who has bothered to study any law.

So the instability is created by the 1999 fishing agreement. The 1999 fishing agreement does not resolve issues at the Frontier. They stayed absolutely the same. The issue of whether you could design a law as to seasons and stocks etc is something which he knows he has seen already and we were looking at, as a Government, in the technical discussions that we were having. So if he is just trying to pretend now and the future whenever it is that we decide that we may want to consider the possibility of publishing a law in this respect, that this was his idea. Look, it is very clear that it is not and it is really nonsensical to pretend that it might be. Mr Speaker, it does not follow just because we are doing that, that we would ever be in a situation where we might pursue those issues into regulation. We may wish to. We may not wish to. The answer I have given him all along when he has asked his questions is that he will find out when we do that in regulations when they are published. There will be a press release and the press release will explain what it is that the regulations do, if he does not want to bother to read the regulations themselves. That is the way things happen in an open and transparent democracy.

He comes to another point, which is to say there is now more fishing than ever before and, on top of that, they come accompanied by these Spanish Guardia Civils. Well, he cannot say there is more fishing than ever before because the fishing was not monitored between 1999 and 2011. In some instances it appears that there is less fishing than ever before. In many instances, when the Police ask them to go away, they go away without dispute – exactly as was happening between 1991 and 1996 – but I will not hold my breath to hear his congratulations.

He got the answer the other day in the House that he did not want to get when he asked me the question: how many times have fishing vessels been accompanied by Spanish State vessels for each of the following months...? I gave him the answer. He was ready to pounce and there was a zero in every column. He was left denuded of argument because the things he says are just not happening; but he gets up and gives speeches as if there were an alternative reality out there, Mr Speaker, and I hope at least his supporters enjoy them otherwise it is a complete waste of taxpayers' time.

Anyway, he went on, Mr Speaker, to deal with what is probably the low point of his career as Leader of the Opposition so far, which was when he led his bunch of merry men – one of them the backbencher, very reluctantly – out of the door of this House because he disagreed with the way that we were dealing with a particular question. This all to create the pretence, the drama, the theatre that somehow this Government is not the most accountable in Gibraltar's history.

I am reminded, Mr Speaker, just as a small parenthesis, that this is our 23rd meeting of this Parliament. We have answered in those 23 meetings thousands of questions. Mr Speaker, in the eight years between 2003 and 2011, the GSD held 20 meetings of the House. In the two-and-a-half years since our election, we have held 23. This is the non-transparent, non-open, non-accountable Government. Well, look, Mr Speaker; it is clear that the new dawn is here. He just needs to perhaps take off his sunglasses.

Mr Speaker, he goes on to say that... in that period when he said, 'I will be back after lunch. It is a walkout, but I will be back after lunch'. I mean it was not a very principled walk-out (*Laughter*) but anyway... 'I will be back after lunch and so do not do anything else until I come back'. He needs to understand that he is not the Leader of the House, and if we are lucky he never will be, and therefore the timetable of the House is not in his hands. He could have walked out, made his point if he wished to in that way – it was up to him – and then come back, because I asked that he be notified that we were moving on to the next item on the Order Paper. It is not unusual for people sometimes in some other circumstances to leave a Chamber when something is happening which they do not agree with and then come back when we move on to the next item. Sir Peter, the hon. the backbencher, did so in relation to the Civil Partnerships Bill in order – as he told us – not to have to vote against it. Very well, he came in as soon as we had finished dealing with the Bill. They could have walked out for what was left of Question Time, the four or

1200 five questions, and come back in. So the debate on the parts of the Nature Protection Act that he is trying to engineer now is the debate we should have had then and I hope this has demonstrated to him the futility of walking out of a Chamber and not staying here and defending your own position and making your own argument, *even* if you are not going to succeed in winning the vote in it.

1205 But then he attacks me, Mr Speaker, saying that I won the Election on the basis of there being a new dawn, and what kind of new dawn is it when I will not tell him exactly what it is that will happen in respect of fishing and what is our intention etc as I do not make a statement. Well, Mr Speaker, that is just absolutely pathetic. It is not necessary for me to go around telling everybody every thought that pops into my head in order to be able to make out the case that I am transparent and that I am a new dawn. It is absolute nonsense to say that I need to utter every thought that comes into my mind in order to be transparent. It is ridiculous, Mr Speaker, absolutely ridiculous.

1210 I have dealt with his penultimate point, Mr Speaker, where he told us that if I felt it was appropriate to talk to the Spanish fishermen before – as he called it – I ‘dumb down the law’, he would support me in doing that. Now that it appears he thinks I am doing it, he is trying to blow that up as he sees it by requiring that I make a statement before I even talk to anybody about it. Well, Mr Speaker, okay, I understand the hypocrisy of his position.

1215 Then he says: ‘You are hoist on the horns of your own dilemma.’ Well, Mr Speaker; I do not feel my skin pinched anywhere by any horn at all. I am perfectly relaxed with the situation that we are in and I think so is the rest of the Government and so is most of the rest of our community, despite the fact that he continues constantly to try and pick as much propellant or jet fuel and throw it onto the flames of this issue to try and keep it in the headlines. Nobody else is bringing this issue forward. Nobody else is putting this issue in the headlines, only the Leader of the Opposition and maybe one Leoncio Fernández but nobody else other than Mr Feetham is putting this issue at the forefront of public debate. So I must tell him, I feel no horns (*Laughter*) and I sense no dilemma. But for reasons that I will come to, I think I will be able to demonstrate once again, with evidence, I think I will be able therefore to prove that he is actually hoist by his own petard (*Laughter*) but I shall leave that until the end.

1225 He tells us in his final repost that at least under the 1999 fishing agreement – I have got to read this because it is worth reading – they did not tolerate our laws being broken with impunity. Mr Speaker, if anybody believes that, then it is not that in our community we do not learn from history, it is that we re-write history Mr Speaker, and that is very, very dangerous indeed. In order to ensure that we do not do that and that we remember that the 1999 fishing agreement was actually an abject capitulation of our jurisdiction and the jurisdiction of this Parliament to legislate in respect of British Gibraltar Territorial Waters and to have our legislation in those waters respected by everyone, I move an amendment to the motion.

1230 The amendment, Mr Speaker, would be to delete all the words ‘after this House’ and insert the following language – (*Interjections and laughter*) in the best traditions of Parliamentary practice in Gibraltar (*Laughter*) – and insert the following language: ‘THIS HOUSE’ would stay. The following would read:

1240 ‘CONDEMNS the so-called fishing agreement entered into in 1999 between the then Government and a group of Spanish fishermen as contrary to the rule of law in its selective application of the law to some, but not to others;’

**A Member:** Hear, hear, hear. (*Banging on desks*).

1245 **Hon. Chief Minister:** Thank you, rent a mob. (*Laughter*) Your cheque is in the post. (*Laughter*)

‘BELIEVES that the 1999 fishing agreement purported to override the law of Gibraltar by setting out to regulate fishing in certain numbers, in certain locations, at certain distances and with certain methods even though this remained prohibited in law;

1250 TAKES NOTE of the excellent report entitled ‘The Management of Marine Living Resources in the Waters Around Gibraltar’ which was commissioned by the Government and published in December 2012;

CONSIDERS that the regulation of fishing and diving in British Gibraltar Territorial Waters must be handled in a sensible and responsible manner;

1255 THEREFORE WELCOMES the policy of the Government to engage in a process of consultation with many different stakeholders in relation to fishing and diving in British Gibraltar Territorial Waters and the announcement that Regulations are due to be published shortly by the Ministry for the Environment to start the process of regulating use of the marine environment;

AND REAFFIRMS the unquestionable British sovereignty, jurisdiction and control of the waters around Gibraltar as set out in the United Nations Convention on the Law of the Sea and the uninhibited right of the Parliament of Gibraltar to legislate in those waters as set out in the Gibraltar Constitution.’

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I move that amendment, Mr Speaker, and with your leave I would ask to be allowed to speak on it.  
(*Banging on desks*)

**Mr Speaker:** I am sure the hon. Members know what the position is now.

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This is the Chief Minister's amendment. Hon. Members may speak to this amendment, including the Leader of the Opposition, right, but what hon. Members cannot do is to speak on this amendment... or rather speak on the motion of the Leader of the Opposition under this amendment. You cannot do both, okay?

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**Hon. Chief Minister:** So, Mr Speaker, on the amendment, the Foreign Affairs Committee of the Westminster Parliament has long been an ally of the people of Gibraltar. When the people of Gibraltar have faced, for example, the joint sovereignty debacle of the British Government in 2002, the Foreign Affairs Committee of the British Parliament was on the side of the people of Gibraltar. It took evidence from the then Chief Minister and the Leader of the Opposition and they made clear in their report that it was wrong for the British Government to go down the purported joint sovereignty route.

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In its Fourth Report, Mr Speaker, the Foreign Affairs Committee had this to say about the fishing agreement. This was in the same year, Mr Speaker. They had said it was sensible to talk to the fishermen. They had said it was sensible to try and reach an accommodation, but they said this, Mr Speaker, paragraph 25 of the Fourth Report:

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'There is one important constitutional point to be made in the context of the fishing dispute. The Commissioner of the Royal Gibraltar Police has operational responsibility for the RGP and "exercises normal policing discretion when taking decisions on operational matters, on the same lines as Chief Constables in the United Kingdom." Whatever agreement there may be between the British and Spanish Governments, or between Mr Caruana and the fishermen, it is for the Commissioner to decide how to enforce the law. It is wrong to place a Chief Officer in a position where he is asked to enforce the law in a way which is politically expedient. Ms Quin told the House that the Government hoped'

– and this is the Government of the United Kingdom, who Ms Quin represented from the Foreign Office –

'that the agreement'

1285

– the fishing agreement –

'would be "backed up by legislation in the Gibraltar Assembly." We agree. We understand Mr Caruana's concern that amending the law might appear to be capitulation to Spanish pressure, but we do not believe that this is the case. We hope that the Government of Gibraltar will seek to amend the Nature Protection Ordinance so that the informal understanding about the extent to which it is not to be enforced is given proper legal effect.'

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And yet, despite that, in 2000, in 2001, in 2002, in 2003, in 2004, in 2005, in 2006, 2007, 2008, 2009, in 2010 and in 2011 they did nothing about it, having been told, not by Fabian Picardo, not by Joshua Gabay who did a sterling job in this House after the agreement, for the GSLP in Opposition, setting this issue out repeatedly, meeting after meeting, more eloquently than I ever could, but by the Foreign Affairs Committee of the United Kingdom Government... not that one is better than the other, but they are not the Opposition to the GSD as Joshua was in 1999, but I guess that is because they were going to do it in 2012, Mr Speaker.

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But if that were not enough, if the opinion of Joshua Gabay were not enough to convince Peter Caruana, if the opinion of the Foreign Affairs Committee that most times comes down on Gibraltar's side and I will say most because I have not read *all* of their reports and they might at some stage have said something we did not like, but if that were not enough, let me come to one more point, because the Hon. the Leader of the Opposition, Mr Feetham, has made the point that there was no breach of the rule of law, that all of these issues were not of great concern and that we should have stuck with the 1999 fishing agreement. If Joshua Gabay cannot persuade him, if the Foreign Affairs Committee cannot persuade him, if Fabian Picardo cannot persuade him, let me try Daniel Feetham.

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Mr Speaker, this is a press release issued by Daniel Feetham in 2003, in September:

'Chief Minister caught in crab controversy'

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– I will allow him, Mr Speaker – if that was his headline on Panorama – at least a smirk because it is quite a funny headline. It could have meant anything, Mr Speaker, the Chief Minister caught in crab controversy –

'Complaints are being received from both local amateur scuba divers and people concerned with nature conservation about the considerable amount of Spanish fishermen who are catching spider crabs (known in Spanish as *Centollo*) which is a protected species under the Nature Protection Ordinance.

It appears that these crabs are being taken to Spain to be sold there and when spotted by the RGP nothing is done to stop them.'

1310 – I assume that the error in syntax was an intention to refer to the fishermen taking them and not the arrest of the spider crab, as appears to be suggested by the sentence –

'In the meantime when Gibraltarians are caught doing this they are arrested and subsequently charged for the offence. "We are also informed that the Chief Minister has received complaints about this but thus far, nothing has been done to tackle the issue", says the Labour party.

The party adds: It will be recalled that the Government resolved the Spanish fishermen's dispute by entering into a private agreement allowing them to fish in Gibraltar waters and, in particular, in areas designated a Marine Nature Area under section 18(2) of the Nature Protection Ordinance. *Esta muy bien. La verdad es que no escribe muy bien a menudo, pero esto esta muy bien.*

Marine Nature Areas are territorial waters designated as areas of special interest for the purposes of conserving marine flora or fauna and providing special opportunities for the study of, and research into, matters relating to marine flora and fauna. These areas are, therefore, of tremendous importance to Gibraltar's marine wildlife and to the research carried on in them.

The party believes that both Gibraltarians and foreigners alike should respect Marine Nature Areas "and we also believe that protected species under the Ordinance should likewise be protected".

It is a matter of great regret that our protected wildlife and our protected areas are pillaged in this way without respect. It is likewise a matter of great regret that Gibraltarians cannot expect equal treatment of the law in their own homeland. No doubt the RGP would be applying the law equally among locals and Spaniards if it had not been for the agreement reached as a consequence of the fishermen's dispute.

"We do our society, underpinned as it is by the rule of law, a great disservice when we turn a blind eye to breaches of our laws and that disservice is compounded when the full force of our laws are applied only in respect of local youths and not foreigners," says the party, which calls on the Chief Minister to ensure that the law is applied equally among everyone and above all, that our Nature Conservation laws are upheld.'

1315 Mr Speaker, if nothing that Fabian Picardo has said has convinced the Hon. Daniel Feetham, I hope Daniel Feetham has. (*Applause and banging on desks and laughter*)

**Mr Speaker:** The Hon. the Leader of the Opposition.

1320 **Hon. D A Feetham:** Mr Speaker, I am totally in your hands as to whether you wish me to respond, as indeed I would wish to, to the Chief Minister in reply to my motion or to reply to his first... in other words, the amendments, because I have not responded yet.

**Mr Speaker:** You are able now to speak on the Chief Minister's amendment.

1325 Having done that, if the House then votes on the amendment and passes the amendment, then that becomes the motion before the House, at which stage you will have your right to reply. At the end of the debate you will have your right to reply.

**Hon. D A Feetham:** Yes, Mr Speaker, as long as I have my right to reply on *my* motion.

1330 **Mr Speaker:** No, your motion will have been amend... if your motion is amended, then this becomes the motion before the House, but you do not lose your right to reply to what has been said. Is that clear? The likelihood is, because your motion and the Chief Minister's amendment in a way overlap each other, I will be able to interpret the rules of debate very liberally in allowing you to exercise your right to reply.

1335 **Hon. D A Feetham:** Mr Speaker, yes, of course. But normally in this kind of situation, as it is my motion, I have the last word (**Mr Speaker:** Yes.) but what we have here... as long as I have the last word, that is all I am interested in, Mr Speaker.

1340 **Mr Speaker:** You will have the last word. (*Laughter*) The only thing is that it is not likely to be on the original motion. If I can count the heads, which I think I can, it is likely to be on the Chief Minister's amendment. That is all, but you will have your right to reply.

**Hon. D A Feetham:** Well, Mr Speaker, then let me deal with the –

1345 **Mr Speaker:** What you cannot do is both. You cannot now answer everything that the Chief Minister has said with this motion and then repeat the process and go over the same ground again. Do you follow? You cannot then repeat yourself. (*Interjections*)

1350 **Hon. D A Feetham:** Mr Speaker, of course, I cannot repeat myself and neither can he. No, I accept that.

**Mr Speaker:** Right.

1355 **Hon. D A Feetham:** Yes. Well, Mr Speaker, let me just deal with the last point which is the Chief Minister reading what was, I have to say, an excellent press release by the Labour Party in 2003. (**Members:** Hear, hear.) (*Banging on desks*) Absolutely, Mr Speaker – (*Interjections*) An excellent, excellent, excellent press release of which I do not resent one bit Mr Speaker, because of course what that press release was directing itself to – and indeed, it was not drafted by me, but it was drafted by a very competent colleague in my team at the time – was the fact that there were Spanish fishermen... divers, in this case, not fishermen – divers that were coming into British Gibraltar Territorial Waters and lifting a protected species such as the *Centollo* and basically then taking it to Spain; whereas Gibraltarians were being arrested, or being cautioned for exactly the same offence, and that is wrong.

1360 But, Mr Speaker, actually that has absolutely nothing to do with the 1999 Agreement. It has something... it is very relevant and has something to do with the Nature Protection Act, because it is the Nature Protection Act that essentially deals with the protection of these kinds of species in British Gibraltar Territorial Waters. The 1999 Agreement had nothing to do at all with *Centollos*. Nothing whatsoever at all with *Centollos*.

1370 So, Mr Speaker, there is absolutely no contradiction at all in the position that I am taking now with the position that I was taking then, and even if there were, even if there were, Mr Speaker, the reality of the situation is that the 1999 Agreement – as he has also recognised in his own address – was a good diplomatic solution to a very difficult problem that existed in 1999, that we could have changed the law later. I have already said that I accept criticism in relation to that, but it does not, Mr Speaker, deal with the main thrust of my criticisms to the hon. Gentleman today, which has been the way and the manner in which he personally has handled the tearing up of the 1999 Agreement without having anything to take its place.

1375 Mr Speaker, turning to the other parts of his intervention, I have to say, Mr Speaker, that it is as poor a response and intervention as I have seen the Chief Minister provide in this Parliament. Mr Speaker, but let me start by giving him a very small, historical lesson.

1380 He said, Mr Speaker, that it had been Margaret Thatcher that had said that it was as being mauled by a sheep. He has actually got it wrong on two counts. First of all, it was not Margaret Thatcher. It was Denis Healy about Geoffrey Howe, and the quote was it was 'like being savaged by a dead sheep'. Well, Mr Speaker, I have been called the black sheep, politically, many times by the hon. Gentleman opposite, but never a dead one and never one without teeth, and if he knows something about me by now, he should know that my teeth are particularly sharp indeed. But, Mr Speaker, he then says that it was a Glyn Ford moment. Well, Mr Speaker, I think that his intervention today shows that he is having one of many of his 'Clinton' moments.

1385 Mr Speaker, he says, 'I am not answerable... we are not answerable for our thoughts or everything that we are thinking', but it certainly appears, Mr Speaker, that he believes that he is answerable to the Spanish fishermen, because he is prepared to explain his thoughts to Spanish fishermen and to people across the border, the very same people he describes in his address as 'foreigners', but he is not prepared to share those thoughts with the people of Gibraltar and with Members of Parliament in this Parliament. That is the essence of my criticisms of the hon. Gentleman. He can talk about or he can call that criticism nonsense, or he can call my address nonsense. He calls it drivel. He then says that I am siding – which has become a favourite of the hon. Gentleman – I am siding with Margallo because he is just simply repeating the thesis of Margallo. Well, Mr Speaker, that is increasingly becoming a shield, a shield to the hon. Gentleman to shield him from the incompetence – it has to be said – that he has shown, in relation to dealing with this particular issue.

1390 The reality is that criticism of the Government is not criticism of Gibraltar. Criticism of the way that the Government has handled this particular issue is not being unpatriotic or a bad Gibraltarian or siding with anybody else, the reality is that the GSD has a different way of dealing with things, Mr Speaker. As I have said before, a calm, mature, intelligent way of dealing with things. All the qualities, Mr Speaker, that unfortunately the hon. Gentleman lacks in the way that he attempts to bulldoze these issues without any measure of intelligence and sometimes a thought.

1400 Mr Speaker, he said he goes from nonsense... he says that it is nonsense to expect us to provide him with the information publicly because, he says that the Spanish fishermen... sorry, he says that the Spanish Foreign Ministry would find out. That is absolutely a nonsensical argument, Mr Speaker. Does he not think that the Spanish Foreign Secretary has not been informed by the Spanish fishermen exactly what the

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proposals are and exactly what that discussion paper that he has given Spanish fishermen entails? Does he not think that? Does he think that the people of Gibraltar are so stupid as to believe that kind of argument?

Mr Speaker, he does not give the people of Gibraltar the credit for the intelligence that no doubt they have and the sophistication that time and time again they have shown in successive elections and indeed in the way that they express opinions on this matter.

Mr Speaker, he then repeats another point that he is very fond of making, and he says that I have said that I would like to see the Commissioner of Police removed and that everybody knows that I would like to see the Commissioner of Police removed. Well, Mr Speaker, I challenge him to produce the evidence of where I have said that I want the Commissioner of Police removed, because it is false, and I am telling him that it is false, as I have told him in the past. He must make himself responsible, Mr Speaker, for statements that he makes within this House. What he cannot do is just simply invent stories of this nature, because they are very serious indeed. I have told them I did not say it and yet, Mr Speaker, he continues to repeat it.

He then says – (*Interjection*) well, the 1999 Agreement, he says... I beg your pardon, he said... Well, he has never asked me to brief him on these issues on a confidential basis. Mr Speaker, I remind the hon. Gentleman that we gave him nearly two months grace where we kept quiet to give him the space to deal with the issue post the laying of the blocks, and we got criticised, *criticised* by a section of the press for effectively suspending political activities during that period of time because we wanted to give the hon. Gentleman the political space to deal with these issues. And yet, when we resumed political activities, any private briefings actually ceased and what the hon. Gentleman must realise and what ...as a democrat he must realise, that what we cannot have is a situation, Mr Speaker, where private briefings from the Chief Ministers are dependent on us just simply rolling over and not doing our job.

He is the Chief Minister of Gibraltar. He is in possession of this information and it is incumbent on him to pick up the telephone and to say, 'Look, come to my office. I am going to brief you on X, Y and Z', if that is relevant; but, Mr Speaker, he has not done so.

Mr Speaker, he also said that it is the duty of all Chief Ministers to prevent foreigners coming to our land and breach our laws. He mentioned an alternative reality as well during the course of his address, and I just wonder whether it is the hon. Gentleman who lives in some form of alternative reality. Mr Speaker, there are Spanish fishermen coming into British Gibraltar Waters, fishing with nets with impunity. Does he think that he is exercising his duty as Chief Minister preventing foreigners from coming into our land or our waters to prevent breaches of our laws, because it is not doing that? If he thinks that he is doing it, then it is him that lives in an alternative reality, not us.

Mr Speaker, he also said that the backbencher was reluctant to leave during the... when there was a walkout on the Credit Finance issue and he has repeated that in the past and he has repeated it outside. His supporters repeat the fact that I am doing Margallo's job etc, as they repeat most of what he says, but, Mr Speaker, the backbencher has said publicly in this House that he walked out of his own volition and that indeed if the situation persisted that he would have no hesitation at all in walking out again, because it was so serious that it merited walking out. No amount of distortion or the hon. Gentleman saying otherwise will change that very simple fact, Mr Speaker.

Mr Speaker, finally, just in my reply, returning to this question of the thesis of Margallo, I know that the hon. Gentleman likes to repeat it often that I am somehow doing Margallo's dirty work. I have now read in a section of the Spanish media that I believe to be sponsored with advertising by the Gibraltar Government, that somehow I have very high-level connections with the PP Government in Madrid and that the PP Government in Madrid would prefer me to him as Chief Minister of Gibraltar and that there is somehow a conspiracy between myself and Rajoy. Well, look, I wish, Mr Speaker, that I would have the influence to be able to influence Rajoy. I would tell him that his policy in relation to Gibraltar is counter-productive not only in Gibraltar, but also amongst his own people across the frontier in La Linea because it is harming them more than it is harming us, Mr Speaker. But, look, alas, it is not possible. I do not have that influence.

Mr Speaker, I love this community as much as anybody else in this Chamber. I have dedicated the last 15 years of my life; indeed, I came to Gibraltar in order to pursue a career in politics in order to defend the interests of my community. There is nothing more of an anathema to me that any suggestion that I am doing the dirty work for anybody across the frontier in Spain, least of all the PP Government in Madrid Mr Speaker.

But we have our way of doing things. There is a GSD way of doing things and simply because we say so – (*Laughter*) Simply because we repeat that and simply because we criticise the Government for doing things in a way that we do not agree with, does not mean that anybody on this side of the House, Mr Speaker, is a bad Gibraltarian, anti-Gibraltarian, or that, Mr Speaker, we do not love this community. Nothing could be further from the truth. He does a huge disservice to politics in Gibraltar to suggest otherwise. (*Banging on desks*)

**Mr Speaker:** Does any other hon. Member wish to speak on the Chief Minister's amendment?  
The Hon. Dr John Cortes.

**Hon. Dr J E Cortes:** Mr Speaker, unlike the Leader of the Opposition, who has strayed from talking on the amendment to responding to the Chief Minister's response to his own, as proposer, I intend to do my utmost to stick to the amendment.

1470 My, my, my, Mr Speaker, I was accused earlier on of singing my praises when I was speaking about the Alameda Gardens and now we have heard the Leader of the Opposition singing his praises about his work as a Minister in 15 years. The difference, Mr Speaker, is that he was 15 years in politics, I was for 20 years *el jardinero*. Mr Speaker, as a rookie, indeed, I must also point out that I already have more Parliamentary experience than any two-term GSD Minister.

1475 Mr Speaker, on the actual amendment, I think that what we have to remind ourselves, despite those who say otherwise, is that the fishing agreement, which was then known as a joint understanding, is in fact contrary, or was in fact contrary to the rule of law. Mr Speaker, it was worded so as to appear not to be against the rule of law, but against the rule of law it certainly was.

1480 Mr Speaker, in the preamble to the agreement, it stated equally that the fishing sector undertakes to respect the instructions of the Police Authorities of Gibraltar in their enforcement of that law. Mr Speaker, they did not... firstly, because they did not; and secondly, because they rarely got any instructions anyway.

Mr Speaker, it also makes a statement like, 'as a consequence both sides understand that there should be a return to the *status quo* which existed in the period 1991 to the start of 1997 and that thus the law will be applied with the same level of tolerance as during that period'. It was not applied at all.

1485 Mr Speaker, perhaps most significantly are the following words in the annex:

'After having discussed in detail what a return to the *status quo* and therefore to the 1991 – 1997 situation is, both sides understand that the law will be applied strictly in the following circumstances...'

1490 And therefore, Mr Speaker, by implication, that it would *not* be applied in other circumstances. Therefore, the distance from the coast of 225 metres, it would not be applied strictly outside them. The number of fishing boats: no more than four. It would not be applied if there were less and in this respect *luceros* are not considered boats actually fishing. That actually goes completely against an actual specific mention of *luceros* in the law.

1495 Therefore, Mr Speaker, although it was worded in such a way as to try to pull the wool over the eyes of the community by having a pretence that this was not in breach of the law, it most clearly was in breach of the law and therefore I think Gibraltar has to realise and I have no option but totally to support the amendment. (*Banging on desks*)

**Mr Speaker:** Is there any other contributor?

1500 In that case, I will call upon the Chief Minister to exercise his right to reply on the amendment. The Chief Minister will not be able to speak again, unless there were to be an amendment to the amendment.

**Hon. Chief Minister:** Or somebody gave way to him.

**Mr Speaker:** Yes.

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**Hon. Chief Minister:** Mr Speaker, thank you very much for the opportunity now to reply on the comments that the hon. Gentleman has made about the amendment, but the hon. Gentleman has said very little about the amendment when he got up to reply to the amendment, so I am going to reply to the things that he has said.

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**Hon. D A Feetham:** Well, Mr Speaker, that –

**A Member:** [*Inaudible*]

1515 **Hon. Chief Minister:** Well, yes, because you were only allowed to speak on the amendment and you spoke about everything, and therefore I am allowed to reply to what you have said.

1520 Mr Speaker, let me start by saying that it was absolutely clear that the hon. Gentleman, faced with this amendment and faced with the logic of what I had said, had nothing to say. So I will take his words, that this was from me as poor a response as he has ever seen, as actually a great compliment because what he means – and of course he always says the opposite of what he means – is, 'Oh, my goodness. That was a total methodical destruction of everything I, Daniel Feetham, said. I am left with nothing I can say to confront your amendment because the arguments which I put will obviously be clearly contradictory to the press release that I issued in 2003'. Of which he says, Mr Speaker, 'It was an excellent press release of the Labour Party, not drafted by me, but had absolutely nothing to do with the 1999 Agreement. It was all about diving'.

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Mr Speaker, this is not a man on the horns of a dilemma. This is a man wriggling on a hook, a hook of his own making, and he has just made the hook sink deeper into his mouth. He has said here, within living memory of all our minds, a moment ago, that this press release had nothing to do with the 1999 Agreement. Let me relish reading that part again. (*Laughter*)

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“The party says that it believes that both Gibraltarians and foreigners alike should respect Marine Nature Areas “and we also believe that protected species under the Ordinance should likewise be protected”.

It is a matter of great regret that our protected wildlife and our protected areas are pillaged in this way without respect. It is likewise a matter of great regret that Gibraltarians cannot expect equal treatment of the law in their own land. No doubt the RGP would be applying the law equally among locals and Spaniards if it had not been for the agreement reached as a consequence of the fishermen’s dispute.

“We do our society, underpinned as it is by the rule of law, a great disservice when we turn a blind eye to breaches of our laws and that disservice is compounded when the full force of our laws are applied only in respect of local youths and not foreigners,” says the party, which calls on the Chief Minister to ensure that the law is applied equally among everyone and above all, that our Nature Conservation laws are upheld.’

It is a clear reference to the 1999 Agreement. Mr Speaker, does he think that absolutely everyone is stupid except him? At least, Mr Speaker, he is enough of a parrot that when I say in my intervention, ‘You must respect the electorate. You must not treat them like fools’ the next thing that he does is get up and say, ‘You must respect the electorate. You must not treat them like fools’. But then, Mr Speaker, he goes on to treat not just the electorate, but everybody watching, everybody sitting here, everybody in the gallery and yourself, with all due respect, Mr Speaker, as an absolute fool by telling us that his press release, which I have just read out again, had absolutely nothing to do with the 1999 Agreement. So we can judge his credibility on that simple basis; but not that that had anything to do with the amendment... but anyway.

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Mr Speaker, he says that I recognised that the 1999 Agreement was a good thing diplomatically. Now, Mr Speaker, let us be very clear. I read him a part of the Foreign Affairs Committee Report which said something like that. That is not my position. That is the position of the Foreign Affairs Committee in its Fourth Report. So please can the easy device of him pretending that something I read from somebody else which I have expressly said I do not agree with, which he tries to impute to me, be clear does not actually work.

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Mr Speaker, he says that he has sharp teeth. Well, look, that is really a matter entirely for him. I have no need to know much about his dentures (*Laughter*) to understand that what he is promoting is an agreement that is contrary to the rule of law.

When I refer to a Glyn Ford moment, I am referring to the fact that they asked question about Glyn Ford. We offered them the information privately and they said no; but a year and a half later they have now said they would like the information privately. It is quite something, Mr Speaker, for him to say, as he likes to do repeatedly, that I have Bill Clinton moments. Well, you know what, Mr Speaker, Bill Clinton is famous for having denied adultery when he committed it and that, Mr Speaker, is a little bit close to the bone and perhaps we should not be going there. We should not be accusing each other of those sorts of moments because there is really quite no need to do that.

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He says, Mr Speaker, that he is cleverer than me and that he is much better at what he does politically than I do. If that was not the import of him saying how terribly I am doing it and how well he was doing it, well, Mr Speaker, look, I do not consider myself cleverer than anyone. I have been elected to do this job for as long as the people of Gibraltar want me to do it. They will decide at the next opportunity whether or not that is the case and they will decide whether he should continue as Leader of the Opposition or otherwise. What is the point in a debate of saying, ‘I am cleverer than you and I am better than you. Ya boo sucks’. I thought we had got beyond that when we left primary school.

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Of course it is clear to the Government, Mr Speaker, that by now the Spanish Foreign Ministry is fully aware of all the things that have been discussed, even at a technical level between Gibraltar technicians and Spanish fishermen; it was not always thus. But he was putting the issue on the public agenda. He was trying to draw us out on the subject. He *is* the person, Mr Speaker, repeatedly putting the issue back in the public domain with questions and with press releases and now with this motion. He wants to, Mr Speaker, because you see the reality is that Mr Feetham does not want us to resolve the issue that there may be with Spanish fishermen. He wants it to continue and endure, even if it damages Gibraltar, simply to try and make a cheap electoral point of it – that is the point – and if in doing so he plays into Mr Landaluce’s hands and into Mr Margallo’s hands, then he does not care a jot. That is why, however proud a Gibraltarian he may be, however much he says that he loves Gibraltar, he is always going to have to face from me the accusation that for his own selfish ends he pursues this issue of fishing and plays into the hands of those who would do our community the greatest damage. He needs to understand that, so that when he continues doing it, he does not have the excuse that he did not see that.

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But having said that Mr Speaker, given the extraordinary things that he has said, even denying the fact that his press release was speaking about the 1999 Agreement, when it clearly was, I have no doubt that



either because he cannot see it or because he will not see it, he will continue to do whatever he thinks is in his expedient interest in order to try and win Office. Which brings me, Mr Speaker, to the great sacrifice that he made by coming back to Gibraltar to defend it.

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It is abundantly clear to everyone, Mr Speaker, that the hon. Gentleman came back to Gibraltar when he came back to Gibraltar for whatever reason he might *really* have wanted to come back to Gibraltar, but principally to become Chief Minister of this community. This is his obvious lifetime ambition and he wears it so much on his sleeve that they should embroider it on all his suits, Mr Speaker. (*Laughter*) This man does not think that he has a date with destiny; this man thinks he is married to destiny, Mr Speaker. (*Laughter*) Whether it is 15 years ago or 10 years ago or whenever it was, Mr Speaker, one thing is very clear. When he came back from the United Kingdom... God knows why he did, but when he came back from the United Kingdom, it was because there was and there is a GSD way of doing things and he wanted that to stop. (**Hon. J J Bossano:** Absolutely.) He came back to Gibraltar at that time to offer his service to remove the GSD from Office (**Hon. J J Bossano:** Yes.) and rebuffed he has done now everything possible to keep them there and now bring them back.

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If Mr Speaker, he were to change the GSD and its policies were to reflect those of the GSLP on every aspect, then maybe, *maybe* he might be forgiven, but on present showing, given that he is defending the GSD way of doing things, which he was so against, I think it says much more about him than it does about the GSLP way of doing things. Mr Speaker, the GSLP way of doing things is the way of doing things that people have selected in this community to govern. Therefore, condemning the fishing agreement, which the GSD did, is absolutely right. Believing that the agreement was wrong is absolutely right. Taking note of the expert report is what we must do. Considering the regulation of fishing in British Territorial Waters a matter for this Parliament is what we must do. Welcoming the way this Government is trying to ensure that that is done in consultation with stakeholders is what we must do and reaffirming the unquestionable sovereignty of this Parliament over the land and sea of Gibraltar is exactly the *right way* of doing things. There could be no other way... the GSLP, now also Liberal, way of doing things.

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I therefore, Mr Speaker, commend the motion to the House as amended. (*Banging on desks*)

1605

**Hon. D A Feetham:** Mr Speaker, may I propose an amendment to the motion... to the amended motion?

**Mr Speaker:** You have already spoken on the amendment. You cannot put an amendment to the motion. Some other Member of the Opposition can do so, but you cannot.

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**Hon. Chief Minister:** But not at this stage, Mr Speaker.

Procedurally, Mr Speaker, if I may, at this stage I have spoken on the amendment. We have to now vote on the amendment. Once we have voted on the amendment –

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**Mr Speaker:** We have to vote on the amendment and then –

**Hon. Chief Minister:** After that you can do it.

**Mr Speaker:** – then after that –

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**Hon. Chief Minister:** – you can propose an amendment to the amended motion.

**Mr Speaker:** We now have to vote on the amendment and then the amended motion is before the House. You will not be able to put an amendment, but you will have a right to reply. One of your colleagues can move an amendment, okay?

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So I now put to the House, the amendment moved by the Chief Minister in terms of the amendment which has been circulated and which I am sure Members will not wish me to read out. Those in favour? (**Members:** Aye.) Those against? (**Hon. D A Feetham:** Against.)

The amendment is carried by a Government majority and therefore the motion now before the House is as amended and, as I say, the Hon. the Leader of the Opposition is not able to speak on this motion. He has a right to reply.

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The Chief Minister is not able to speak on the motion. The Hon. Mr Cortes will have to be very careful because he has, to all intents and purposes, done so; but he did not speak on a number of other paragraphs and he could, if he so wished.

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All other Members on the Government benches and on the Opposition benches can speak on the motion as amended.

1640 **Hon. Chief Minister:** Mr Speaker, can I just... I need to absent myself from the Chamber for a minute. I mean no disrespect to whoever speaks next and I will be listening in the Ante Chamber, but I must make a phone call.

**Mr Speaker:** That means, as I say, hon. Members of the Opposition, who would be the ones normally interested, can move an amendment to the motion.

1645 **Hon. D A Feetham:** Do I have a right to reply?

**Mr Speaker:** The Hon. the Leader of the Opposition has a right to reply at the end of it all. Before we take a vote... you see, oddly enough what happens is that the motion, as amended, becomes your motion (*Laughter*) according to the Rules of the House and that is why you have the right to reply. (*Laughter*)

**Hon. D A Feetham:** So, Mr Speaker –

1655 **Mr Speaker:** I should not have put it the way I have, but you know what I mean. (*Laughter and interjections*)

1660 **Hon. D A Feetham:** Mr Speaker, I am not sure that I do so. Essentially I have no right to expect answers from the Government to my questions and also his amendments become my motion. (*Laughing*) I am not sure if that is exactly the correct position, but I accept that the order... I have the right to speak at the very end.

**Mr Speaker:** The last person to be able –

1665 **Hon D A Feetham:** Which was what I was concerned about, Mr Speaker.

**Mr Speaker:** Yes, that is the position. Does any hon. Member wish to speak on the motion, as amended? (*Interjection*)

**Several Members:** Hear, hear. (*Banging on desks*)

1670 **Hon. J J Bossano:** Mr Speaker, the GSD way and the GSLP way are like chalk and cheese in almost every respect, but there is in one particular respect, which is very relevant to this motion and to the way the Member opposite behaves nowadays when he is so proud of the GSD way which he condemned in 1996, in 2000 and in 2003. That is, when it comes to taking sides in issues where the Government of Gibraltar is in conflict with the Kingdom of Spain.

1675 So in 1996 the situation that was inherited by the GSD was that the 1991 Nature Protection Ordinance was in place and that was not in place in order to stop fishermen from Spain fishing because we do not like Spaniards in our water; it was there to protect the fish from fishermen of any nationality. The only relevance that the Spaniards were involved is in fact that everywhere else that they had been fishing they had wiped the place clean, from Norway to the North Sea in the United Kingdom. Indeed Greenland left the EU rather than allow the Spaniards to fish there! They actually negotiated their exit because one of the conditions demanded by the Spaniards was that they should be able to wipe out all the fish from Greenland's Territorial Sea, having exhausted almost every other possibility.

1680 So the purpose of the exercise was to retain fish in our waters before they wipe them all clean. And of course to the degree that we were able to influence with the constitutional arrangements that existed there, the involvement of the Police in doing the job we did, and when they could they did and when they could not, they did not. So the reality was it was not that it was a non-zero tolerance; it was that on some occasions they were able to do something about it and on others they did not.

1685 When the situation developed after 1996 and the conflict came about with Spain, what we did not do, because we did not believe in the GSD way and we did not know about the GSD way because we had not been with a GSD in power before then, what we did not do in Opposition, was to say to Mr Caruana, 'You have created the problem with Spain. By having the ship arrested, you are responsible for the blockade on the frontier by having done this because unlike the measured well thought-out supposed GSD way we are having described now, that is not what happened then.

1690 They did not do a measured, well thought-out process where they knew what was going to happen. They arrested a ship – which they were perfectly entitled to do, which we fully supported – and then the Spanish fishermen blockaded our frontier illegally and we did not blame the Government of Gibraltar for the blockade by the Spanish fishermen because that was not the GSLP way. The GSLP way was to say we do

not agree with Mr Caruana and we do not agree with the GSD but if the Spaniards attack the Chief Minister of Gibraltar, we defend him. That was the GSLP way. (**Several Members:** Hear, hear.) (*Banging on desks*)

1700 And whenever anybody interviewed me in Spain and attempted to draw me out in criticising the policies of the GSD, however much disgust I held for the GSD way of doing things – which I did (*Laughter*) and I still do (*Laughter*) – I would say to them in Spain, I am not here to talk about the Government of Gibraltar in a foreign country. What I do is that whatever I have to say to Mr Caruana, I will say to his face and in our Parliament. So as far as I am concerned, I am not prepared to be drawn on any passing of judgement on any  
1705 policy of the Government of Gibraltar.

We criticised Mr Caruana for dropping his trousers and giving in when the Spaniards blockaded the frontier. We did not criticise him and say to him you brought this on yourself by doing what you did. So if we are talking about the equivalent of putting blocks of concrete, if it had been the GSD way of doing things, in the case of the position that existed in 1999 what we would have done was say, ‘Well look, first  
1710 of all you provoked the crisis. The crisis has not been provoked by the Spaniards. It is not the fault of the PP. It is the fault of the fact that you do not do things without looking ahead and knowing what is going to hit you, and now when it hits you, you finish up capitulating it and you finish up with egg on your face.’

Because that is what actually happened – but we did not say it. We attacked the Spaniards for blocking it and we did not support the Government for doing the agreement in order to lift the blockade, although we  
1715 understand the pressure they were under.

We had a situation where people were around No. 6 Convent Place blockading it, because they did not agree that there should be Spaniards inside negotiating with the Government of Gibraltar and the guys outside did not know what was going on. What did the Police do? They arrested some of the people outside and protected the Spanish fishermen all the way back to the frontier! The GSD way, of which he is so  
1720 proud.

Well, he was not proud in those days. His values were different in those days. I am sorry that he has given up those values, which we still have and which have been part of our history and our tradition on the left. So as far as I am concerned, we do not go round condemning things unless we are provoked into  
1725 condemning them and he has actually made it necessary for us to go along the route of condemning what was there before, because he is trying to put a situation which is in fact *misrepresenting* what took place.

Of course Mr Caruana, on more than one occasion, it happened with a numbering plan on the telephone system, when he said in this Parliament, ‘Well look, if there are three parties in a negotiation and somebody has got to drop his trousers, who do you think is going to do the dropping of the trousers – the Spaniards, the Foreign Office or Gibraltar? The weakest of the...’ Well look, you might as well stop wearing trousers  
1730 if you are going to be dropping them all the time! (*Laughter and banging on desks*)

So the answer is that having known the Member opposite in short pants, as he often remembers, I hope I do not see him with no pants, now that he is supporting the GSD way.

1735 **Several Members:** Hear, hear! (*Banging on desks*)

**Mr Speaker:** Is there any other contributor to this debate?

If there is not, I will call on the mover – that is the Leader of the Opposition to reply – and then that is the end of the whole show.

1740 **Hon. D A Feetham:** Well, Mr Speaker, thank you very much for allowing me –

**Mr Speaker:** No, no, I do not allow you. (**Hon. D A Feetham:** It is the rules that allow me, absolutely.) It is the Rules that allow you and my job is to apply the Rules, which I do to the best of my ability.

1745 **Hon. D A Feetham:** Thank you very much for giving me the opportunity pursuant to the rules of replying to what has been quite an entertaining debate. (*Laughter*)

But Mr Speaker, it has been entertaining, not least Mr Speaker, because we have spoken during the course of this debate about alternative realities and really, listening to the Hon. the Father of the House in his intervention, I am just really not sure what kind of reality sometimes, with all respect to him and he  
1750 knows that I hold him – I have criticised him – but I do hold him in affection – (*Laughter*) I do, I do, I do and I remember my moments with him in short pants!

I have always endeavoured to learn from his good qualities and his bad qualities – where he got it right and where he got it wrong. But Mr Speaker, he said – he made one extraordinary statement – the reality is that the GSLP way is not to agree or to give vent, or to allow the Spaniards to criticise the Government of  
1755 Gibraltar here and that he has *always defended* the Government of Gibraltar in Spain.

Well Mr Speaker – Mr Speaker, please! Mr Speaker what about Joanna Hernandez, Mr Speaker, when the hon. Gentleman gave an interview in a programme in Spain, the ‘House of Horrors’ that laid into our Social Services and laid into the way that we were running here in Gibraltar. The Doctor Giraldo Home –

1760 does he not remember that, Mr Speaker? (*Interjection*) Or does he – ? I am not giving way, Mr Speaker  
 (Severall Members: Oh! Oh!) Or does he, Mr Speaker (*Interjections*) or does he, Mr Speaker, live in an  
 alternative reality all of his own making, Mr Speaker?

1765 And of course Mr Speaker, I do not blame him for the selective amnesia. I have to say, Mr Speaker, that  
 the best contribution that he made was when he said, ‘Because the Spaniards have wiped out fish from all  
 the waters that he has fished.’ I have to say he must have said that through gritted teeth and I will tell you  
 why: because Mr Speaker, the Government *actually intends* to allow Spanish fishermen to fish in British  
 Gibraltar Territorial Waters, Mr Speaker!

1770 Or is it, Mr Speaker...? Because look, if he takes that statement to its logical conclusion, Mr Speaker,  
 and if he really is going to defend his socialist principles, Mr Speaker, and all the principles that he has  
 spoken about, Mr Speaker, then of course he is bound to tell the Hon. the Chief Minister, do not allow  
 Spanish fishermen to come into our waters to fish in British Gibraltar Territorial Waters, not only now, and  
 they are doing so more than ever before, but also do not change the law of which I was the architect in  
 1991, in order to allow Spanish fishermen to come and fish in our waters!

1775 Or Mr Speaker, do I detect a sign of division in the Government benches, with the cracks starting to  
 show and divisions between the Hon. the Chief Minister and indeed the Father of this House on this  
 particular issue? Because certainly by the looks and hearing him make the statement that he made, it would  
 appear that he is firmly opposed to the idea flown by the Hon. the Chief Minister of allowing Spanish  
 fishermen to fish in British Gibraltar Territorial Waters.

1780 Mr Speaker, he also made a comment – a comment that has been made on numerous occasions by  
 himself and by the Chief Minister as well – that I condemned the GSD in 1996 and that somehow I was  
 effectively the caped crusader here on behalf of the GSLP from 1988 all the way to 1996. Look, the reality  
 is, that if I had been here in Gibraltar, I would have been supporting my father. That is true. I would have  
 been supporting my father, because he was the hon. Gentleman’s right-hand man; there is no doubt about it.  
 But I did not even vote in the 1996 election, Mr Speaker! I do not even think I voted in the 1992 elections  
 because I was *not in Gibraltar*. I was actually in the United Kingdom and I returned in 1999/2000 and,  
 1785 rightly or wrongly, it is a matter for the history books, it took me all of six months to a year, I think it was,  
 in order to fall out with the hon. Gentleman because of the position that he was taking and the manner in  
 which he conducted a number of issues.

1790 And let me say, Mr Speaker, now coming back to the Chief Minister, that I had an ally. I had an ally in  
 the Hon. the Chief Minister in relation to this, because he was the one that persuaded me, Mr Speaker, that  
 the leadership of the Father of the House *could not be trusted*. Those were the words that the Hon. the Chief  
 Minister used in my house in *Sotogrande*. I suppose that the hon. Gentleman, the Father of the House was  
 always right when he used to say to me the best plots are always hatched in *Sotogrande*. Well, Mr Speaker,  
 that is the reality.

1795 That is the reality and, Mr Speaker; there was a moment of admission. A moment of admission by the  
 Hon. the Chief Minister yesterday during questions, when he said, ‘Well those were just simply the  
 indiscretions of youth.’ Well, if it was indiscretions of youth, Mr Speaker, to say that the leadership of the  
 Hon. the Leader of the House, Mr Bossano was not to be trusted, well I suppose I could be forgiven for  
 having some indiscretions myself in terms of my political past.

1800 Because Mr Speaker, the Hon. the Chief Minister, of course, when he said that he would resign from the  
 Liberal Party within 24 hours of my resignation of the GSLP and then went back on his word, within a year  
 he had jumped from the Liberal Party into the GSLP to basically fill the void that I and others had left  
 within the GSLP! (*Interjections*)

1805 So look, Mr Speaker, I will accept criticism for my political history but of course he has to accept an  
 element of criticism himself and by criticising me, he is also criticising himself.

1810 Mr Speaker, finally, the 1999 Agreement has absolutely nothing to do with spider crabs. Absolutely  
 nothing to do with spider crabs. It deals with Spanish fishermen coming into British Gibraltar Territorial  
 Waters and fishing with nets. That is what it is about. It is not it does not deal with spider crabs and Mr  
 Speaker, my position now continues to be my position then, in this respect: that the law has to be applied  
 universally across the board to Spaniards and also to Gibraltarians, because actually, I have also had  
 complaints from Gibraltarians who I have been told have not been able to fish in British Gibraltar  
 Territorial Waters when Spanish fishermen fish with nets in British Gibraltar Territorial Waters. And look,  
 that is a disgrace! That is an absolute disgrace that the law discriminates against Gibraltarians in that way.  
 (*Interjections*) The law, or the way that it is applied.

1815 Mr Speaker, for all those reasons, we will not be voting in favour of the amendment as the Hon. the  
 Chief Minister has amended my motion. (*Interjections*) No. We are not.

**Hon. Chief Minister:** I call a division for the vote.

1820 **Mr Speaker:** I now put the motion in the terms of the amendment moved by the Chief Minister which has been incorporated into the motion and is therefore the motion now standing before the House. So I call a division, please. (*Interjections*)

1825 The motion before the House is a motion which has had an amendment incorporated into it. It so happens to substitute the original motion (*Laughter*) and puts a new one in front of it. But that is the position. If the amendment had been a minor amendment adding a paragraph or so on, part of the original would have remained. I give that as guidance, because the House is not very used to this sort of thing. It is something that used to happen at practically every meeting that the Hon. Joe Bossano and I attended. But now it is a relatively new thing – but I am glad to see it all the same.

*Voting took place and the results were as follows:*

1830

**FOR**

The Hon P J Balban  
The Hon J J Bossano  
The Hon Dr J E Cortes  
The Hon N F Costa  
The Hon A J Isola  
The Hon G H Licudi  
The Hon S E Linares  
The Hon F R Picardo

**AGAINST**

The Hon D J Bossino  
The Hon Mrs I M Ellul-Hammond  
The Hon D A Feetham

**ABSENT**

The Hon Sir P R Caruana KCMG QC  
The Hon S M Figueras  
The Hon Dr J J Garcia  
The Hon J J Netto  
The Hon E J Reyes  
The Hon Miss S J Sacramento

**Mr Speaker:** There are 6 Members absent. There are 8 votes in favour of the motion and there are 3 against. The motion is carried. (*Banging on desks*)

#### ADJOURNMENT

1835 **Mr Speaker:** The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House do now adjourn.

1840 Mr Speaker, I gave an indication yesterday of when I intend to come back next month so that hon. Members know that we intend to have Question Time the week of the 23rd and the Budget debate the week of the 30th.

1845 It is my pleasure, Mr Speaker, to call an end to the 23rd meeting of the House during the lifetime of this Parliament and record my disappointment that hon. Members have not seen fit to be able to support a motion that reaffirms British sovereignty over our waters and our sea and our right in this Parliament to legislate for that area.

**Mr Speaker:** Is the Chief Minister not moving the adjournment *sine die* therefore?

1850 **Hon. Chief Minister:** *Sine die*, yes.

**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 do now adjourn *sine die*. Those in favour? (**Members:** Aye.)  
Those against? Passed.

The House will now adjourn *sine die*.

*The House adjourned at 6.25 p.m.*