



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.30 p.m. – 5.35 p.m.

Gibraltar, Monday, 30th March 2015

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# The Gibraltar Parliament

*The Parliament met at 3.30 p.m.*

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

[CLERK TO THE PARLIAMENT: P E Martinez Esq *in attendance*]

**PRAYER**  
*Mr Speaker*

## **Gibraltar Football Association – Congratulations to senior and under-16s squads**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, before we get into the formal business of the House, which will involve Bills and motions, I wanted to rise just to reflect that history was made yesterday on the football field by the senior GFA squad and the under-16 squad in two respects.

5 The first event of note was the fantastic goal scored by Lee Casciaro – which no doubt all of Gibraltar will have watched on television and some were lucky enough to watch in person at Hampden Park – in the Euro-qualifier which Gibraltar were playing against Scotland. I have no doubt that the Casciaro goal was absolutely, certainly in my view, definitely the most beautiful goal of the match and I am sure that the whole House will want to join me in congratulating Lee Casciaro for the fantastic achievement that the goal represents as our first in a competitive international competition. (*Banging on desks*)

10 Moreover, at the level of our younger selection, the under-16s, we can see that the next generation of Gibraltar footballers are also achieving greatly. As their more senior brethren had already done, they yesterday beat Malta by two goals. They were playing in the GFA's first ever Youth Development Tournament being held this weekend in Gibraltar.

15 Mr Speaker, I note that also in Gibraltar for the tournament are the teams from Macedonia and San Marino. I am delighted to welcome the Malta, Macedonia and San Marino teams to Gibraltar.

I warmly congratulate all of our senior and under-16 squad and their coaching and training staff on behalf, no doubt, of the whole Parliament. The GFA make the beautiful game carry our dreams in European and, hopefully soon, international competitions and we all value their hard work. (*Applause*)

## Order of the Day

### **BILLS FIRST AND SECOND READING**

#### **Referendum Bill 2015 – First Reading approved**

20 **Clerk:** Order of the Day – Bills, First and Second Reading. (1) A Bill for an Act to govern the organisational, administrative and procedural matters associated with the holding of referenda in Gibraltar.  
The Hon. the Chief Minister.

25 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act govern the organisational, administrative and procedural matters associated with the holding of referenda in Gibraltar be read a first time.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to govern the organisational, administrative and procedural matters associated with the holding of referenda in Gibraltar be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

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**Clerk:** The Referendum Act 2015.

**Referendum Bill 2015 –  
Second Reading approved**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill for a Referendum Act 2015 now be read a second time.

35 This Bill provides a legal basis for the holding – or rather I should say, for the reasons I am going to come to later, a legislative basis for the holding of referenda in Gibraltar.

Hon. Members will know that the thinking behind this Bill relates to the situation which manifested itself at the time of the atrocious joint sovereignty negotiations between the United Kingdom and Spain. At that time ill-informed and badly advised commentators in the UK and Spain started to suggest that a referendum in Gibraltar which was not organised by the United Kingdom would not have any legal validity.

40 That is, as this House then agreed, utter nonsense. That was common ground between both sides of the House at the time and I trust that it is still common ground across the floor of the House. Indeed, I want to refer the House, in taking this Bill, to Question 706/2002, where the subject was ventilated in the exchanges on that issue between the then Chief Minister, now the hon. backbencher Sir Peter Caruana, and the then Leader of the Opposition – then and now, as in the future and for many years, we hope, the Father of the House. Let me highlight some parts of that exchange.

45 Mr Bossano, in his supplementary question, said this:

‘Can I ask, in terms of the technical position to organise a referendum, the United Kingdom has said in Parliament’

– that is the Westminster parliament –

50 ‘that it is a matter for them both to decide the question I think and the timing that is put, on what basis do they think they have the right to say under the Constitution to do this without the support of this House?’

Sir Peter then said this, as Chief Minister:

55 ‘I do not know and they appear to think that this raises some legalistic issue where of course a referendum is simply a properly administered opportunity for people to express a free and democratic view. It does not raise any issue of law and of course there is nothing in the laws of Gibraltar that entitle the UK but not the Gibraltar Government to conduct a referendum and there is nothing in United Kingdom law in that respect either. I think the point they are making which in my opinion is a complete non sequitur is that if the result of the referendum would require a change in English law, for example, if we all voted to be Spanish in this referendum and this required some acts of Parliament to be passed that they do not think that they should have to change the UK law except in response to a referendum that they have organised, I think that is the somewhat skewed thinking, the formal positions are as follows, they say that they would like to organise in consultation with the Gibraltar Government and I say that the Gibraltar Government will organise it in consultation with the British Government. In either event the Gibraltar Government reserve the right to organise a referendum in Gibraltar on any issue at any time that it pleases there is nothing in the law preventing the Gibraltar Government from doing so, indeed there is nothing in the law providing anybody in Gibraltar organising a referendum.’

– I assume that is prohibiting anybody in Gibraltar organising a referendum; a note to amend *Hansard* in that respect, at page 635 of that particular *Hansard* –

70 ‘The idea to be a valid expression of democratic will it has got to somehow comply with some law which is non-existent in the event but that it has to comply with some law is a view for which I can see no rational consensus.’

The argument continued with both sides of the House being entirely of one mind in that respect. There are a few more exchanges but I do not need to trouble the House with those.

75 Mr Speaker, as a result of that issue raising its head then, we committed ourselves in our manifesto for the General Election to bring a Bill for a Referendum Act and we set out what that Act would do.

Under the heading ‘Referendum Law’ our manifesto says as follows:

‘As became apparent at the time of the referendum on the 2006 Constitution’

80 – a later referendum, Mr Speaker, which was also relevant –

‘the legal base for consulting citizens through a referendum does not exist in Gibraltar, as was confirmed at the time by the Attorney General. This does not mean that the referendum was illegal, as Spain has argued, but that the legal basis for it is not as

85 strong as it could be. We will therefore introduce an Act of Parliament in our first year in office to cure this problem to provide the legal basis for holding referenda and the procedure to be followed. We will make provision for non-Gibraltarian British nationals resident in Gibraltar for over 10 years to be eligible to apply for Gibraltarian status and vote in such referenda.

– something, in respect of that last phrase, which has already happened. It was the case that British citizens who had been resident for 10 years were given the opportunity to vote in the referendum from 2002. We were therefore only, in effect, giving legal cover to what had been the case as a matter of policy agreed between both sides of the House at the time that those particular referenda had been agreed. Mr Speaker, that is therefore what the Bill before the House today now seeks to do.

Part 1 of the Bill is concerned with the usual preliminary matters, such as title, commencement and interpretation.

90 Part 2 contains the mechanism for the calling of the referendum. A referendum is held when the Chief Minister makes an order pursuant to clause 3, but an order under Clause 3 is only made either after the House has read a Government Bill for a second time with the other stages then being adjourned to a later date, or where this House has approved a Government motion calling for a referendum – in the first instance, if a Bill is being put to the people in referendum.

95 Clause 4 of the Bill sets out the contents of the order and what has to be contained in it and this includes the day itself of when the question is going to be put, the question to be put and also the percentage of votes that will be required to carry the vote.

Clauses 5 and 6 are concerned with the appointment of the referendum administrator and related administrative issues.

Part 3 of the Bill then goes on, in clauses 7 and 9, to relate to qualifications for participation.

100 Clause 7 sets out the criteria for eligibility by reference to the voter's nexus for Gibraltar, as is the case in elections. In very general terms, persons will become eligible if they meet the nationality criteria and have lived in Gibraltar during the qualifying period, which, as I indicated, should be 10 years.

105 Clause 8 is not replicated in elections legislation and allows for a change to the minimum age. If we eventually decide to change the minimum age for voting then such a clause will not be relevant; but as the House will know, in a referendum in the United Kingdom recently – in the 'Scottish Referendum', as it is known, the minimum age for voting was reduced, although in this election in the United Kingdom the age for voting remains at 18.

Part 4 of the Bill contains the procedural requirements necessary to establish a list of eligible voters and to provide for challengers, where appropriate.

110 By clause 13 provision is made for the creation of a Register of Voters which must be published prior to the holding of a referendum, exactly the same as when dealing with an election.

115 Part 5 of the Bill comprises clauses 14 to 38, replicates in large measure the provisions of election legislation again regarding polling stations, manning of the same, and these provisions allow for a secret ballot to be undertaken, of course. Unlike in the elections legislation, however, a polling station is referred to as a 'voting station'.

Part 6 of the Bill relates to absentee voting and part 7 to postal voting. Again, these provisions are largely a replica of the existing elections legislation.

120 Part 8 deals with the business end of the referendum and contains the procedural matters relating to the counting of voting papers, the verification of the count itself in addition to the declaration of the result – the bits that are important to the Returning Officer, Mr Speaker.

Offences that may be committed in connection with the holding of a referendum as set out in part 9 of the Bill and the penalty if a person has committed an offence is provided for in clause 79.

Part 10 of the Bill, headed 'Miscellaneous', contains clauses 80 to 83.

125 Clause 80 allows for the destruction of papers at least 12 months after a referendum has been held.

Clause 81 saves the validity of actions taken in the referendum process if observers are not present when they are undertaken.

Clause 82 gives the final say to the Referendum Administrator, as the Returning Officer is known in respect of referenda, in respect of organisational, administrative or procedural matters or in any respect of any voting paper.

130 Clause 83 is a wider regulation-making power that will allow for subsidiary legislation to be made. In Clause 83(2)(d) such a power extends to making regulations that may alter the application of the Act for the purpose of enabling the participation of voters who are unable to attend and vote in person.

135 In a letter that I have circulated to Members, a new part 11 is to be introduced at Committee Stage with just one new clause, clause 84, which will provide that where a result has been declared in a referendum conducted in accordance with this Act, that that result shall be recognised and given effect to until the result of a subsequent referendum requiring otherwise.

Mr Speaker, before I sit down to allow others to speak on the Bill, I should add that the making of this Act for future referenda, which a Gibraltar Government may organise after a motion in this Parliament or in respect of any particular Bill, does not in any way call into question the validity of any earlier referenda and

140 does not give any credence or credibility to the ridiculous and undemocratic statements of those that so disgracefully wanted to silence the voice and thwart the will and the expression of the wishes of the people of Gibraltar back in 2002.

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

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

**Hon. Sir P R Caruana:** Yes, Mr Speaker, thank you.

150 First of all, let me say that I would wholeheartedly support a Bill to provide legislative underpinning for what we did back in 2002, and to the extent that this Bill did that I would have no hesitation whatsoever in supporting it. As I have understood the Bill – and it may be not what the hon. Members intend, but as I have understood it nevertheless – it does considerably more than that, and unless the hon. Members can put my mind at rest I do not see how I can personally support the Bill.

155 The issue that it arises is really one of the role of Parliament. As I have understood clause 3, and indeed the Hon. the Chief Minister's explanation of it just now, this Bill creates an Act to allow the hon. Members opposite to organise a referendum not on political questions, which is what I would certainly back it for, but rather to give the public at large an opportunity to express a view on any Bill under consideration by this House after its Second Reading. Either we govern in Gibraltar by representative Parliament, in terms of legislation, or we govern by referenda; but what it seems to me is that it is completely undermining the role of Parliament as we have hitherto understood it that as a Bill is making its way through Parliament –  
160 namely, after the Second Reading of a Government Bill... It maybe that the hon. Member means a Bill to organise a specific referendum on a specific question, but that is not what it says, is it? It says *any* Government Bill. So we can have a Bill about the price of fish and after the Second Reading the hon. Members could call a referendum and then presumably Parliament's will is obliged by the result of that referendum.  
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I do not know if that is what was intended or not – it may not be – but I cannot imagine that it is consistent with the role of this Parliament, or any Parliament as we have hitherto understood it, that a referendum should be part of the legislative process of this Parliament in its legislation-making. It seems to me that that is a much more radical transformation of the system of governance in Gibraltar than a  
170 referendum to give statutory underpinning to the political question of sovereignty or any other political question that might arise in future, which is, as I have understood it, is what the hon. Members intend to achieve by this Bill. I am just wondering whether between now and the Committee Stage, if the Bill is not too urgent – and assuming that they agree with me, which they may not – whether it would be worth just tightening up the language of the Bill to make it clear what it is and clear what it is not.  
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**Mr Speaker:** Does any other hon. Member wish to speak?

**Hon. D A Feetham:** Mr Speaker, we would wish to hear what the Hon. the Chief Minister has to say about the points that the backbencher has just made. (*Interjection*) I understand that technically, Mr  
180 Speaker, but of course how the Opposition is going to be voting depends on the answer that the Chief Minister provides the hon. the backbencher to his question.

**Hon. Chief Minister:** If the hon. Member gives way –

185 **Hon. D A Feetham:** I will.

**Hon. Chief Minister:** If the hon. Member gives way, I can now speak and then come back and reply.

Mr Speaker, the fact is that our intention was exactly what the hon. Gentleman has indicated: this should be about political questions, not about legal questions.

190 In taking advice – of course we do not draft these Bills – from the draftsmen, they have come back with a model which is used in Canada in particular, which does not govern by referendum, it governs by its Parliament but does have the power to put Bills to the general public in Canada in this form. In other words, at the end of a second reading you can then move out – well, at least that is the advice we have – and go for a referendum on this issue.

195 It is not our intention, nor do we envisage circumstances where we might do that. I suppose if we all put our heads together we could find such a situation, but the hon. Gentleman is right – our model of Parliament is that the Government takes responsibility for the Bills it brings to the Parliament and passes them with a Government majority if they do not enjoy unanimity because that is Government policy.

200 Could there be circumstances where you want to take a Bill from a second reading, suspend it, put it to referenda and bring it back to the Parliament? Well, if it were because there were divisions between both

sides and the Government were to lose that referendum, then it would say something about the confidence the public had in the Government. That was never the intention that we had, Mr Speaker. In fact, I will put it to the hon. Gentleman that should you wish to do that, then in fact you would have the power to do that without that clause, simply by having a Government motion that appended to it a Bill.

205 Therefore, Mr Speaker, what I am going to propose – given that it is not our intention to try and seek controversy in respect of this particular Bill, because I think we are curing an ill that both sides identified should be cured to avoid the problems that we are dealing with – I am going to propose that at the Committee Stage we should delete clause 3(a) and be left only with clause 3(b). In other words, clause 3 should just read as one clause without a small (a) or a small (b). It should just read:

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‘The Minister may make an order for a referendum to be held where Parliament has approved a Government motion for a referendum.’

215 That still allows a Government in the future, should it wish to, to put a Bill to the public once it has come here by simply attaching it to the motion. It is not what we envisaged, Mr Speaker, and I value that we might be able to count on the support of both sides of the House for something that we consider to be a very important Bill indeed for our political future, not an issue that should deal with how we deal with legislation in this House. I hope that is helpful and I will therefore prepare a written notice to the effect that I propose the deletion.

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

**Hon. D A Feetham:** Mr Speaker, on that basis then the Opposition will be supporting the Bill and we will be voting in favour of it.

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**Mr Speaker:** If no other Member wishes to contribute then I will ask the mover to reply.  
The Hon. Mr Bossano.

230 **Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** Mr Speaker, although we have never had any doubt about the validity of the referenda we have had in our history, the first one, in 1967, was organised by the United Kingdom government and is still considered invalid by Spain, so it does not matter to our neighbours who organises the referendum – they will only recognise the referendum that will never produce the result that they want. If we produced that tomorrow, they would say it was a legally valid one. Therefore, the only referendum that Spain will ever accept as a legitimate one is a referendum which gives Gibraltar to Spain, which will never happen and therefore they will never, irrespective of what we do in this Parliament, give recognition to the results. (*Banging on desk*)

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However, for us it is important, I think, to accept that predominantly on fundamental issues that deal with the survival of our country but also perhaps on other things where the House – very rarely, but it has happened – has had a situation where Members on both sides of the House were in agreement with each other and in disagreement with their colleagues... It has happened on one or two occasions but not very often in the last 42 years, and I think if it is an issue that is controversial and that it is of such a nature that neither the Opposition nor the Government within their own branch can get unanimity because it is something that people take and hold very strong views of, independent of where they stand on the political spectrum, then I think it is legitimate to say, ‘Well, look, let’s see whether the people agree with one view or the other’ – because who are we, the 17 people in this room, to decide on something where there are very strong views held?

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I think it is important, if that happens, that the decisions that are then taken are accepted as binding by those who were against it before and accept that once you consult the people on something it has to be respected, and therefore the framework of making the referendum an instrument that is passed by this Parliament... of course tomorrow another Parliament could decide to repeal the legislation and that would be the end of it, so it is not inhibiting a future Parliament from having a different view. But I think that nobody would dream of doing anything, in terms of talks about Gibraltar’s future, that was in breach of the referendum that was conducted when we agreed in this House, organised by the Government of Gibraltar in the context of the sharing of sovereignty that was being attempted by the government of the United Kingdom. The view was then very clear, it was overwhelming, and therefore nobody in his right mind wanting to stand for politics in Gibraltar would want to go against that. Nevertheless, the fact is that there is nothing to stop a result being ignored and what I think is important also, in terms of creating a legal basis for the referendum, is that the legal basis should be one that requires the results to be adhered to by a Government unless they go to the extent of saying ‘I am going to ignore that referendum’, and if that happens it should be going back to the people and again seeing if opinion has changed. Opinion on a subject might change. A different generation might have different views on anything, nothing to do with the question of... on any other issue. Within the generations in Gibraltar we would perhaps have less of a gap

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265 than in other countries, but it can still happen. Therefore, I think it is something that is required and it should be more than just creating the mechanics of how to do a referendum, but sending a very important message that ultimately there is a sovereignty higher than the sovereignty of Parliament, and that is the sovereignty of the people. (*Banging on desks*)

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

270 **Hon. Chief Minister:** Mr Speaker, as I have said, I am grateful for the indication that, given the amendment, the hon. Members will be supporting this Bill. I think it is important that this Bill go with unanimity and I am very pleased and very proud to be able to present it and commend it to the House.

275 **Mr Speaker:** I now put the question, which is that a Bill for an Act to govern the organisational, administrative and procedural matters associated with the holding of referenda in Gibraltar be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Referendum Act 2015.

**Referendum Bill 2015 –  
Committee Stage and Third Reading to be taken at this sitting**

280 **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 the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**Electronic Commerce (Amendment) Bill 2015 –  
First Reading approved**

285 **Clerk:** (2) A Bill for an Act to amend the Electronic Commerce Act.  
The Hon. the Chief Minister.

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

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

**Clerk:** The Electronic Commerce (Amendment Act) 2015.

**Electronic Commerce (Amendment) Bill 2015 –  
Second Reading approved**

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

This Bill, in effect, provides that the Electronic Commerce Act, which is already on our statute book, should enjoy a small amendment as a precursor to the introduction of greater e-government by the introduction of legislation to regulate e-commerce where that commerce is not designed to be for profit. The context of the word ‘commerce’ always might suggest profit, but when the Government is going to come into this space to provide a public service as a public body to the general public and has no intention of doing that for profit, we are advised that it would be in the interests of legal clarity to ensure that there is an amendment to show that the Government itself will be covered by the provisions of this Bill, which essentially relates to how that exchange of information occurs in the ether of the virtual world.

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305 It is a short Bill, Mr Speaker. Hon. Members will have seen it is hopefully uncontroversial and I commend the Bill to the House.



**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 Electronic Commerce Act be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

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**Clerk:** The Electronic Commerce Amendment Act 2015.

**Electronic Commerce (Amendment) Bill 2015 –  
Committee Stage and Third Reading to be taken at this sitting**

**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.

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

**University of Gibraltar Bill 2015 –  
First Reading approved**

**Clerk:** (3) A Bill for an Act to establish the University of Gibraltar and for connected purposes. The Hon. the Minister for Education, Justice and International Exchange of Information.

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**Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):** Mr Speaker, I have the honour to move that a Bill for an Act to establish the University of Gibraltar and for connected purposes be read a first time.

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**Mr Speaker:** I now put the question, which is that a Bill for an Act to establish the University of Gibraltar and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The University of Gibraltar Act 2015.

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**University of Gibraltar Bill 2015 –  
Second Reading approved**

**Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):** Mr Speaker, I beg to move that the Bill be now read a second time.

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In November 2011 we published our election manifesto. In it we said the following, and I quote:

‘The University of Gibraltar will commence operations within 4 years...’

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In a packed and ambitious manifesto those 10 words represented a commitment of monumental proportions. It may not have been immediately obvious to those reading the manifesto that that commitment would represent a massive advancement of what Gibraltar is, what Gibraltar represents and how Gibraltar is to develop. As from September of this year Gibraltar will step up to become a university city. It is a coming of age, it is a transformational moment, it is a milestone in our history which comes only once and which we and, I hope, many generations of Gibraltarians will cherish.

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We set to work straight away on making our commitment a reality. In 2012 we engaged Prof. Daniella Tilbury to carry out a feasibility study on the University. That study concluded not only that it was feasible for Gibraltar to have its own university, but that the University could be very successful. In January 2014 Dr Darren Fa was seconded from the Gibraltar Museum to the Department of Education to work exclusively on the University project. The work that Dr Fa did, together with other members of the project team, was consolidated into a scheme which was launched as the University project in October 2014. At that launch we confirmed that the University would indeed open its doors in September 2015 and we announced the location of the University and the various faculties that would form part of it. Hours upon

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hours of thought, of discussions, of consultations, of identifying building needs, of looking at the resources both financial and human that would be required, of considering the academic programmes that could be offered, of visits to higher educational institutions in various places around the world, of working through a number of statutory, operational and governance models, have brought us to where we are today: on the verge of a landmark event.

This Bill will establish the University of Gibraltar and set the framework for the University to function.

This is, of course, only one element of what needs to come together to allow the University to open its doors in September. We have already brought to this House a Bill to appropriate £10 million for the University. The Bill was passed in October 2014.

That funding enabled building works to commence. Now I am glad to report that work continues at full pace at the site of the former St Christopher's School to convert two emblematic buildings into our University. Europa Point is a magnificent location for the university and allows the creation of a campus with room for expansion in the future – an expansion which will see new facilities added, including student accommodation. The existing buildings are being brought back to life in a way which not only preserves but enhances the heritage value of those buildings. An 18th century stone building with high vaults will house the library, a computer suite for study and for online exams, a hall where conferences can be hosted and the administration centre of the University. There will be an outside courtyard surrounded by rooms for teaching staff and research students. The building known as the Defensible Barracks has 10 vaults, which will be primarily used for teaching. Between the two main buildings a glass roof structure will be installed to create a large open atrium, which I expect will be a hive of activity for students. On either side of the atrium are two new constructions, with a student cafeteria and a training kitchen for the Faculty of Hospitality on one side and a research laboratory for the Faculty of Life and Earth Sciences and a simulation suite for the Faculty of Health Studies on the other. On top of the Defensible Barracks, the southernmost building, will be a restaurant, which will form part of the Faculty of Hospitality but which will be open to the public. The restaurant will enjoy unrivalled and unobstructed views of the Straits and Africa. This will in fact be one of the most attractive places in the whole of Europe in which to enjoy a meal.

As already announced, Mr Speaker, the University will have four faculties, an Institute for Professional Development and Continuing Education and a Language Centre. The faculties are the Faculty of Health Studies and Sports Science, the Faculty of Business, the Faculty of Tourism and Hospitality and the Faculty of Life and Earth Sciences with Gibraltar and Mediterranean studies.

On Health Studies there will be a continuation of the programmes offered by the Gibraltar Health Authority, namely a Bachelor of Science degree in Nursing and a Masters in Leadership and Management in Healthcare. These programmes are accredited and directed by Kingston University.

On business there will be a series of programmes taught which are part of the University of London international programmes, and I am glad to announce today what those programmes will be. There will be a Bachelor of Science degree in Accounting and Finance, a Bachelor of Science degree in Banking and Finance and a Bachelor of Science degree in Business and Management. In addition, there will be offered a Diploma for Graduates in Banking and a Diploma for Graduates in Accounting. All of these programmes are directed by the London School of Economics through the University of London international programmes. Initially these will be offered on a part-time basis through evening classes, so they will be accessible to everyone in Gibraltar. We expect full-time programmes to also be offered as from 2016. The Faculty of Business will progress to also offer computing courses as from 2016. In addition, the Faculty of Business will offer courses in Gibraltar law and in Gibraltar tax. These will be taught over 24 weeks with a two-hour lecture each week.

Mr Speaker, the University of Gibraltar has consolidated the association and collaboration with Oxford Brookes University. Through that association the Faculty of Tourism and Hospitality will be offer throughout the next year a series of practical programmes in hospitality culture. We expect the faculty to progress to academic programmes as from 2016.

The Faculty of Life and Earth Sciences with Gibraltar and Mediterranean Studies will incorporate two research institutes. The Institute of Life and Earth Sciences will deal with scientific research. The Institute of Gibraltar and Mediterranean Studies will concentrate on research into social science themes. The Gibraltar Museum, the Garrison Library and the Gibraltar Botanical Gardens will form part of the research institutes and will be part of the extended campus of the University. The Faculty will offer research courses leading to PhDs. We expect that up to 10 PhD opportunities will be offered during the course of the first year. These will cover a wide cross-section of topics. They will include topics in areas such as macaque behaviour and management, the marine biology of Gibraltar waters and the Straits, the modern constitutional development of Gibraltar, Neanderthal life in and around Gibraltar, football crowd policing and behaviour, and responsible gambling. This will be the start in the evolution of a research facility which we hope will expand and make Gibraltar a major centre for academic and scientific research.

The Institute of Professional Development and Continuing Education will offer professional development for both the public and private sectors. There will be short courses developed to meet industry needs, as well as courses leading to professional qualifications such as accounting technician, the Institute of Legal Executives and the Chartered Management Institute. These will be expanded over time into other areas where a need is identified in consultation with relevant industry associations.

Mr Speaker, the Language Centre will concentrate on the teaching of English as a professional or business language. In order to be able to attract students from abroad to take these courses, it will be necessary for us to be able to offer appropriate student accommodation. I therefore expect these courses to start during 2016. I would add that the potential for the Language Centre is truly enormous. Every year, tens of thousands of students attend language centres in the UK and elsewhere to learn not just English but English for professionals, with specific courses offered for different industries. There are, for example, courses in English for engineers or English for aviation, and many more. Gibraltar is particularly well placed to attract many students from all over the world. With English as our main language and a location which is in many ways unique and attractive we are well poised to make this area an economic driver for our community. This is not just true for the university, though. This is an area where private providers could set up and the teaching of English could become a huge industry for Gibraltar. The University of Gibraltar's Language Centre is therefore set to play a pioneering role and to act as a launch pad and catapult for the development of a new industry. Such is the impact that we expect our University to have.

Mr Speaker, I turn to the Bill itself.

There are some amendments proposed to the Bill as originally published. These are set out in a letter to Mr Speaker dated 23rd March, which includes a schedule of the proposed changes and a tracked version of the Bill showing the changes. I will formally move – (*Interjection*) My note says the 23rd; it may have been the 24th when it was actually sent, Mr Speaker. It was in fact the 24th. Yes, I have a copy of the letter in front of me and it is the 24th. I am grateful to the hon. Member for pointing that out.

I will formally move the amendments to the Bill at Committee. I will be speaking to the Bill as proposed to be amended and I will of course be happy to address in my reply any questions which the Opposition may have on the proposed amendments.

Mr Speaker, this is a Bill for an Act to establish the University of Gibraltar. The University is founded and constituted as a statutory body. The Bill provides for the University to be a body corporate with the ability to sue and be sued in its own name and to have its own seal.

Part 3 of the Bill contains important statements of principle. There are provisions for institutional autonomy so that the university, its board and its constituent bodies are free from interference from all external bodies, authorities or agencies.

This part also provides for academic freedom, with a requirement that the principles of enquiry and research, teaching and intramural and extramural expression shall be respected.

The university will have a power in its own right and name to grant degrees, including research and honorary degrees, diplomas and certificates.

The functions of the University and the duties of the University are set out in clause 8. The functions of the University include establishing and maintaining faculties, institutes, departments, schools, colleges and academic chairs and to provide courses of instruction in the various branches of knowledge and to establish facilities for the pursuit of original research.

The University will be headed by a chancellor, who will be the University's titular head and will have no executive role. The chancellor is appointed by the Minister with responsibility for Education. The University will have a vice-chancellor, who is appointed by the board with the consent of the Minister. The Bill provides for the vice-chancellor to be the chief executive officer who sets the strategic direction of the University and provides it with academic leadership.

There will be a board of directors. The board is responsible for the management, administration and control of the property, revenue and business of the University but not for academic governance. The board is composed of up to seven persons made up of the vice-chancellor, the Director of Education, the University's financial controller and up to four persons appointed by the Minister. The Minister may increase the number of members of the board at its request and any such additional members are appointed by the board. The chairman of the board is appointed by the Minister from among its members.

As I have indicated, the board is responsible for all the business of the University but not for academic governance. It is customary for academic governance to be vested in a separate body. The Bill contains provisions for the establishment by the Minister of an academic board, Council, senate or equivalent body to undertake the academic governance functions of the University. Pending the establishment of such a body, the University's academic governance functions are undertaken by the vice-chancellor.

There are provisions in the Bill for the recognition of a student union and for the student union and any student society to operate in a fair and democratic manner and to be accountable for its finances.

Part 7 of the Bill deals with interim governing arrangements, with the power given to the Minister to designate an initial governing authority and to determine its powers and duties. The initial governing

authority shall have the powers of the vice-chancellor until the appointment of the first vice-chancellor and of the board until the commencement of the board's first meeting. These provisions are essential so that the University can start to function whilst it is taking shape and it is up and running with all its constituent parts, officers and members appointed or put in place.

Hon. Members will be aware that the Government has incorporated the University of Gibraltar Ltd as the vehicle through which the University is being delivered and which engages staff and enters into contracts such as the contract for the construction works at the Europa Point site. The company is the operating vehicle for the University project. It is my intention to designate the University of Gibraltar Ltd as the initial governing authority so that the University itself can start to function. Once all the necessary appointments and structures are made or put in place it is the Government's intention to transfer the shares in the University of Gibraltar Ltd to the University established by this Bill. In that way there will be a seamless transition from the Government project that the University currently is to a fully functioning and structured University as an independent statutory body. It will, of course, be up to the University's board to determine whether it keeps the University of Gibraltar Ltd as its operating vehicle. It probably makes sense for the board to do so, but that will be a decision for the board and not for the Government.

Part 8 of the Bill contains financing provisions with an obligation created on the University to use its best endeavours to become self-financing. Subject to certain safeguards, the University will have powers to borrow and to invest.

Part 9 deals with the acquisition of property and provides for the property and income of the University to be exempt from taxation.

Quality assurance and regulatory provisions are contained in Part 10.

A power is given to the Minister to establish or designate a quality assurance authority to be known as the Gibraltar Authority for Standards in Higher Education. The purpose of the Gibraltar Authority for Standards in Higher Education is to establish and safeguard academic standards and to provide quality assurance in respect of the University's academic programmes. It should be noted that the primary responsibility for quality assurance of its academic programmes vests with the University itself and not with an external body. It will be for the University, through its academic board, council, senate or equivalent body established under the power given in clause 29 or pending the establishment of such a body through the vice-chancellor, to create the necessary structures for quality assurance and for the maintenance of standards in the academic programmes. There is nevertheless a role to be played also by an external body in ensuring that those standards and quality assurance are maintained. In the UK that is the function of the Quality Assurance Agency. At the outset it may not be necessary for an external quality assurance authority to be established or designated. That is because the degree programmes that are being offered in conjunction with Kingston University or as part of the University of London international programmes already come with the necessary quality assurance. In due course it will be necessary for the Gibraltar Authority for Standards in Higher Education to be established or for another body such as the UK's Quality Assurance Agency to be asked to carry out this function. Discussions to this effect have already taken place with the Quality Assurance Agency and a power exists in the Bill to delegate this function to such a body.

There is a separate provision in the Bill for a regulatory authority to be known as The Gibraltar Higher Education Commission, which can be established or designated. The functions of the Commission will be to regulate the affairs of the University by making sure that statutory provisions are complied with and statutory powers are not exceeded. It is necessary to distinguish between an external body that looks at academic standards – that would be the role of the Gibraltar Authority for Standards in Higher Education – and an external body that ensures compliance with statutory provisions other than academic governance. That is the role of the Gibraltar Higher Education Commission. The Gibraltar Regulatory Authority has agreed to carry out the functions of the Gibraltar Higher Education Commission and arrangements by the GRA to be able to provide this have already been made. It will therefore be my intention to designate the GRA to carry out the functions of the Gibraltar Higher Education Commission. This will be one more strand of the work of the GRA, which already deals with the regulation of telecommunications, satellites, postal services and data protection.

Mr Speaker, part 12 contains miscellaneous provisions, including provisions to prevent any person other than the University without the consent of the board to hold himself or itself out as the University or use the title or style of the University of Gibraltar. It also provides protection against the misuse of the University's coat of arms, logo, insignia or emblem. A contravention of these provisions amounts to an offence with a penalty on summary conviction being imprisonment for six months or a fine not exceeding twice level 5 on the standard scale, or both.

There is an exclusion of liability to the University for acts of students and protection from acts or omissions by officers of the University in good faith in the execution of duties carried out on behalf of the University unless those acts or omissions arise from gross negligence.

Finally, there is a power given to the Minister to make rules, regulations and orders to fulfil the purposes and objects of the Act.

535 The Bill sets out a comprehensive framework for the establishment and functioning of the University. It provides for the University's independence, for its governance structure, for academic governance, for interim governing arrangements, for the University's financing and investments, for accountability and reporting and for quality assurance and regulation.

540 In September the University of Gibraltar will open its doors to the whole community. The statutory framework, the building, the staff, the initial academic and professional development programmes should all be in place by then.

545 Mr Speaker, the University has been described many times as an exciting project. It is much more than pure excitement that we feel. 'Exciting' does not even begin to express fully what it is that we are building and what it is that the University can become and achieve for Gibraltar. With the enactment of this legislation an institution that will change and benefit Gibraltar in many ways is born. It elevates Gibraltar to the rank of those cities that are able to welcome international students to carry out important research, to engage in academic programmes, or even to learn English tailored for the profession in which they are engaged. It will provide opportunities for Gibraltarians who have either already returned from studying abroad and want additional qualifications or who want to do their first degree locally. There will be opportunities for research into areas which will make a real difference to our community. There will be constant interaction with industry, with professional courses to meet Gibraltar's needs. There will be specific and high-quality training for the hospitality industry. There will be job opportunities in higher education, which have never been possible in Gibraltar. The University will be an economic driver not just for itself but for the entire community. In a nutshell, the University is an institution for the whole of Gibraltar and I look forward to welcoming everyone to the University when it opens for public viewing in September.

555 Mr Speaker, it is with enormous pleasure and with a huge sense of responsibility and pride that I commend this Bill to the House. (**A Member:** Hear, hear.) (*Applause and banging on desks*)

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

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

565 As the Opposition said at the time of the supplementary appropriation Bill, this side of the House is supportive of the concept of establishing the University of Gibraltar. It is indeed something that, as the Chief Minister said himself at the time, has been a project long trailed by more than one political party in the history of this House and its predecessors. But in doing so I would like to ask the Hon. the Minister for Education for a little bit of clarification on some parts.

570 Seeing that this side of the House is very much committed to the professional development and continuing education and so on which is embedded in the principles of what the University is being established for, in clause 8 there is a section that says that the functions of the University are as follows, and it mentions – I take it in the general sense of or in the general meaning of the word – schools and colleges. Can I, at least just across the floor of this House, just as an assurance that it is not the intention of the University to take over primary or secondary education in Gibraltar but rather from a higher education interpretation that is why schools and colleges have been included in that section there?

575 I look forward later on in the Committee Stage, Mr Speaker, to hearing from the Minister the amendments that he is introducing in regard to the composition of the board. We want to have a board that is independent and above all political interference and so on, but it seems to me that the board is going to be composed of two employees of the University – the vice-chancellor and the financial controller – the Director of Education as an ex-officio member, and then the Minister will appoint four other persons and so on. I look forward to hearing what the Minister has to say in respect of maintaining a certain independence and freedom that that board needs in order to carry out its duties properly.

580 More so, Mr Speaker, leading to section 46, because an annual report has to be presented by the vice-chancellor and the board and it has to be presented to the Minister. With that, the board has to arrange for the audit of annual accounts and so on. Given that this House has already approved the expenditure of £10 million – which should cover expenses for the next two or three years but one can foresee, because we are supportive of investing in education and so on, that there will be contributions from this House going towards the University – to my knowledge there is nowhere in this Bill that clarifies whether that report should later on, once the Minister has had time to see it and perhaps had to make the relevant questions from the board... where that report and its financial outings will be recorded – whether it will be laid for the record in this Parliament or whether it will be published because it is the University's intention under the board to publish that so that the public of Gibraltar is aware of where their money – which we are supportive, as we did at the time of the supplementary appropriation – where the money is being spent so we can really judge our value for money.

590 With that, Mr Speaker, I look forward to the Minister's reply.

595 **Mr Speaker:** Does any other hon. Member wish to speak?  
The Hon. Sir Peter Caruana.

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

600 I am not sure that I would share the full extent of the hon. Member's mental orgasm of the Bill, (*Laughter*) but certainly I have no hesitation in welcoming his political initiative in this respect.

The University of Gibraltar is, without doubt, a category of institution that fits into what he has said about institutions that enhance Gibraltar's trappings as a modern European country. It will be, I am sure he will accept, equally important for those very same reasons that Gibraltar, as it has done in other sectors of its outward facing activities, seek excellence of standards because by virtue of the fact that it is going to be  
605 a high profile institution it will therefore be one with a capacity to tarnish Gibraltar's image and reputation if standards begin to fall or the value of our degrees begin to fall. I am sure that will not happen, but the hon. Members should just be aware of that.

I only wish to intervene on one point and I do not thereby wish to cast criticism on the project itself, which as I say is excellent and I warmly support it. Clause 5, rightly in my opinion, flags up the importance  
610 of the institutional autonomy. So, for example, clause 5 says:

'The university, its board and its other constituent bodies shall be free from interference from all external bodies, authorities or agencies'

615 – in which I am certain the Minister would wish to include himself as an external authority and agency –

'in the exercise of the powers conferred by this Act, including as regards the following–'

Then clause 6 says:

620 '(1) The principles of freedom of inquiry and research, teaching and intramural and extramural expression, shall be respected.'

So that is the statutory statement of the desired level of independence and autonomy that the Government, in my view rightly, wants for this institution. It is noteworthy in conjunction with that – and I suppose that this has been a matter of careful consideration and policy decision – that the Bill gives no role  
625 whatsoever to the Department of Education in relation to what is just one more level of educational establishment in Gibraltar. But whilst giving the non-political side of Government – that is the Department of Education – no role whatsoever, the same is not true – Sorry? (*Interjection*) Yes, I beg your pardon.

**Hon. G H Licudi:** If the hon. Member were to give way just on that particular point, the only role there  
630 is is that the Director of Education forms part of the board of governors, so to that extent – and it is a point perhaps that also addresses something that the Hon. Mr Reyes said – he is an ex-officio member but he is the highest authority of education in Gibraltar and therefore we thought that it was fitting for the Director to be represented on the board of governors.

**Hon. Sir P R Caruana:** Yes, of course he is, in that capacity, ex-officio, but in terms of administrative  
635 responsibility for the administrative side of education and for the policy side the Department itself has no role as a body, which is subject to whatever influence he can bring to bear within the board as a member of which he, the Director, is.

Contrast that with the usual model – and I recognise it is the usual model of our agencies and authorities  
640 in Gibraltar; there is nothing untoward about it or unusual – of the very high level of power, which in effect ensures control in the person of the Minister, and through the Minister the Government. So the Minister appoints the chairperson of the board, effectively the chancellor; the Minister has to consent to the appointment of a vice-chancellor; the Minister personally appoints the majority of board members; the Minister can at any time, and it does not even say 'for good reason', fire any member of the board, even for  
645 making perhaps decisions that the Minister – a Minister; let's depersonalise it from him; any future Minister – may not like. That is clause 23, by the way, 'Removal from office'.

Clause 29 then goes on to say:

650 'The Minister may pursuant to section 58 establish and provide an academic board, council, senate or equivalent body to undertake the academic governance functions of the university otherwise undertaken by the board.'

I just wonder whether this is a calibrated extent... a calibrated following consideration and decision  
655 extent of Ministerial power – there is nothing wrong with the word, I suppose, 'power' – over the affairs of the board through these powers of appointment; and have the hon. Members given any consideration to some other model which somehow makes the University not just be stated to be independent as in clauses 5 and 6, but through the degree of control? I do not say that the Minister should have no control, hence my point about the Department. This is an important academic function; it is important to maintain standards.

660 There are questions of the image of Gibraltar abroad; there is the question of the Government funding; there is a question as to the extent to which the Government may want to use the University as a tool of policy to deliver, for example, as he has just announced, the Bar Council, the solicitors' and barristers' qualification thing; they might want to use it as an instrument of economic policy for training and retaining. So there are any number of reasons which would justify the Government rightly reserving the ability to ensure that this publicly funded organisation does indeed serve the needs and interests of the community as primarily identified by the Government that has over-arching responsibility for that in our democracy. But it seems to me that the Bill itself starkly contrasts a statement of independence with actually the usual dose of ministerial control which successive Governments have given successive Ministers in successive areas of activity in Gibraltar.

**Mr Speaker:** Any other hon. Member who wishes to contribute?

670 The Hon. the Leader of the Opposition.

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

As the shadow Minister for Education quite rightly said, the Opposition is going to be supporting this Bill. Indeed, we supported the Bill that was brought for supplementary funding.

675 I would ask him to clarify one point and it arises out of section 54, if he has that, and that is as to the scope of section 54, which is an immunity from suit, from proceedings. It says:

'(1) No action or proceeding shall be brought against a member of the board or faculties, an officer or employee of the university, or against the initial governing authority'

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Then, at subsection (3), it says:

'No action shall lie against the university if it appears that the university acted under the authority of this Act or any other Act.'

685 The University itself – as I understand it, but I will be corrected if I am wrong – has no separate legal standing. It is going to be a limited company that effectively is going to be running the University. I may be wrong about that but I am thinking about, for example, cases in the industrial tribunal. Does he envisage that this clause is going to catch any claim for unfair dismissal, for example, or any other type of claim that may be properly brought against that limited company or indeed against the University if the University has some separate personality by virtue of this Act or otherwise? I would just ask the hon. Gentleman to perhaps clarify that for me.

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**Mr Speaker:** The Hon. Dr Cortes.

**Minister for Health, the Environment, Energy and Climate Change (Hon. Dr J E Cortes):** Mr Speaker, as someone who has spent most of his life moving in and around the world of academia I feel I must say a few words in support of the Bill and by way of congratulating my colleague the Minister for Education and the team that have been working to bring this Bill to us today. I do not think we can overstate the significance of what we are doing here today: the tremendous potential that the University has and the fact that it will open more doors than we even know are there to be opened.

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700 I still have considerable contact in the academic world and I have received many words of congratulation and many words of interest in what we are doing in Gibraltar. It has certainly created great interest in the academic world. Wherever I have gone and in areas where I have been in academic circles I have been congratulated for the vision that the Gibraltar Government has had in creating a University.

Mr Speaker, the University of Gibraltar, I feel, will be one of the most important and significant achievements of this Government and possibly will be the most significant part of its undoubted and unequalled legacy. (*Banging on desks*)

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

**Chief Minister (Hon. F R Picardo):** Mr Speaker, as most Gibraltarian students will know, especially those who study the sciences at university, universities are places not just of organisms but also of orgasms, as the hon. Gentleman has referred us to, which is everything that education is about, (*Laughter*) at least further education! (*Laughter*)

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Tony Blair has said many things with which people can disagree, and rightly so, particularly in Gibraltar. If there is one thing that Tony Blair said once that people in Gibraltar will be able to agree with, when asked what a priority for a Labour Government should be he answered, 'Education, education, education', and that is certainly something that we can all agree with.

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720 Mr Speaker, I rise because I want to commend the work that has been done by the team in the Department of Education, led by the Minister of Education and the Director of Education and in particular by Mr Darren Fa, who has been very closely associated with the project and who has done a lot of what we might call the leg work, and now the appointment of Miss Daniella Tilbury.

725 When I rise in jest to talk about ‘education, education, education’ I want to talk also about milestones. Milestones in our modern history in education have been set by the Gibraltar Socialist Labour Party when in Government in this respect.

730 The front page of this week’s *The Economist* carries a very apposite front page, almost as if they knew that the Minister was going to move this Bill. It is, ‘The whole world is going university’ and it contains a special report that deals with university education. There are two parts of this report that in particular I want to refer the House to when considering education and how it has developed and how we are now led to this university.

730 In the lead article *The Economist* says this:

‘If people need a degree to get ahead, then democratic governments must offer everybody with sufficient brains a chance of getting one.’

735 and that is exactly what in 1988 the then GSLP Government ensured could happen by the introduction of the mandatory scholarship scheme.

735 Elsewhere in the same leading article the following:

740 ‘As first degrees become standard, more people are getting post graduate qualifications to stand out from the crowd. In both America and Britain, 14% of the adult workforce have a post graduate degree and despite the increase in supply the post graduate premium has increased in both America and Britain especially since 2000.’

745 In 2011 our manifesto for the General Election provided that we would move the Department of Education from simply providing first degrees as a mandatory requirement, as we had introduced in 1988, to providing, because of this competition of people who already had a first degree, that all those who wished to and were able to obtain a place at university would be able to access a second degree, a higher degree. That demonstrates our commitment to education, education and now, with the university, education.

745 The conclusion of the lead article in *The Economist* says this:

750 ‘But access to higher education is not binary. Some provision is excellent and some is not, and the returns to low-quality higher education are poor. So the ambition expressed by pretty much all governments everywhere to widen access to good-quality higher education conflicts with another global force: competition to create the best universities.’

755 I think that it is important for the Parliament to realise that the road on which the Government has embarked, under the stewardship of the Hon. the Minister for Education, is not a rush to be average, it is not a move in haste to just create another institution; but, as he has demonstrated in the past three years since he started work on the subject, since he has moved the Parliament on a number of occasions to consider and deal and support the legislation and motions he has brought in relation to the University, we are embarked under the Minister for Education and this Government in a careful endeavour towards creating a great University, a great institution. In so doing, we are not just going to create a place of learning but, as he has said himself, I hope that we are also sowing the seeds for new and future economic activity for our nation.

760 **Mr Speaker:** The Hon. the Minister for Education.

**Hon. G H Licudi:** Mr Speaker, thank you.

765 It is certainly very satisfying to see that this Bill will enjoy the support of the whole House. It is an institution, as I have said, for Gibraltar generally and which we expect many good things to come out of the institution.

770 Taking the points that have been raised by hon. Members, the Hon. Mr Reyes mentions the possibility in the Bill of the University establishing schools and colleges, and wonders whether we are going to create a primary school on the University site. Certainly not, Mr Speaker. It is customary these days for many universities to operate within the university itself their own schools and colleges. For example, Oxford Brookes University operates the School of Hospitality Management, which is part of the higher education offering of Brookes University; and as we know, universities such as Cambridge and Oxford operate through colleges of their own. So any references in this Bill to any departments, faculties or institutions clearly are all within the framework of what it is that we are establishing. This is a higher education institution and that is where the University needs to remain, as a higher education institution.

775 The hon. Member mentions the appointment of persons to the board, which is also the point raised by Sir Peter Caruana about on the one hand there being established in the Bill itself the basic principles of institutional autonomy and academic freedom to provide for the independence of the University – and it is pretty strong language that the Bill provides: there shall be no external interference by external agencies or



780 authorities, and that clearly includes the Government. So in the functioning of the University there shall not be interference and it will function as an independent organ, as a statutory body with its constituent parts, in particular the board of governors.

785 Somebody has to appoint the members of the board and the hon. Member asked whether there could have been other possibilities. Well, perhaps there could have been but we have looked at statutory frameworks in Gibraltar and the hon. Member has himself referred to various agencies and authorities that have been established, but there are some... For example, the Gibraltar Regulatory Authority: that one in particular operates as a statutory body totally independent, has regulatory functions which are independent of Government, and yet its members are appointed by the Minister. I seem to recall it is the Chief Minister. That is an Act that dates from 2000, I seem to recall, and therefore an Act which the hon. Member passed  
790 when he was the Chief Minister of the Government at the time. The fact that appointments are made, the fact that a Minister has the power to make regulations and to whom reports are submitted should not and, in the Government's view in this particular case, will not undermine at all the independence of the University. It is intended that the University should operate as an independent body and take its own decisions, and certainly there has to be some accountability.

795 There has to –

**Hon. Sir P R Caruana:** ... [*Inaudible*]

**Hon. G H Licudi:** Certainly.

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**Hon. Sir P R Caruana:** Are you willing to say exactly the same about the power to remove at will as the power to appoint?

**Hon. G H Licudi:** Well, again, Mr Speaker, it is because there has to be a power to remove –  
805 (*Interjection*) There might be an argument if the hon. Member wants to make the point that there could be an amendment for cause; but then again, what is cause in the context of a member of the board? Clearly, I presume that no Minister would remove simply because the Minister wants or does not like a particular person.

810 But let me just say this before I give way. The power to remove a member of the board only applies to members appointed by the Minister. There is a possibility of members being appointed by the board itself and the Bill provides for that. There is no provision for those members to be removed by the Minister.

**Hon. Sir P R Caruana:** Mr Speaker, the hon. Member is right: there are other Bills relating to authorities and things that give the Minister power to remove people from boards, tribunals, agencies and things of that sort. Almost all of them do, but they are all for cause, and the causes usually are commission of a criminal offence, bankruptcy, failure to attend meetings... I cannot think of any – in fact, I would venture to suggest that there are not any – in which a Minister, in the name of a power relating to a so-called independent body, has the power to remove at will and without cause, pursuant to a one-and-a-half line power that simply says he can at any time remove whoever he wants from the board, full stop. I do not think that there is anything... I am not saying that the hon. Member is minded to do this or any of his successors in office are going to be minded to do this – I suppose they would be accountable to Parliament and to public opinion if they did – but in terms of the integrity of the Act itself and the rest of the Bill looking as independent as clauses 5 and 6 rightly profess that it wants to be, it is just a rather odd summary power that a politician should have the right, without cause or without explanation, to remove somebody from a board that the Act says has got to be independent and cannot be interfered with by any authority, including the Minister. It is very easy to see how somebody who feels that he is removable at will by somebody does not feel entirely independent from what he knows that person's wishes are in the exercise of his so-called independent power. You might say that that is a weakness of the appointee or a lack of gumption and that may well be right, but in terms of appearance you would not expect to find a provision of this sort in respect of... In the UK for example – and I do not hold the UK up as an example that we should necessarily follow by virtue; they are on some things and are not on others, but I do not think that in the UK an institution whose governing bodies could be removed at will by a Minister would be regarded as independent of the Government as clause 5 wants it to say.

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835 I would not wish this point to detract from my enthusiasm for the project as a whole, but if the hon. Member wanted to just go the extra half mile in signalling independence it would be relatively easy to borrow one of the removal clauses from the other Bill and tag it on. But it will not affect my support for the Bill if he does not, if he chooses not to.

840 **Hon. G H Licudi:** Mr Speaker, let me assure the hon. Member that there is no ulterior motive. There has, in fact, been no specific consideration that the words 'for cause' should be removed and that there

845 should be a summary power at will. I am looking now at the provisions of the Gibraltar Regulatory Authority Act, which sets out a list of matters which the Minister can be satisfied on – being absent, being bankrupt, being incapacitated or otherwise unable or unfit to discharge the functions of a member; and then the Minister may, in consultation with members of the Gibraltar Regulatory Authority, declare that person’s office as a member to be vacant. We have no particular issue with a similar provision being moved at Committee Stage because, as I have said, there was not any particular intention that the Bill should have that summary power in that particular way. It was not intended to be and I am grateful to the hon. Member for pointing that out, and we will be happy to make an amendment.

850 The Hon. Mr Reyes also mentions the annual report and how is the report to be published. This is a statutory body, it is a public institution, although no provision is made for it in the Bill, but as an administrative matter I would simply expect that the report would be published on the University’s website on a yearly basis. That is certainly the expectation.

855 The point made by the Leader of the Opposition in relation to clause 54(3) about the University and whether it has a separate legal standing, the answer is yes it does. That is provided in clause 4, which is headed ‘Body corporate’ and which says:

‘The university is a body corporate, may sue and be sued in its own name, and shall have its own seal.’

and therefore the University itself can be sued. What clause 54 does is provide some protection against the University where the University is simply fulfilling its functions, but I can certainly foresee that if at any time a person who is an employee of the University is unfairly dismissed that person should certainly have the right to go to the industrial tribunal and sue the University itself as the employer. That is certainly possible if the University continues to operate under the University of Gibraltar Limited and the employer is in fact the limited company – then there is a possibility of having proceedings against the limited company, for example in unfair dismissal proceedings. So the hon. Member should have no worries in that regard.

860 Finally, Mr Speaker, I am grateful for the comments on this side of the House. Certainly education has been something at the heart of the GSLP since it came into office in 1988. It pioneered the expansion of higher education with the introduction of mandatory scholarships for anyone who had a place to study at a recognised institution.

865 When we came into Government in 2011 we extended that to give mandatory rights for people to continue in higher education. We want to continue to foster that possibility. We recently made available figures in this particular House about 866 students being currently funded. That is an extraordinary amount of students in higher education being funded by the Government in a small community that we are. It is a record that we can be proud of.

870 This is another leg in higher education, it is a new stool in higher education; something which, as I have said, will benefit the whole of Gibraltar. When we see what it is that we are doing and when we are all able to visit – and I expect that there will be a couple of open days before formal opening so that the whole community can come along and see what it is that we have created and have a drink and toast with us the opening of the new University in September – I think everybody in Gibraltar will be very, very proud of what it is that we have achieved.

875 I am happy to give way to the hon. Member.

**Hon. Sir P R Caruana:** I am obliged, Mr Speaker.

880 Just following on from the Hon. the Leader of the Opposition’s point – and I just say this to check whether the hon. Members intend this to be the effect or not; it is not a political point – in section 54, the immunity point, I notice that this is drafted... There are other bits of regulatory legislation – for example, the Financial Services Commission Act has a statutory exemption for members of the staff and it is drawn slightly narrower to make it clear... I cannot remember the exact wording but I am almost certain that the language is drawn in terms that the exception, the immunity from suing, extends only to regulatory output. The way this is drafted... for example, except in the case of gross negligence you would not be able to bring a suit under the occupier’s liability for personal injuries or anything like that because it is a complete and blanket immunity for anything. I cannot imagine that that is the intention, but what is there in the language that the hon. Member thinks prevents it from having that effect?

885 I am obliged to him for giving way.

890 **Hon. G H Licudi:** Mr Speaker, the language is contained in the clause itself. The last bit of the clause talks about immunity from suit and no action etc shall be brought, and then at the end it says:

‘in respect of an act or omission by any of them which is done or omitted to be done in good faith in the course of the execution of the person’s duties on behalf of the university.’

895 So it is limited to anything that the person does in the course of his duties on behalf of the University  
and it has to be done in good faith. Then there is an exemption by the next sub-clause, which says it does  
not apply in the case of gross negligence. So even in the person's execution of his duties on behalf of the  
University, where the person is guilty of gross negligence or is liable in respect of an act of gross  
negligence then there is no immunity. But it clearly only applies in the restricted way of the person having  
900 to act on behalf of the University in carrying out – (**Hon. Sir P R Caruana:** Or omission.) or omitting to  
act on behalf of the University in carrying out the functions and his duties.

**Hon. Sir P R Caruana:** So the hon. Member is satisfied that it would not extend to civil actions which  
have nothing to do with academic acts or omission, but rather could relate to damage to property, injury to  
905 person, failure to have health and safety protocols in place – the sort of things that the operators of a  
building could easily be sued for? He is satisfied – and if he is, that is fine by me – that this would not go  
that far?

**Hon. G H Licudi:** Yes, Mr Speaker, I am satisfied. This is limited to acts or omissions done in the  
910 execution of the duty. What is in the execution of a duty is another matter and that would be for the courts.  
When somebody acts in a particular way – for example, if someone disregards a particular Act in respect of  
health and safety, is that person acting in the execution of his duty in omitting to act in pursuance of a  
statutory duty? – that would be a matter for the courts to determine as a matter of fact, but I am satisfied  
with the language that this is contained.

915 Mr Speaker, this is an occasion for all of us to be joyful about and I am grateful that this landmark piece  
of legislation enjoys the support of the whole House, as it should. (*Banging on desks*)

**Mr Speaker:** I now put the question, which is that a Bill for an Act to establish the University of  
Gibraltar and for connected purposes be read a second time.

920 Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The University of Gibraltar Act 2015.

#### **University of Gibraltar Bill 2015 – Committee Stage and Third Reading to be taken at this sitting**

**Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):**  
925 Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken today if  
all hon. Members agree.

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

#### **Fair Trading Bill 2015 – Motion deferred pending republication of amended Bill**

930 **Clerk:** (4) A Bill for an Act to Establish and Provide for the functions of the Office of Fair Trading and  
the Office of Fair Trading Commission; encourage businesses to comply with consumer law and improve  
their trading practices; streamline and simplify the Trade Licensing system; establish enforcement powers  
for the Trade Licensing Authority being part of the Office of Fair Trading in cases of non-adherence by  
licensees; establish a single point of contact as part of the trade licensing procedure; amend the law relating  
935 to the Protection of the collective interests of consumers; enable action to be taken against conduct  
detrimental to consumers; and for purposes connected therewith.

The Hon. the Minister for Business, Employment, Skills & Training.

**Minister for Business, Employment, Skills & Training (Hon. N F Costa):** Mr Speaker, conscious of  
940 our discussions the week before last in respect of the amendments that I proposed to move on the Fair  
Trading Bill, and in the light of your advice, I wish to give notice that the Bill will not proceed today.

For the purposes of *Hansard* and by way of explanation I wish to state the Bill is, for all intents and  
purposes, ready to proceed and only requires, for the most part, stylistic amendments that are of no  
substance but that reflect a change to the name of the relevant statutory body where they result in

945 consequential amendments throughout the Bill. In particular, I refer the House to the change of name from Trade Licensing Authority to the Business Licensing Authority and the substitution of the phrase 'trade' with 'carrying on business'. Given that the amendments are numerous as a result of the references in the Bill to the Trade Licensing Authority and to trade, and in accordance with your advice that it is neater to simply proceed to republish the Bill incorporating the amendments, I will accede to your guidance and a new Bill will be published afresh for consideration at a future meeting of the House.

950 To conclude, I wish to add that I have already notified and discussed this with the Opposition spokesman for Commercial Affairs, the Hon. Mr Bossino, across the floor of the House, Mr Speaker. I also wish to thank the hon. Gentleman for his engagement with my office and me on this Bill, and I am sure he will be delighted to learn that of all of his amendments all but one have been accepted.

955 **Mr Speaker:** I am very grateful to the Hon. Minister.

**Financial Services Insurance Companies (Solvency II) Directive Bill 2015 –  
First Reading approved**

**Clerk:** (5) A Bill for an Act to transpose into the Law of Gibraltar provisions of Directive 2009/138/EC of the European Parliament and of the Council on the taking up and pursuit of the Business of Insurance and Re-Insurance (Solvency II), and the provisions of Directive 2014/51/EU of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) and related matters.

The Hon. the Minister for Financial Services and Gaming.

965 **Minister for Financial Services and Gaming (Hon. A J Isola):** Mr Speaker, I have the honour to move that a Bill for an Act to transpose into the Law of Gibraltar provisions of Directive 2009/138/EC of the European Parliament and of the Council on the taking up and pursuit of the Business of Insurance and Re-Insurance (Solvency II), and provisions of Directive 2014/51/EU of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) and related matters be read a first time.

970 **Mr Speaker:** I now put the question, which is a veritable tongue-twister, namely that a Bill for an Act to transpose into the Law of Gibraltar provisions of Directive 2009/138/EC of the European Parliament and of the Council on the taking up and pursuit of the Business of Insurance and Re-Insurance (Solvency II), and provisions of Directive 2014/51/EU of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) and related matters be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

985 **Clerk:** The Financial Services Insurance Companies (Solvency II) Directive Act 2015.

**Financial Services Insurance Companies (Solvency II) Directive Bill 2015 –  
Second Reading approved**

990 **Minister for Financial Services and Gaming (Hon. A J Isola):** Mr Speaker, I have the honour to move that the Bill now be read a second time.

The Bill is designed to transpose into the law of Gibraltar the European Union Directive of 2009 known as Solvency II, as has been amended extensively by the 2014 Directive known as Omnibus II. The Directive deals broadly with codifying and harmonising the regulation of the insurance industry within the European Union in general. Most importantly, it deals with the amount of capital that EU insurance companies must hold to reduce the risk of insolvency. In the words of the European Commission, the Solvency II regime introduces for the first time a harmonised, sound and robust prudential framework for insurance firms in the

European Union. It is based on the risk profile of each individual insurance company in order to promote comparability, transparency and competitiveness.

1000 The Bill and the Directive introduce economic risk-based solvency requirements for insurance undertakings. The new solvency requirements are designed and intended to be more risk sensitive and more sophisticated than in the past, reflecting the real and actual risks run by each insurer in place of the present more generic approach. Solvency requirements will therefore be more comprehensive than in the past and insurers will now be required to hold capital against market risk, credit risk and operational risk. The new rules also require insurers to disclose more information to the public and are designed to promote greater  
1005 co-operation between National Insurance supervisors that oversee the subsidiaries of any given group with a stronger role for the group supervisor overseen by EOPA.

The Bill applies to almost all EU insurers and reinsurers. Only the smallest ones will be exempt and even they can choose to opt in. This is a harmonisation and consumer-protection measure in European Union terms. As the preamble to the original Directive puts it, it is in the interests of the proper functioning  
1010 of the internal market that co-ordinated rules be established relating to the supervision of insurance groups and with a view to the protection of creditors to the reorganisation and winding-up of proceedings in respect of insurance undertakings.

As a transposition measure the Bill is required to follow the provisions of the Directive and to transpose them into the laws of Gibraltar. As a result the Bill is one of the longest, disregarding consolidation Bills, to  
1015 be brought before our Parliament.

After a series of many delays over the years, the backstop date for commencement of the Directive is 1st January 2016, and that is therefore the default date for commencement of the Bill.

The Bill deals with the following main topics, following the order of the Directive as amended.

1020 Part 1 sets out the general rules on the taking up and pursuit of direct insurance and reinsurance activities.

Part 2 contains specific provisions for insurance and reinsurance.

Part 3 deals with group undertakings.

Part 4 sets out the rules about the reorganisation and winding up of insurance undertakings.

1025 Although the Bill is itself far from short, it is important to note that much of it is enabling and will be supplemented by yet further implementing rules to be made by the European Commission. In many areas those rules will set out more detailed requirements for individual insurance undertakings as well as for groups.

Finally, it may be helpful to note that the European Commission expects to review the solvency capital requirement by the end of 2018 and to report by the end of 2020 on the functioning and stability of  
1030 European insurance markets and other high-level impacts, including the availability and pricing of long-term insurance products, and that these may give rise to the need for further legislation.

Mr Speaker, I commend the Bill to the House.

1035 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of this Bill?

I now put the question in the terms of the Bill moved by the Hon. the Minister for Financial Services and Gaming and which I read out fully (*Laughter*) at First Reading, and therefore I ask hon. Members to agree that it has been read. Those in favour? (**Members: Aye.**) Those against? Carried.

1040 **Clerk:** The Financial Services Insurance Companies (Solvency II) Directive Act 2015.

**Financial Services Insurance Companies (Solvency II) Directive Bill 2015 –  
Committee Stage and Third Reading to be taken at this sitting**

1045 **Minister for Financial Services and Gaming (Hon. A J Isola):** 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 the Committee Stage and Third Reading of the Bill be taken today? (**Members: Aye.**)  
1050

**COMMITTEE STAGE AND THIRD READING**

**Referendum Bill 2015;  
Electronic Commerce (Amendment) Bill 2015;  
University of Gibraltar Bill 2015; and  
Financial Services Insurance Companies (Solvency II) Directive Bill 2015**

1055

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

1060

**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 Referendum Bill 2015; the Electronic Commerce (Amendment) Bill 2015; the University of Gibraltar Bill 2015; and the Financial Services Insurance Companies (Solvency II) Directive Bill 2015.

1065

**Mr Speaker:** Does the Hon. the Chief Minister wish to recess now, or are we continuing?

**Hon. Chief Minister:** Mr Speaker, I would propose that we continue through the Committee Stage, which I anticipate is not going to be long, and then adjourn.

*In Committee of the whole Parliament*

**Referendum Bill 2015 –  
Clauses considered and approved**

1070

**Clerk:** (1) A Bill for an Act to govern the organisational and administrative and procedural matters associated with the holding of referenda in Gibraltar.  
Clauses 1 and 2.

1075

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

**Clerk:** Clauses 3 to 6.

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

1080

**Clerk:** Clauses 7 to 9.

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

1085

**Clerk:** Clauses 10 to 13.

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

**Clerk:** Clauses 14 to 38.

1090

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

**Clerk:** Clauses 39 to 42.

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

1095

**Clerk:** Clauses 43 to 48.

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

1100

**Clerk:** Clauses 49 to 60.

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

**Clerk:** Clauses 61 to 79.

1105

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

**Clerk:** Clauses 80 to 83.

1110

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

**Chief Minister (Hon. F R Picardo):** Mr Chairman, it is here that I was given notice of an amendment after clause 83 to introduce a new clause 84, of which notice was given last week and, I understand, circulated to Members, which reads:

1115

‘Part 11  
*Referendum Result to stand*’

– and then –

1120

‘Referendum result to stand  
84. Where a result has been declared in the referendum conducted in accordance with this Act that result should be recognised and as the circumstances may require be given effect to until the result of a subsequent referendum requires otherwise.’

1125

**Mr Chairman:** Does any hon. Member wish to speak on the Chief Minister’s amendment?  
I will then put it to the vote. Those in favour? (**Members:** Aye.) Those against? Carried. (*Interjection*)

1130

**Hon. Chief Minister:** I am sorry, it is a deletion, the hon. Member is right, because I have given written notice only of the new clause 84.

Mr Speaker, what I propose to do – and I will follow up with written notice if Mr Speaker will allow me – is to propose the deletion of sub-paragraph (a) in clause 3, so that sub-paragraph (b) no longer needs to be numbered (b) and it all reads as one sentence, as we indicated at the second reading, and I will give the Clerk written notice so he has it for his notes.

1135

**Mr Chairman:** I will put that amendment to the vote. Those in favour? (**Members:** Aye.) Those against? Clause 3, I think it is, as amended, stands part of the Bill.

I will now put clause 84. All in favour? (**Members:** Aye.) Those against? Clause 84 stands part of the Bill.

1140

**Clerk:** The long title.

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

#### **Electronic Commerce (Amendment) Bill 2015 – Clauses considered and approved**

1145

**Clerk:** (2) A Bill for an Act to amend the Electronic Commerce Act.  
Clauses 1 and 2.

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

**Clerk:** The long title.

1150

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

#### **University of Gibraltar Bill 2015 – Clauses considered and approved**

**Clerk:** (3) A Bill for an Act to establish the University of Gibraltar and for connected purposes.

Clause 1.

1155 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Part 1.

1160 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 2 as amended.

1165 **Mr Chairman:** The Hon. the Minister for Education has given notice of a number of amendments, which have been circulated and all hon. Members have seen, so I think we can dispense with the need for him to read those amendments. Is that agreed? (**Members:** Aye.)

**Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):** Mr Chairman, there is one additional amendment. I have it in writing.

1170 **Mr Chairman:** Which clause?

**Hon. G H Licudi:** It is clause 23(1).

1175 **Mr Chairman:** So we can get up to clause 22 and then you can make a reference to that amendment. Clerk, would you call out all the clauses up to 22.

**Clerk:** Part 2.

1180 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 3 to 4.

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

1185 **Clerk:** Part 3.

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

**Clerk:** Clause 5 as amended.

1190 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 6.

1195 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Part 4.

1200 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 7.

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

1205 **Clerk:** Clause 8 as amended.

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

**Clerk:** Part 5 as amended.

1210 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 9 as amended.



1215 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 10 as amended.

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

1220 **Clerk:** Clause 11 as amended.

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

1225 **Clerk:** Clauses 12 and 13.

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

**Clerk:** Clause 14 as amended.

1230 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 15 to 17.

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

1235 **Clerk:** Clause 18 as amended.

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

1240 **Clerk:** Clause 19 as amended.

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

**Clerk:** Clause 20.

1245 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 21 as amended.

1250 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 22 as amended.

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

1255 **Clerk:** Clause 23.

**Hon. G H Licudi:** Yes. Mr Chairman, a proposed amendment is being distributed to deal with the point of the Hon. Sir Peter Caruana. The amendment is to the power to remove a member of the board.

1260 I am not sure whether all hon. Members have copies.

**Mr Chairman:** We are going to proceed with all the other clauses and will –

**Hon. G H Licudi:** I understand we are ready now.

1265 There are a couple of amendments to the letter itself, which we have just done in a moment and passed over. It should say I propose to move the following amendments to the University of Gibraltar *Bill* 2015 rather than *Act* and then namely to remove the existing *clause* rather than *section* 23 and in place thereof include the new *clause* 23 in its place.

1270 Where there is a reference in the proposed new clause to the board of governors I propose that that should be amended and be replaced simply by a reference to the board, with a small ‘b’, because that is a defined term in the Bill. So whenever it says ‘of the board of governors’ it should simply say ‘of the board’, with a small ‘b’.

For some reason, in the letter that has been circulated there is a number – 1, 2, 3, 4, 5 and 6 – beside (a), (b), (c), (d), (e) and (f), which should not be there, and I say it to assist the Clerk. And then, at the end,

1275 where it says ‘as a member of the board to be vacant and thereupon such office shall become vacant’ I would propose that we put a full stop there and remove the reference to publication in the *Gazette*, because there is no need under this particular Bill for any publication in the *Gazette* in the first place, so let us just remove those last words.

1280 **Mr Speaker:** Are hon. Members in agreement with those minor amendments? (**Members:** Aye.) They stand part of the Bill.

We now go back to clause 23. All those in favour of the amendment moved by the Minister for Education. (**Members:** Aye.) Those against? Carried.

Clause 23 as amended stands part of the Bill.

1285

**Clerk:** Clause 24 as amended.

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

1290

**Clerk:** Clauses 25 to 27.

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

**Clerk:** Clause 28 as amended.

1295

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

1300 **Hon. Sir P R Caruana:** Mr Chairman, could I just follow up on something that the hon. Member... [*Inaudible*] If this is not a company but a statutory body – do you want me to start again? – but a statutory body, and no public notice of appointments needs to be given, how do people know who are, from time to time, directors, or members of the board, sorry, of the University? It just struck me when I heard him say... [*Inaudible*].

1305 **Hon. G H Licudi:** Again, Mr Speaker, I would expect that notice of the board be part of the website of the University. The University will have a website; it should have a provision on who the board members will be and once the board is constituted there should be a provision made in the website to give public notice of the members of the board.

1310 **Hon. Sir P R Caruana:** Yes, I think I have had the thought a little bit too late to expect the hon. Member to act on this as well, but given that these are people who enjoy statutory immunity from suit perhaps ought to be more formally gazetted. People who have statutory immunity from civil action cannot be just website appointees. But anyway, if it is a problem at some future date perhaps it can be fixed at some future date.

1315 **Chief Minister (Hon. F R Picardo):** Can we give consideration to that valid point, Mr Speaker, because what we do not want to do, when we are talking about a very independent body, is actually create the nexus that the Government is going to gazette names etc.

1320 I think the hon. Gentleman is right to suggest that perhaps there needs to be something beyond just the fact that their names will be on the website – they will probably be on a board at the University and all the rest of it – but that there should be some other public reflection of appointment in a way and perhaps directing the chancellor or the vice-chancellor to make a public notice in some way, announcing it in a local newspaper, and elsewhere if necessary but not necessarily the *Gazette*, or directing the chancellor to put it in the *Gazette* but not the Government, for example. So if we could consider that, perhaps we can come up with a better solution.

1325

**Clerk:** Clause 29 as amended.

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

1330

**Clerk:** Clause 30 as amended.

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

**Clerk:** Clauses 31 and 32 to be deleted.

1335

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

**Clerk:** Clauses 33 to 34.

1340 **Mr Chairman:** Stand part of the Bill.

**Clerk:** Part 6 renumbered as part 7.

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

1345 **Clerk:** Clause 37.

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

**Clerk:** Clause 36 as amended.

1350 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Part 7 renumbered as part 8.

1355 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 37 as amended.

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

1360 **Clerk:** Clause 38 as amended.

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

1365 **Clerk:** Clause 39.

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

**Clerk:** Clause 40 as amended.

1370 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 41.

1375 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Part 8 renumbered as part 9.

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

1380 **Clerk:** Clauses 42 to 44.

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

1385 **Clerk:** Part 9 renumbered as part 10.

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

**Clerk:** Clause 45.

1390 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 46 as amended.

1395 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 47.

1400 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Part 10 renumbered as part 11.

**Mr Chairman:** And as amended.

1405 **Clerk:** And as amended.

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

**Clerk:** Clause 48.

1410 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 49 as amended.

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

1415 **Clerk:** Clauses 50 and 51.

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

1420 **Clerk:** Part 11.

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

**Clerk:** Clause 52 as amended.

1425 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 53 to 54.

1430 **Mr Chairman:** Stand part of the Bill.

**Clerk:** Clause 55 as amended.

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

1435 **Clerk:** Clause 56 as amended.

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

1440 **Clerk:** Clause 57 as amended.

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

**Clerk:** Renumber clauses 33 to 58 as 31 to 56.

1445 **Mr Chairman:** Stands part of the Bill.

**Clerk:** The long title.

1450 **Mr Chairman:** Stands part of the Bill.

**Financial Services Insurance Companies (Solvency II) Directive Bill 2015 –  
Clauses considered and approved**

1455 **Clerk:** (5) A Bill for an Act to transpose into the Law of Gibraltar provisions of Directive 2009/138/EC of the European Parliament and of the Council on the taking up and pursuit of the Business of Insurance and Re-Insurance (Solvency II), and provisions of Directive 2014/51/EU of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) and related matters.

1460 **Mr Chairman:** The Hon. the Minister gave notice on 17th March to me, which has been circulated to all Members, of a few relatively minor amendments. Do all hon. Members agree that they have been read and can be incorporated? Very well.

1465 **Clerk:** Clauses 1 to 3.

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

**Clerk:** Part 1.

1470 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 4 to 14.

1475 **Mr Chairman:** Stand part of the Bill.

**Clerk:** Clause 15 as amended.

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

1480 **Clerk:** Clauses 16 to 46.

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

**Clerk:** Clause 47 as amended.

1485 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 48 to 64.

1490 **Mr Chairman:** Stand part of the Bill.

**Clerk:** Clause 65 as amended.

1495 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 66 to 76.

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

1500 **Clerk:** Part 2.

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

**Clerk:** Clauses 77 to 100.

1505 **Mr Chairman:** Stand part of the Bill.

**Clerk:** Part 3.

1510 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 101 to 141.

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

1515

**Clerk:** Part 4.

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

1520

**Clerk:** Clauses 142 to 172.

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

**Clerk:** Part 5.

1525

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

**Clerk:** Clause 173.

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

1530

**Clerk:** Clause 174 as amended.

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

1535

**Clerk:** Clauses 175 to 179.

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

**Clerk:** Schedule 1, paragraphs 1 to 8.

1540

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

**Clerk:** Paragraph 9 as amended.

1545

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

**Clerk:** Paragraphs 10 to 60.

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

1550

**Clerk:** Schedules 2, 3, 4, 5 and 6 as amended.

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

1555

**Clerk:** The long title.

**Mr Chairman:** Stands part of the Bill.  
The Hon. the Chief Minister.

1560

**BILLS FOR THIRD READING**

**Referendum Bill 2015;  
Electronic Commerce (Amendment) Bill 2015;  
University of Gibraltar Bill 2015; and  
Financial Services Insurance Companies (Solvency II) Directive Bill 2015 –  
Third Readings approved: Bills passed**

1565 **Chief Minister (Hon. F R Picardo):** Mr Chairman, I have the honour to report that the Referendum Bill 2015, the Electronic Commerce (Amendment) Bill 2015, the University of Gibraltar Bill 2015 and the Financial Services Insurance Companies (Solvency II) Directive Bill 2015 have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

**Mr Speaker:** I now put the question, which is that the Referendum Bill 2015, the Electronic Commerce (Amendment) Bill 2015, the University of Gibraltar Bill 2015 and the Financial Services Insurance Companies (Solvency II) Directive Bill 2015 be read a third time and passed.

1570 Since there has been no indication of the Opposition being against any of the Bills, I do not think there is any need to vote for them individually, so I now propose that they be read a third time and passed. Those in favour? (**Members:** Aye.) Those against? Carried.

**Silence held in respect of deceased family found at Boschetti's Steps**

1575 **Hon. Chief Minister:** Mr Speaker, the hon. the backbencher has got the attention of the Minister for Education and made a suggestion to me, which I confess I am going to accept and I have discussed the issue with the Leader of the Opposition and he and I are entirely in agreement and of one mind.

1580 Today we know that four bodies have been found where apparently life has been extinguished in violent circumstances, and it would be improper to say more but the bodies are four British citizens and two of them are children, apparently of a very very young age indeed. Therefore, Mr Speaker, I think we all agree across the floor of the House that, given those circumstances – which are, thank God, unusual in Gibraltar; indeed, an absolute and utter aberration – today is not a day for us to be playing political gladiatorial games in the motions that we were about to consider.

1585 I am therefore going to move, first of all, that we have a minute's silence as a result of this tragic finding; and second, that we do not proceed today into Government and Opposition motions but that we adjourn until Wednesday at 5.00 p.m. to deal with those issues then. I now move therefore that we hold a minute's silence.

*There was a minute's silence.*

**ADJOURNMENT**

1590 **Chief Minister (Hon. F R Picardo):** Mr Speaker, too often people think of parliaments as places where there is huge political conflict, and often it is right that there should be; but today, those who have tuned in to watch conflict and that type of exchange have seen this Parliament do perhaps what it does best, which is with both sides co-operating to produce better legislation for our people.

1595 I now move that on that note we adjourn until Wednesday at 5.00 p.m. to deal with Government and Opposition motions.

**Mr Speaker:** I now propose the question which is that this House do now adjourn until Wednesday, 1st April at 5.00 p.m. I now put the question which is that this House do now adjourn until Wednesday, 1st April at 5.00 p.m. Those in favour? (**Members:** Aye.) Those against? Carried.

The House will now adjourn until Wednesday, 1st April at 5.00 p.m.

*The House adjourned at 5.35p.m.*