



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 11.03 a.m. – 2.05 p.m.

Gibraltar, Wednesday, 26th October 2016

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The Gibraltar Parliament

The Parliament met at 11.03 a.m.

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

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

Order of the Day

**Standing Order 7(1) suspended
to proceed with Government Bills**

Mr Speaker: The Chief Minister.

5 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Government Bills.

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

GOVERNMENT BILLS

FIRST AND SECOND READING

**Civil Marriage Amendment Bill 2016 –
First Reading approved**

10 **Clerk:** A Bill for an Act to make provisions for the marriage of same sex couples and for connected purposes.

The Hon. the Minister for Tourism, Housing, Equality and Social Services.

15 **Minister for Tourism, Housing, Equality and Social Services (Hon. Miss S J Sacramento):** Mr Speaker, I have the honour to move that a Bill for an Act to make provision for the marriage of same sex couples and for connected purposes, be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to make provision for the marriage of same sex couples and for connected purposes be read a first time.

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

Clerk: The Civil Marriage Amendment Act 2016.

**Civil Marriage Amendment Bill 2016 –
Second Reading approved**

Minister for Tourism, Housing, Equality and Social Services (Hon. Miss S J Sacramento):

25 Mr Speaker, I have the honour to move that the Bill be now read a second time.

Mr Speaker, the Bill intends to give effect to the Government's proposals to enable civil marriage between people of the same gender.

Mr Speaker, the first landmark moment came with the introduction of the Civil Partnership Act in 2014. There has since then been lobbying for civil marriage between individuals of the same sex to be made possible.

30 The Government's manifesto commitment in 2015 was to publish a Command Paper in order to take the public views on this issue. Having taken office for a second time last November, we immediately set out to give effect to our manifesto commitment and issued the Command Paper in December 2015, the response to which, Mr Speaker, was overwhelming. Indeed, it was the largest response ever received to a Government Command Paper. The majority of the responses were in favour of equalising civil marriage.

Since the close of the consultation period, which we even extended, and through an inter-ministerial committee headed by the Chief Minister, we have given a lot of thought and consideration to the matter. Such was the importance that we have given to this process, that we also had lengthy meetings with representative groups. Marriage is a hugely important institution.

This of course has been an important and has also been a very emotive subject, with strong views for and against. I wish at this stage, Mr Speaker, to thank everyone who was involved in the consultation process and helped inform and guide us with their different views and indeed valuable insight. It is important for us to strike the balance which provides equality and respecting individuals' beliefs.

Mr Speaker, this Bill will enable same sex couples to enter in a civil ceremony. That is, Mr Speaker, a civil ceremony in a registry office or other approved place, whilst protecting and promoting religious freedom. I wish to make that point very clear, Mr Speaker, that this is about civil marriage and not holy matrimony or any other religious marriage and I will explain certain religious safeguards, particularly those we introduced following our consultation process, in a moment.

We believe, Mr Speaker, that opening up marriage to all couples demonstrates society's respect for all individuals regardless of their sexuality, making our society fairer and more inclusive for all its members. This change strengthens the vital institution of marriage and ensures that it remains an essential building block of modern society.

Turning to the formalities of the Bill, Mr Speaker, the amendment to the Marriage Act introduces two new definitions, 'parties' and 'relevant marriage'. These are introduced in section 2 in order to give effect to the provisions allowing for same sex marriage. The term 'parties' had to be defined as there were numerous references within the Act and no clear definition was afforded to it. In order to avoid uncertainty or any ambiguity, given the extension of marriage to same sex couples, this had to be addressed and it now means opposite sex and same sex couples.

The other definition included in section 2 was the 'relevant marriage' meaning a marriage of a same sex couple.

Two further amendments are made after section 6 and section 40 respectively, with the introduction of new sections 6A, 6B and 40A.

Section 6A, Mr Speaker: the existing section 6 subsection (a), which deals with marriages solemnised or contracted in a place of worship, is slightly amended so that it is now subject to the provisions contained under the new section 6A.

Section 6A relates to marriage of same sex couples in a place of worship and it reads as follows, Mr Speaker:

Marriage of same sex couples in a place of worship.

6A.(1) A minister in a place of worship may not be compelled by any means (including the enforcement of a contract or a statutory or other legal requirement) to—

(a) conduct a relevant marriage;

(b) be present at, carry out, or otherwise participate in, a relevant marriage; or

(c) consent to a relevant marriage being conducted,

where the reason for the minister not doing so is that the relevant marriage concerns a same sex couple.

(2) A religious organisation may not be compelled by any means to allow the use of premises owned or controlled by it for the purposes of a relevant marriage where the reason for not doing so is that the relevant marriage concerns a same sex couple.

75 By not compelling ministers to carry out a relevant marriage of a same sex couple in a place of worship, the above amendments impose no obligation on ministers and protects those who do not wish to conduct, be present, carry out or otherwise participate or consent to a relevant marriage.

The section makes it clear that attempts to use the enforcement of a contract, statute or other legal requirement to compel a minister to carry out a relevant marriage shall not be upheld. It respects and protects religious freedoms.

80 To this extent, Government has not changed the definition of marriage as determined by any religion. The definition of holy matrimony, a sacrament of the Catholic Church or the respective rights of marriage in the Jewish, Islamic or Hindu religions remain entirely unaffected. Furthermore, any religious organisation is also protected in that it may not be compelled to allow the use of any premises owned or controlled by them for the purposes of a relevant marriage of a same sex couple.

85 Section 6B, Mr Speaker, provides a provision to opt out by a Deputy Registrar. This section grants a Deputy Registrar who does not wish to conduct a relevant marriage of a same sex couple, a provision to opt out. This stance is akin to the position taken in relation to ministers under section 6A, insofar as the Deputy Registrars may not be compelled by any means to conduct a relevant marriage of the same sex couple.

90 In such cases, an alternative Deputy Registrar shall be assigned for the purposes of the relevant marriage. Again, this protects and respects religious freedoms of a Deputy Registrar and at the same time, allows for marriage of same sex couples to take effect by appointing an alternate in his stead.

95 Section 40A, Mr Speaker, allows for the conversion of civil partnerships into marriage of those couples who may wish to do so. The only requirement is that they must have formed a civil partnership pursuant to the Civil Partnership Act 2014. This section provides the power for the Minister with responsibility for personal status to make rules establishing the procedure for conversion of civil partnerships and such rules shall make provision for the technical arrangements, Mr Speaker.

100 If a couple decide to convert their civil partnership into a marriage, once the conversion process is completed, the civil partnership automatically ends and the couple are treated as having been married since the date the civil partnership was entered into.

105 There are also amendments to the Matrimonial Causes Act, Mr Speaker. The Matrimonial Causes Act governs matrimonial causes and makes provision for matters incidental thereto, or connected therewith. Consequently, amendments are required to the Matrimonial Causes Act following the changes made to the Marriage Act for the purposes of this Bill.

110 The most important of the consequential amendments to the Matrimonial Causes Act is that marriage shall not be void on the grounds that the parties are not respectively male and female under section 25(1)(c) and that a marriage shall not be voidable under section 25A(a) and (b) when it applies to the marriage of a same sex couple.

The Bill, Mr Speaker, also allows the Government to amend any Act or subsidiary legislation by way of regulations in order to make further provision and such consequential, transitional and savings provisions deemed necessary for the marriage of same sex couples.

115 Mr Speaker, I wish to single out Joyleen Gomez-Bruzon and Nadia Sisarello-Parody from the Government's Law Drafting Office for their hard work in this process in such a short period of time and also for their invaluable advice on the subject. A Bill such as this one requires a lot of work as it has wide-reaching consequential amendments to many other pieces of legislation.

120 Finally, Mr Speaker, this Bill will place all couples on the same footing as other couples already married at the Registry Office, as the proposed amendments to the Marriage Act will provide the same option for all.

This, Mr Speaker, is another historic step and a reflection of a progressive and inclusive society and a further testament of our commitment to equality. (**A Member:** Quite right.) There is no such thing as 'gay marriage', Mr Speaker; it will just be marriage for all.

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

A Member: Hear, hear.

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

The Hon. Elliott Phillips.

Hon. E J Phillips: Mr Speaker, today we are debating the amendment to the Marriage Act to bring about marriage between same sex couples.

135 I welcome the speech of the hon. Member for Equality and commend the Government on the manner in which it has brought the Bill.

Mr Speaker, I will support the Bill, subject to one reservation, because it provides this House the chance to support couples, loving couples of the same sex who desire to be married. It is my hope that everyone in this House will support the Government Bill because it will give the opportunity to those in our community to have their relationships celebrated, valued and recognised by the State in the same way as everyone else is.

140 Mr Speaker, to those people inside and outside of this place who oppose the Bill, and argue that those couples already have a statutory framework for civil partnership, I say this. The introduction of civil partnership was a step in the right direction, in my view, and I am proud that this has past the legislation when it did.

However, we need to take the next evolutionary step forward. I understand that there are those that strongly oppose the Bill and I respect their right to hold those views, but I do not agree with them. Mr Speaker, this is not just about the ceremony of marriage and everything else that it entails. It is about the promotion and recognition of long and stable relationships.

150 Why would we as a society want to prevent a same sex couple from getting married just because they are gay? Marriage represents a meaningful commitment and why should that not include those of the same sex? If we as a Parliament fail to pass the Bill, Mr Speaker, we are saying to those who fall in love with someone else of the same sex that they are worth less than opposite sex couples.

155 Mr Speaker, there are a number of key objections to the amendments to the Marriage Act and I feel duty bound to ventilate those objections so that this House can properly reflect on them, even though I form the view that these objections do not hold up to detailed scrutiny.

160 Mr Speaker, those who oppose the Bill fear that religious organisations in our society which oppose same sex marriage will be expected to perform marriage between gay men and women. This argument is, with the greatest of respect, wrong and misconceived. The amendment provides safeguards in the form of section 6A of the Bill that the hon. Member talked about.

165 Mr Speaker, everyone in this House I believe respects the views of our religious leaders and the safeguards provided in the Bill demonstrate that we as a community recognise the right of our religious institutions to refuse to solemnise same sex marriages which do not accord with their belief systems.

Marriage in my view is not the preserve of religious organisations and whilst respecting their religious freedom and their right not to conduct religious marriages between same sex couples, we cannot and must not allow the exemptions or opt-outs contained in section 6B to extend to Registrars who conduct civil marriages on behalf of the State.

170 I want to pause at that point and explain my reservation about section 6B. In my view, those charged by the State for conducting civil marriages cannot simply refuse to perform their public duty because of their beliefs. The Marriage Registrar and the Deputy Registrar are public officials and as such, they must conduct marriages that are permitted by our laws.

175 On the superficial level, section 6B provides for a mechanism whereby in a specific case of a Deputy Registrar refusing to conduct a marriage on the basis that it is a same sex marriage, can appoint a replacement Registrar or an alternate, as the hon. Member discussed before. In my view, although we have created the architecture which purports not to offend basic fundamental rights, I believe it is a wrong starting point to take.

180 Secondly, Mr Speaker, I have heard it been said by those who oppose same sex marriage that the word 'marriage' by definition means marriage between a man and a woman and that definition has been in place for hundreds, if not thousands of years. The religious view is that marriage is between a man and a woman and therefore the amendment to the Marriage Act compromises their faith. I have said that the Bill protects their faith, but in my view it should not prevent this House from changing the law. Not amending the law simply reflects discrimination,
185 plain and simple.

The law, until relatively recently, provided that legal sex was between a man and a woman. For many years, women in marriage were treated by their husbands as property in which fathers handed their daughters to a suitor and denied rights of their own. Years ago, the rape of a husband of his wife was not even illegal. In common law countries, civil marriages were
190 introduced over 170 years ago and at the time I understand it was a radical move. In summary, Mr Speaker, marriage has evolved over time and why should it not evolve further?

195 Thirdly, Mr Speaker, I have heard it being advanced that marriage is about the procreation of children, and I think this is a mischaracterisation. Civil marriage does not, for instance, by definition include reference to the bringing into the world of children. Society does not prohibit the marriage of loving couples based on their ability to have children. There are many couples who cannot have children, couples who marry years after child-bearing years.

I accept that the process of marriage is the first step to the starting of a family in the significant majority of marriages. However, gay couples bring up children too. The lifelong commitment of marriage is much more than the bringing up of children.

200 And at this point and with Mr Speaker's leave, I make reference to a former Shadow Home Affairs Minister who said this in the Westminster Parliament, which I thought was important to air here. She said:

Most MPs will know the sadness but also the inspiration they have drawn from visiting a long-married couple where, for example, the wife is struggling to cope, struggling to remember the world around her and struggling to recognise even the husband with whom she has shared decades of her life, yet he carries on: cooking for her, washing for her, getting her up, putting her to bed, talking to her even as she becomes a stranger in front of him. That is marriage. But I have also visited a gay man, who died some years ago after a long illness during which he was cared for every day at home, in hospital and eventually in a hospice, by his long-term partner. I do not see why that cannot be marriage too. The idea that the biology of procreation should deny same-sex couples the respect that comes with marriage is to ignore the full richness—the happiness but also the tragedies—of modern family life. For better, for worse, for richer, for poorer, in sickness and in health: that is marriage.

205 Fourth, it is argued that same sex marriage will undermine the institution of marriage. I disagree fundamentally with that proposition. Marriage has evolved over many generations. Britain, Spain, France, Denmark, Belgium and others, celebrate same sex marriage and their institutions have not collapsed. Our views in our community on homosexuality have changed and evolved over time and we must now accept that. We must as a Parliament embrace this evolution and support the Bill.

210 The Bill before the House is about giving couples who wish to marry the same rights as anyone else. The Bill also protects the religious organisations who do not agree with same sex marriage. I am of the view that the Bill does not dilute the meaning of marriage but rather evolves and strengthens the institution of marriage and the promotion of long and stable relationships, which can only be of benefit to our society.

215 I have expressed my reservations about section 6B, but I cannot in all conscience vote down the Bill that represents a fundamental step in the right direction. I would commend the Bill to the House. (*Banging on desks*)

Mr Speaker: The Hon. Ms Marlene Hassan Nahon.

220

Hon. Ms M D Hassan Nahon: Mr Speaker, in 1969 when Franco infamously closed our frontier with Spain, some of the worse affected in our community were those whose partners lived on the other side. The pain suffered by all Gibraltarians was felt hundredfold by these individuals, as joyous relationships were suddenly strained with distance, separation and needless uncertainty.

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Theirs is a mostly untold story of yearful heartache and wasted years that time could not fully repair. Thankfully those times are now long behind us but it is immensely saddening that so many years later where progress has been made in other areas, there are still legal barriers hindering the affairs of the heart.

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The heart, Mr Speaker, knows nothing about frontiers. It also knows not about gender, it knows not about doctrine, it knows not about what society expects. It knows only about love. This love is blind, but it is a powerful force that motivates many of our actions and pushes us to overcome the obstacles that are placed in our way. Indeed, while its course never runs smoothly, it can never understand why those obstacles are there in the first place and can never forgive those who put them there.

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This Bill is not just about rights, Mr Speaker; it is also about doing what is right, and what is not right is that we continue to allow the law to hang an anachronism over members of our community. Like love, the law must also be blind and a law that claims to be secular must be allowed to neither discriminate nor privilege. It must not pass judgement on a love that has no impact whatsoever on the lives of others and no longer must it impede the pursuit of happiness. To prevent two people who love each other from living their lives and realising their dreams, that is the true abomination and I commend the motivating principle behind this Bill in righting a grievous wrong.

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However, Mr Speaker, while I endorse this principle, I have to express serious reservations, as the Bill grants concessions to Government workers to refuse to discharge their professional responsibilities. I am saddened that a Bill that aims to end discrimination with one hand legitimises it with the other. I am worried about the precedence this sets, as well as the seeming recognition that some members of our community are entitled to less than others simply because of their sexual orientation.

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This attitude would not be accepted toward any other minority, so it is disappointing to see it applied to our gay community with a religious objection being permitted to override a professional duty and blunting the purpose of this Bill.

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As a result, I am sorry to say that we fall short of legislating in favour of the inclusive and progressive society we all desire to live in and it is in this spirit of addressing this that I will be tabling an amendment to clause 2(4) of the Bill, which I shall present at Committee Stage.

Thank you.

Mr Speaker: Is there any other contributor to the debate on the Second Reading?

The Hon. Dr Joseph Garcia.

260

Deputy Chief Minister (Hon. Dr J J Garcia): Yes, Mr Speaker. I too welcome the opportunity to say a few words on the Government Bill before the House today.

265 Before doing so, I wish to congratulate my hon. Friend the Minister for Equality, Samantha Sacramento, for her leadership over this issue and for introducing the Bill. I say this, because the proposed legislation before us has potentially created more controversy outside this Parliament than it has created inside this Chamber. This is in itself, a rare occurrence. Indeed, in 17 years in this House it seems to me that this has been one of the most commented, talked about and written about draft laws that we have debated.

270 Controversy, Mr Speaker, is not a bad thing. It serves to generate interest in the proceedings of the House and in the work that we do here on behalf of the people who elected us. It also exposes Members to a whole range of detailed and strongly held views on both sides of the divide.

275 My own view is that this Bill is precisely about equality. It is our duty to ensure that the same avenues and procedures available for mixed gender couples are also made available to same sex couples as well. That is the bottom line. Equality between the citizens is the first duty of the State.

280 Mr Speaker, in 1999 the then administration, with our support, set up a Select Committee of this House in order to consider a reform of the 1969 Constitution. I was one of the five Members who sat on that Committee. My colleague Joe Bossano is the only other Member who is still in this House. The process involved looking at the then Constitution line by line and making amendments to the text as it then existed.

285 I recall that in the very first meeting of that Committee in December 1999, the Human Rights section was discussed and in particular, the non-discrimination categories that it contains. This is now section 14 of the Constitution, which prohibits discrimination on a number of grounds. The list of categories includes sex, race, language, creed and political opinion, among others. In that very first meeting, both Joe Bossano and I flagged the possible inclusion of sexual orientation as one of those non-discrimination categories.

290 Mr Speaker, this happened at the time when the GGR, now the ERG, did not even exist and when there was no external pressure in this regard. I remember that the view from the then Government Members was that the term 'sex' covered sexual orientation and that therefore it was not necessary to include the specific reference as one of the categories on the list.

295 Mr Speaker, I say that because I am therefore proud to sit here as a Member of a progressive team that has shown itself willing to consult, to listen, to discuss and to take a view on the issue. Many times in life and also in politics the easiest option is to do nothing or to follow the line of least resistance. That is not the way we operate. When we take a view, we lead from the front.

300 The House knows that a Command Paper was published in December 2015 and the views were taken until the end of January 2016. In March, an Inter-Ministerial Committee was established and meetings were held with interested parties. I was not involved in that process but I know that it was intensive and meticulous; 3,490 responses to the consultation were made. This was the highest ever for any consultation on any proposed legislation.

305 There have been voices accusing the Government of having moved too slowly. The reality, Mr Speaker, is that the more consultation there is, the slower that a process becomes. Indeed, at the other end of the spectrum the Government has also been accused of moving too fast. The fact is that this Government introduced civil partnerships in 2014 and is set to legislate on civil marriage only two years later.

310 Mr Speaker, the Civil Partnership Act was a landmark piece of legislation which provided, for the first time in Gibraltar, for recognition by the State of a union between two people of the same sex. That recognition was also extended to opposite sex couples who did not want to get married.

In a practical sense, this meant that the rights, the benefits and the entitlements as citizens which were enjoyed by heterosexual married couples have now come to be enjoyed by same sex couples as well.

315 However, a couple made up of a man and a woman is also able to take advantage of civil marriage in order to have their union recognised by the State. This means that there are two routes for recognition by the State of unions made up of two people of opposite sexes. They can either enter into a civil partnership or they can enter into a civil marriage, whereas same sex couples only have one route for this recognition by the State, and that is the route of civil partnership.

320 This is why, in my view the issue is one of equality of citizens in the eyes of the State. The inequality lies not in the rights, benefits or entitlements that either route will bestow on the couple; it lies on the availability of one or two avenues to get there, depending on the sexual orientation of the people involved.

325 Mr Speaker, the discussions and debates that we have had in Gibraltar over this matter are no different to those that have arisen in other parts of Europe. As of June 2016, 13 European countries legally recognise and perform same sex marriages. These are Belgium, Denmark, Finland, France, Iceland, Ireland, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom. On 22nd December 2015, Jersey approved the principle that same sex couples be allowed to marry. The relevant legislation is due to come into force in January 2017. In Guernsey, a year later almost to the day, on 21st September this year, the States of Guernsey approved a Bill to legalise same sex marriage by a vote of 33 to 5.

330 It is true to say that there are also many countries that do not recognise civil partnerships or civil marriage between two persons of the same sex.

335 Mr Speaker, there is no right and wrong in this debate. The Government has gone to great lengths to explain that this Bill will have no impact on the different religions, the way in which they choose to define marriage or choose to practise their beliefs. Indeed, the reverse is true. The freedom of religious denominations to continue as they always have done is explicitly protected in the Bill, following the representations that have been received.

340 The Bill in my view is not about religion at all. It is not about religious marriage; it is about civil marriage. At the heart of the Bill is the cold principle that every citizen should be equal in the eyes of the State. The central issue is that the different procedures and processes offered by the State for recognition of a union between two people should be open to everyone. (**A Member:** Absolutely.)

345 There are two such processes, as I said earlier. These are civil partnership and civil marriage. Therefore, in the same way that civil partnership is open to all couples regardless of their sexual orientation, civil marriage cannot be open to heterosexual couples alone. That is not equality.

Mr Speaker, I will be supporting the Bill. (*Banging on desks*)

Mr Speaker: Any other contributor? The Hon. Neil Costa.

350 **Minister for Business & Employment (Hon. N F Costa):** Mr Speaker, whereas it would not surprise anyone inside and outside of this House to hear me say that the Government should have legislated to enable civil marriages for same sex couples from the outset, there is no doubt in my mind that civil partnerships were a hugely important and progressive step forward, and I am extremely proud to have been a Member of the Government who introduced civil partnerships in 2014. Although civil partnerships provide legal recognition for same sex relationships, it is absolutely right to now take the additional step for equality by introducing equal marriage in Gibraltar and allowing same sex couples the chance to marry if they choose to do so.

360 To those who argue that civil partnerships contain in all material respects similar rights to marriage and that therefore this Bill is in effect unnecessary, I would say that a legal partnership cannot logically be the same as civil marriage, because if it were, why have two legal schemes regulating unions?

In other words, Mr Speaker, by having a regime that enables same sex couples to register their partnership but another legal system to which they are not allowed to enter, we

365 necessarily as a society are making a conscious distinction against same sex couples. There is no
skirting around the issue that we are saying that a civil partnership is not quite the same as a civil
marriage. We are saying that same sex couples are prohibited from entering into civil marriages
while opposite sex couples may also enter into a civil partnership – in my view, plain
discrimination.

370 Mr Speaker, imagine our collective disgust and dismay as our community if we substituted
'same sex couples' for 'black couples', for 'Jewish couples', for 'couples with disabilities'. We
would rightly call it racism, anti-Semitism and bigotry, and indeed, Mr Speaker, this distinction
that still exists today is clearly one that some in our society seek to maintain precisely because it
is an important difference in the minds of some members of our community. Otherwise, why
375 seek and fight to keep this legal distinction?

It is clearly the case in the light of this wonderful debate, Mr Speaker, that we can enjoy in
Gibraltar without fear of prejudice, that society views marriage and civil partnerships as being
different. Same sex couples therefore, rightly in my view, feel their relationship is not valued by
society in the same way as civil marriage. All couples who enter into a lifelong commitment
380 should be able to call it marriage.

If same sex couples wish to exchange promises of love, of responsibility, of commitment in
marriage, who am I, Mr Speaker, to stop them? If a same sex couple wishes to bring up children
in love, in affection, in protection and in family, why would I seek to prevent such a beautiful and
meaningful thing to come to pass?

385 Mr Speaker, there is significant evidence that shows that opposite sex couples do not have –
to put it mildly – the best track record in bringing up children, and one only has to read the
newspapers to hear of some terrible tragedies that afflict vulnerable children. On the other
hand, Mr Speaker, I am not aware of any studies that indicate that children raised in same sex
relationships fare any worse or suffer any more harm than a child who is brought up by same sex
390 couples.

And, Mr Speaker, if the House would allow me to be personal for just a moment, as the child
of parents who separated when I was around ten, I can tell this House without a moment's
hesitation that it would not have made the slightest jot of difference to me if my parents were of
the same sex and had they not gone through the suffering of their separation.

395 And so, Mr Speaker, who are we in Parliament, in Government, in the State, to tell any
person whom they can love and how they can live their lives? I abhor such a thought and cannot
countenance any actions that may create laws that patently say that someone is slightly less
than somebody else.

Imagine, Mr Speaker, the child at school who feels marginalised, different and perhaps
400 inferior from his class mates because he is attracted to a member of his own sex. Imagine, if you
would, the father who would not fight, Mr Speaker, for his child's right to enter into a civil
marriage and to ensure that his child is treated in all respects exactly like everybody else.

Mr Speaker, in my opinion, we either believe that we are all equally worthy of the law's
protection or we do not, and it does beg the question, are we not all flesh and blood? Are we
405 not all sentient human beings wishing, all of us, in our way to be happy? Of course we are, Mr
Speaker, and I sincerely believe that we are all deserving of the same rights, privileges and legal
protections. And it would be for me, Mr Speaker, a frightening dereliction of my responsibilities
not to support this Bill, because society considers our laws, rightly, as representing our values.
And our values surely must be that we all love each other and that we are all equal as human
410 beings.

Mr Speaker, I do of course recognise that members of our community worry about the way
that our world is changing. There are those who argue that the definition of marriage has for
hundreds ... indeed, for millennia, been between a man and a woman and should remain so.
Others oppose same sex unions because they believe that marriage is about the procreation of
415 children. For some community members, it is their faith that matters and therefore argue that it
will weaken the institution of religious marriage.

My own view, Mr Speaker, is that in fact allowing more couples to enter into marriage will actually strengthen the institution of civil marriage, not weaken it. There are countries in Europe as the Hon. the Deputy Chief Minister has said, who have introduced same sex marriage and it has not shown a weakness or an undermining of religious marriage in those countries. These countries have managed to introduce same sex marriage, while at the same time protecting religious freedom.

And in that respect, Mr Speaker, the Bill before the House does protect the right of those who do not agree with same sex marriage. For those who are concerned that equal civil marriage threatens freedom of religion, they can rest assured the Bill contains guarantees that neither a religious organisation nor a Minister in a place of worship will be forced by law to marry same sex couples.

And Mr Speaker, I can assure religious members of our community, many of whom I have the great privilege of calling friends, that I will equally fight with the same ardour as I stand here today to fight for the cause of one civil marriage for all, for the right to freedom of worship and in not ever allowing the situation where the State obliges a person of faith to act against their conscience.

Let me also say, Mr Speaker, that whereas I am no religious scholar, I have read the New Testament and for me, what strikes me above all other things, is the commandment to love each other and to love God.

Mr Speaker, I wish to thank the hon. and learned Lady, my learned friend Samantha Sacramento who has shown, I think, great leadership in this House (**Hon. Chief Minister:** Hear, hear.) (*Banging on desks*) in bringing forward the Civil Partnership Act and now this civil marriage for all and I will urge her, in fact, to continue to be as progressive and, if I may, perhaps even more radical as the Parliament progresses.

Mr Speaker, I conclude by saying that equality is indivisible. One cannot be partially equal. Either one is equal or one is not, and therefore the Bill before the House tells the world that it values everybody equally in Gibraltar and for this reason, I have no hesitation whatsoever to commend the Bill to the House. (*Banging on desks*)

Mr Speaker: The Hon. Roy Clinton.

Hon. R M Clinton: Mr Speaker, I am mindful that the first section of the Constitution deals precisely with the protection of fundamental rights and freedoms. Section 15 talks about the right to marry and found a family. Section 15 reads quite simply:

Men and women of marriageable age have the right to marry and to found a family as prescribed by any law governing the exercise of this right.

I note it is silent as to who they may marry, but just that they may marry.

I personally identify with the comments of my hon. colleagues in this House so far this morning. I believe it is a measure that is perhaps long overdue and if I may paraphrase the famous Shylock speech in *The Merchant of Venice*, 'Has the gay couple not eyes? Has the gay couple hands, organs, dimensions, senses, affections and passions? Fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer, as a heterosexual couple? If you prick us, do we not bleed?' And so, Mr Speaker, I think and agree with my colleagues in this House that it is about equality and not about discrimination.

I must say that on the whole I am satisfied with the intention of the Bill to eliminate what is an unjust discrimination. However, I would welcome clarification from the Members opposite, as to how on the one hand, as my hon. Lady has said, they remove the discrimination, and yet on the other hand seem to legalise an objection to it. If you were to change a few words in paragraph 6B, you would find it extremely obnoxious, if you were to allow this kind of

465 exemption in any other form of legislation in Gibraltar. So, Mr Speaker, I would welcome clarification from Members opposite as to how on the one hand they feel that this eliminates discrimination and yet on the other hand allows for it.

That, Mr Speaker, is I think important and I note that the hon. Lady to my left is proposing to delete this clause. I would welcome the views of the Members opposite as to whether or not they would consider that proposal.

Thank you, Mr Speaker.

Mr Speaker: The Hon. Edwin Reyes.

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

I wish to make a small contribution because I believe I am the only person in this House who has ever actually conducted the ceremony of marriage, so I can talk from a different perspective and so on!

Yes, Mr Speaker, it is a Bill that obviously I feel is relatively easy to support. There are a couple of minor things that have been aired now by my hon. colleagues here on this side.

I must start by saying that I like the words the hon. Lady, as the mover of the Bill said, that marriage was a meaningful commitment between two people and starting from that point, irrespective of whether the two are male or the two are female or they happen to be male and female, there should be total unity in everyone in supporting that marriage is a meaningful commitment.

The small differences seem to be arising in that we all wish to protect the religious institutions and their laws. For example we take the Roman Catholic Church, the canon law and so on and I do not think anyone has any problems in supporting the principle that we have to respect their laws.

490 However, having been on that side of the marriage ceremony where from my point of view it was canon law that was dictating whether I could or could not conduct that marriage, because canon law is far more stricter in who can enter into a marriage or not. And it was the State that was allowing people like myself who at the time were ministers of religion to actually conduct the marriage.

495 Very different to, for example, from a marriage ceremony that I attended in my days when I lived in Rome as a student, when one of my friends was getting married and he actually had to go through two marriage ceremonies. He had to go and have a state wedding at a particular state building and then he had to go and have a church wedding at the church of his choosing because the state was not recognising the religious minister as an authorised person or registrar or deputy registrar to conduct a civil marriage because the claim was that their laws were completely different.

I know colleagues on this side of the House are rightly saying that we are not entirely 100% yet convinced and we want to hear what the Government has to say about on the one hand trying to protect those who want to opt out of not conducting same sex marriages but I just want to warn both sides of the House, do we really want to end up with a situation where church marriages will not at the same time simultaneously be recognised as civil marriages? It would mean that those getting married would have to necessarily go one day to the civil registry and have their marriage there and then most couples, like my daughter in a couple of weeks' time, choose to get married at a weekend because it is easier for guests to attend and then the church wedding is something different. All I can say is, that as the father of the bride, it does cut a lot of expenses if you have both things happening on the same day. Believe me, it costs quite a pretty penny to get married nowadays!

510 But, Mr Speaker, having said that like I think Members on both sides of the House, we have heard what constituents have to say. We have taken their views on board and so on and I have listened to everyone with equal respect and so on. Yet there is one young lady, in fact I do not

think she is quite of voting age yet because I believe she is still a sixth-former, gave me these words, with which, with your leave, Mr Speaker, I want to end my contribution today.

520 This young beautiful lady said, 'Heterosexual marriage is a tradition. However, may I remind you that human ritual sacrifice, public executions and curing illnesses with spells and magic were all considered a tradition once. Let us go back to the days where we could watch people being beheaded in the town square, shall we?'

With that, Mr Speaker, I declare my intention to support this Bill. (*Banging on desks*)

Mr Speaker: The Hon. John Cortes.

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Minister for Health, the Environment, Energy and Climate Change (Hon. Dr J E Cortes): Mr Speaker, one of the essential points that has been made in this debate, particularly outside this House, is that the Government governs for all the people and not just for those who hold a particular view, whether or not it is the view of the majority.

530 Having said that, it is clear that one of the main arguments used against the Bill outside this Chamber is a religious one. As a Catholic who tries his best to practise his Christian faith, this is important to me and I have given the matter a great deal of thought.

535 There is much in society today, Mr Speaker, that differs from some of the teachings of my church and of other denominations, Christian or otherwise – some of which have also expressed a view on the subject, divorce, marriage between divorcees, extra marital sex, even what we do with the ashes of our deceased loved ones are examples, and all are allowed by civil society. Some may argue that these undermine the fabric of society, but society continues nevertheless and the relationship between church, all denominations, and state continues to be excellent.

540 There will be those who are religious who choose not to divorce or choose to do so; it is their choice and their decision. Few would question that now and I have not heard that point emerge in the public debate surrounding this Bill. Nor is it for me nor for this Parliament to cast judgement – judge not on the way that couples faced with such situations express their free will, another important tenet of the faith with which I grew up.

545 I would argue that the same applies to civil marriage. Indeed, civil marriage between a man and a woman exists and has existed in Gibraltar for decades and is not a church wedding but a civil occasion which clearly in concept is identical to what this Bill wishes to introduce. It does not impose a duty for same sex couples to marry nor force anyone who believes it to be wrong to do so. Nor will the lack of such provision prevent persons of the same sex who love each other from entering into a relationship.

550 What it does is give a right to all persons regardless of sexual orientation to be treated equally in civil terms in the eyes of the law, not of the church. Only the church can determine who marries under the church, but civil marriage is not the sacrament of holy matrimony, nor the equivalent in other denominations. And so I see no conflict.

555 Mr Speaker, as a practising Christian with total respect for those who disagree, with love for all of my fellow citizens and with a clean conscience, I will be supporting the Bill. (*Banging on desks*)

Mr Speaker: Is there any other contributor? (*Interjections*)

560 **Hon. D A Feetham:** If the Hon. the Chief Minister wants me to go first, then I will happily oblige him.

565 Mr Speaker, I will be personally supporting this Bill. I have a history of supporting these kinds of issues and I am a fervent supporter and believer in equality. I have stood in this House, Mr Speaker in a minority of four, with everybody else except for four colleagues including myself, voting for issues of this nature, including it has to be said, my hon. Friend, Mr Reyes and I see no reason why I should change my mind and indeed, I am a firm believer in this particular issue of gay marriage.

570 What I intend to do, Mr Speaker, is outline the policy of the GSD in relation to this. I will then very briefly go through my reasons as to why I will be supporting this Bill. I will then address the question of the amendment by the hon. Lady, and also, very briefly touch upon some further amendments that I believe are necessary in order to deal with blatant inequalities that may arise from this Bill. I am not asking the Government to do it in the context of this Bill, but to bear it in mind that further amendments will be necessary in the context in particular of the Immigration, Asylum and Refugee Act, and it is something I have touched upon in this House in the past.

575 Mr Speaker, the policy of the GSD is that it will not impose either on its MPs or on its Members, any view on a matter of conscience. It is up to an individual GSD Member, an individual Member of Parliament, to make up his or her own mind as to the way that he or she wants to support or not support, or vote in favour or vote against these types of issues.

580 And I believe it is right that on these types of issues that impact on matters of conscience and people feel very strongly about, they should have the right to express their own views in favour or against these kinds of issues. Indeed, the hon. Lady described the Civil Partnership Act as the first landmark moment in these types of issues. I disagree with her. Indeed, the first landmark moment was in 1991 because these issues are issues that developed over time and the first landmark moment was 1991, when the Hon. the Father of the House, as Chief Minister of this community, brought a Bill to this House to decriminalise homosexuality. On that occasion the GSD too allowed a free vote and no-one on our side of the political equation at the time, voted against the decriminalisation of homosexuality.

The next major step –

590 **Mr Speaker:** In 1991 I was the Leader of the Opposition; the GSD were not in Opposition.

Hon. D A Feetham: I beg your pardon, it was 1992. I beg your pardon, it was 1992. Quite right, it was Sir Peter Caruana – or Peter Caruana as he then was – who was the Leader of the Opposition. In 1992 on the decriminalisation of homosexuality, the GSD allowed a free vote and indeed nobody opposed the decriminalisation of homosexuality.

595 The next major step was in 2010 when I brought to this House a Private Member's Bill in order to equalise the age of consent and bring down the age of consent for homosexuals from 18 as it then was to 16. The context in which that arose, Mr Speaker, was because at the time I was amending all the criminal legislation in Gibraltar in the Crimes Act, and I took a position, supported by Mr Reyes, supported by Mr Montiel and supported by Mr Netto, that we would not come to this House with a Bill modernising all our criminal legislation and leave what was to us a blatant inequality in our legislation, which we believed was unconstitutional and in any event, infringed on our conscience because of that inequality.

600 The way that was resolved within the Government of the day was that we were, or I was, supported in the bringing of a Private Member's Motion where that Private Member's Motion was supported by four Members of the GSD Government at the time and everybody in this House, including the then Opposition, voted against.

605 In 2010, as a consequence of that, the matter was then placed before the Supreme Court. The Supreme Court then came back and agreed with the view expressed by myself, expressed by Mr Reyes, by Mr Montiel and Mr Netto, that in fact the inequality was unconstitutional and as a consequence of that, we then brought the Crimes Bill, which was supported by every single Member of the GSD Government at the time, which equalised the age of consent at 16.

610 It is then right that the hon. Lady then brought to this Parliament the Civil Partnership Act, which was and is rightly described as a landmark moment in the advancement of civil rights and in the advancement of these types of issues. And indeed, at the time, everybody on this side of the House also supported this particular Bill and everybody on this side of the House, despite the fact that it is a matter on which they are voting their consciences and there is no three-line or four-line whip operating on this side of the House, everybody on this side of the House is going to be supporting this Bill today.

620 Mr Speaker, from my own point of view and the reason why I support it is not only because I support equality and I have a track record of supporting equality, I believe that equality has to be advanced at every single opportunity. One of the reasons why I have made the point that I have made about the hon. Lady's comment about the first landmark moment is because society has to remain vigilant. Society has to remain vigilant and we cannot see that Bill or this Bill as a final moment in the advancement of civil rights and in the advancement of equality. As society develops, there will no doubt be further landmark moments and I hope to be in this House, Mr Speaker, in order to support them.

630 But, Mr Speaker, more than anything else I support this Bill for this reason. I am a firm believer, Mr Speaker, in the institution of marriage. My parents were also, like the parents of Mr Costa, divorced when I was ten in fact, the same as Mr Costa. But I believe that marriage offers a cementing and stable environment in which families are brought up, in which children in my view are brought up. I believe that having allowed gay couples, as indeed the hon. Gentleman – and I left this out in the history of landmark moments – allowed for the case to be brought to court in relation to gay adoption which has now been allowed as a consequence of a decision of the Supreme Court, I think it was in 2013, which I believe was also a landmark moment.

635 But having taken the decision, by law or otherwise, that gay couples can adopt, I think it is wholly illogical to then say that gay couples cannot have access to that institution of marriage that has those benefits for those couples. In my view, it is completely and utterly illogical. If gay couples want to marry or if straight couples want to marry, they should have the right to marry and gay couples should have the right to marry. I believe that marriage provides that stable, cementing environment in which families are brought up and therefore it should be accessible, in my view, to gay couples.

640 Mr Speaker, in relation to the amendment, this is where I am in a minority on this side of the House. I believe that the clause allowing an opt-out on religious grounds for Registrars, is justifiable and I will be supporting that particular clause in the Bill and I will be voting against the amendment.

650 Mr Speaker, Gibraltar is a very small community. It is a tolerant community. In Gibraltar we have learned to live with each other, different religions in a melting pot that is Gibraltar. Indeed, the Gibraltarian people have grown out of this melting pot and the stability that we have in our society comes from tolerance. I believe that, if we are to be that tolerant society that has been so successful in living with each other and tolerating our different religious beliefs and our different beliefs in other spheres too, that we have to allow people who have a religious conviction and therefore cannot for a religious conviction perform a civil marriage to have the opt-out and for that not to be forced on them, Mr Speaker.

655 And let me also say this: that although I am a believer and a firm believer in equality, one of the things that I lament most, in the way that the United Kingdom and other jurisdictions have developed as a consequence of some of the legislation that has been introduced from the equality perspective in some of those jurisdictions, has been the forcing on Christian minorities, on Muslim minorities or religious minorities, to do things that they would not otherwise have done because of their conscience. Let me give the House some examples of that.

660 Mr Speaker, it is absolutely ridiculous in my view – absolutely ridiculous – that a bakery in Ireland ought to be forced to bake a cake for a gay marriage and be found liable in a court of law for not doing so, simply because we are talking about Christian bakers, Catholic bakers, who took the view that on religious grounds, they were not prepared to bake that cake. There ought to be a sense of sensibleness in my respectful view in relation to this. We should not be forcing people to do things that go against their religious convictions.

665 In the United Kingdom, one of the largest adoption organisations in the United Kingdom was the Catholic Church, one of the largest adoption centres and indeed other Christian churches. As a consequence of some of the equality legislation that was introduced in the United Kingdom, it has forced these adoption centres to close, who were placing children in worthwhile families.

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They have had to close because their own religious convictions would not allow them to obviously adopt to gay couples.

675 Now, I may disagree with that and I may say a gay couple is just as capable of adopting and bringing up a child in the context of a loving, safe and secure relationship as anybody else. But I think that we have to be sensible in society and that we have got to recognise that there are people with different views, that there are people like those Christian organisations in the United Kingdom that offer a worthwhile service to society and we should not be forcing those people to do things that go against their own conscience.

680 And I think it is right in that context for the Government to introduce into this Bill, a clause that does not ... that will allow Registrars to opt out of gay marriage, civil marriage on religious grounds. And for those reasons, Mr Speaker, I will be opposing the amendment that is proposed by my hon. lady Friend, Marlene Nahon Hassan.

685 Finally, Mr Speaker, in relation to further amendments, I would also invite the Government to bear in mind that not only does the Matrimonial Causes Act need to be amended, but also the Immigration, Asylum and Refugee Act and I brought this matter to the House in the past but I think it is an important matter.

690 At the moment what we have is a blatant discrimination against men who are married to foreign women, their wives are not entitled to the same residency rights as a situation where a Gibraltar woman is married to a foreign man or indeed, Mr Speaker, because they amended this particular Act upon the introduction of the Civil Partnership Act, or indeed a gay couple that has entered into a civil partnership. I think that is wrong.

695 There is also a discrimination against the children of a Gibraltar man married to a foreign woman, which again are discriminated against in relation to those in a civil partnership and also gay people in a civil partnership and also a Gibraltar woman married to a foreign man. I think that, in the context of that Act that is now going to have to be amended, of course, in order to also recognise that there is a civil partnership, that we should end that discrimination across the board, and I invite the Government to do so.

700 But for those reasons, Mr Speaker, I will be supporting this Bill and I will also be voting against the amendment proposed by the hon. Lady. (*Banging on desks*)

Mr Speaker: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Well, Mr Speaker, I do think today is a landmark day for this community and for this Parliament.

705 I want to start with section 15 of the Constitution which the hon. Member referred to, which is the section which relates to the right to marry and found a family. Mr Speaker, that section, what it has been interpreted to mean in the case law of the European Court of Human Rights and what it says on the *face* of it, in my view, is *central* to a determination of how this Parliament deals with this matter.

710 I know it has been central also to the course of the debate in this community, because many have said that there is no *right* to marry, in the course of contributions that I have read in the past year. But in fact, Mr Speaker, section 15 of the Constitution – our principle and overriding enactment – actually says this:

Men and women of marriageable age have the right to marry and to found a family as prescribed by any law governing the exercise of this right.

715 So it is a right, and that right is exercised in keeping with laws, and this Parliament makes laws. But anyone who has approached this debate from the point of view that there is no *right to marry* has failed to read section 15 of the Constitution, or at least has failed to understand it.

Because I have also read some comments to suggest, well, it is a right for men and women. Well, Mr Speaker, we may describe our sexual orientations in different ways. I have learnt from

720 Samantha Sacramento that it is now LGBTTT, lesbian, gay, bisexual, transsexual and transgender, but we do not describe each other physically as anything other than men and women. So this is a right that applies to everyone in our community regardless of their sexual orientation and that is already preserved in our Constitution.

725 And it does not say, Mr Speaker, in this section that this is a right for men and women to marry each other. That would have been an important addition to this section if that is what was meant by it. 'Men and women of marriageable age have the right to marry' – full stop. It then goes on to talk about founding a family. Well, Mr Speaker, therefore I think that it is essential that this clause of our Constitution is central in our minds as we have the debate that we are having today.

730 Mr Speaker, I did not imagine on 9th December 2011 that I would be Chief Minister of Gibraltar, to see a Bill moved for equal marriage whilst I was in the Government that I was leading. I did not imagine that that would be the case in 2011 when we were framing our manifesto, when we had the internal debate of what we would do to deal with this issue of discrimination, that same sex couples were not able to enter into a partnership.

735 I sincerely believed that we were not just trail blazing; we were doing the right thing in the right way when we brought the legislation on civil partnerships. We did it, Mr Speaker, in a way that had not been done for example, in the United Kingdom, where civil partnerships were available *only* to couples who were of the same sex orientation but not to heterosexual couples, creating thereby a new discrimination which has just been undone in the UK but which we were careful not to create in Gibraltar when we made our Civil Partnerships Act.

740 Mr Speaker, I told the House in March 2012, in answer to Question 318/2012 that I believed we had satisfied the concerns of the LGBTTT community in the creation of the Civil Partnerships Act. In fact I specifically said this, Mr Speaker ... and it is not good to go around quoting oneself, Mr Speaker. Lord Denning used to do it by laying down bits of law that he would come back to quote of himself in order to lay down new bits of law. But I think that it is important, that when
745 we have said things and we have changed our minds, we face up to it and understand why that has happened.

I said specifically this:

My own view is that we should not have gay marriage in Gibraltar, that we should have civil partnerships.

750 That was in March 2012. Mr Speaker, for me it has been a road of long consideration and of very careful thought, which I can only describe as very deep soul searching, to come to the conclusion that in the context of the following General Election, the one in 2015, the position of the party that I lead and of the executive of one of the parties in the alliance that is this Government, should be to propose a consultation in the context of our manifesto to do exactly the opposite of what I believed in 2012 should not happen.

755 Mr Speaker, what was it that changed *my* mind in that respect? Well, the dates here are actually very, very important. But most of my thinking has actually developed in discussions and deep considerations of this issue with my own wife. You see, Mr Speaker, in March 2012 I was the husband of a very pregnant wife but I was not a father. I became a father in April 2012. And, Mr Speaker, I do not think there is anything that changes your outlook like having a child and understanding the importance of what that child means to you and how that child looks to you
760 for protection in his early life.

And Mr Speaker, my discussions at home have been very, very concerning from the point of view of where I was in March 2012. Because, Mr Speaker, put yourself in the position of a husband who is asked this: 'now that you have a little boy, how would you feel in 30 years' time if your son has that sexual orientation and he is not able to do something that everybody else who is of a different sexual orientation is able to do?' In terms of the civic – not in terms of the physical or in terms of something else; in terms of the civic. And if he were able to turn around
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to you then, in 30 years' time and say, 'I cannot marry, Dad, because when you had the power you did not change the law.'

770 Well, Mr Speaker, this is not a place of power exercised in that way. This is not a place where I am going to say to the ten people who sit on my side, nine of whom are in Gibraltar today, 'You must vote in one particular way or you must not vote in a particular way.' That is not the way to exercise power. But to search your soul, to understand what you may have done that led you to a conclusion that may have been wrong and to then seek to understand with your community, whether you should make those changes that might lead to a different conversation 30 years
775 thence, I think was the right thing to do.

And that is why we included in our manifesto, after a long discussion in our Executive Committee where there were different views, after a detailed discussion with our coalition partners in the Liberal Party, that we would do a consultation in the whole of our community.

780 Well, Mr Speaker, I am not in bad company in changing my mind on this subject. President Obama was against equal marriage in 2008. He said that he believed that the United States should pursue civil unions and not civil marriages for those of the same sex. And yet by 2013 in his second inaugural address, he said this:

If we are truly created equal, then surely the love we commit to one another must be equal as well.

And in 2015, I think the whole world will remember the words which resonated from him when he welcomed the decision of the United States Supreme Court to make equal marriage
785 legal in the United States, through a judicial decision, not through a legislative change.

So, Mr Speaker, our approach has been to go to the community with this issue. Our manifesto, Mr Speaker, our Strongest Foundations manifesto of 2015, at pages 95 and 96, deals with the issue of equality. It sets out the work that we had done by November last year and the work that we were seeking a mandate to continue to do. In the section which is in great
790 measure down to the drafting of the hon. Lady and the detailed policy discussions of the Executive Committee, it says this on page 96 – 'civil partnerships':

We trail blazed with the landmark commitment, which we have already delivered, to introduce into law the Civil Partnership Act. This recognises the rights of people to have their same sex relationships reflected in legislation and all rights that accrue from this because we did not consider it was right for the State to discriminate between people on the grounds of their sexual orientation. This regime is now also open to opposite sex couples so that there is full equality across all the sexual orientations. We will now publish a Command Paper in order to take the views of the public on how best to deal with the request by some for civil marriage to be extended to same sex couples. We are totally committed both to ensuring that religious denominations are not forced to change their practices, beliefs or sacraments in any way and to the principle that the State must not discriminate between individuals based on grounds of sexual orientation. The results of the responses to the Command Paper will be published by June next year.

This manifesto, Mr Speaker, garnered wholesale support during the course of the last General Election in Gibraltar and that commitment was part of the manifesto before the people at the General Election. Mr Speaker, in fact I am very pleased that we introduced also, the
795 concept of the Command Paper because the Command Paper was not known to this Parliament and to our laws, until 2011 when we became the Government.

We were therefore able to put in the context of that Command Paper, which is a paper published by Command of Her Majesty through the Government, and I will come to that later because this is a Government Bill, an important issue to highlight which both the hon. Lady and
800 the Deputy Chief Minister have highlighted. But this is a Command Paper published by Command of Her Majesty for people to consider what their views are and to come back with the views that they wish to express in the context of that consultation.

So, Mr Speaker, I think we were able to publish the Command Paper in time and I think we have slipped by about 60 days in the context of publishing the responses to that, because we
805 were committed to a date in June this year. But a small matter of a Referendum dealing with

some international partnerships of the United Kingdom has really dominated the first part of this year, but we otherwise complied with our undertaking to the letter.

810 Before I move on to deal with that part of what we did, Mr Speaker, dealing with civil marriages, I want to just reflect for a moment on civil partnerships. Because in the same way as civil partnerships in the United Kingdom excluded heterosexuals and we did not and they have had to change it, it is also true, Mr Speaker, that civil partnerships have found a life beyond their original *raison d'être*. I mean the original reason for civil partnerships was to provide a route for people of the same sex to have the ability to enter into stable relationships, recognised by the State, without knocking on the door of marriage.

815 But of course, as we allowed them here for heterosexual couples also and they were allowed eventually in the UK also for heterosexual couples, civil partnerships have found a different sort of life for themselves. And this very morning, Mr Speaker, perhaps providentially and in time for my speech, I read in one of my favourite columns in *The Times*, the Matthew Parris This Week column, the following excellent reference. And Matthew Parris writes this of himself – the title is
820 'Not the Marrying Kind': he says that new data offers an interesting peek into gay relationships. The number of civil partnerships formed last year is almost half the number in 2014 when gay marriage was introduced. So far, so unsurprising. If marriage is available, less people are likely to be going for the civil partnerships which were introduced to avoid those marriages.

825 But within that figure, he tells us, there is a more striking one. Nearly half of new civil partnerships are between over 50s compared with only a fifth in 2013, the year before marriage became an option. And his conclusion, Mr Speaker, I think is as amusing as it is informative: 'That many older gays who get hitched are still resisting marriage suggests that opposition to the reform was not always routed in moral disapproval, but sometimes in reluctance to change the meaning of long familiar words. Kind friends sometimes call my partner and me "husbands".
830 Though I have tried, I just cannot get comfortable with that word, but then again, I am 67', he tells us.

Well, Mr Speaker, it may be that it is important to highlight that simply because the option is on the table, it does not mean that we are going to require anybody or force anybody to do it.

835 Mr Speaker, the consultation which we undertook was probably the widest consultation exercise undertaken in this community, certainly in my political lifetime. I do not know whether something has gone deeper than the consultation on this Command Paper but it is certainly not something I remember.

840 The Select Committee on the Constitution which the Hon. the Father of the House and the Deputy Chief Minister formed part of, opened itself out to contributions from the community. There were lots of people who were politically involved who wanted to contribute to that, but the depth and breadth of the support for this Command Paper in the responses to it, is something I have never come across before in my political life.

845 And if I may say so, Mr Speaker, it ranged across the board of the whole of the community. We engaged with so many people, Mr Speaker, people I had never met before, people I thought I knew and had views that I was not able to associate with, and of course some who I knew and who had views I knew I could associate with, Mr Speaker.

850 And if I may say so, with thanks, the representations made also included representations made very thoughtfully and carefully and sensitively by His Lordship, the Bishop Zammit and His Lordship, the former Bishop Heskett, and I will come to some of those contributions in a moment.

855 The first part that I want to come to, Mr Speaker, is in the opinion that His Lordship the Bishop provided on 8th September 2016 and which was published in the *Gibraltar Chronicle* on the eve of his ordination in Malta, where he said that as Bishop of many in Gibraltar, he was writing his letter to express concerns about the issue of equal marriage and to share some considerations. I thought that there was a part that the House should be referred to. Two parts in particular, and the first is this.

In paragraph 11, His Lordship says this:

Whatever the decision of Parliament regarding this matter, the Church will hold fast to its authentic understanding of marriage, which has been written in the human heart, consolidated in history and confirmed by the Word of God. Any civil law allowing same sex marriage has no bearing on the teaching of the Church regarding the sacrament of marriage.

That is absolutely right, Mr Speaker. Whether one shares His Lordship's view in respect of the first part of his sentence or not, the second part of this paragraph is of course, absolutely true.
860 Nothing that we are doing here today in any way affects the teachings of the Church regarding the sacrament of marriage, or any other religious teaching in relation to the many incarnations of marriage.

And as the Bishop I think said in some of his other public interventions, but he said directly to us in the inter-ministerial committee meeting that we had with him and other members of the Church, the Church proposes but does not impose. I think the Church has been, through His Lordship the Bishop, exquisite in observing that approach, in providing us with information, in providing us with guidance on what their views are, but has not for one moment suggested to us that we should or should not do any particular thing in the context of the consultation and, indeed, is not purporting to say to the community that it must or must not do any particular thing.
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Those views of His Lordship, Mr Speaker, the views of every Member in this House as expressed and the views of everybody who contributed to the consultation and those who did not, all of them are protected and preserved by section 9(1) of our Constitution, which says this – “Protection of Freedom of Conscience:

Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

875 The first phrase of that paragraph is the most important, Mr Speaker, because it says, ‘except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience’. Everything else is mechanics.

So we live, Mr Speaker, in a free society, where one is free to worship or not worship the god or gods that one wishes to worship or not worship, and in a society which in the other section I have read to you, establishes the right of men and women to marry.
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And, Mr Speaker, it was not just His Lordship and the Church that provided us with useful and careful and sensitive guidance on aspects of this proposed amendment. It was also the Evangelical Alliance who represent a lot of other denominations and who spent a lot of time with us – very convivial time, even though we might have different views, but a very convivial time understanding each other and understanding the issues that we were wrestling with and wanting to deal with in the best possible way for this community.
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And the Equality Rights Group, Mr Speaker, who have led on this issue for those seeking marriage equality, with whom we had a very positive engagement. Not just in respect of the protection of the fundamental rights of all those who wish to marry regardless of their sexual orientation, but also if I may say so, the protection of people to practice their own religion in their own way and how those rights must also be preserved. Something which the Equality Rights Group were very keen to ensure we understood they were as signed up to as they might have been signed up to the cause of equal marriage.
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We met, Mr Speaker, with a group of lawyers, young and not so young, who of course through our profession I knew well and in fact, all members of the Inter-Ministerial Committee happened to be lawyers so we all knew each other and have always got on relatively well, and had a good legal ding-dong on the subject of marriage and rights and not rights. Their thinking was also helpful in informing us in how we framed some of the exceptions that we had been asked to consider by the Church and which some of these members of our profession at the Bar
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900 were able to help us shape in some way. We disagreed with most, but not with all, Mr Speaker, who came to see us in that context.

Mr Speaker, this was a process of consultation which resulted in the most careful consideration, most in-depth analysis of what was put to us in the context of this Command Paper and the responses to it. And if I may say so, Mr Speaker, I think I speak for all of the
905 Members of the Inter-Ministerial Committee when I say that I think this was a *hugely* enriching process.

This was not just dealing with the law; this was dealing with who we are in a values-based system like Gibraltar. Where is our morality today? Is this law a law that affects our morality in some way? It was a hugely stimulating and enriching process, Mr Speaker.

910 I chaired that Inter-Ministerial Committee with Samantha Sacramento, Neil Costa, Gilbert Licudi and Albert Isola as members of it. Albert Isola is, as Members will know, in China today on Government business. Mr Licudi and Mr Costa are here and they will agree with me that Samantha Sacramento's work in relation to equality is absolutely trail blazing and landmark in many ways, Mr Speaker.

915 Attitude is probably the first way that marks her out for distinction in this field, because Samantha Sacramento does not need to be told that laws need to be changed to provide for a more equal society; she feels it instinctively and understands it instinctively. And she is not in a position where she has to come with a Private Member's Bill to this House, Mr Speaker, to seek to rely on Opposition votes to change things; this is a woman who is able to count on
920 Government support, because she persuades those who might need persuading – not that we take long to be persuaded – when she raises an issue of equality that it must be dealt with in that particular way.

And she is a young talent, Mr Speaker, who I think those advocates for equality outside of this Parliament – which you might call the equality lobby – have long recognised as a
925 magnificent advocate for equality. She is the one, Mr Speaker, who taught me that it is not gay marriage. We sometimes go round using the terms like 'gay marriage' as shorthand in the context of this debate.

It is not gay marriage; it is about *equal* marriage. And terminology matters. Political correctness is not something that people should have much time for, but the importance of
930 terminology and how different terminology can hurt others, is something that we should all have regard to and she has consistently kept us on the straight and narrow in that respect when we have fallen into shorthand.

Mr Speaker, if I can just deal briefly with the usual discordant note that the current Leader of the Opposition has struck in respect of the debate and which I feel I must reply to, especially
935 given the fact that he has given us a draft of his retirement or resignation letter already during the course of a recent television programme, at the same time as he told us that he felt he was not paid enough for the job that he does.

Putting those things to one side, Mr Speaker, and ready to deal with them in the context of another debate, look, we agree that in relation to homosexuality, the first landmark moment
940 was the decriminalisation of that by the first GSLP Government during the course of its second administration, not its first administration.

If I may say so, Mr Speaker, when it comes to criminal laws, I do not think that Governments come to Parliament for people to vote their consciences, although I always expect my party to vote its conscience. They do not need to be given a free vote to vote their consciences; I actually
945 expect them to vote their consciences every time we come here. If they disagree with me, they disagree with me. I intend to vote my conscience and so should they.

That is what they are paid for because they are Members of Parliament and that is part of the allowance that they are paid, the one that the hon. Gentleman said to *GBC* he thought was too low, to come here and vote their consciences. But to have to be given a free vote on whether or
950 not to *decriminalise* here, Mr Speaker, is really quite something. But the hon. Gentleman is wrong about so much, Mr Speaker, that even when he refers to facts which are so objectively

determinable as to how people voted, he gets it wrong. (*Interjection by Hon. D A Feetham*) Mr Corby voted against –

955 **Hon. D A Feetham:** No, he abstained.

Hon. Chief Minister: Well he voted against decriminalisation then. (*Interjection by Hon. D A Feetham*) ‘My conscience does not allow me to vote in favour of the amendments’: Mr Speaker, that is quite something. (**Hon. D A Feetham:** He abstained.) That is quite something. It really is quite incredible that the hon. Gentleman tries to use that as a badge of honour in the context of what his party stands for in terms of equality – really quite something.

960 And then he talks about his record of standing for these things. Well, Mr Speaker, look he came here with a Private Member’s Bill on equalising the age of consent, where he wanted to rely on Opposition votes to get it through. When in exactly the same way as we were dealing with the issue of this decriminalisation in 1992, our view was that it was an absolute scandal that the equalisation of the age of consent, which was a *legal requirement*, should come to this Parliament by the hand of a Minister for Justice’s Private Member’s Bill. (*Interjection by Hon. D A Feetham*) It was absolutely disgraceful, Mr Speaker. It should have come as a Government Bill, Mr Speaker. (*Interjection by Hon. D A Feetham*) It should have come as a Government Bill, Mr Speaker, not as a Private Member’s Bill.

970 So look, Mr Speaker, the hon. Gentleman wants to clothe himself in the cloak of being the most equal person here. But look, if it were true that he is, he will be fulsome and genuine in his support for the work that the hon. Lady has done and for the work that the hon. the former Minister for Health, Mr Cortes has done. Because if there is one thing we can be absolutely proud of, it is our record in respect of equality. The hon. Gentleman has recently ensured that IVF is available for same sex couples in the same way that it is available for heterosexual couples, something that we introduced ourselves in any event, Mr Speaker.

975 The hon. Lady’s work in respect of equality does not need to be spelt out for people to understand how magnificent it has been. But, Mr Speaker, to try and denigrate that in the context of this debate and to bring the partisan into it I think really demonstrates that the hon. Gentleman is only interested in putting on such cloak as he thinks might garner him some element of support at any particular time.

980 And I think it is unfortunate that this otherwise convivial debate on which we have been able to hear contributions from Members Opposite where I think we have all agreed has had to be tarnished by that attempt to bring in the partisan. And if he is *such* a champion of equality, Mr Speaker, where was this in the pamphlet?

985 Because, Mr Speaker, let us be clear, we had a soul searching debate in our Executive. I had a soul searching debate at home with my wife, thinking about the future of my children. We put it in our manifesto and we have acted in keeping with our manifesto. Where is it in his?

990 Look, Mr Speaker, we did the same thing in relation to smoking in public places, another important issue of a different type. The hon. Member’s manifesto in 2011 was six of one and half a dozen of another in respect of smoking in public places. You could read, you could sense in the manifesto, this was a tightrope-walking exercise of trying to appease those who were in favour of stopping smoking in public places and not annoy the smokers.

995 And, Mr Speaker, for the hon. Gentleman to now say that he is the champion of equality and that he has a record of standing for these things when he was the person responsible for – I cannot call it a manifesto; I do not know what to call it – the *pamphlet* that was put out at the last General Election, which was silent on the subject despite a letter from the Equality Rights Group dealing with the issue and asking parties to state their positions on it, is really to ask people to believe anything.

1000 I think the hon. Gentleman was honest when he says that he thinks he is underpaid. He has such a high opinion of himself I do believe he thinks he is underpaid. And I am very grateful that

he went on television to say that he thinks he should be remunerated better than he is. But everything else, Mr Speaker, just does not ring true. It does not ring true.

1005 So anyway, the champion of equality who did not put anything about equal marriage in his pamphlet, I think has added very little to the debate but I do welcome the contributions from other Members, Mr Speaker. If I may say so, though he is not here to hear me, Mr Speaker, Mr Reyes made a very interesting and poignant contribution because he has been a man of the cloth, as he reminded us. He has actually married people. And it is also important for us to
1010 recognise and appreciate the journey that he has made and the contribution that he has made today in this Parliament, and I sincerely, sincerely value it, Mr Speaker.

Mr Speaker, the consultation also included debates organised in other fora. *The Panorama* and *The Chronicle* carried contributions from one and another. Gibraltar Broadcasting, the public broadcaster organised a debate on the subject, which I think was held at one of the cinemas. Joe
1015 Garcia contributed – not this one, another one – Eric Ellul, both of whom I think also contributed lengthy pieces in the local press on the subject of their objection to changes in the legislation. Eddy Wood, Charles Gomez – and Charles I think, is one of the people who came to see us in the context of the later more detailed consultation and he has also written extensively in the local media and social media. I think he contributed from the floor in the context of that debate.

1020 And finally, Mr Speaker, Ivan Hernandez, who was on that *Viewpoint* programme and who wrote for me the most touching opinion on this subject. He wrote an absolutely excellent contribution that told us not just about why he thought the rules should change from an objective point of view, from the international point of view, from the rules and mores point of view; he talked to us about himself and the discrimination he had suffered overtly and not
1025 overtly.

Because you see sometimes, Mr Speaker, we think that simply because we do not call somebody an awful name, we are not discriminating against them. And I have heard it said before, 'Well, in Gibraltar we have never discriminated against gays, we have never given them a problem.' Well look, Mr Speaker, we do not have to be Zimbabwe beating up people who love
1030 people of the same sex, or Russia who do the same thing, to discriminate against people and to make them feel excluded.

And this man's opinion explained to us that he had not felt able to return to Gibraltar to live with his parents and his extended family, his brothers etc. because of the way Gibraltar was structured in society. Sometimes the most learned, the most intelligent understand the
1035 structures of state discrimination better and therefore find them so anathema that they cannot form part of that state, and that is what Ivan told us in that piece. He said, 'I couldn't come back to be with my family because the place in which I wished to live institutionalised a discrimination against what I was.' And that was a subjective contribution that I think was amongst the most powerful things I have read in a long time in any newspaper, local, national or international and I
1040 thank him for having shared that level of his yearning for equality with the rest of the community. It was not wasted at all.

Mr Speaker, there were 2,336 contributions in the consultation – 2,336 contributions to a Command Paper is an extraordinary number. It is literally 10% of the electorate; it is almost a fifth of our vote and almost half of theirs. That is. That is an extraordinary number, Mr Speaker:
1045 1,368 comments were in favour – and the community may want to have these numbers – 1,368 comments were in favour, 955 comments were against same sex marriage and 13 were in favour of a referendum to decide the matter.

Well, Mr Speaker, every single person who wrote a contribution or who simply signed the contribution with which they agreed which had been prepared by others, deserves the thanks of
1050 the Government for having become engaged in this process with us and for their respective contributions. If I may say so, Mr Speaker, instead of each of us putting on a cloak of how we are a champion of this or of that, what we need to do and what we need to reflect as representatives of our community is how proud Gibraltar should be of itself, of the debate that we have had, of the way in which we have had it, of the amount of contributions filed and

1055 frankly, Mr Speaker, of the magnificent and peaceful way in which we do not just tolerate but we respect each other's views and we understand each other's feelings.

Mr Speaker, it is also absolutely true that the figurehead of this push for equal marriage has undoubtedly been Felix Alvarez, who has really pushed for this change in the law, along with others. But he is always the person who is prepared to put his head above the parapet and, if necessary, become unpopular in order to pursue an issue in which he believes and it is right that we should recognise the work that he has done in addressing this issue, usually with Charles Trico in tow who comes to see us.

And if I may share an intimate reference, Mr Speaker, one of the meetings that we had in the Inter-Ministerial Committee with Felix and with Charles and when we were saying to them, I was sharing my views and the views of others, I made my own views public as to why I thought this should proceed, Charles Trico said to me, 'Well, Felix and I have probably done the easy part, which is to persuade you. The difficult thing now is to find ourselves a husband!' (*Laughter*) I suggested, Mr Speaker, that perhaps they should talk to each other, but Felix and Charles said there was absolutely no question of that. They both deserve to be singled out, Mr Speaker, for particular mention and for the thanks of this community for having led from the unpopular front, Mr Speaker.

The contributions that we have had have really been reflections of very deeply held beliefs and of the things that define each of us as individuals and therefore as a collective define us as a people and as a community. And I think this is really the best and deepest debate that we have had as a nation for many generations.

I do not know how our laws on divorce came to be on our Statute Book, I do not know how our laws in other controversial areas came to be on our Statute Books. In those days there was less consultation, there was no Command Paper, there might have been the British Government putting pressure, it is true to say, Mr Speaker, that in some of the other overseas territories, the British Government has had to put pressure simply not just to decriminalise homosexual activity but to also to get rid of the death penalty which was still on the Statute Books of some of the other overseas territories, that may have come about in that way.

This is a change in our law that we as a community are bringing ourselves after the deepest soul searching, because it is clear that people have really, really dug deep to understand who they were, what they wanted to say to us in the context of the contributions that they were making, where we come from, where we are going to, what is it that we feel our journey should be in the future, and how this law fits into that.

Mr Speaker, it may be that we do not have debates about morality and about equality often enough these days, the hon. Lady always tells us that we must not take equality for granted and that is absolutely right. Perhaps we should be having more of these debates. Perhaps we have too many debates about finances and foreign policy and we do not pause often enough to debate who we are, where we are going and how our laws should reflect that.

I happen to think, Mr Speaker, that one of the reasons that does not happen is because the big moral questions have been settled, because the left has won all of the arguments. Before, people were not entitled to universal education; they are now because the left won the argument. People were not entitled to universal health care because the left won the argument. Dare I say it, Mr Speaker, there was no universal suffrage until the left won the argument. Some might have been pleased if there was not, Mr Speaker; they might have got a larger share of the vote just of landowners than they did of the general population.

But those moral questions, Mr Speaker, have been settled because the left won the argument, but the left must never forget that it is important to keep winning the arguments.

Mr Speaker, Gibraltar has confronted this debate with maturity and I want to congratulate not just my colleagues in Government but everybody that has dealt with us in the consultation for that maturity and for the courage and conviction that it takes to put yourself out there and to give a view that on one side or the other you know will be unpopular with the other side.

It is also true, Mr Speaker, that the debate has been had overwhelmingly in a spirit of respect. Not just of tolerance but of deep respect and I think that was most in evidence at that *Viewpoint* programme that I have referred to already.

1110 Some people have talked about their religion, some people have talked about their morality, some people have talked about their consciences and some people have talked about themselves. But where we have done so, we have been able to do so largely – and I think with only two exceptions that I will come to – without causing each other any pain, without calling each other any names or without judging each other. And that for me has really been the highlight of this consultation process.

1115 And so, Mr Speaker, two discordant notes really did stand out to me in the context of the debate, which I thought were an aberration in an otherwise robust but very constructive process of debate. Because I think, Mr Speaker, that there is absolutely no room in Gibraltar whatsoever for us to consider that any person is ill or disabled because of a sexual orientation, as one contributor to a GBC *Newswatch* programme said.

1120 Similarly, Mr Speaker, I do not believe that it is acceptable that there is any room in Gibraltar for somebody to refer to the religions of others in the context of this debate as a Bronze Age religion, as one correspondent said in the letters page of *Panorama*.

1125 Mr Speaker, we are a community that is defined by its respect – not just tolerance; its respect – for the views of each other and in fact, that is exactly what section 9(1) provides, that no person shall be hindered in the enjoyment of his freedom of conscience.

And, Mr Speaker, there is freedom of speech: you can say whatever you like about somebody else's religion and about somebody else's beliefs. Of course you can. But discretion is sometimes the better part of valour, when it comes to those issues.

1130 Mr Speaker, one man's food is another man's poison and I do not think that has ever been truer in respect of a debate on a law than it is in relation to this matter. That is why, Mr Speaker, on this issue I want it to be explicit that everybody on this side of the House will be voting their consciences.

1135 I say 'explicit' because all hon. Members must remember that it is implicit in every single vote. Whether it is a matter relating to financial services or it is a matter relating to morality, on this side of the House everybody always votes their consciences; but in this instance, I think it is important that we be explicit in saying that.

1140 Mr Speaker, one of the determining factors of the debate has been how this law interplays with the law on civil partnerships. I have heard time and again, statements to the effect that 'what does the gay community' – as some have referred to it – 'want, given that they have everything that they need now in the context of civil partnerships?' Well, Mr Speaker, it is true that civil partnerships were akin to marriage in just about every way possible and that the Government did not offer a defence in the context of a case on same sex adoption in the Supreme Court. Therefore, with civil partnerships and with that decision, the architecture of same sex relationships and the architecture of opposite sex relationships was in effect identical other than in nomenclature. That is one of the things that was consistently put to us, 'but why do *they*' – disclosing the 'them and us' aspect in some people's mentality – 'want more? They have everything already in civil partnerships – it is just a word.'

1145 Well, Mr Speaker, therein lies the rub. Because you see it is a mighty double edged sword that argument, for those who say that we should not change this law in this way, because if everything in substance has happened – if we take an attitude of substance over form – if everything in substance has happened in relation to same sex relationships that has to happen for them to be equal to heterosexual relationships, other than the nomenclature applied to the description available, then it is clear to me that those who are against this Bill have lost the argument. Because they cannot argue that moral hell and brimstone will befall this community because of the nature of the relationships. Because as part of their argument to stop this Bill, 1155 some have said, 'Look, they have got everything! They have that in the context of a civil partnership.' That demonstrates that this debate has become just about a word.

1160 And look, short of going into the etymology of the word 'marriage', which this community has enjoyed better scholars than me giving it chapter and verse on for both sides, the fact is that we are just talking now about the word 'marriage'. That is the reality, Mr Speaker.

So if you are in a debate which is about form and not about substance, solve it quickly because you are not going to need to be going on for very long because the horse has bolted, Mr Speaker. We had nowhere near the level of antipathy to the Civil Partnerships Act when it passed, that we found from some quarters in respect of this matter.

1165 Mr Speaker, is it not incredible, though, to reflect on how far we have come in less than five years since we became the Government? It is not yet 9th December 2016. We have not yet been in Government for five years. We have already legislated for civil partnerships and we are now, I trust, about to see on the Second Reading what I hope will be unanimous support for this Bill. Well, Mr Speaker, those are five short years of very, very exciting changes.

1170 Mr Speaker, that does not mean that the many years before them were not long and arduous for those who suffered those discriminations.

And it is less, Mr Speaker, than one year since we received the overwhelming mandate of the people of Gibraltar for our strongest foundations manifesto. Less than a year since then, we are implementing the manifesto commitment bringing the Bill to the House for debate on a second reading.

1175 Mr Speaker, as I have said, everybody on this side will be voting their consciences and therefore, Mr Speaker, I will ask the Clerk for a division of votes during the course of The Second Reading, Mr Speaker. There are no whips on this side, Mr Speaker, neither three-line nor four-line. There never are, but it is important that people see how we vote our consciences.

1180 Mr Speaker, just before I deal with my concluding remarks, I want to deal with the issue of clause 6B. It is important in a community which is structured like ours is structured, where 955 people are against this measure and 1,368 are in favour, according to the responses to the consultation, that what we do is structured to ensure that we do not create new hostages to fortune.

1185 I have read hon. Members section 9(1) of the Constitution. Section 9(1) of the Constitution, in the view of the Government, avails a public servant of a constitutional right not to be required to do something which is contrary to his conscience. What we are doing, therefore, is ensuring that we provide not just for the right of equality of those who are same sex couples, but also of the freedom of conscience of the public servant who may not wish to be involved in the – I will use the word loosely – officiation of that particular union.

1190 Now, Mr Speaker, the Government comes to this as the main architect of the *Corpus Juris* of Gibraltar but also as the employer in the context of public servants. And in that sense, as a responsible employer, our role must be to ensure that we provide the service to the public – i.e. in this context the same or opposite sex couples who wish to enter marriage at a civil level – and provide the protection for our employees who wish the freedom of conscience, which the Constitution provides them, not to be involved in that whilst still being able to accede to the relevant post of Deputy Registrar or Registrar. This strikes that balance, Mr Speaker.

1195 This does not create a new discrimination because you see, Mr Speaker, in the goods and services cases, the bakers were denying the cake. We are not going to do that. We are going to ensure that the Deputy Registrar or the Registrar is there to marry those of same sex who wish to enter into those marriages.

1200 The Government is the organisation; the third parties are those who wish to enter the state of civil marriage. They come to the Government and they say, 'Can I please have a cake?' and the Government says, 'After this change in the law, you will have the cake.' But we cannot be told that inside the Government the cake must be baked by Joe or by Jerry, by Diane or by Dorian. It is a matter entirely for the Government.

1205 The Chief Secretary, the Head of Human Resources, the Head of Department, can move a civil servant who is a clerical grade, overnight from one post to another. That is the way it has always

1210 been in the Civil Service. It has always been handled in that way. It is an established practice of the Civil Service.

Now, if there is a person who does not want to officiate same sex marriages, they can simply be moved; but they might be quite happy to officiate other marriages. So the Government as employer is preserving the right of its employees who do not wish to do this, to have access to the grade of Deputy Registrar, to be able to do the other marriages which they wish to do and yet respect their 9(1) right not to do other things.

1215 And this happens across the board, by the way. There are many other examples of things that people are not required to do in the service because of their beliefs. There are people who do not work on particular days because of their beliefs. There are people who do not count votes because they do not wish to do so. Nobody is compelled to do so. Mr Speaker, there are many
1220 examples in the service of that and what the Government believes is, that it is absolutely right and proper that the Equality Rights Group, that those who are members of the 1,368 who responded saying that there should be equal marriage, should insist that Gibraltar should provide equal marriage and that we should do it in the same way as we do same sex marriage.

But nobody is entitled to be married in opposite sex marriage by Joe or by Jerry or by Dorian or by Dennis. Nobody is. A Registrar turns up on that day and it will be the one with the black hair, the one with the ginger hair, the one with the blonde hair, whoever is available on that day is the person who officiates at that civil ceremony. And that is what the Government is going to ensure that we do. We are going to provide the service in the context of the goods and services cases, we are going to provide the cake.

1230 You can go into the baking shop and you can say, 'I want a cake from this shop' and you buy the cake from that shop because the goods and services legislation provides for that. But you cannot say to the baker, 'And it must be baked by Joe, or by Jerry or by Dorian or by Denise.' You are not allowed to do that, you are just allowed to have a cake. They can outsource the provision of the cake; they can get Miriam to prepare the cake. That is the reality.

1235 I see the hon. Lady shaking her head but that is the reality of the legislation, and that is what the courts have provided for, that nobody should be denied service. There cannot be a denial of service, but in the context of a public service, which is 4,000 people – the Civil Service which is half of that – there cannot be a law that says the same person must do the same thing for everybody else.

1240 Look otherwise, the hon. Lady needs to understand, people are just going to *reportarse de malo*, which is colloquially known as reporting in sick on that particular day if they do not want to officiate at a particular thing, or they are going to fall back on their own right under 9(1).

So this strikes the right balance because we will provide absolutely the service that is required in order to provide equality to those who **must** have equal marriage, but we will not force it down anybody's throat that they **must** also officiate those marriages when – I do not understand why, but – they may have an objection to it. The hon. Lady needs to understand that we do that as an employer, an employer not just as a Government moving a Bill to bring equality, because there must also be an equal right to freedom of conscience.

1245 And if I may just round up on this point in this way, Mr Speaker, if it is right for hon. Members opposite to be able to vote their conscience and it is right for us on this side of the House to vote our consciences, and the hon. Lady has freedom of conscience and can vote against this Bill if she wanted to, why must it not also be right that a civil servant should be able to have the freedom of conscience not to do something which he is a conscientious objector to. It is a blade that cuts both ways, Mr Speaker. *(Interjection by Hon. Ms M D Hassan Nahon)*

1255 No, Mr Speaker, the hon. Lady is saying from a sedentary position that we are allowing them to discriminate under our umbrella. Look, Mr Speaker, what we are doing is ensuring that we respect our employees' freedom of conscience under 9(1) of the Constitution. Now, that we are required to do, by the way.

1260 We could do it in another way, we do not have to put it in the legislation. We could simply allow it administratively, but we believe it is right to do it in this way. I note, Mr Speaker – I do

note this – that she is leading the Opposition in respect of this amendment and that the hon. Member is a minority of I do not know whether one or two in respect of that, but she is leading the Opposition in respect of this. I think she has got three votes out of seven, I do not know whether she has got four, but I congratulate her for bringing an amendment which enjoys the support of other Members of the benches opposite according to what they have told us during the course of their speeches. I do not know whether they will be prevailed upon – i.e. whipped! – to vote in a different way or not when she puts the amendment. (*Interjection by Hon. Ms M D Hassan Nahon*)

Mr Speaker, I want to now deal with the final part of my address by saying something of what His Lordship said in the context of the opinion piece in *The Chronicle* of 8th September, which I referred to earlier. Mr Speaker, paragraphs 12, 13 and 14 of what His Lordship said bear reflection. And in large measure, where they are not dealing with his view of the substance of the issue but where they are dealing with his views on society and cohesion, I think they bear understanding.

His Lordship says this:

12. Issues of religious freedom and freedom of conscience may arise in the future if there are no clear safeguards in the law which would accept marriage as applicable also to same sex partnerships. It is hoped that the proposed law, if it goes through, would make sure that such issues will be clearly safeguarded, and such safeguards must apply not only to sacred places, church ministers and believers, but also to conscientious objectors and the use of property belonging to religious institutions or conscientious objectors.

– which I think deals also with the 6B point.

13. Much has been written and said about this issue and at times antagonistic language and behaviour were evident. There is no place for such attitudes in a civilised society and I am sure that Gibraltar is such a society, where all may express their opinions in freedom and there is reciprocal respect towards such opinions. Disagreement is not discrimination. People with different views of Marriage will hopefully be able to express their beliefs and convictions without fear of intimidation or hostility, and that religious freedom and liberty will be supported and defended. We do not force people to agree with us, but we ask to be granted the same freedom to hold our beliefs.

14. Gibraltar has always been looked upon as one big family with different religions and cultures living peacefully together. In spite of our different opinions and beliefs, it is my hope that all of us will continue to live together without hostile feelings alongside those whom we agree to disagree with, whatever the final outcome of this debate.

I think those words from Bishop Zammit are absolutely worth reflecting on, because they are entirely and absolutely correct as to the cohesion of this community of ours that we call Gibraltar.

Mr Speaker, in the final analysis, love is love and before anything else, that really must be what marriage is about. And if love is love, then who feels that love, who do they feel it for, what sex they are and what sex the person that they feel it for is, should not be a reason to deny today, a description to one couple's love that is applicable to another couple's love.

Today, as the Bishop himself has recognised, this Parliament is not interfering with any religion. We are not changing any sacrament or trying to alter the course of nature. Today we are changing a law that got in the way of love, and in doing so, Mr Speaker, we are doing the right thing.

So, Mr Speaker, I have been dying to say these words and I hope that with our votes, all of us – not just one of us; all of us – by the power vested in us by the people of Gibraltar, we are moving forward to deliver marriage equality. And when we pass this Bill, Mr Speaker, and it becomes an Act, then we will be able to say genuinely, we will be able to say honestly, we will be able to say truthfully that which section 15 of our Constitution has been proclaiming but which our laws have been denying.

And I will therefore end, Mr Speaker, exactly as I started, by quoting section 15, because I believe after we vote and if the vote is in the affirmative, then Gibraltar will be a place where

'men and women of marriageable age shall have the right to marry and to found a family' – but only then, Mr Speaker, at last. (*Banging on desks*)

Mr Speaker: Does any other hon. Member wish to contribute? I will call the mover to reply.

1300

Hon. Miss S J Sacramento: Mr Speaker, there is very little that I need to add now following the words, particularly of the Chief Minister that we have heard.

1305

The only issue between us really, Mr Speaker, has been the objection of those on the opposite benches to the proposed section 6B, other than by the Leader of the Opposition, Mr Speaker.

And I just want to make this very minor point. The consultation process, Mr Speaker, as we heard from the Hon. Chief Minister, was a long one, a serious one and one which we took in depth because it was important for us to understand what the strength of feeling was in the proposal that we were going to put to the Parliament.

1310

Because of course it is a fundamental matter of equality when we were looking at extending the principle of marriage to people of the same sex. And of course, Mr Speaker, when we are looking at something that is so fundamental, we are not in the same breath going to discriminate against anybody, because the point of this legislation, Mr Speaker, is to eradicate discrimination.

1315

And we are the architects of our own laws, Mr Speaker, and in this process we have had a very well thought out balancing act between the expression that we find which is enshrined in part 14 of the Constitution and the protection that we find in 9(1) which the Chief Minister has explained to us already.

1320

Hon. E J Phillips: Will the hon. Lady give way? I am grateful.

Mr Speaker, just before the hon. Lady develops her response in a particular way, I just wanted to ask the question and put forward a proposition in relation to *Ladele v. London Borough of Islington* – that was the leading authority in the European Court of Human Rights that dealt with this issue of discrimination.

1325

Now my understanding of the ruling by the European Court from 2 to 7 was that the majority of the European Court held that Mrs Ladele was not discriminated against by the London Borough of Islington on the basis that she refused to conduct a ceremony of marriage. So my view is that insofar as discrimination is concerned, our concern and I think that of the hon. Lady on this side of the House, there are real deep concerns about 6B in terms of potential discrimination.

1330

I was wondering whether the learned and hon. Lady had a view in relation to that, given the authority in *Ladele*.

1335

Hon. Miss S J Sacramento: Mr Speaker, just before I gave way I was referring to our Constitution, Mr Speaker, and it is our Constitution that provides the community with these fundamental rights and freedoms, Mr Speaker. And it is our view that people are entitled to protection under 9(1) of the Constitution, Mr Speaker.

1340

Furthermore, as the hon. Gentleman is I am sure aware, before a Bill is brought to Parliament, we require it to have a certificate that tells us that it complies with the Constitution. So I do not agree with ... Well, I am grateful for the point that he has made in relation to UK legislation, Mr Speaker. I am satisfied on the basis of the advice that we have, that this Bill does not infringe the Constitution.

1345

Hon. D A Feetham: Would the hon. Lady give way?

Mr Speaker: There are certain matters that can be revisited in Committee. I do not want this toing and froing when the mover is exercising her right to reply – otherwise the debate never finishes.

1350 **Hon. Ms S J Sacramento:** Because, Mr Speaker, the point that I am trying to make is that when we are deciding this legislation and undertaking this balancing act, (*Interjections*) others agree with us as well, Mr Speaker, that while of course the fundamental point that we are moving, Mr Speaker in the amendment to the marriage –

1355 **Mr Speaker:** I would be sincerely grateful if hon. Members were to stop talking across the floor of the House.

1360 **Hon. Miss S J Sacramento:** Mr Speaker, this is recognised by many, even by the Equality Rights Group, Mr Speaker, who have publicly said and acknowledged that the freedom of religious expression is important. But, Mr Speaker, as you said it may be something that maybe more appropriate for us if it is going to lead to a discussion or a debate, to discuss at Committee stage.

The only other point that I wanted to make, Mr Speaker, in perhaps cleaning up what has been said this morning, is the point made by the Hon. the Leader of the Opposition referring to a couple of pieces of legislation, Mr Speaker.

1365 It is very clear from the Bill, Mr Speaker, that there are a lot of amendments, consequential amendments that need to be made to the legislation which is why we have the power that we have in section 4, because not only do we have to make the consequential amendments to the legislation that he referred to; in fact we have to make amendments to 33 pieces of legislation to ensure that all our legislation complies with this Act should it go through.

1370 Mr Speaker, that is why I thought and I felt it important to single out the sterling work made by our lawyers in the Legal Drafting Office, because while what we see here in terms of the Act is just proposed amendments to the Marriage Act and to the Matrimonial Causes Act, Mr Speaker, there are amendments to 33 other pieces of legislation that need to be undertaken. I know that has been a tremendous piece of work that they have undertaken in a very short period of time.

1375 I have nothing further to add, Mr Speaker. (*Banging on desks*)

Mr Speaker: Since the Chief Minister made reference to the fact that he was going to ask for a division, I think it ought to be made clear and I am going to do so, that it is going to be recorded that two Members are absent and that nothing should be read into that. It is in this Parliament, Members, when they have to stick their necks out to vote, do not follow the practice of some other Parliaments, where some Members of Parliament who do not wish to vote in a particular way, just absent themselves from Parliament. That is not the practice here.

1380 The two Members, one from the Government and one from the Opposition, who are not present in the Chamber today are unavoidably absent and in fact they did not know that this Bill was going to come up this morning. It was not until earlier this morning that the Chief Minister gave me notice of the fact that the Bill was going to be taken today and we informed Members of the Opposition.

1385 I think the position of Members who are away, who are absent, has to be safeguarded. We do not want people sometime in the future to be reading into their absence something which is totally out of order.

1390 I now put the question, which is that a Bill for an Act to make provision for the marriage of same sex couples, and for connected purposes, be read a second time. And a division has been called for.

1395 *Voting resulted as follows:*

FOR

Hon. P J Balban
Hon. J J Bossano
Hon. R M Clinton
Hon. Dr J E Cortes
Hon. N F Costa
Hon. D A Feetham
Hon. Dr J J Garcia
Hon. Ms M D Hassan Nahon
Hon. G H Licudi
Hon. S E Linares
Hon. L F Llamas
Hon. E J Phillips
Hon. F R Picardo
Hon. E J Reyes
Hon. Miss S J Sacramento

AGAINST

None

ABSENT

Hon. T N Hammond
Hon. A J Isola

Mr Speaker: 15 votes have been cast in favour, and there are two Members absent. Therefore the Bill is carried. (*Banging on desks*)

1400

Clerk: The Civil Marriage Amendment Act 2016.

COMMITTEE STAGE AND THIRD READING

**Civil Marriage Amendment Bill 2016 –
Committee Stage and Third Reading to be taken at this sitting**

Minister for Tourism, Housing, Equality and Social Services (Hon. Miss S J Sacramento): I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

1405

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

1410

Mr Speaker: Does the Chief Minister wish to move to recess now?

Chief Minister (Hon. F R Picardo): No Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bill clause by clause – that is to say, the Civil Marriage Amendment Bill 2016.

In Committee of the whole Parliament

**Civil Marriage Amendment Bill 2016 –
Clauses considered and approved**

1415

Clerk: A Bill for an Act to make provisions for the marriage of same sex couples and for connected purposes.
Clause 1.

1420

Mr Chairman: Stands part of the Bill.

Clerk: Clause 2.

1425 **Mr Chairman:** A notice has been circulated of an amendment which the Hon. Marlene Hassan Nahon now wishes to move.

Reference has been made during the course of the Second Reading and the matter has been debated, but there is no reason why now in Committee, the matter cannot be revisited and the hon. Lady if she so wishes can now speak again in support of the amendment.

1430 **Hon. Ms M D Hassan Nahon:** Mr Chairman, I never in my wildest dreams, as a traditional Jewess that I am, thought I would ever find myself quoting the New Testament. But today I thought this quote was especially pertinent, from Galatians 3:28 –

There is neither Jew nor Gentile, neither slave nor free, nor is there male and female for you are all one in Jesus Christ.

1435 Mr Chairman, in my earlier response, I stated that the principle behind this Bill aims to right a grievous wrong. This amendment has the same intention. Members of this House should not be comfortable with the fact that a Bill with these aims should effectively grant a licence to discriminate. What does it say to our community about the commitment and conviction behind this Bill, that the access to equal rights that motivates this legislation is in itself denied by it? Is it not saying, Mr Chairman, that as a House we are so insecure about the principle of same sex marriage that we are willing to grant the Government's own employees the right to not observe one of our own laws?

1440 Does this not devalue the Bill? Does this not raise doubts about our commitment to end discrimination? Does this paradox sit easily with Members, some of whom have flown the flag for an equality that we are now calling into question? Is there actually such a thing as 'a little bit' of equality?

1445 Mr Chairman, I ask the House, could this not be seen by the people of Gibraltar as more of a cop out than an opt out?

1450 Such a question, Mr Chairman seems justified especially in the light of the Equalities and Human Rights Commission's recommendation to UK MPs that a clause like the one that is being proposed would represent a breach of human rights. As a result, governments in England, Wales and Scotland decided not to exempt registrars. In their view, religious views do not override other freedoms, including the right to equal marriage. Italy adopted a similar approach and while there was naturally some resistance, these nations persevered with the conviction that this was the right thing to do.

1455 This may only apply to jurisdictions outside Gibraltar, but should human rights not be a universal constant unrestricted by frontiers? What is more sacred, Mr Chairman, than our rights as human beings. Even in Northern Ireland where equal marriage is not yet even legal, the rights of gay individuals are still respected and protected, as was the case only a few days ago when an appeal court in Belfast ruled that a bakery had discriminated against a gay customer by refusing to bake a cake featuring a slogan that endorsed the very act of equal marriage that we are making legal today. Their ruling stated that the principles of equality should not be changed to suit religious arguments and yet we are making that particular allowance today. Should Gibraltar be playing catch-up, Mr Chairman, on an issue as important as fundamental human rights?

1460 And where do we go from here, Mr Chairman? Are we for example going to allow Registrars to refuse to marry divorced individuals, given that this is allowed by law but clashes with some religious doctrine? Can a Jewish Registrar deny conducting a civil marriage where a Jew is marrying outside the faith because his religion forbids this? This may be allowed by law and by the Constitution but it does not happen because it is wrong. We should not be drawing arbitrary lines on issues of equality, Mr Chairman.

1470 I am a person of faith, Mr Chairman, but I am also a person of compassion, and I do not believe that my religious views, which might not be shared by others, should dictate how they should live their lives where it has no impact on how I live mine. I also believe, as I think all proponents of modern democracy should, that Church and State are two separate entities and the agendas of the former should not always be the same as the latter.

1475 Later on in this parliamentary session, we will be discussing the issue of co-education. How ironic that the decision to separate boys and girls at secondary school, a decision that was partly influenced by the Church, is over 40 years later being contested on the same session that we are allowing similar influences to shape another decision. Let us not make the same mistake again.

1480 The law should never be allowed to discriminate, Mr Chairman. After all, according to the Treaty of Utrecht I should not even be here and neither should all of Jewish or Muslim faith. And yet, 300 years later this Bill as it currently stands seems to recognise that one section of our community is not entitled to the same treatment as others. Instead, the law should embrace one common to all belief systems, be it in one God, many Gods or no God at all, and that is the law of tolerance, and it is in this spirit that I lend the full weight of my conscience and humanity towards supporting this amendment and I urge all my parliamentary colleagues to do likewise.

1485 And if this amendment does not go through, Mr Chairman, I shall be sad about the message that this Bill will be sending: that it is acceptable for a person to discriminate against another by denying them a service they are employed to provide.

1490 I shall be dejected about the fact that we will be communicating to our gay community that they will not be entitled to the fair treatment that this Bill aims to ensure; that it is fine to see them as lesser class citizens against the very principles of our Constitution. I would be concerned about the precedent that this could set and I would be disturbed by what it suggests about us as parliamentarians and human beings.

Mr Chairman, surely moral backbones should not be allowed to buckle that easily.

1495 And lastly, Mr Chairman, I would like to say that irrespective of my amendment being passed or not, on the balance of the predicament currently facing gay members of our community, I wholeheartedly support this Bill in recognition of the fact that it represents a significant step forward in our maturity as a nation. While a decision not to delete this clause would fail to fully address some of the injustices in our society, I hope and pray that with time, perseverance and especially tolerance, we will eventually arrive at a Gibraltar that is truly for all.

1500 Thank you.

Chief Minister (Hon. F R Picardo): Well, Mr Speaker, the Government was not minded to accept the amendment when the hon. Lady put it initially. If we had to be persuaded to definitely not support it, she has just managed to do that completely.

1505 Because for her to suggest that we are somehow, by not accepting her amendment to our law to create equal marriage, creating a lesser class of citizenship amongst our gay community and that somehow we are communicating that is, if I may say so with respect to her, creating an embarrassment for Gibraltar. Gibraltar is not going to create a lesser class of citizen or in some way communicate to gay members of our community that that is what they are.

1510 What we are going to do is we are going to ensure that the Government of Gibraltar, which is what this side of the House represents, stops discriminating against people when it comes to entering into equal marriage. And we are going to provide that service using any one of the 2,200 civil servants employed by the Government to do so.

1515 Now, it may be, Mr Speaker, that the Chief Secretary could carry out these marriages or it may be, Mr Speaker, that a junior member could carry out these marriages, but who is Deputy Registrar at the point when the marriage comes to be celebrated is a matter entirely for the Chief Secretary.

1520 Mr Speaker, to say that by trying to walk the tightrope of these very difficult issues, we are incurring in any of the things that the hon. Lady has just read us out that we are incurring in, is to pretend that she lives in a world where section 9(1) of the Constitution does not apply. Now, the

preservation of the right of freedom of consciousness is not the preservation of the right to inequality. Everybody must be treated in the same way – of course they must.

1525 But the hon. Lady needs to understand, we are employers as well as being Government. As a Government we bring here as the executive, a law to pass in order to allow equal marriage. We are the first Government in the history of Gibraltar to do that in the context of a Government Bill.

1530 We are the trail blazers, the leaders, the deliverers of equality and to hear that because we want to also protect our employees' freedom of consciousness, we somehow are the ones who are making gay members of our community, who have never been availed of any assistance or support in the context of this issue until we have been elected, making them somehow lesser citizens really lets the hon. Lady down.

1535 Look, I know that in the chair in which she sits, she needs to look for relevance and needs to look for arguments that raise her above the parapet. She has certainly done that today because she seems to have the support of some Members on the benches opposite, where the Leader of the Opposition does not take the same view as they do.

That is all very good in terms of politics but this is about much more than just politics. This is about whether we deny Government employees the operation of section 9(1) of the Constitution.

1540 Now, we have to deliver to those who are arguing for equal rights those equal rights. This Bill at last does so. This Government has delivered where no other Government has delivered. Our manifesto promised to do that where the one that she defended at the General Election did not even mention it. But you have to do it in the context of the constitutional architecture in which you operate which provides for that freedom of conscience also to be protected in respect of your employees.

1545 You could take a different attitude: you could say look, if you are not prepared to do this, I do not allow you to accede to the grade of Deputy Registrar. Well look, Mr Chairman, that would be to deny somebody advancement simply because of their own conscience. Look, I do not defend that view; I do not think it is fair, proper or in any way defensible to have the view that you do not allow yourself to be used to officiate those marriages. I think it is nonsense but if somebody has them, I also think many other views that people have are nonsense, but they are free to have them. The Constitution provides for that.

1550 Now let me turn it round for the hon. Lady. Is she saying with her amendment, that Government employees will be lesser employees because they will not be entitled like every other Gibraltarian to the protection of section 9(1) or that they have to leave Government employment in order to do so? Mr Chairman, when you subject the argument to logical scrutiny, it is embarrassing!

1560 Because look, there is one thing that she has to accept and that is the Constitution. She can like my arguments, she cannot like my arguments, whatever – we usually quite like each other's arguments – but in the context of this that she is putting now, she has to understand the ground rules. She cannot undo with her rhetoric, section 9(1) of the Constitution because that is what would lead to inequality and to some people being lesser than others, if you take away the right of freedom of conscience from people.

1565 Now, you respect that right and you respect their employment and you say, 'Okay, you will not have to do this.' But I am definitely going to do it; my Government is definitely going to deliver that equal marriage. In the context of what she said about cakes, we are going to deliver the cake. We are a bakery that will deliver a cake to whoever arrives asking for a cake, whatever makeup of orientations together they may be. I am committed to that, this Government is committed to that, we have all voted that we are committed to that.

1570 But what they cannot do, Mr Chairman, from benches opposite, and I note that the Hon. the Leader of the Opposition has said – well, I do not know whether he has changed his mind, you never know – has said during the course of the Second Reading that he agrees with us, perhaps for different reasons, that it should not be done, is that we can be told who has to officiate the

marriage. It has to be one of those people who have been Deputy Registrar and they can be forced to do so.

1575 It is the most logical way of doing so, Mr Speaker, to have an exception, as we have here, that simply allows people who because of their conscience do not want to do this not to have to do it. Although we think they would be wrong to have those pangs of conscience and that they would be failing to see that equality is best delivered in a way that is seeing through the sexual orientations of people who turn up to marriage.

1580 But some of the things that the hon. Lady has said she has to make herself accountable for, for goodness' sake: Gibraltar survives on the basis that human rights are international and apply across the board everywhere. We rely on our right to self-determination, our international human rights. To simply respect one of our employees own fundamental rights under section 9(1) of the Constitution, whilst accepting our obligation to deliver the service, is not to somehow
1585 create a chasm in respect of human rights.

Now, if hon. Members are just doing this for politics, they are doing Gibraltar a huge disservice if they are just doing this for politics. If they are doing it for any other reason, I implore them to better understand section 9(1) of the Constitution and what it is that it says and what it is that it sets up and to think of themselves as employers in the context of this debate, as
1590 employers under section 9(1) who have the obligation to respect that right for the people who are employed for them.

And as probably the best employer in town, the Government is going to respect the section 9(1) rights of its employees, and therefore we will not accept the amendment.

1595 **Hon. R M Clinton:** Mr Chairman, I have heard a lot about the Constitution this morning. In fact I did read it myself in my own contribution to the debate. And we are hearing a lot about section 9(1) and the Government's duty of care it would appear to its employees, not to infringe on their consciences. But unless the Government intends to legislate across the board for all its employees in any capacity whether they be cleaners, doctors, lawyers, or any other person
1600 employed by them, for them to exercise their freedom of conscience ... and reading section 9(1) all it says is:

'Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience ...'

Now, I will obviously defer to my learned colleague to my right, the Hon. Elliott Phillips, where he quotes the *Ladele* case which went to the European Court, and he will correct my memory, but my memory was that the ruling was the individual was not being hindered in his
1605 enjoyment of their freedom of conscience.

And again, the Chief Minister refers constantly to section 9(1) but ignores section 9(5). section 9(5) says:

Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) or (3) to the extent that the law in question makes provision –
(a) in the interests of defence, public safety, public order, public morality or public health; or
(b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion or belief without the unsolicited intervention of persons professing any other religion or belief, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

And I would like to pause on section 9(5)(b): 'nothing done in the authority of any law that should be held to be inconsistent in the contravention of subsection (1)' and clause (b) 'for the
1610 purpose of protecting the rights and freedoms of other persons'. So how does he reconcile inserting clause 6B with subsection (5)(b) of the Constitution? Otherwise any individual in the employment of the Government could rightly turn round to their supervisor and say, 'No, I am sorry I am not going to serve this divorcee because it is against my conscience.' That cannot be right.

1615 As a former employer, how could I in the bank allow an employee to say, 'No, I do not want to deal with that person because it is against my religious belief'?

By inserting this clause – and to this extent, I agree with the hon. Lady – is you are more or less condoning a form of discrimination. You are not protecting somebody's conscience; you are actually enshrining legislation the right to discriminate, and this is what I do not understand.

1620 And no, this is not politics; this is just that I do not understand why the Government feels they need to insert this clause. It cannot be to protect employees, because if that was the case, they would be doing it across the board on all legislation, not just this one.

So again, I will be supporting the hon. Lady's amendment because I do not see how it is abhorrent to not have this clause, in terms of section 9(1) of the Constitution. Section 9(5) of the
1625 Constitution applies exactly for the protection of rights and freedoms of other persons. If you insert section 9B you are doing the exact opposite.

And so, Mr Chairman, I will be voting in favour of the lady's amendment.

Hon. Chief Minister: Well, Mr Chairman, I think that a lot of what the hon. Gentleman has
1630 said is just complete nonsense in the context of 9(1) and 9(5). Look, the debate that we are having is on the subject of this Bill. The only thing before the Parliament is this Bill. There is not before the Parliament, a law about who collects whose rubbish. There is not a law before the Parliament a law about any other aspect of what the Government does as a municipality or as a Government, just this issue of equal marriage. That is why we are only doing it in relation to
1635 marriage, because if it came up in some other area we might agree to protect our employees also in that way.

Now the hon. Gentleman said, why are you doing it only in relation to this? Well, I would have thought that was blindingly obvious: because that is what we are dealing with today.

And he says he does not understand what it is that is the hindrance that people might suffer.
1640 Well, it is very simple, Mr Chairman. The hindrance is that they may not be able to access that job with that grade with that salary unless they are prepared to forgo their freedom of conscience and officiate marriages which they are not prepared to officiate. I would have thought that much was obvious. Section 9(5) is there to protect against a clash of freedoms and that is exactly what we are doing with 6B. In other words, if one wants to express one's freedom
1645 of speech by going out and insulting people, the hon. Gentleman knows that there are laws which restrict that if you incur in libel or in slander. So there are laws that protect against clashes of freedoms.

Now, does the hon. Gentleman want to set up a society where you say, 'Right, you are free to do this and you are no longer free to say that you will not be a party to it'? I want to set up a
1650 society which is truly free where both, an individual is entitled to all of the same rights that anybody else is entitled and other individuals who are involved in the provision of that, so long as the service continues to be provided, cannot be singled out to be the ones that must provide it.

And that is what we are doing: we are walking that tightrope to both ensure a landmark
1655 change in our law which delivers the service to members of our same sex community of marriage to them, which they have long been denied, which I was initially against and I am now in favour of as a result of all the things I told hon. Members, for all of the reasons that has been delayed in Gibraltar, at last there is a Government that is going to deliver that full equality. And at the same time, we are not going to force some of our employees to be the officiators of that because we respect their section 9(1) rights.
1660

Mr Chairman, I do not know that the hon. Gentleman has said anything about 9(1) and 9(5) that requires any other response. I would have thought it was blindingly obvious from reading the two sections that, particularly in the context of being an employer, one has to protect the
1665 9(1) right, especially if you can deliver the service that we have all agreed has to be delivered under section 15.

I give the hon. Gentleman the same example I gave the hon. Lady, because I think they are not getting it, so I explain it in terms of the case involving the cake. You walk into the bakery, whatever sexual orientation you are, you are entitled to bake the cake. You are not entitled to tell the baker, 'I want the cake that has been baked by the fifth cook from the back, six from the left.' There is a cake on show, it is available, you can have the cake. I think it is wrong not to sell people cakes because of their sexual orientation.

But there are people who also have the right to be protected in the way that they exercise their freedom of conscience, however much we may completely disagree with them. And not just in the context of structuring the community as a Government, but as an employer and that is the difference that the hon. Gentleman has to appreciate: as an employer, as a public sector employer that provides services to the general public. If you are working in a bank you provide services to who you like; you do not have to provide them to everyone. We *must* provide the same service to absolutely everyone in this community and no-one, heterosexual or homosexual, same sex or opposite sex, is able to go into a registry and say, 'I want to be married by Dorian the blonde.' You just put your name down to be married and somebody turns up and marries you. And what the hon. Gentleman and Lady is saying is that we must force a particular individual to marry those who are of the same sex and that, Mr Chairman, is entirely wrong and unacceptable.

Mr Chairman: I hope that in the contribution that hon. Members make, even if it is in Committee, they will not just repeat the same argument again and again and again. Because otherwise we are not getting anywhere. I do not hear any fresh arguments either on one side or on the other. I do not want to curtail debate but let us not repeat ourselves.

Hon. E J Phillips: Mr Chairman, just on that point, I indicated in my speech that I took the view that 6B was offensive and therefore I believe that I have every right to mention this issue again and speak on the amendment that my hon. friend has mentioned.

But I would just say one thing, we do not dispute – of course I do not dispute – that the Government is an employer, but an employer has to take tough decisions. And quite frankly, where you have a civil registrar, a marriage registrar who is effectively conducting an entirely secular role, I think it is wrong for a civil Registrar or Registrar in Gibraltar to say that, 'I will not marry that individual' and for the Government to create by way of legislation a mechanism for them for the appointment of another Deputy Registrar.

How would a gay person, going into the Registrar saying, 'Please marry me' – 'Oh, I am sorry, I cannot marry you, but we will get someone appointed for the purposes of the law to marry you because I feel that my freedom of conscience is being engaged' ...? Frankly I do not agree, I think 6B is offensive and I think that it should be removed. I would agree with the hon. Lady that her amendment should be approved by this House.

Hon. Chief Minister: Well, Mr Chairman, I do not know which 9(1) the hon. Gentleman read. Was it the 9(1) that says people shall only have the freedom of conscience when dealing with issues of morality or religion? I have not read in 9(1) anything that says people shall have freedom of conscience except when they are dealing with issues which are secular. That is an invention of the hon. Gentleman. Everything is secular, even the moral and the religious you are dealing with the today, you are dealing with decisions that are being made today.

People's protection is there for everything that they do. Now if you take a job, look, I would expect that people who now take a job as Deputy Registrar will know that they are likely to be asked in some instances to officiate at same sex marriages. So if they take the job in future, you might even argue that they are volent if they seek the job, but at the moment there are people there. Some of them may or may not agree with it. I have not had a discussion, I do not want to make a judgement about whether people there are or are not prepared as a matter of

conscience to officiate these marriages. But for the hon. Gentleman to say that because the matter is secular then 9(1) does not apply, look, it is it absolute and utter nonsense.

1720 And the idea that gay people he says, are going to turn up and are going to be told by the Registrar they are not going to be married by them, look that also, with respect to the hon. Gentleman, is a cartoon version of what happens.

1725 Look, what happens is that people who wish to enter a civil marriage fill in a form. They submit it and they are told when the form is verified and the fee is paid, 'Okay, we have a slot tomorrow at three or we have a slot this afternoon at six.' It is about slots, and they turn up and the person who will be there will be a person who is prepared to officiate that marriage.

So no gay person, no lesbian person, no bisexual person, no transgender person, no transsexual person – I think have got them all – is going to turn up and be told they are not going to be married – far from it – or that 'this person' is not going to marry them. They are creating an edifice of potential discrimination which is just not there.

1730 What we are doing is ensuring as an employer that when the form comes in, we do not say, 'Ah Mr X, you do not want to do same sex marriages because you are always against them for whatever issue of religion or conscience or whatever - you *must* do it. And as I do not like you and I am your boss, you must do it. And when you say you will not, you will be subject to discrimination because you will be demoted or there will be a black mark on your file.'

1735 We as an employer are ensuring that does not happen. But not in a way that is going to create for a person of the LGBTT community any rejection or anything like that. Because we would never allow that and if that is what were happening, we would have championed the cause that they are pretending to champion now.

1740 But that is not going to happen. We are going to ensure that every LGBTT person who turns up to enter into a same sex marriage, has the service of that same sex marriage officiated for them and we are the first Government in the history of Gibraltar to lead on that and deliver on that. But, at the same time, we are going to protect our employees' freedom of conscience.

Hon. D A Feetham: Mr Chairman, may I?

1745

Mr Chairman: Yes.

Hon. D A Feetham: Mr Chairman, let us be clear about my own position which the Hon. the Chief Minister has made every attempt in order to confuse. I am going to be voting against the amendment. I do not vote against the amendment for the reasons that the Hon. the Chief Minister puts forward, which is that by not including this amendment, the human rights contained in 9(1) of the Constitution of public servants might be infringed by not allowing them to basically opt out of a ceremony.

1750 And the reasons why I do not even go there is because the matter has already been determined by the European Court of Human Rights, which contains exactly the same provisions as in our Constitution. Because what happened in *Ladele* was that this lady refused to perform a civil marriage to gay people and she was sacked. She sued for unfair dismissal, her claim was dismissed and then she went to the European Court of Human Rights saying, 'My human rights have been infringed because I refused to perform this marriage on the grounds of my religion.'

1760 And the European Court of Human Rights said, 'Well no, there is a balance here. There are also somebody else's human rights and you cannot refuse to perform the marriage.'

1765 So I do not oppose the amendment on the grounds that the Government opposes the amendment. I oppose the amendment because I think it is wrong to force on public servants to perform gay marriage in circumstances, Mr Chairman, let us not forget, where *Ladele* was actually sacked for refusing to perform a gay marriage.

Are we saying in this House that a public servant that refuses to perform a gay marriage ought to be sacked? Because there is no way in a million years that I would sign up to any such

law, Mr Chairman. (**A Member:** Hear, hear.) No way, Mr Chairman, that I would sign up to that law.

1770 And that is the reason why I am opposing this amendment. Because in a tolerant, in a respectful in the kind of society that we live in in Gibraltar, where we are respectful of each other, we should not be forcing upon people who have their own religious beliefs and their own rights of conscience, to perform a gay marriage in circumstances where, as the Chief Minister has quite rightly pointed out, somebody else is going to be performing it and therefore no one is going to be deprived of the right to marry.

1775 And let me just end with this point. The hon. Lady has mentioned the Irish bakery case, as indeed I did during the course of my contribution. I read with interest, Mr Chairman, a contribution by Peter Tatchell in *The Daily Telegraph* who for many people was actually the main activist in favour of gay marriage in the United Kingdom, actually saying that in cases like the Irish bakery cases, that it is wrong and that he regrets the fact that the law has actually been pushed that far into a situation where those who bake a cake in a small bakery can be sued for refusing to provide a cake for a gay wedding ceremony on the grounds of religion.

1780 I mean come on, Mr Chairman! What kind of a society would we live in today if those kinds of claims were allowed in our Gibraltar, Mr Chairman? Well certainly, I am not signing up to any amendment that could possibly lead to that kind of situation. Because in Gibraltar we pride ourselves in our openness and we pride ourselves in the fact that we live together and respect each other.

1785 Therefore I agree entirely with the Government that this clause is apposite and this clause ought to be included.

1790

Hon. Chief Minister: Well, Mr Chairman, I really do not know who the hon. Gentleman has agreed with but I think I should thank him for saying that he agreed with us, although he started saying that he did not.

1795 Because you see, Mr Chairman, his interpretation of *Ladele* is not one that we share, for the reasons that he came on to when he said that he supported the text of 6B, because Ladele was fired. And *this* amendment ensures that nobody *would* be fired. (*Interjection*)

But exactly the ... Exactly, when in fact the servant in question of an entity, public or otherwise in that case, had to go through a legal case of unfair dismissal in order to protect the position (*Interjections*) that she should have been entitled to.

1800 And, Mr Chairman, our view is that there has to be clear protection in our law for employees in that respect, whilst at the same time delivering the service. And where I do not think we agree, Mr Chairman, is in relation to the cake, because we take the view that the cake *should* be delivered. The cake should be delivered. It is just that you cannot require the baker's shop to have that particular baker bake it for you.

1805 So perhaps unusually, Mr Chairman, I will be grateful for the support although I entirely disagree with the reasoning. Usually it is both, but in this instance at least it is only the support that I welcome, but not the reasoning.

1810 **Hon. L F Llamas:** Mr Chairman, I just have one question to ask which I cannot actually understand and it is to do with providing that service.

If a heterosexual couple attends a counter and files the form and they get offered certain slots, perhaps on the following day, but then a homosexual couple a gay couple goes and fills in the same form but perhaps does not get offered the next day because there is not a Deputy Registrar available on the next day, what would happen on this occasion? Well, it is hypothetical but perhaps ...

Hon. Chief Minister: Mr Chairman, I am grateful for the hon. Gentleman's practical question. Notifications are usually up for 21 days for a marriage so we have time to plan. We have six Registrars. We anticipate that we will be able to fill every slot six times over every day if we had

1820 enough chapels. I do not know whether we are allowed to call them that – enough ‘rooms’ in which to officiate civil marriages, rather than ‘chapels’, in which to do them. So at a practical level nobody is going to be even delayed because there may or may not be a Registrar who wishes or does not wish to do this.

1825 Can I just say for the purposes of the record, no Deputy Registrar has evinced to us any suggestion that they do not want to do these same sex marriages at a civil level, so nobody should think that there is a person at the Civil Registration Office who does not want to do them. This is a matter of legal theory to protect potential putative employees, not actual complaints of concerns from anybody who is not prepared to bake the cake.

1830 **Hon. Ms M D Hassan Nahon:** If a Registrar refused to marry a couple because the couple is black or his religion forbids them to, are there provisions in the law for such or is this law just for sexual orientation?

1835 **Hon. Chief Minister:** There is specific provision in our law in that respect, because the Constitution provides a protection against discrimination on the grounds of race and there would be an action against the Government as the employer of the individual for that discrimination.

1840 As the Hon. the Deputy Chief Minister indicated in the earlier intervention that he made, there is no specific protection in our law on the grounds of sexual orientation. There is a law that suggests that the word ‘sex’ in the Constitution means sexual orientation in some instances, but the words ‘sexual orientation’ do not appear in our Constitution as a grounds for actionable discrimination, because the Hon. Mr Bossano and the Hon. Mr Garcia were not able to prevail upon those who were in the Select Committee at the time, none of whom are now here, to include that word, which I am quite happy to tell the hon. Lady we shall be seeking, in the context of the new Constitution, should be included.

1845 Then there would be an inbuilt actionable discrimination on sexual orientation grounds, without needing to rely on external jurisprudence. There is not at the moment but there is on the grounds of race and on the grounds of religion, etc.

1850 **Hon. Ms M D Hassan Nahon:** So is this something you will be looking at in the constitutional reform?

1855 **Hon. Chief Minister:** Well, unless the hon. Lady is turning me down, I have suggested that we should look at it together in the context of the Select Committee that she is going to be invited to form a part of. And what I am doing, I am giving notice that one of the things I will certainly be doing, is I believe, as my colleagues the Hon. Dr Garcia and the Hon. Mr Bossano believed at the time of the 1999 Select Committee, that this is an issue that must be in the body of the Constitution itself explicitly as sexual orientation.

1860 **Hon. Ms M D Hassan Nahon:** I appreciate that, Mr Chairman, Chief Minister, because I cannot, I do not find myself able to wade in on the legal argument. There are enough lawyers here and I am not one of them.

1865 But for me this is a matter of morality and it was not in order to find a form of relevance from my lonely chair. It was more about principle and at least to know that the Chief Minister considers it a point that could be used as a discussion and perhaps hopefully to move in Constitutional Reform Committee decisions, would be a great thing for us, I think.

Hon. R M Clinton: Mr Chairman, coming back to the Constitution and the protection against discrimination on grounds of race orientation etc. Section 14(2) says:

Subject to subsections (6), (7) and (8), no person shall be treated in a discriminatory manner by any person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public authority.

1870 Subsection (3) goes on:

In this section, the expression “discriminatory” means affording different treatment to different persons ...

I will not bore the House by reading the rest, but obviously it includes sexual orientation.

How does the Chief Minister reconcile this to his purported concern to protect people’s freedom of conscience when everything in our Constitution is saying ‘Don’t discriminate against minorities’?

1875

Hon. Chief Minister: I think it is so obvious but I suppose that he has not asked rhetorically to demonstrate what little understanding he has of the Constitution; he must have asked in wanting me to give him an explanation.

1880 What I am going to do, Mr Chairman, is ensure that you do not put a public sector employee in front of people who are looking for a service from the Government who is not able in all conscience to discharge that function in order not to incur in the area which that section deals with.

1885 In other words, we are not going to have a public sector employer, a civil servant, put in a situation where he feels because of his conscience that he has to discriminate and say to them, ‘I will not marry you, whatever the law provides.’ (*Interjection*) That is the position and we are not going to discriminate against those who tell us that they would be put in that position.

1890 Now, the hon. Member’s various emanations of quizzical faces that I have been treated to since he was elected in November last year continues to entertain us. But it is very simple, that is what the section provides. You cannot, if you are a public servant, discriminate against somebody in the context of the discharge of your public office. So, we are not going to put a public servant in that position. We are going to allow them not to be put in that position and another public servant will be put in that position who will not incur in that discrimination.

1895 Although I must tell him that it is not the Constitution that gave rise to equal marriage; it is the actions of this Government with our manifesto which demonstrates that we are the ones who really cared about this subject, with our consultation and with our Government Bill. That is what is going to end the discrimination, not any operation of the Constitution in that respect because the bit he has read is about the person who stands in front of the same sex couple who now have the right to accede to that marriage.

1900 And in the context of 9(1) what we are doing is allowing through 6B that the person who stands in front of that couple does not incur in that discrimination.

1905 **Hon. R M Clinton:** So, Mr Chairman, if I follow his logic, if he decided to pass in law an amendment where somebody decided that they did not like people’s colour, language, creed or something else, then he would remove them from that position so he did not have to effectively breach this section of the Constitution. Is that not what he is saying?

1910 **Hon. Chief Minister:** Mr Chairman, I have explained it so many times, over and over again, that my answer to the hon. Gentleman is to go back and read the *Hansard* over and over again as many times as he likes and to put down his beige friend for a while and enjoy re-reading this debate over and over again, because I have already provided the answer over and over again.

Hon. R M Clinton: Mr Chairman, I am here in a constructive frame of mind, trying to make sure we pass the best possible legislation for the people of Gibraltar. (*Interjection*) All I get from the Chief Minister are comical remarks and nothing constructive.

1915 Now he has the benefit of having an Oxford degree in Law which I do not have, so I as most people in Gibraltar, have to read the Constitution as a lay person, because frankly that is all I am when it comes to the Constitution.

1920 But it seems obvious to me, although it is not obvious to him, what he is doing is that the Government is effectively condoning discrimination. It is as simple as that and, Mr Chairman, seeing as my contributions are not valued by the Chief Minister or anybody else on that side of this House, I will end my contributions there.

Hon. Chief Minister: Mr Chairman, I do not think I have ever heard such an attempt to make a person a victim in this House as I have in the course of the hon. Gentleman's intervention.

1925

Mr Chairman: Could I ask hon. Members, today has been a day when overall the standard of debating has been excellent and all the parliamentary proprieties as required by the Rules have been observed. Could I please ask them to stick to that standard?

1930 **Hon. Chief Minister:** Thank you, Mr Chairman.

And as I was saying, the hon. Gentleman has attempted to make a victim of himself simply because he apparently wants me to explain over and over again what certain parts of the Constitution mean.

1935 Well look, Mr Chairman, there are a number of lawyers on his side of the House, he has heard on a number of occasions what their views are in relation to 9(1). I would have thought he would have more regard for their views than he has for mine, he can go back and read them all in the *Hansard*, but he is not paid by the public in Gibraltar, to just keep asking us the same question all over again, every five minutes and make the same rhetoric.

1940 We take a different view: we are not creating a discrimination; we are at last from this side of the House undoing a historic discrimination. We are trail blazing and we are the first movers in this. Otherwise I might ask him, why did he not prevail upon people on the other side to put in their pamphlet at the last General Election anything to do with same sex marriage?

1945 Because if they come here and talk about wanting to protect against discriminations being created, etc. what he should have done is done that in his executive committee and put something in his manifesto like we put in ours. That is what they would have done if they really cared – not pretend here to be caring now about an issue which is a non-issue and which actually imperils civil servants.

1950 And I am very pleased actually that the Leader of the Opposition takes a completely different view to him and a number of others. To see what number of others and assuming that this is the last contribution in respect of this section, I would call for a division in respect of the vote in respect of the amendment.

1955 **Hon. D A Feetham:** And, Mr Chairman, I emphasise that for me what is important here is that we should not be placing public servants in a position where public servants can potentially be sacked simply because their conscience as Christians, Muslims or whatever, prevents them from performing this kind of service. I think that in a small community like Gibraltar that would be wrong and that is the reason why I am voting against the amendment.

1960 **Mr Chairman:** May, I, the Leader of the Opposition have spoken about people being sacked. There is a post of Registrar, isn't there? Not just of Deputy Registrar; there is a post of Registrar, and therefore people would be applying for promotion to that post and therefore there is a danger. I am saying this because of my knowledge as 13 years Chairman of the PSC, where the Government always tries to be a good employer, that people should not be inhibited from being able to apply for promotion. Not just the fear of being sacked but applying for promotion as well.

1965

Okay, I think we will put the hon. Lady's amendment to the vote and I think a division has been requested.

Voting resulted as follows:

FOR

Hon. R M Clinton
Hon. Ms M D Hassan Nahon
Hon. L F Llamas
Hon. E J Phillips

AGAINST

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

ABSENT

Hon. T N Hammond
Hon. A J Isola

Mr Chairman: The amendment is defeated by 11 votes to 4.
Therefore clause 2 stands part of the Bill. (*Interjections*)

1970

Clerk: Clause 3.

Mr Chairman: Stands part of the Bill.

1975

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

Clerk: Clause 4. (*Interjections*)

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Mr Chairman: Clause 3 stands part of the Bill. Clause 4 stands part of the Bill. The long title stands part of the Bill.

**Civil Marriage Amendment Bill 2016 –
Third Reading approved: Bill passed**

Chief Minister (Hon. F R Picardo): Mr Speaker, now I know why it is called a 'division'!

1985

Mr Speaker, I have the honour to report that the Civil Marriage Amendment Bill 2016 has been considered in Committee and agreed to without amendments.

I now move that it be read a third time and passed.

Mr Speaker: I now put the question, which is that the Civil Marriage Amendment Bill 2016 be read a third time and passed.

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Those in favour? (**Members:** Aye.) Those against? Carried. (*Banging on desks*)

Hon. Chief Minister: Mr Speaker, it is a happy day for Gibraltar. Equal marriage now applies to all in our community and, with an entreaty to hon. Members not to celebrate too heartily, I move that the House do now adjourn until 3.30 this afternoon.

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Mr Speaker: The House will now recess until 3.30 this afternoon.

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The House recessed at 2.05 p.m. and resumed its sitting at 3.30 p.m.