



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.07 p.m. – 5.51 p.m.

Gibraltar, Friday, 14th December 2018

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The Gibraltar Parliament

The Parliament met at 3.07 p.m.

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

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

Order of the Day

BILLS

FIRST AND SECOND READING

Terrorism Bill 2018 – First Reading approved

Clerk: A Bill for an Act to make provision about terrorism offences, to make provision for the proscribing of organisations, to provide for orders for the freezing and forfeiture of terrorist property and funds, to provide for the investigation of terrorist offences and provide investigation measures, to make provision in connection with overseas terrorism, to repeal and
5 replace the Terrorism Act 2005 and for connected purposes.

The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that a Bill for an
10 Act to make provision about terrorism offences, to make provision for the proscribing of organisations, to provide for orders for the freezing and forfeiture of terrorist property and funds, to provide for the investigation of terrorist offences and provide investigation measures, to make provision in connection with overseas terrorism, to repeal and replace the Terrorism Act 2005 and for connected purposes be read a first time.

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Mr Speaker: I now put the question, which is that a Bill for an Act to make provision about terrorism offences, to make provision for the proscribing of organisations, to provide for orders for the freezing and forfeiture of terrorist property and funds, to provide for the investigation of terrorist offences and provide investigation measures, to make provision in connection with
20 overseas terrorism, to repeal and replace the Terrorism Act 2005 and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Terrorism Act 2018.

Terrorism Bill 2018 – Second Reading approved

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

Unfortunately, we are all too aware that we live in dangerous times. Just this week in Strasbourg, terrorism has struck again. Even during our General Election campaign three years ago the Hon. Mr Feetham and I had to speak in the middle of that campaign, and he will no doubt recall with as much sadness as I do that we had to agree to suspend campaigning as a result of the brutal attack in Paris that year. Then in Berlin, in London, in Barcelona and then in Manchester. All of these great cities and others have suffered the scourge of terrorism in the past five years in Europe alone. Around the world terrorism afflicts too many communities and in our own lives we have seen our own Police now regularly armed with automatic weapons. We have seen Jersey barriers going up in our pedestrianised areas and thank God that perhaps our most fractious debate in this respect has been whether or not our particular style of Jersey barriers is more or less attractive. Thank God that we are able to have discussions about that, Mr Speaker.

The terms of this Bill, however, come about as a request from the Royal Gibraltar Police for the provision of certain powers that are available to their UK counterparts. As such, this Bill contains provisions which are found in the UK's Terrorism Act 2000, the Anti-Terrorism, Crime and Security Act 2001, the Terrorism Act 2005 and the Counter-Terrorism Act 2018, each of those as subsequently amended. The Bill will also repeal and replace our own Terrorism Act 2005, and some of those provisions in that Act will be converted into new provisions of this Act.

Mr Speaker, given the length of the Bill I propose to speak to the various parts and not to descend into the relevant sections unless it is necessary to do so, although of course in reply if hon. Members want to ask any questions about any of the particular sections, we can look at them together.

The first part is a procedural part which defines what constitutes terrorism and also terrorist property. Terrorism, as defined in clause 4(1), is:

the use or threat of action where—

- (a) the action falls within subsection (2);
- (b) the use or threat is designed to coerce, compel or undermine the government or an international governmental organisation or to intimidate the public or a section of the public; and
- (c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.

Subclause (2) sets out the act, namely if it:

- (a) involves serious violence against a person;
- (b) involves serious damage to property;
- (c) endangers a person's life, other than that of the person committing the action;
- (d) creates a serious risk to the health or safety of the public or a section of the public; or
- (e) is designed seriously to interfere with or seriously to disrupt an electronic system, and the person committing the action either intends or is reckless as to whether any of the matters set out in paragraphs (a) to (e) is produced.

Having said I am not going to go into the sections, the first thing I have done is go into that section, Mr Speaker, because it is important that everything else that we talk about this afternoon is seen through the prism of the evil that we are trying to prevent, and that is the key aspect of what that definition brings to this section. The definition is cast in this way so that it is transitional in nature, so that the actions, property or risks need not occur in Gibraltar for the Bill to treat the action as terrorism. So, acts preparatory of terrorism, if they are carried out in Gibraltar, even if the action is eventually to be carried outside of Gibraltar, are of course caught by the definition.

Clause 5 defines what constitutes terrorist property, and when read with clause 3 property is given a very wide meaning indeed and includes electronic or digital property, which is increasingly valuable, whether in the context of legitimate activity or in the context of illicit, illegal activity of this sort.

65 The second part deals with what is a proscribed organisation under the terms of the United Kingdom Terrorism Act 2000 and how that proscribed organisation can become a proscribed organisation in Gibraltar.

70 Few organisations are proscribed in the United Kingdom and the reason for this is that prior to designating an organisation as a proscribed organisation the United Kingdom undertakes considerable work through its security services and with its international partners so that it only targets appropriate organisations. Much of this work is undertaken at a very high level of security clearance and subject to strict limits of confidentiality arising from the needs of security, of course. For those reasons, and as an exception to our normal practice, we have decided to accept, as a matter of Gibraltar law, a UK designation of a proscribed organisation for the purposes of terrorism. The reason for that is that we are simply unable to make a proper determination in this respect in Gibraltar that would withstand challenge. There could be nothing worse than making an organisation a proscribed organisation without the depth of security information necessary in order to be able to do that without the international reach with other security services that would enable us to do that in a way that would be cast iron and to find that organisations so proscribed would then be able to challenge the proscription in our courts and get themselves off our register of proscribed organisations. That would be an absolutely terrible result for Gibraltar.

80 It follows that an aggrieved person – a person who has been proscribed and considers that they should not have been proscribed as an organisation or person subject to the provisions of this Act – needs to be given a remedy. Since Gibraltar is not the custodian of the information that can properly lead to a designation, a person who is aggrieved for the reasons I have set out before is directed to make an application for de-proscription to the Secretary of State in the United Kingdom. Should this not be successful an aggrieved person will be able to appeal to the Proscribed Organisations Appeal Commission which exists in the United Kingdom. Those are such sensitive proceedings that they are actually closed proceedings, they are in camera proceedings, where the interested party is represented by a Special Advocate. Due to the sensitive nature of the information, the limitations on it being divulged and the steps required in order to maintain security of such information, it is not possible for Gibraltar to recreate that regime with a domestic regime in Gibraltar; it would be impossible for us to do so.

85 This second Part of the Act also creates offences in connection with belonging to or supporting a proscribed organisation.

90 Then the third Part, Mr Speaker, sets out offences relating to terrorism and there are four main groups of terrorism offences.

95 Clauses 12 to 15 create the group of offences concerning the encouragement of terrorism.

100 Clauses 16 to 24 are a group of clauses creating the offences concerning the preparation of terrorist acts and terrorist training, which can include travelling abroad, funding travelling and facilitating travel for terrorist training.

105 Clauses 25 to 29 are a group of sections which provides for offences relating to radioactive and nuclear terrorism related offences.

110 Clauses 30 to 34 are miscellaneous terrorist offences covered in that group of clauses and they include the use of noxious substances and hostage-taking. These provisions also cover the collection of information of a kind likely to be useful to a person committing or preparing an act of terrorism and cover the eliciting, publishing or communicating of information about members of the Police and other law enforcement agencies.

This Part has retained and added to the offences which were already there under Part IV of the Terrorism Act 2005.

115 Schedule 1 sets out a list of terrorist offences that are referred to in this Part 3 and these represent the parallel offences in Gibraltar law to those offences mentioned in the Council of Europe Convention on the Prevention of Terrorism – and that is how we bring them into our law.

115 The fourth Part of the Bill deals with finance offences and the forfeiture of materials which have been used to finance or promote terrorist activity. With respect to finance, the financing offences include fund-raising and other kinds of financial support for terrorism.

120 Clause 39 is actually a specific money laundering offence that is committed with terrorist property and will be familiar to those conversant with our money laundering provisions elsewhere in our legislation, whether in Financial Services Acts or in the Criminal Offences Acts. Along with this offence there are corresponding provisions for disclosure to the authorities where a person has a belief or a suspicion that arises in the course of a trade, business, profession or employment, and those are also dealt with in this Part of the Bill.

125 Clauses 56 to 61 actually make specific provision for court orders for the forfeiture of moneys or other properties connected with offences in this Part and also for the issue of restraint orders; so not just offences of moneys actually having been laundered or having been used for the purposes of facilitating terrorist acts but also to restrain those moneys.

This Part in effect replaces and adds to Part II of the Terrorism Act 2005.

The associated Schedules are Schedules 2 and 3. Schedule 2 defines the regulated sector and the supervisory authorities and Schedule 3 gives more detail of what the forfeiture procedures are.

130 Then Part 5 deals with the forfeiture and freezing orders more specifically and includes the power to forfeit and freeze terrorist property and to monitor the accounts of terrorists or suspected terrorists.

135 Clause 62 and Schedules 4 and 8 of the Bill are linked. Those contain provisions to prevent terrorists from gaining access to their money. They ensure that investigative and freezing powers are available wherever funds could be used to finance terrorism.

The Bill also gives law enforcement agencies the power to seize terrorist cash and the power to freeze assets at the start of an investigation rather than when the person is about to be charged, reducing the risk that funds will be used or moved before they can be frozen.

140 Clause 63 enables the Minister to freeze the assets of overseas governments or residents who have taken, or are likely to take, action to the detriment of Gibraltar's economy or action constituting a threat to the life or property of a Gibraltarian or a resident of Gibraltar.

Schedule 5, which is connected to it, makes further provision about the content of freezing orders.

145 Schedule 8, which I mentioned earlier in the context of clause 62, introduces account monitoring orders enabling the Police to require financial institutions to provide information on accounts for up to 90 days. The existing requirement to report knowledge or suspicion of terrorist financing has therefore been strengthened for the regulated sector, so that it is an offence not to report where there are reasonable grounds for suspicion.

150 Mr Speaker, the sixth Part deals with disclosure of information and is to be read in keeping also with the provisions of Schedule 6 of the Act, which deals with information disclosure provisions for public authorities.

155 Clause 71 clarifies and extends a number of existing provisions for disclosure of information from public authorities to agencies involved in criminal investigations and proceedings. The gateways ensure that public authorities can disclose information which is subject to a statutory restriction on disclosure for the purposes of a criminal investigation or criminal proceedings.

Clause 73 creates a new gateway giving the Commissioner of Income Tax and the Collector of Customs a general power to disclose information held by them for law enforcement purposes and to the intelligence services for their own purposes.

Schedule 6 deals with information disclosure provisions for public authorities.

160 Part 7 deals particularly with terrorist investigations.

Clauses 79 to 83 confer investigatory powers included in that Schedule 7, under which a financial institution may be obliged to provide customer information in aid of an investigation, and Schedule 8, which I mentioned earlier also in relation to clause 62, under which an account monitoring order may be obtained.

165 The eighth Part of the Bill deals with counter-terrorist powers and this Part of the Bill is
divided into five principal parts. The first, which concerns clauses 84 to 88 under the subheading
‘Suspected terrorists’, provides the Police with powers to arrest without a warrant and to detain
suspected terrorists. It also includes search powers in respect of premises, persons and vehicles.
170 Under section 85, a police officer may arrest someone without a warrant if he reasonably
suspects that person to be a terrorist – and nobody in this House would expect that the position
should be anything other than that. When a person is arrested under that section the provisions
of Schedule 9 will apply to that person.

The second subpart of this Part concerns clauses 89 to 94 under the subheading ‘Powers to
stop and search in specified locations’ and it contains broad powers to stop and search vehicles
175 and pedestrians in specified areas or places which law enforcement agencies will be able to
deploy as a result of the passing by the House of this Act, but the powers are subject to a strict
code of practice. The Commissioner of Police may give an authorisation under section 89 in
relation to a specified area or place if a police officer reasonably suspects that an act of
terrorism will take place and reasonably considers that the authorisation is necessary to prevent
180 such an act. The specified area must be no bigger, and the duration of the authorisation no
longer, than is necessary to prevent such an act. So, there is an element of control there which is
of course necessary. An authorisation under this section may authorise any police officer in
uniform to stop a vehicle or a pedestrian and anything carried by the pedestrian. A police officer
may then seize and retain anything which the officer discovers in the course of a search and
185 reasonably suspects may constitute evidence that the vehicle concerned is being used for the
purposes of terrorism or the person concerned is or has been concerned in the commission,
preparation or instigation of an act of terrorism. That is a very wide panoply from the
commission of the act to the preparation of the act or the instigation of the act of terrorism.

The third subpart of this eighth Part of the Bill relates to parking restrictions. I am not going
190 to go into that in any detail.

The fourth subpart relates to port and border controls and contains a single clause,
clause 100, which is supplemented by Schedule 10, and this provides for the examination power
at ports and borders for police officers, customs officers and borders and coastguard officers.

The fifth subpart comprises clauses 101 to 107 and taken together with Schedule 9 these set
195 out the regime for granting bail following arrest in addition to periods of detention and the
treatment of suspects who are detained.

A suspect’s detention must be periodically reviewed in accordance with Schedule 9. The first
review must be carried out as soon as is reasonably practicable after the person’s arrest, and all
subsequent reviews must be carried out at intervals of not more than 12 hours. A review officer
200 may authorise a person’s continued detention only if satisfied that it is necessary on one of the
grounds set out in paragraph 30 of Schedule 9, which includes, but is not limited to, the need to
obtain further evidence, to preserve evidence, to allow for the result of an examination or
analysis and to decide whether the detained person should be charged with an offence.

Extensions of detention must be authorised by the court by the issue of a warrant of further
205 detention but the total amount of time a person may be detained is up to 17 days. This is
significantly longer than for other crimes, although it is the same period as is currently applicable
in the United Kingdom.

The ninth Part of the Bill deals with notification requirements.

This Part comprises clauses 108 to 133 and it makes provisions about the notification of
210 information to the Police by certain individuals convicted of terrorism or terrorism-related
offences. When in the community, such individuals must provide the Police with certain
personal information, must notify any subsequent changes to this information and confirm its
accuracy annually. An individual who has had a notification requirement imposed on him may
make an application for review and the Commissioner of Police and the court may amend the
215 notification requirements or may make an order which ceases the notification requirements
altogether.

Schedule 12 makes provision for notification orders. A notification order might be sought in respect of a national of Gibraltar who has been convicted of a foreign terrorism offence and who is deported to Gibraltar on release from prison abroad. It might also be sought in respect of a foreign national with such a conviction who is in or is coming to Gibraltar.

Schedule 13 makes provision for foreign travel restriction orders which may, in specified circumstances, be made by a court in respect of a person subject to the notification requirements, restricting that person's overseas travel.

Schedule 14 lists the offences in which, during sentencing, a terrorist connection is to be considered an aggravating factor for the purposes of passing sentence in respect of that individual.

Part 10 of the Bill deals with terrorism overseas, and as suggested by the title of this Part it makes provision for conduct that takes place overseas and in part gives effect to the UN Conventions for the Suppression of Terrorist Bombings and for the Suppression of the Financing of Terrorism. An amendment which I will be proposing at Committee Stage introduces a provision along the lines of section 25 of our Terrorism Act 2005 to ensure our extradition laws may be used in relation to offences under this Part also.

Finally, clauses 141 to 151 contain further technical provisions relating to police powers, consent to prosecutions, defences, corporate liability, etc.

Schedule 15 provides general powers for police, customs and borders and coastguard officers including powers for them to exchange information. In other words, it creates gateways between them for exchange of information.

The 12th part of the Bill contains supplementary provisions and deals with ancillary provisions to ensure the functionality of the Bill. It houses the power for the Minister to make orders and regulations and provides for amendment of such and of any of the sections in the Act or in the Schedule. It also provides for the repeal of the Terrorism Act 2005 and for consequential, transitional and savings provisions due to that repeal. A further amendment which I will be proposing at Committee Stage amends the Proceeds of Crime Act to clarify the intelligence functions of the Gibraltar Financial Intelligence Unit connected to this new Act.

Mr Speaker, it is regrettable that we even need to have this legislation, but that is the unfortunate reality of the world in which we live. I am conscious of the fact that I am addressing you as Speaker and you were Chief Minister the first time that unfortunately terrorism struck in Gibraltar, or attempted to strike in Gibraltar, also then in the midst of a general election campaign or with a general election campaign looming.

Our first duty as parliamentarians is to ensure the safety and security of our citizens and this legislation gives our Police the additional powers and the additional tools they need to ensure that the safety and security of our citizens is provided for in respect of potential terrorist activities and updated from the provisions of the 2005 Act.

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

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

The Hon. the Leader of the Opposition.

Hon. E J Phillips: Mr Speaker, we welcome this Bill. Terrorism is a global threat to our way of life, and it is right that our law enforcement agencies are supported and are given enhanced tools to fight this evil. It is right that we modernise and strengthen our law to mitigate attacks on our way of life.

As the Chief Minister has alluded to, terrorism is a complex situation and with improvements in technology we must be vigilant and remain up to date and increase powers available to our law enforcement agencies. It is right that with increased powers come increased responsibility for due process and upholding the rule of law, which it is hoped that this law is balanced against.

It our wish that no one will ever have to use these powers and I agree with the Hon. the Chief Minister that it is regrettable that we are all here addressing this House on the question of these powers, but it is what it is. It is certainly a reflection of our society and unfortunately a reflection of the world we live in.

It was particularly important that the Chief Minister mentioned Gibraltar as a finance centre and quite clearly we must acknowledge that within the financial centre financial service provision there are possibilities unwittingly and innocently for financial service providers to become mixed up in terrorist financing, so it is important, of course, that we strengthen those powers to deal with that and the forfeiture provisions in particular are to be welcomed.

In summary, Mr Speaker, whilst much controversy has occurred in the United Kingdom in relation to the passing of the 2000 and 2005 Acts, particularly in relation to stop and search provisions, we will support this Bill completely.

One question that we do have, and hopefully the Chief Minister will be able to clarify, is the level of training and education that will be afforded to our law enforcement agencies. I did not hear the Chief Minister address the House in respect of that matter, but it would be helpful to understand how the Government intends to deploy resources to the RGP insofar as continuing training and professional development in relation to terrorism and counter-terrorism and how this new law impacts on their work.

Mr Speaker: The Hon. Daniel Feetham.

Hon. D A Feetham: Mr Speaker, may I also ask the Chief Minister to just explain by way of clarification a number of provisions that I am attempting to understand?

One of them is section 71. It is the disclosure of information in Part 6, page 415. It basically says:

This section applies to the provisions listed in Schedule 6, so far as they authorise the disclosure of information.

Schedule 6 is blank. I do not know whether he explained that, but it is completely blank, so what precisely is the intention with section 71?

I make the point as well because if one looks at Section 71(2):

Each of the provisions to which this section applies shall have effect, in relation to the disclosure of information by or on behalf of a public authority, as if the purposes for which the disclosure of information is authorised by that provision included each of the following-

(a) the purposes of any criminal investigation whatever which is being or may be carried out, whether in Gibraltar or elsewhere;

If we then look at the definition of 'criminal investigation' at clause 74, we see:

'criminal investigation' means an investigation of any criminal conduct, including an investigation of alleged or suspected criminal conduct and an investigation of whether criminal conduct has taken place;

That does not appear to me to be limited to criminal conduct relating to terrorism and I would ask whether that is the intention or whether it is limited to terrorist criminal investigations. Of course, if it is wider than that then it may raise issues as to whether these provisions, which appear on the face of them to be wide... Indeed, they apply to any public authority, so for example the FSC may have in its possession some information that might be relevant to a criminal investigation outside of Gibraltar but those criminal authorities outside of Gibraltar would normally make an application in order to obtain that information through very well-known channels in terms of mutual legal assistance etc. What I am concerned about with this is that these provisions are not being used to circumvent the protections that are afforded to those under criminal investigations in our laws and in our statutes elsewhere.

310 Finally, and no doubt the answer is going to be in the affirmative, but definition of terrorism
does take into account recent cases, does it not, that have been decided in the United Kingdom?
I am thinking in particular of the Miranda case in 2016 which involved a journalist being stopped
at one of the airports and information that was confiscated from the journalist. The court there
took the view that the definition of terrorism does not include information that a journalist may
have acquired that of course may well be relevant to the investigating authorities but there are
issues of journalistic confidentiality involved and in the UK it was actually taken out, or there was
a decision that basically it does not include this. I just wonder whether the drafters have taken
315 that into account.

Mr Speaker: The Hon. Roy Clinton.

Hon. R M Clinton: Thank you, Mr Speaker.

320 I would like to ask for some clarification. My colleagues obviously have dealt with the legal
aspects. I was looking at some practical aspects in respects of the freezing orders and perhaps
the Chief Minister can clarify. I can see under section 65 that a freezing order ceases to have
effect after two years and under section 67 it can be annulled pursuant to a resolution of the
Parliament. I would be grateful if the Chief Minister could confirm that effectively that is the only
325 way in which a freezing order can be annulled, i.e. by Parliament; and if so, would the Chief
Minister be minded to add, perhaps at the Committee Stage, some wording under section 67(2)?
Where it says 'A freezing order must be laid', I would ask for 'must be laid as soon as practicable
before Parliament after being laid'.

330 That are only my questions in terms of clarification. Thank you, Mr Speaker.

Mr Speaker: Does any other hon. Member wish to contribute to the debate on the Second
Reading of this Bill? Then I will call on the Chief Minister to reply.

335 **Hon. Chief Minister:** Mr Speaker, I thank all hon. Members for their positive contributions in
the context of this Bill. It is a hefty document that we have before us today because, as hon.
Members know, what it is doing is taking existing pieces of legislation, repealing them, adding to
them and therefore replacing in our laws the tools available to our law enforcement agents. So,
in addressing the points that are being made by hon. Members opposite I am not going to be
able to point exactly to areas where we are dealing already with powers that are in our laws, but
340 I will just address the powers before the Parliament today.

I confess that this Bill has been published now for a year. We have not proceeded with it
earlier for good reason, because we wanted to ensure that ongoing cases in the United Kingdom
when decided did not require us to make changes. The Miranda case I will come to in a minute is
already factored in and we now think that the Bill as it is with the amendments proposed will be
345 an avant-garde piece of legislation which works as at today in the context of the developing case
law.

In that respect, of course, it is absolutely right that we need to balance increased powers
given to law enforcement agents with increased responsibility and accountability of those same
law enforcement agents. Hon. Members will have heard what I said about the ability to extend
350 the period of detention. It is not normal in our laws that anybody should be subject to detention
for more than 24 hours once they have been subject to an arrest before coming to a court,
where they would be dealt with by the judicial branch and then subject to further detention, if
required, but not with the law enforcement agencies being the ones who make the
determination as to whether detention should be extended. In the context of this Bill there will
355 be a period of up to 17 days of detention and I think there is the best place to see how we have
sought to ensure the right balance between the increase in the power to the law enforcement
agencies and the increased accountability that will be required. So, every 12 hours there will be
an assessment of an individual's detention and a decision whether or not to continue that

360 detention. Just to put that in context, if one is arrested today in respect of any offence, the
Police can keep you in for up to 24 hours before taking you in front of a magistrate; and a
magistrate, if he then decides that you should be detained and not granted bail, will remand you
in custody and you will be coming back to have that custody assessed every seven days. In the
context of these offences, although you might be detained for up to 17 days, your detention will
be reviewed every 12 hours. So yes, more power, but also more requirement for accountability
365 because it is important that our law enforcement agencies have these powers, but it is
important that our law enforcement agencies account for the exercise of those powers. In that
what I am doing I think is demonstrating our agreement with the point made by the Hon. the
Leader of the Opposition and demonstrating how, in that particular case of a case of detention,
that balance is being struck in the context of this Bill.

370 In the context of freezing and forfeiture in financial transactions, of course it is absolutely
right that Gibraltar's financial services centre be seen for what it is, absolutely properly
regulated subject to the international norms applicable today in the context of the restraint of
the use of the financial system for the financing or laundering of the proceeds of terrorism, and
this Bill, in addition to the laws that we already have in that respect, adds to the powers
375 available to law enforcement and the obligations incumbent upon professionals in that sector to
ensure that they never fall into a trap by not knowing what the tests are when they need to
make sure that they are in contact with law enforcement agents about particular transactions.

Dealing finally with the point on training and education which the Hon. the Leader of the
Opposition made, absolutely the Royal Gibraltar Police, the Customs and the Borders and
380 Coastguard agents who will be involved in parts of the implementation of this Bill will require
further training. There is a lot going on in respect of training. There is an international effort in
respect of training, so it is not just training in Gibraltar or in the United Kingdom, it is
international training and co-operation, which is relevant, and in the Estimates this year hon.
Members will see, if they care to look at the parts which relate to the vote for the RGP, that
385 there will be elements which relate to training in respect of the obligations incumbent on law
enforcement under this Bill.

Mr Speaker, the hon. Member Mr Feetham took us to section 71. It is the intention, as far as I
understand it, that at the moment the sixth Schedule should be blank, although it will not be
blank for long, as I understand it, but it was intentional that that should be the case and it was
390 the case in the United Kingdom at the time that the similar provisions were introduced that the
schedule was blank. Hon. Members I think will know that it was David Anderson who assisted us
in the preparation of this Bill, who was the commissioner in the United Kingdom for terrorist
matters for some time and who had considerable experience of the operation of the legislation
in the United Kingdom. Therefore, for that reason, the provisions in respect of the Miranda case
395 are of course properly factored into here, although they are matters already determined in case
law, and so the jurisprudence of the United Kingdom will be fully applicable because we are
replicating parts of the statutes in the United Kingdom in part to ensure, as hon. Members know,
that we have a good read across in terms of jurisprudence so that determinations made in the
United Kingdom courts can help us in the interpretation of our laws.

400 He made an important point in respect of section 74, which I read as being limited to criminal
offences which relate to the provisions which this Act is trying to deal with, but I do not think
that that is entirely and completely clear beyond peradventure. He may be thinking not just of
the Miranda case but of other cases where terrorism laws have been used to act in
circumstances where parliaments did not intend those laws to be used. I cannot recall on my
405 feet – he might be able to assist me – whether it was the United Kingdom that subjected a third
country to provisions of the Terrorism Acts for the purposes of dealing with something which
was clearly not terrorism or whether it was the United Kingdom itself that was made subject to a
terrorism provision elsewhere to settle what was in effect a dispute between states. That is not
the sort of thing that we would be seeing here but it is true that in other circumstances parties
410 have tried to use terrorism legislation to cure ills which might be ills, but which were not the

subject that the parliament that was making those laws was seeking to deal with in the context of that particular legislation.

Mr Speaker, I am happy to consider with him, whether here or in the definitions section – because criminal conduct is defined at the beginning of this Act – the addition of some words which might make abundantly clear beyond peradventure that all aspects of this legislation when dealing with criminality are dealing with the criminality that we are seeking to address in this Act, which is the definition of terrorism. I think it needs to be made a little circular. It cannot be left open. If the law enforcement agencies wish to have powers akin to those here in respect of more general criminality, then they need to approach the executive so that we bring those laws to this legislature and we make the decision together that they should have those powers. I am not suggesting that they are, but they should not have those powers in respect of terrorism offences but somehow made open-ended in a way that might apply to other criminal offences. So, if I can just invite him to look with me at an amendment when we get to the Committee Stage then I think we can deal with that issue quite easily.

Then the Hon. Mr Clinton asked us to look at issues relating to forfeiture and freezing orders, which are the subject of sections 65 and 67. I believe that such orders can be undone also, of course, by a court, not just by the Parliament, because the court in making the order can put provisions in the order which would enable the court to come back to a consideration of such an order. But in the context of this Parliament, the practice is – and in fact I understand it is invariably so – that as soon as the office of the relevant Minister receives a document which under our statutes is to be laid in Parliament, it is immediately laid in Parliament at the next sitting of the Parliament. So, for example, if I receive a report, any report which must be laid in Parliament – so, the Employment Survey Report – immediately upon the receipt of the report by the ministerial office arrangements are made to lay it on the table in Parliament at the next sitting of the Parliament. And so I think that is already inbuilt in our mechanism and I do not think there is any reason to change this Bill in that respect, because we would have to go back and change every Act that requires something to be laid in Parliament by including the words ‘as soon as reasonably practicable’ after the requirement to lay, when in fact that is already the practice that prevails.

Mr Speaker, I do not know whether hon. Members have already had the letter – I think they have already had it, so I think when I spoke to the amendments that I would be circulating they have had the benefit of seeing what those amendments are, so I do not need to give way at this stage.

I therefore, once again with a heavy heart but grateful for the understanding of all Members of the House of the need for this legislation, commend the Bill to the House.

Mr Speaker: I now put the question, which is that a Bill for an Act to make provision about terrorism offences, to make provision for the proscribing of organisations, to provide for orders for the freezing and forfeiture of terrorist property and funds, to provide for the investigation of terrorist offences and provide investigation measures, to make provision in connection with overseas terrorism, to repeal and replace the Terrorism Act 2005 and for connected purposes be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Terrorism Act 2018.

**Terrorism Bill 2018 –
Committee Stage and Third Reading to be taken at this sitting**

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that the Committee Stage and Third Reading be dealt with later today, if all hon. Members agree.

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

**Animals in Travelling Circuses Bill 2018 –
First Reading approved**

460 **Clerk:** A Bill for an Act to make provision for offences relating to the use of animals in travelling circuses, and to provide for the enforcement of those offences, and for connected purposes.

The Hon. the Minister for the Environment, Energy, Climate Change and Education.

465 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, I have the honour to move that a Bill for an Act to make provision for offences relating to the use of animals in travelling circuses, and to provide for the enforcement of those offences, and for connected purposes be read a first time.

470 **Mr Speaker:** I now put the question, which is that a Bill for an Act to make provision for offences relating to the use of animals in travelling circuses, and to provide for the enforcement of those offences, and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Animals in Travelling Circuses Act 2018.

**Animals in Travelling Circuses Bill 2018 –
Second Reading approved**

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

This is one of a number of items of legislation related to animal welfare that I have brought and will be bringing to this House.

480 The issues of animals in travelling circuses has long been a source of unease to many, with full or partial bans now existing in many European countries both within and outside the European Union. The general public and animal welfare organisations have shown that ongoing concerns involve perceived animal welfare issues, including that circuses have been found to beat, starve and keep animals in unsanitary conditions. Circuses can never meet the needs of an animal in small, mobile accommodation whilst the act travels around. There is also the ethical
485 point of whether it is acceptable in today's society to keep or regularly transport animals in order to make them perform for financial gain and public entertainment. Scotland and Ireland are two examples of countries with bans already in place and the Gibraltar Bill is based on the Scottish model.

490 The Bill makes it an offence for a circus operator to use, or to cause or permit another person to use, an animal in a travelling circus in Gibraltar. An animal is 'used' if it is made to perform or is displayed or exhibited, whether or not payment of money is required to view the performance, exhibition or display. 'Performance' includes tricks or manoeuvres viewed by the public. An 'exhibition' includes any proactive showing of animals to the public. 'Display' includes use in parades or deliberate positioning of animals to facilitate or encourage viewing.

495 In relation to travelling, a key criterion for an offence to have been committed is that the animal is transported, whether regularly or irregularly, from one place to another. A circus is a

travelling circus even during periods it is not travelling, for example during a temporary tour stop or during the winter closed season, and the Act further provides the Minister with the power to designate that a particular act is or is not a travelling circus.

500 Only a circus operator can commit the offence. However, this includes circus owners and people who do not own a circus but have overall charge of its operations; or, if no one in those categories is in Gibraltar, any other person present in Gibraltar who has ultimate responsibility for the circus operations. Where an organisation commits the offence, certain persons can be held criminally liable. Those persons referred to in section 6 as responsible individuals must have
505 consented to or connived in the organisation's commission of the offence or have been guilty of neglect resulting in the organisation committing the offence. A person who commits an offence under this Act will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Sections 7 to 9 confer powers on inspectors appointed under the Act and on police officers to
510 take enforcement action under the Act. It sets out the range and extent of these enforcement powers and creates offences in relation to hampering enforcement. It also provides for the circumstances when an inspector or police officer is authorised to exercise their powers, such as powers of entry and inspection, with or without a warrant.

Entry and search powers include entry into premises other than domestic premises if there
515 are reasonable grounds for believing that an offence has been or is being committed at the premises. Powers are granted to justices of the peace to grant a warrant if there are reasonable grounds to believe that an offence is being or has been committed at particular premises or that evidence relating to the commission of such an offence will be found at premises and either an
520 inspector or police officer has been refused permission to enter the premises, or they are unoccupied. If the delay of obtaining the warrant would frustrate the purpose for which the powers are being exercised, an inspector or police officer may exercise the same powers without a warrant.

An officer in uniform or an inspector accompanied by an officer in uniform may stop and
525 detain a vehicle or vessel. A vehicle or vessel may be detained for so long as is reasonably required to enable the constable or inspector to exercise the power in relation to which the vehicle or vessel has been stopped.

There are other powers – for example, to take additional people, for example a vet, on to any
530 premises they may enter to provide assistance to the inspector or officer in exercising a power. Inspectors or officers may also take any equipment which might be required when entering premises.

It is an offence under the Act to intentionally obstruct an inspector or an officer who is exercising one of the powers and the offence can be prosecuted in summary courts and, as I have said earlier, carry a maximum fine of level 5.

In ending, Mr Speaker, there was one response to this when it was published as a Command
535 Paper and I want to mention it. This comes from Animal Defenders International, which is an international animal protection, non-governmental organisation with over 25 years' experience studying the use of animals in circuses, and they have written a five-page letter supporting and commending the publication of this Bill and supporting the Act.

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

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

The Hon. Daniel Feetham.

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

The Opposition will be supporting this Bill. Even though here in Gibraltar we do not have and we have not had any circuses for years – in fact, I am 51 years old and I cannot remember whether there has ever been a circus in Gibraltar during that time; probably during the 1980s or

possibly the 1970s there might have been but I cannot remember one myself – anything that
550 prohibits that type of activity here in Gibraltar, even though they are not frequent and I cannot
remember them, is to be welcomed. Quite frankly, I think that Gibraltar needs to be at the
forefront of placing animal welfare and safeguarding the rights of animals and we need to be
seen as placing those at the forefront of the political agenda.

Indeed, Mr Speaker, last time the hon. Member brought a Bill in relation to animal cruelty to
555 this House I mentioned the ivory trade and he said to me that the Government is actively
considering banning the importation of ivory items. I also think that he was considering ivory
items that may be used or may be traded as antiques, which is a significant problem
internationally. Often, recent ivory is passed off as antiques and I welcome the fact that the Hon.
Minister the last time round gave that assurance to the House.

560 Something that is very close to my heart and – I know, other Members of the Opposition, but
certainly it is very close to my heart – is this question of trophy hunting and the importation of
animal parts from trophy hunting. Very recently – I think it was in 2007 – the Netherlands with
immediate effect added to the list of species that could no longer be imported to the
Netherlands. That included white rhinos, elephants, cheetahs, lions, hippos and polar bears. I do
565 not expect that in Gibraltar there are many people wanting to import parts of polar bears, but
quite frankly it is the example that you set internationally. Since the 1970's. We are losing
species at an incredible rate. From the 1970s we have lost 60% of wildlife in the world. We are
facing extinction of species at a rate that has never been witnessed in modern times – indeed,
not even in modern times, since extinctions many thousands of years ago. I think it is incumbent
570 on all of us who really value wildlife, who value animals, who believe that animals have rights
and who want our future generations to be able to enjoy seeing elephants in the wild, giraffes in
the wild and lions in the wild, it is incumbent upon us to show an example and I am asking the
Government ... I hope that he does not think that by my contribution I am lecturing to him by
any means – I am not attempting to do so. On the last occasion he was particularly ungenerous
575 when he said, 'Well, I'm glad that we now have an environmentalist on the other side – where
were you before 2011 when I was elected to this House?' Whether I have been converted on the
road to Damascus late on or not, the fact is that I truly believe that we really ought to be setting
an example. I know that the Netherlands have added significant numbers to their list, that
France has done so as well, and I would hope that the Minister follows suit. Indeed, I believe
580 that, having looked at the legislation, it does not require any amendments, that what the
legislation requires is for the Minister himself – it is within his powers – to add to the list of
animal parts that cannot be imported into Gibraltar, and it would be a wonderful Christmas
present if he could look at that quite quickly and make the decision that has been made in the
Netherlands and in France.

585 Mr Speaker, thank you very much for your indulgence in letting me speak on things that are
not in circuses but are related.

Mr Speaker: But we are of equal mind on this position.

Does any other hon. Member wish to ...? The Hon. Edwin Reyes.

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Hon. E J Reyes: Mr Speaker, I ask the Minister just to clarify – for those of us who do not have
as much legal training as many of our colleagues here have – if I look, for example, in section
8(1), it says:

An officer in uniform may stop and detain a vehicle or vessel ...

and in 8(2):

An inspector, if accompanied by an officer in uniform,

595 There is a specific reference there to being in uniform, whereas some pages before that, in
section 5, it says the Minister may by regulations ... Sorry, I had made a note. I seem to have lost
my own note. In other places it just says that an officer or an inspector has certain powers
without prescribing about being in uniform. My interpretation is that, if I can refer him to
600 perhaps any offence happening down the street, if you see a policeman in uniform, by seeing
the uniform you automatically recognise that person but it could be possible, and I have seen it
happening, for a police officer who is not in uniform simply approaches an individual, shows his
warrant and therefore that in itself proves his capacity and anything that the law allows him to
do. Why is there a need just in this section to specify he was in uniform? Does it mean that if he
is not wearing the uniform he does not have the powers? It could be that I am over-reading it or
605 something, but if we clear it now it eases it for the future.

Mr Speaker: Is there any other contributor?

The Hon. Roy Clinton.

610 **Hon. R M Clinton:** Thank you, Mr Speaker.

Just a point of clarification from the Minister, because I note that one of the definitions of an
animal being used is, under section 4(3)(b), being 'displayed or exhibited', and obviously that is
in relation to a circus but I note that there is the Keeping of Wild Animals Act going back to 2002.
I am thinking more of zoos in general and obviously we have an exempted premises in the
615 Botanical Gardens. I was wondering whether the Minister had looked at the interaction of this
Bill and this existing legislation in terms of the welfare of animals in the context of exhibition.

Thank you, Mr Speaker.

Mr Speaker: Any other person before I call on the mover to reply.?

Yes, the Hon. the Leader of the Opposition.

620 **Hon. E J Phillips:** Just to reinforce the point made by my hon. Friend, Mr Clinton. He has
pointed to the Keeping of Wild Animals Act and there is, I believe, an exemption for the Gibraltar
Botanical Gardens in relation to the exhibition of animals. I just wanted to probe the Minister a
bit further on what the Government's policy towards the exhibition of animals generally is.

What this piece of legislation I understand does is to prevent that and I think that our
625 community has adopted a position where we would frown upon the exhibition of animals, whilst
current legislation – the Keeping of Wild Animals Act 2002, which exempts, as I said, the
Gibraltar Botanical Gardens – allows for it. In fact, there is a specific provision which relates to
circuses there and I just would like to hear from the Minister, combining the thoughts of
Mr Clinton, as to what interaction and what analysis has been done between those two pieces of
630 legislation.

Mr Speaker: The Hon. Dr John Cortes.

635 **Hon. Dr J E Cortes:** Yes, Mr Speaker, I am of course aware of the other legislation being
referred to and the way that the Botanic Gardens is exempted because it fulfils the criteria that
allows that exemption, which was done before my time in government.

This refers specifically in the context of an animal in a travelling circus and therefore the
policy would be to keep to the 2002 Act in respect of everything other than an animal in a
travelling circus. So I do not think that there is a conflict there. Certainly I have been advised that
640 there is not.

On the question of officers in uniform, again this is based on the Scottish Act and I believe
that the criterion there has been that to actually stop a vehicle or a vessel would require a
uniformed person rather than anybody in civilian clothes trying to stop a vehicle, which there

645 might be resistance to. I think that what is meant there is that the authority of a person in uniform would be more likely to be successful, so I think that is where that comes in.

In reference to the Hon. Mr Feetham's conversion, I hope that I have played at least a small part in that conversion and without being in any way disingenuous to him or unkind I would just like to confirm that I am expecting very early in the New Year to publish the legislation on ivory and pets and that my drafter is looking at how we can incorporate a ban on the importation of hunting trophies. So I am hoping that in the early part of the next calendar year I will be able to take those steps.

Hon. D A Feetham: Will you give way?

655 **Hon. Dr J E Cortes:** Yes, certainly.

Hon. D A Feetham: Because I am quite active on social media with this question of trophy hunting and I am in close contact with a number of organisations dealing with a campaign to ban trophy hunting etc. – there are a number of them – in respect of Gibraltar I asked for the legislation in other countries and I was sent legislation in other countries. Somebody made the point, and I then looked at it myself, that in fact you may not need to legislate in Gibraltar because all the Minister needs to do is, by way of regulation, add to a list of animals that ... trophies from those animals will not be allowed into Gibraltar, and indeed in France and Holland those are extremely extensive.

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665 Of course, if what the Minister is saying is, 'Well, actually, we are going to go further than that because what we are going to do is have a blanket ban on the importation of animal trophies from outside,' and that includes for example deer, which is widespread – those types of trophies are widespread – then it will certainly be welcomed by me and no doubt this side of the of the House. But if he really wanted to just simply deal with the ones that are really problematical, he could do that tomorrow by basically adding to the list.

Hon. Dr J E Cortes: Yes, Mr Speaker, I am aware. This is in connection with the Endangered Species Act, which is one that I was involved in drafting back, I think, in the late 1980s, and has been subsequently amended. So it is possible to do that and that is the advice I am taking as to whether that is the best way to do it or whether we need something wider. But I am confident that we will have that done very soon.

With that further clarification I once again commend the Bill to the House.

Mr Speaker: I now put the question, which is that a Bill for an Act to make provision for offences relating to the use of animals in travelling circuses, and to provide for the enforcement of those offences, and for connected purposes be read a second time. Those in favour? (Members: Aye.) Those against? Carried.

Clerk: The Animals in Travelling Circuses Act 2018.

**Animals in Travelling Circuses Bill 2018 –
Committee Stage and Third Reading to be taken at this sitting**

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

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

**Port Operations (Registration and Licensing) (Amendment) Bill 2018 –
First Reading approved**

Clerk: A Bill for an Act to amend the Port Operations (Registration and Licensing) Act 2005. The Hon. the Minister for Tourism, Employment, Commercial Aviation and the Port.

Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Port Operations (Registration and Licensing) Act 2005 be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Port Operations (Registration and Licensing) Act 2005 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

695 **Clerk:** The Port Operations (Registration and Licensing) (Amendment) Act 2018.

**Port Operations (Registration and Licensing) (Amendment) Bill 2018 –
Second Reading approved**

Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi): Mr Speaker, I have the honour to move that the Bill be now read a second time.

700 The maritime industry has seen growing interest in the use of alternative fuels such as LNG, although it must be said that LNG-powered vessels have been around for many years. LNG is seen as a greener technology when compared to oil and petroleum derived fuels and with ever-tightening emissions regulations owners are increasingly looking at LNG propulsion technology, both when considering new orders for ships or the possibility of retrofitting existing ships to LNG. In fact, we have one ship currently being retrofitted to LNG fuel at Gibdock. Gibraltar is one of the most important ports for bunkering in the Mediterranean. As the need for LNG bunkering increases, Gibraltar must be fully prepared to provide this fuel in a safe manner in order not to lose our place in the market.

710 This Bill makes a few simple amendments to the Port Operations (Registration and Licensing) Act 2005 in order to facilitate LNG bunkering, in particular by distinguishing between LNG bunkering and other types of bunkering. The Bill seeks to amend the 2005 Act by changing the definition of 'bunkering' to confine that definition to oil and petroleum derived fuels only and to separately define 'LNG bunkering'. The amendments to this Act are part of a series of measures which will be required in order to have the full framework for LNG bunkering in place. There will be amendments to Port Rules in order to align the rules to the new bunkering definitions introduced by this Bill and to provide for relevant fees in connection with LNG bunkering. In addition, and crucially, there will be a dedicated LNG bunker code of practice which has been developed by the Gibraltar Port Authority incorporating all relevant international safety standards. There will also be new licence conditions that will be particular to LNG bunkering.

720 This Bill also amends the definition of 'port operations' to include several more activities in the port operations. None of these are new operations but they are simply being more specifically defined by this amendment.

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

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

The Hon. the Leader of the Opposition.

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Hon. E J Phillips: Mr Speaker, whilst we will, of course, support the Government on policies and the development of sectors and industries from which our community is to derive real economic benefits, and conscious as we are about increasing concerns about the impact of traditional fuels such as diesel on the environment, and acknowledging, as the Minister has quite rightly said in his contribution, the demand for sustainable fuel, we as Opposition continue to remain concerned about the risks and safety of the development of LNG bunkering in Gibraltar.

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The Government in their Bill are promoting the issuing of LNG bunkering licences alongside other activities – such as commercial diving, ship chandlery and tug operation to name a few – which were set out in the relevant section referred to by the Minister at section 2. Key questions, in our view, remain unanswered and we on this side of the House remain in the dark over the Government's plans on how LNG will be stored and, importantly, where it will be stored. We remain unconvinced that the Government has reassured the public that it has mitigated all risks to the public and we would ask the Government to disclose all risk assessments that have been conducted in relation to the location and storage of LNG.

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Of course, Mr Speaker, it is open to the Government to actively and constructively engage with Members of this side of the House in creating a form in which we ventilate the concerns in a pragmatic way. The Government, in their usual way, have sought to drive through legislation in a way without the slightest reference to those on this side of the House and the people of this community. Ultimately, the Opposition and the people of our community remain in an information vacuum in relation to the safety of the Government's proposals and therefore we regret that we cannot in this instance support the Government's Bill. In this context the Opposition will be abstaining.

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It is regrettable that the Minister has not sought to reach out in the way that I have described; and if he had, perhaps we could obtain the assurances that we seek in relation to the serious concerns that many in our community have in relation to the use of LNG and the Government's policy to promote bunkering of LNG in Gibraltar. Take it from me that we welcome the engagement by Mr Costa on most of the Bills that he brings to this House but I find it disappointing that the Minister has not picked up the telephone to speak to one of my colleagues on this side of the House to discuss with them the issues that arise here and the well-known issues that divide us in relation to LNG bunkering in Gibraltar. If the information vacuum, as I have suggested in my contribution, could be filled or at least we had some form of consultation, perhaps we could reassure members of the public who still maintain those concerns and tell us about their concerns in relation to this point.

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Mr Speaker: Does any other hon. Member ...? The Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, the world is developing how we deal with the past hundred years of human activity, and in particular humans' release of noxious fumes into the atmosphere, in particular the ability to heat the earth to the extent that we have in the short period since the turn of the 20th century. In doing so, we are adopting new technologies.

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During the course of the industrial revolution a group known as the Luddites sought to stand in the way of the changes that were then transforming industrial activity in the United Kingdom. The name that they were given is now used as a definition of those who might stand in the way of better, new technology. Hon. Members opposite – not the hon. Lady, who has not yet pronounced herself in this respect; I am addressing only those the Hon. the Leader of the Opposition has spoken for – cannot really expect to be defined as anything other than Luddites

when it comes to new technologies like LNG. This is the technology that is designed to take us away from burning diesel.

775 Only this week, from an exotic location known best to him and the lady who I understand is his new wife, in respect of which I congratulate Mr Hammond, we have seen a press release issued by the GSD with a photograph of Waterport Power Station emitting black fumes, which arises from the burning of diesel, and it being pointed out to us all how dangerous that is. Well, of course it is clear that on this side of the House we are against burning diesel and therefore we
780 are taking steps to ensure that whether it is vessels that come to Gibraltar or the generation of electricity in Gibraltar it is done, insofar as is possible and as technology advances, without burning diesel – one of the reasons we moved away from their plan to burn diesel in the environ of the Upper Rock. So I congratulate Mr Hammond not just for his nuptials but also for now being a convert to the dangers of burning diesel. I welcome him to the fold of those of us who
785 believe that burning LNG is safer and more environmentally friendly.

The hon. Gentleman has said that we have not persuaded the public, who he purports to speak for, that storing LNG in Gibraltar, in particular in the location where it will be stored and then subsequently burnt in the new power station, is safe – that we have not convinced the public that it is safe. Well, the last time we had a public debate on this was the General Election
790 three years ago, and hon. Members will know and I have often said privately to friends that I thought that the former-former Leader of the Opposition ran a magnificent election campaign at a professional level. In other words, he was ensuring that there was not one minute of the day that we were not – if he will excuse the reference to the trophies that were referred to a moment ago – locking horns at every moment on every issue, in particular LNG, where it was
795 going to be, where it was going to be stored and where it was going to be burned.

Mr Speaker, alongside having defeated Sir Peter Caruana I will consider myself proud all of my life to have been able to defeat him at the last General Election. I will consider myself particularly proud of the margin by which we beat them, which means that by 68% to 32% we were able to persuade the general public that the plan was a safe one. I do not know whether
800 hon. Members have bothered to, wanted to, enjoyed, descended to or otherwise worked out the maths, but it is a huge split. To understand the decision that the public made on the subject which the hon. Member has pointed to, he needs to understand that the difference between 32 and 68 is 36. In other words, by a margin greater than the amount that they saw themselves returned by at the last General Election, the general public decided that we *had* given them the
805 information necessary in this respect, and we have provided more information since. In fact, there has been an exchange of press releases on the subject.

What we are not going to do – and we all happily get together when it comes to counter-terrorism measures – is to publish a schematic diagram of a plant, to give those who might wish to do Gibraltar's national infrastructure damage the clues, if not the keys, of how to do that
810 damage. And so, Mr Speaker, all of the relevant law enforcement and security agencies of the Government have made a determination that there are some reports that cannot be published about LNG storage in Gibraltar, in the same way they cannot be published about so many other things that we do and so many other things which are critical national infrastructure. That should not mean that something like the provision of LNG bunkering, which relies on that critical
815 national infrastructure, is somehow unsafe because we have made the wise decision for safety's sake not to publish a detailed schematic of the plant, which is what the hon. Members seem to want in order to feel that they have the information necessary. So, I entirely repudiate the suggestion that the Government has somehow failed to publish a report that we should have published so that the public might feel safer. We have made the decision not to publish some
820 details of some reports because to do so would make the public less safe. That is the reality.

The hon. Gentleman says therefore that they are being asked to legislate here, in this area, in a vacuum because the hon. Member has not reached out to them to legislate with them in this context. Well, Mr Speaker, given everything they have said and the fact that the hon. Gentleman has said that this, in his view, relates to the safety of this community, I put it to them that, in the

825 same way as I put it to them that having lost the election on the issue of LNG they should not
have blithely stood by as we continued with our plans if what they had said during the campaign
was true, they should have chained themselves to the North Mole to prevent us from installing
the plant if they were serious about it. In the same way, the political hypocrisy of their position is
830 he is genuine about anything he has said he should whip his people to vote against this Bill, not
to abstain. If he is genuinely concerned about the safety issue, how could he get up in this House
and say, 'and therefore I am going to abstain'?

So they were not genuinely concerned about the LNG storage plant because they did nothing,
once they lost the election by that huge margin, to prevent the whole thing going ahead. And
835 they are not seriously concerned about this Bill or LNG bunkering because they have given
themselves away. There is a Spanish saying that says that the fish gives himself away by his
mouth, or the fish dies by his own mouth. Well, the fish here has died by his own mouth,
because to say, on something which you say concerns the safety of this community, that you are
going to abstain I think gives the lie to the fact that you do not really feel that there is any safety
840 concern.

But the hon. Gentleman said something else. He said that he was disappointed not to have
heard Mr Licudi call him and discuss with him etc. – and I assume him or Mr Hammond, who for
very good reason is not here, and I am not saying anything about Mr Hammond's absence other
than congratulate him; I do not want him to think that I am doing that, but when he said 'him' I
845 assume him or Mr Hammond. Let me put it this way to the hon. Gentleman in the context of
what he has said and why unfortunately his call for co-operation will ring hollow with us on this
side of the House. Without going into what has been said privately, just in respect of what has
been said publicly, we were told by hon. Members opposite when we told them that we would
be giving them copies of the memorandums of understanding entered into in the context of the
850 Withdrawal Agreement ahead of that publication, that they would –

A Member: That is not relevant.

Hon. Chief Minister: No, it is very relevant, Mr Speaker, and if they bother to listen for a
855 moment they will understand why.

They told us, when we told them that we would give them advance copies of those MoUs,
that they would call us and ask us questions about any parts which they were concerned about
or which they had any doubts about. Did they call us, Mr Speaker? Or did they, seven days later,
simply issue press releases which completely misunderstand the structure of the MoUs and
860 completely misinterpret them and try to lead people up the garden path? That is what they did.
That is the value of picking up the phone or giving hon. Members opposite ... some of them,
because some of them have behaved completely differently. Some with whom I used to lock
horns before have behaved completely differently, but some of them, despite us picking up the
phone, despite us trying to co-operate, despite us trying to ventilate the issues with them,
865 despite them telling us that they are going to ring us and not issue public statements, what they
go on to do is issue public statements.

So, Mr Speaker, if the Hon. Mr Licudi had asked me whether I thought he should ring them
and ask them what they thought of the Bill, I would have said to him, 'What's the point? They'll
say that they care about the safety of Gibraltar, they'll say it's all very dangerous and then they'll
870 abstain.' Well, Mr Speaker, I commend to the hon. Members the terms of the Bill as advanced by
the Minister and I commend to them seriousness in their approach to the safety in this
community and that they should either whip themselves up into a sufficient frenzy that they
vote against this Bill or that they whip themselves down completely and support it, but that they
should not be that damp squib of politics and simply abstain. (*Banging on desks*)
875

Mr Speaker: The Hon. Daniel Feetham.

Hon. D A Feetham: Well, Mr Speaker, I have to say that he has persuaded me to vote against the Bill because –

880 **Hon. Chief Minister:** A man of principle.

Hon. D A Feetham: No, it's not a man of principle, it is because – (*Interjection and laughter*) No, he has been given an opportunity to persuade us, and everything that the hon. Gentleman has said really reinforces that actually what we ought to be doing is voting against. (**Hon. Chief Minister:** Absolutely.) The decision is one for the Leader of the Opposition and my colleagues, 885 but quite frankly yes, I do find him very persuasive that we ought to vote against the hon. Gentleman's Bill.

Before I make some substantive points, let me make these two points. First of all, we lost the General Election not because of our arguments in relation to LNG; we lost the General Election 890 because I was the Jeremiad and he was Father Christmas, (**A Member:** Hear, hear.) and when there is a political battle between a Jeremiad and Father Christmas, Father Christmas always wins hands down.

895 **Hon. Chief Minister:** Hope always.

Hon. D A Feetham: Absolutely. Hope always trumps the warnings on this side of the House that we were spending too much, that our public debt was far too high, and of course whilst he was offering people jobs I was saying let's watch the culture of entitlement. That is what cost us the General Election, that I was the Jeremiad and he was Father Christmas.

900 In relation to the substance of this Bill, and adding to what the Hon. the Leader of the Opposition has said, this is a Bill that allows for the licensing of bunkering in LNG. That is what we are dealing with now. I have always understood that the tanks that are attached to the power station are not going to be large enough in order to undertake bunkering activities in the quantities that are going to make it commercially attractive to anybody, because my 905 understanding is that those tanks will only keep the power station supplied with LNG –

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

910 **Hon. D A Feetham:** Yes, of course.

Hon. G H Licudi: Just so that he does not necessarily go up a different path which this Bill is not about, this Bill is about ship-to-ship bunkering, not bunkering from –

915 **A Member:** Nothing to do with that.

Hon. G H Licudi: – the power station or the tanks in the power station.

Hon. D A Feetham: Yes, I accept that.

920 **Hon. G H Licudi:** This is ship-to-ship, power station, nothing to do with those tanks.

Hon. D A Feetham: But I am responding to the points that the Hon. the Chief Minister made. The Hon. the Chief Minister was talking about the tanks and the dangers associated with the LNG in the tanks. That is nothing to do with bunkering, the LNG in the tanks, because the LNG in the tanks ... have never been large enough in order to keep the power station supplied for longer, I think it was, if it is going to be working full pelt, longer than two or three weeks. 925

What does that mean? That means therefore that you have either got to have tanks that are large enough onshore – Hang on a minute. I understand what the Bill is about, but let me

930 explain. If the tanks attached to the power station are not large enough to supply the power
station for longer than two or three weeks, the capacity of those tanks, you then need to have
large enough tanks onshore or you need to have a ship that stores LNG that can then, of course,
supply the power station. What you cannot have is a situation where there are ships coming into
Gibraltar in order to supply the tanks associated with the power station every three weeks. It
would become uneconomical; it would be an absolute nonsense. So you need to have some kind
935 of storage facility. What the Government has done is it has chosen to have that storage facility
on a ship, not onshore, which was the argument that we were having at the last General
Election. It has chosen to say, 'Right, okay, what we're going to have is a floating tanker of LNG
and from there we might then have bunkering facilities in relation to LNG, much in fact as we
have now in relation to diesel,' which is what happens today in relation to diesel.

940 Our view in relation to that is that the Government does not have all its ducks in a row. We
do not understand the safety aspects of that. We do not understand how that can be done
safely in order for us to then say we are happy supporting legislation that is intended to
introduce that type of activity. That is why we have taken the position.

I started with a jest. The reason why the Hon. the Leader of the Opposition has taken the
945 position of saying we are going to be abstaining is because he is giving the Government an
opportunity to at some stage demonstrate that it can be done safely and in a way that would
satisfy us that all the safety aspects have been taken into account and that risks have been
minimised to acceptable levels – you are never going to have risk free with this or any other type
of activity of this sort. That is why we were abstaining and that is why we have taken the
950 position that we have taken. It is a position based on principle. It is a position that is completely
commensurate and consistent with the position that we took at the last General Election.

Mr Speaker, may I finish by saying this. May I congratulate my friend Mr Hammond for even
being on top of his brief on his honeymoon with his wife (**A Member:** Hear, hear.) in India. That
shows the commitment of Members on this side of the House to the people of Gibraltar.

955

Hon. Chief Minister: May I ask the hon. Gentleman to give way?

Hon. D A Feetham: Yes, of course.

960 **Hon. Chief Minister:** Just to make clear that that is the position that the Government is taking
not in respect of his work but in respect of the fact that he is in India getting married, and that
what I am trying to convey is the House's congratulations to him in respect of those nuptials and
that he should be spending more time in his briefs than on his briefs at this happy time.
(Laughter and interjections)

965

Mr Speaker: I am wondering whether the amount of pollution in Indian cities might have
jogged his mind as regards air quality in Gibraltar.

The Hon. Roy Clinton.

970 **Hon. R M Clinton:** Thank you, Mr Speaker.

May I advise the Chief Minister to exercise some care when he uses the term 'Luddites'.
Especially when in his attempt to denigrate the Opposition, he is also denigrating the
Environmental Safety Group, who have expressed concerns about bunkering of this nature in the
past, and in fact in the recent past. Their concern was that the ship bunkering would perhaps be
975 coming from the existing tanks, which the Government were very quick to point out that no,
that would not be the case. But the environmental safety group obviously have a watching brief
as to how LNG bunkering operations will be undertaken in Gibraltar.

As the Chief Minister is very fond of referring back to the General Election, I remember that
General Election with fondness too, particularly the debate I had with Sir Joe Bossano in which,
980 when he was discussing the LNG plant in Gibraltar, he was very honest with the public in saying,

‘Well, look, Shell wouldn’t be here just to supply the power station; Shell is here to do bunkering, of course.’ Then what happened was the Government spent the next two weeks saying, ‘No, Mr Bossano didn’t really mean to say that; no, there won’t be any bunkering.’

985 **Hon. Chief Minister:** That’s not what happened.

Hon. R M Clinton: In fact, that was always the intention. What is interesting is that on 26th August 2016 the Government of Gibraltar and the Port Authority signed the Bunker Market Development Agreement with Shell following an earlier agreement for the supply of LNG for use
990 in the power generation in Gibraltar. So, Sir Joe Bossano, as we all know, never lies. *(Interjection)*
The development of the bunker market, according to the report ... It says:

The joint LNG bunker market development project will be subject to the Government’s policy of going through stringent environmental processes and studies, including environmental impacts assessments and control of major accident hazards procedures. Shell has committed to carry out a joint development study by 1st January 2018 which will deal with the regulatory framework, safety and technical standards, without which the project cannot proceed.

So I ask, Mr Speaker: the Government comes to the House with legislation to license and allow LNG bunkering, but we are none the wiser as to the safety and the relevant criteria surrounding such procedures. I would have thought, if Shell has produced such a report, that
995 report should be published and then we in this House would be in a much better informed position upon what view to take on this legislation. And it is important legislation because frankly this is something which is of public interest. And the Environmental Safety Group would like to know how it is that the Government intends to go about doing this and what safety measures will be in place. At the moment, as far as I am aware – I am happy to be corrected –
1000 nothing has been published.

And so, Mr Speaker, we take this very seriously on this side of this House, and I would hope the Government takes their responsibility seriously to provide the information that will no doubt be required from non-governmental organisations such as the Environmental Safety Group, who would like to know how this sort of operation is going to be conducted, in what kind of volumes,
1005 what is the scale of operation. Are we talking about one big LNG tanker, two, three, ten? What is the scale of operation and to what extent is this economically viable? We do not know, but we are being asked in this House to pass legislation completely blind and I do not think that is acceptable, Mr Speaker. And frankly, I may even follow the Chief Minister’s advice and vote against, **(Hon. Chief Minister:** You should.) as Mr Feetham.

1010 And talking about fish, there is a very good Greek saying that when a fish rots it usually rots to the head, and we see that here today, Mr Speaker. *(Banging on desk)*

Mr Speaker: Is there anybody else who wishes to contribute to the ...? The Hon. Marlene Hassan Nahon.
1015

Hon. Ms M D Hassan Nahon: Mr Speaker, I would like to echo the words of the Hon. Mr Clinton, in that I feel like it is our duty on this side of the House to ask the Hon. Ministers opposite whether they have worked alongside environmental groups and stakeholders on environmental matters, whether there have been proper consultation processes undertaken in
1020 the run up to drafting this Bill. Thank you, Mr Speaker.

Mr Speaker: Finally, then, I call on the mover to reply. The Hon. Gilbert Licudi.

Hon. G H Licudi: Mr Speaker, let me just touch on, briefly, one of the last points that the Hon. Mr Clinton mentioned, which is this issue of no consultation, being asked to do something blind, and the Hon. Mr Phillips, which has in part been answered by the Chief Minister, about not
1025 holding out to them once the Bill was published. Well, the Bill was published on 4th October 2018. That is over two months ago. If the Opposition had any concerns in relation to that Bill, if the Opposition wanted any clarification, if they wanted any assurances, what is wrong with the
1030 Opposition reaching out to us and saying, ‘You’ve published this Bill – can we have these clarifications, these reassurances, so that we can make a better informed decision?’ If they wanted information which they did not have, they could certainly have called us.

As far as publishing legislation blind and this process of consultation, which the hon. Lady has also mentioned, the reality is we did not have to be here today. I did not have to make an amendment for LNG bunkering. We have a Port Operations (Registration and Licensing) Act
1035 which provides for bunkering. It does not say you need this type of licence for oil bunkering, this type of licence for gas oil or petroleum-based bunkering, this type of licence for LNG bunkering. It is generic. So there is the power already to provide licensing, codes of practice, conditions for energy bunkering in Gibraltar already. That exists because we have the power under the Act today to give bunkering licence on generic terms and each bunker licence can say, ‘We know
1040 that you’re applying for a bunkering licence for this type of bunkering – gas oil bunkering, or petroleum-based bunkering, or LNG bunkering – and the conditions which are attached to that type of bunkering are this.’

We could have done that, and yet we have chosen to change the legislation, come to this Parliament, debate this matter in Parliament and give the Opposition the opportunity of airing
1045 their views, which they are quite rightly entitled to. This is not a criticism of the view they are taking, necessarily; this as an explanation of the process that we have undergone and it is precisely because this is a matter of interest generally that we have chosen this particular process, this particular form of coming to the Act with a relatively simple amendment, quite apart from a number of definitions of port operations, which I will come to in a moment, but a
1050 relatively simple amendment which simply seeks to differentiate between the different types of bunkering, a differentiation which we simply did not have to do, but we have done it. In the interests of the public, in the interests of transparency, in the interests of having any concerns aired in public, we have done it.

The reality is that it is not the Government that has decided to introduce LNG bunkering to
1055 ships – or rather LNG propulsion, not energy bunkering. It is not the Government that has decided to introduce LNG propulsion to ships. That is a matter for owners. So what are we to do? Are we just to ignore that? Are we to ignore that that is now becoming a fuel that owners are interested in? Or are we to act responsibly and introduce measures for that type of fuel to be available in Gibraltar alongside other types of fuel which we already do– yes, I will do so in a
1060 minute – and to do so in a regulated and safe environment. I will come to that in a moment, but that is, in my view, the responsible way for us to proceed.

I will give way to the Hon. Mr Feetham.

Hon. D A Feetham: I am very grateful to the hon. Gentleman because I know that it is difficult
1065 sometimes giving way when you are in the middle of a reply.

I can understand the argument that fleets are moving slowly but they are moving towards LNG propulsion, but actually the imperative of having LNG bunkering does not come from that and I would just like him to confirm this or comment on this. The imperative for offering LNG bunkering does not come from fleets moving to propulsion. The imperative comes from the fact
1070 that if you do not offer LNG bunkering it is not possible to then have an LNG power station, because the tanks that are supplying the LNG power station only have enough space for two or three weeks. It means that if you wanted to effectively keep those tanks filled with LNG, you

would have to have a ship coming into Gibraltar every three weeks, which is nonsense. The cost of that would be prohibitive.

1075 So how do you deal with that? You deal with that by basically offering commercial bunkering of LNG, and that is how it becomes ... So, effectively, it must have been in the Government's plans at the point at which it considered to build a power station that was LNG driven to basically effectively also provide LNG bunkering, because at a very early juncture it must have been clear that it would not be economically viable. Indeed, it was a point that the Hon. the Chief Minister made when we were having a general debate on GBC and this issue came up, and that was an explanation that he himself provided in 2014. Therefore it cannot be right that this is now motivated or moved by the fact that there are fleets that are moving towards LNG. This was pre-planned from the very beginning, because otherwise your LNG power station cannot be run economically.

1085 **Hon. G H Licudi:** Mr Speaker, let me just deal with that particular point before we move to the rest of the reply. The hon. Member talks of the imperative of the LNG bunkering essentially being driven by the need for the supply to the power station. Let me say to the hon. Member that LNG bunkering was coming in any event. The fact that we are opening a power station which is powered by LNG fuel may have precipitated or brought forward what we are doing in respect to ship-to-ship bunkering to coincide in terms of timing, but LNG bunkering is coming anyway and is not necessarily driven by that, although clearly that has been a factor in the planning for this particular Bill and to have it ready at this particular time.

1090 The hon. Member says in respect of the tanks and the LNG power station you would need a ship coming every three weeks and that is prohibitive. Well, the ship is actually coming every two weeks in order to supply LNG to that power station, but that power station has tanks which are dedicated, exclusive to the power station. I know the hon. Member accepts that and recognises that that is the case, that there is that distinction, but I am mindful that the Hon. Mr Clinton also mentioned comments made by the Environmental Safety Group recently and those comments were specifically expressing concerns about LNG bunkering taking place from those tanks. We made it clear that that was just based on a misapprehension, was a misunderstanding as to ... I think it arose following an interview I gave to GBC and the impression may have been given, even though I have seen what I said then and I certainly was not alluding to that but it was misunderstood as bunkering will take place from the tanks at the power station, and that was the concern that was expressed by the ESG.

1105 I just want to make it absolutely clear today, as we have already done, that the power station is one thing powered by LNG. That has nothing to do with the ship-to-ship bunkering which this Bill is concerned about. No bunkering to ships will take place from the tanks. There will be supply to those tanks from a ship, obviously, which will come in every couple of weeks, but there will be no supply to other ships on a commercial basis of LNG fuel from those tanks. That is absolutely clear.

1110 I was dealing with the point about LNG propulsion, ships ... I would not say it is becoming the norm, I would not go as far as that; it is becoming more popular. It is going to take time. It has been around for many years as a technology and used by many ships and it will take many years, I expect, before LNG propulsion in ships takes over as a fuel. It will take still a few years.

1115 The question I posed is given that that is happening and owners are taking the decision to introduce LNG propulsion to ships – in two ways, as I mentioned in my speaking notes when I introduced the Bill: firstly by ordering ships which are LNG fuel propelled; or by retrofitting, as we are seeing, and we have already got one of the customers of Gibdock having brought a ferry to Gibraltar in order to carry out that conversion of retrofitting to LNG fuel, so that is coming, that is a reality, that is a fact of life – what should we do in Gibraltar? Should we turn business away, or should we do things properly in order to have a regulated and safe environment for that business to be able to take place in Gibraltar? We have chosen the latter. Hon. Members may have done something different. By abstaining, or perhaps now even voting against, they

1125 may suggest that the business should be turned away from Gibraltar. We believe in business in Gibraltar. We believe in our economy. We believe in the creation of jobs. I hope that the hon. Members do too and find a way of supporting this, because it does have an effect on jobs and our economy.

1130 Gibraltar is a major bunkering port in the Mediterranean with an excellent reputation and what LNG bunkering will do is simply add one more strand in the activities that we carry out, in the services that we provide for the maritime industry. And it is not just bunkering companies that benefit from this. There is a whole range, a whole raft of companies. A whole industry is based around this. Ship agents clearly benefit because every ship has an agent in Gibraltar, every ship that comes into Gibraltar. Ship chandlers benefit. Supplies of provisions to ships benefit.
1135 Those who carry out crew changes benefit. Those who sell lubricating oils to ships – quite apart from fuel – benefit. Why? Because all of that industry revolves around what we do in Gibraltar in relation to bunkering. We do not have a ship, because simply it would not be cost effective for an owner to send a ship to Gibraltar simply to carry out a crew change, or simply to take lubricating oils, or simply to take a few packets of cornflakes. A lot of these ships come to
1140 Gibraltar to carry out bunkering, to take bunkers and then also carry out the crew changes, take supplies, take provisions, take oils.

What does all that do? It creates employment in the industry. It creates economic activity. It would be irresponsible for the Government to look the other way, to turn any of this business away. We have to be aware of what is going on in the world. We have to embrace this. But I
1145 absolutely agree it has to be done properly, it has been done safely and it has to be done in a regulated manner, and that is why I said, when I spoke on moving the Bill, that what we are doing today by introducing these amendments ... These are just a part of a series of measures. There will be some amendments to the Port Rules and crucially, as I mentioned, there will be an LNG bunker code of practice – that is what will define the safety standards – and the code of
1150 practice will itself lead to the licence conditions, as to what an LNG bunkering company has to do and the standards that have to be applied.

That code of practice, which will accompany the legislation before an LNG bunker licence is given, clearly has been subject to hazard identification assessments and workshops with a view to enable safe ship-to-ship bunkering in Gibraltar, and what those assessments and those
1155 workshops have done is improve the framework with a series of recommendations which have all been accepted and will all be incorporated either through changes in the Port Rules or in the code of practice itself. Ultimately what it leads to is the Captain of the Port and the Government being satisfied that risks are mitigated as far as reasonably practicable so that we can undertake in Gibraltar this line of business in an efficient and safe manner. The Government is certainly
1160 satisfied that that is the case.

Mr Speaker, I just end my response with a comment. I believe it was Mr Phillips who mentioned the other activities – I will give way to Mr Phillips.

Hon. E J Phillips: I am very grateful to the Minister for giving way. He did speak at length to
1165 the commercial viability of LNG and how we as a community should be moving towards, as the other jurisdictions are moving towards, LNG as a sustainable fuel. In that context, has the Minister given consideration to the Marple IMO 2020 report, which suggests that very low sulphur fuels, an alternative, is the way forward for the future and how, in that context, if that is the future there seems to be an overreliance on this question of LNG given the fact that
1170 between 3% and 6%, it is suggested, will be on heavy fuels and that there will be a huge sway by the world fleet towards very low sulphur fuels rather than LNG? If that is the case, will the Minister clarify how that resonates with him in terms of the commercial rationale for this?

Hon. G H Licudi: Mr Speaker, I did mention previously that, quite apart from LNG being a
1175 greener technology, part of the drive around this from a worldwide basis is what I termed earlier the ever-tightening emissions regulations, and that is happening to shipping generally.

1180 The IMO 2020 reduction in sulphur provision is precisely one of these provisions. Clearly we
are very alive and very aware of the provisions of that and ship owners are aware and alive. That
is a set of regulations which will be implemented in Gibraltar and adhered to in Gibraltar in any
form of bunkering. That is something that we have clearly considered – not in the context of LNG
bunkering, because what LNG does is remove, from a green technology point of view, remove
many of the damaging particles that are emitted. That is why it is greener technology, but a lot
of the particles that are emitted to the environment as part of normal bunkering activities are
actually eliminated with LNG, so it is safer, it is a better fuel, but it has to be done safely and that
1185 is what I addressed earlier in terms of the hazard identification assessment and the
recommendations which have all been accepted and which will all form part of the the code of
practice.

I was going to end by mentioning the list of port operations that are included in this Bill which
the Hon. Member Mr Phillips, the Leader of the Opposition, alluded to, which includes
1190 commercial diving, which was not in the previous list. The current Act provides a definition of
port operations which says ‘includes engaging in the following activities’ and the current Act has
six activities. There are other activities which are not specifically defined but are being carried
out in Gibraltar, so what we are doing here is more specifically defining the type of activities that
are already occurring in Gibraltar under the existing Act. So nothing is changing; we are just
1195 creating more specificity, or updating the definition, taking advantage of the fact that we are
amending the Act in the first place because the definition of ‘port operations’ says it includes all
of this and any other industrial or commercial operation etc., which is also part of the existing
definition, which is why those other activities are being carried out today. So it is an inclusive
and not a definitive definition.

1200 Mr Speaker, with that and everything that has been said today and the satisfaction of the
Government in moving forward in this direction, I once again commend the Bill to the House.
(*Banging on desks*)

1205 **Mr Speaker:** I now put the question, which is that a Bill for an Act –

Hon. Chief Minister: Mr Speaker, I call a division of the House.

Mr Speaker: Very well – a Bill for an Act to amend the Port Operations (Registration and
Licensing) Act 2005 be read a second time.

1210 Will you please call the division.

Clerk: P J Balban. (**Hon. P J Balban:** Aye.) R M Clinton (**Hon. R M Clinton:** Abstain.) J E Cortes.
(**Hon. Dr J E Cortes:** Aye.) D A Feetham.

1215 **Hon. D A Feetham:** Despite how persuasive the Chief Minister was, I am also going to be
abstaining – not to break the habit of the past to disagree with him.

Clerk: J J Garcia. (**Hon. Dr J J Garcia:** Yes.) M D Hassan Nahon. (**Hon. Ms M D Hassan Nahon:**
Yes.) (**Hon. Chief Minister:** Hear, hear.) A J Isola. (**Hon. A J Isola:** Aye.) G H Licudi. (**Hon. G H**
1220 **Licudi:** Yes.) S E Linares. (**Hon. S E Linares:** Yes.) L F Llamas. (**Hon. L F Llamas:** Abstain.) E J
Phillips. (**Hon. E J Phillips:** Abstain.) F R Picardo. (**Hon. Chief Minister:** Aye.) E J Reyes. (**Hon. E J**
Reyes: Abstain.)

Voting resulted as follows:

FOR	AGAINST	ABSTAIN	ABSENT
Hon. P J Balban	None	Hon. R M Clinton	Hon. Sir J J Bossano
Hon. Dr J E Cortes		Hon. D A Feetham	Hon. N F Costa
Hon. Dr J J Garcia		Hon. L F Llamas	Hon. T N Hammond
Hon. Ms M D Hassan Nahon		Hon. E J Phillips	Hon. Miss S J Sacramento
Hon. A J Isola		Hon. E J Reyes	
Hon. G H Licudi			
Hon. S E Linares			
Hon. F R Picardo			

Mr Speaker: There are 4 Members absent, 8 Members have voted in favour, there are 5 abstentions and therefore the Second Reading of the Bill is carried. (*Banging on desks*)

1225

Clerk: The Port Operations (Registration and Licensing) (Amendment) Act 2018.

**Port Operations (Registration and Licensing) (Amendment) Bill 2018 –
Committee Stage and Third Reading to be taken at this sitting**

Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi): Mr Speaker, I beg to move that the Committee Stage of the Bill be taken later today, if all hon. Members agree.

1230

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

**Gambling (Amendment) Bill 2017 –
First Reading approved**

Clerk: A Bill for an Act to amend the Gambling Act 2005. The Hon. the Minister for Commerce.

1235

Minister for Commerce (Hon. A J Isola): Mr Speaker, I have the honour to move that an Act to amend the Gambling Act 2005 be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Gambling Act 2005 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

1240

Clerk: The Gambling (Amendment) Act 2017.

**Gambling (Amendment) Bill 2017 –
Second Reading approved**

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

This Bill amends the Gambling Act to insert a provision of the industries canvassed which I am happy to accommodate.

1245 Clause 3 of the Bill inserts a new section 23A and achieves two things. In the first instance, it requires that certain payments be made to registered players; and secondly, it requires that a licensee maintains adequate financing to make those payments.

1250 Following a change to the VAT regime in the European Union there is a question mark over the basis on which to apply VAT to online gaming services. The amendment would ensure that it is clear to other tax authorities that there is an explicit statutory requirement to return the winnings to players and thereby helps strengthen the argument that VAT should be applied on a gross gaming revenue basis as opposed to being applied on all stakes.

Mr Speaker, I commend the Bill to the House.

1255 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of this Bill? No.

I then put the question, which is that a Bill for an Act to amend the Gambling Act 2005 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

1260 **Clerk:** The Gambling (Amendment) Act 2017.

**Gambling (Amendment) Act 2017 –
Committee Stage and Third Reading to be taken at this sitting**

Minister for Commerce (Hon. A J Isola): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading will be taken later today, if all hon. Members agree.

1265 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

COMMITTEE STAGE AND THIRD READING

1270 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should now dissolve itself into Committee to consider the following Bills clause by clause: the Terrorism Bill 2018, the Animals in Travelling Circuses Bill 2018, the Port Operations (Registration and Licensing) (Amendment) Bill 2018, the Gambling (Amendment) Bill 2017, the Mutual Legal Assistance (Council of Europe) Bill 2018 and the Extradition Bill 2018.

Mr Speaker: Before we proceed with the Terrorism Bill, there was an indication during the Second Reading of the Bill of a possible amendment to section 71.

1275 **Hon. Chief Minister:** We are not in Committee yet, so I will stand up, Mr Speaker. Yes, I have got something to propose to the hon. and learned Gentlemen opposite. I do not know whether Mr Speaker would want to recess –

Mr Speaker: A 10-minute recess?

1280 **Hon. Chief Minister:** – for 15 minutes for an opportunity for us to discuss that. (**Mr Speaker:** Yes.) Before we go into Committee or after we go into Committee? Whatever the Clerk and you prefer.

1285 **Mr Speaker:** We will move into Committee and then recess for 10 or 15 minutes.

In Committee of the whole House

1290 **Mr Chairman:** The Committee will now recess for 10 minutes.

The House recessed at 5.14 p.m. and resumed its sitting at 5.24 p.m.

**Terrorism Bill 2018 –
Clauses considered and approved with amendments**

1295 **Clerk:** A Bill for an Act to make provision about terrorism offences, to make provision for the proscribing of organisations, to provide for orders for the freezing and forfeiture of terrorist property and funds, to provide for the investigation of terrorist offences and provide investigation measures, to make provision in connection with overseas terrorism, to repeal and replace the Terrorism Act 2005 and for connected purposes.

Part 1, clauses 1 and 2.

Mr Chairman: Stands part of the Bill.

1300 **Clerk:** Part 2, clauses 6 and 7.

Mr Chairman: Stands part of the Bill.

Clerk: Clause 8 as amended.

1305

Mr Chairman: There is an amendment that has been circulated by the Chief Minister. Are all hon. Members in favour of inserting that amendment? Carried.

1310 **Hon. D A Feetham:** Mr Speaker, the letter can be taken as read and accepted by the Opposition, the amendments.

Mr Chairman: So, clause 8 as amended stands part of the Bill.

Clerk: Clause 9.

1315

Mr Chairman: Stands part of the Bill.

Clerk: Clause 10 as amended.

1320 **Mr Chairman:** Again, an amendment has been circulated. Unless there is any objection, I take it that the Opposition are in favour, are quite happy.

Hon. D A Feetham: Mr Speaker, rather than stop every single time, Mr Speaker can take it that the Opposition has read –

1325

Mr Chairman: Unless hon. Members indicate that –

Hon. D A Feetham: Unless we indicate otherwise.

1330 **Mr Chairman:** Very well. So, clause 10 as amended stands part of the Bill.

Clerk: Clause 11.

Mr Chairman: Stands part of the Bill.

1335

Clerk: Part 3, clauses 12 to 16.

Mr Chairman: Stands part of the Bill.

1340

Clerk: Clause 17 as amended.

Mr Chairman: Stands part of the Bill.

Clerk: Clauses 18 to 34.

1345

Mr Chairman: Stand part of the Bill.

Clerk: Part 4, clauses 35 to 61.

1350

Mr Chairman: Stands part of the Bill.

Clerk: Part 5, clauses 62 to 70.

Mr Chairman: Stands part of the Bill.

1355

Clerk: Part 6, clauses 71 to 73.

Mr Chairman: Stands part of the Bill.

1360

Clerk: Clause 74 as amended.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have circulated a moment ago – in addition to the amendment I had circulated earlier – after a discussion between myself and the Hon. Mr Feetham, the amendment that we propose should be made to section 74, both in subsection (1) and in subsection (2), to limit the types of criminal conduct that would be in scope for the purposes of the application of this Part.

1365

That, I think, is quite clear from what I have circulated. In effect, the definition of criminal conduct is explicitly made clear to be relating to or otherwise connected to terrorism. There are two times when that appears in the definition of ‘criminal investigation’. In fact, what I have circulated says ‘in the definition of Criminal Conduct’ but it is ‘in the definition of Criminal Investigation’, I see.

1370

And then in 74(2) at the very end also add the words ‘relating to or otherwise connected to terrorism’.

There is one other minor amendment which we discussed, which I have not put in this sheet, which is to include the word ‘such’ also. So, in the definition of ‘criminal investigation’ when you are in the third line, ‘an investigation of whether such criminal conduct has taken place’, so that it is clear that it relates back to the term ‘criminal conduct’ as we have proposed to amend it. Have you got that?

1375

1380 **Mr Speaker:** I will now put the amendment moved by the Chief Minister to section 74. All those in favour? (**Members:** Aye.) Those against? Carried. Clause 74 as amended stands part of the Bill.

Clerk: Part 7, clauses 75 to 83.

1385

Mr Chairman: Stands part of the Bill.

Clerk: Part 8, clauses 84 to 99.

1390

Mr Chairman: Stands part of the Bill.

Clerk: Clause 100 as amended.

Mr Chairman: Stands part of the Bill.

1395

Clerk: Clauses 106 and 107.

Mr Chairman: Stand part of the Bill.

1400

Clerk: Part 9, clauses 108 to 133.

Mr Chairman: Stands part of the Bill.

Clerk: Part 10, clauses 134 to 139.

1405

Mr Chairman: Stands part of the Bill.

Clerk: Clause 140 as amended.

1410

Mr Chairman: Stands part of the Bill.

Clerk: Part 11, clauses 141 to 151.

Mr Chairman: Stands part of the Bill.

1415

Clerk: Part 12, clauses 152 to 159.

Mr Chairman: Stands part of the Bill.

1420

Clerk: Clause 160 as amended.

Mr Chairman: Stands part of the Bill.

Clerk: Schedules 1 to 9.

1425

Mr Chairman: Stand part of the Bill.

Clerk: Schedule 10 as amended.

1430

Mr Chairman: Stands part of the Bill.

Clerk: Schedules 11 to 16 as amended.

Mr Chairman: Stand part of the Bill.

1435

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

**Animals in Travelling Circuses Bill 2018 –
Clauses considered approved**

Clerk: A Bill for an Act to make provision for offences relating to the use of animals in travelling circuses, and to provide for the enforcement of those offences, and for connected purposes.

1440

Clauses 1 to 11.

Mr Chairman: Stand part of the Bill.

1445

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

Yes?

1450

Hon. R M Clinton: A very minor point: just the heading on clause 8, 'Stopping and' I think it should be 'detaining vehicles' rather than 'detailing vehicles', so a minor typo, which I think I had mentioned to the Hon. Minister some time ago.

1455

Mr Chairman: Yes, there is a typographical error, 'Stopping and detailing vehicles' should be 'Stopping and detaining vehicles'. We take it that it is a typographical error. There is no need to move an amendment.

Have you moved the long title? No.

1460

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

**Port Operations (Registration and Licensing) (Amendment) Bill 2018 –
Clauses considered and approved**

Clerk: A Bill for an Act to amend the Port Operations (Registration and Licensing) Act 2005. Clauses 1 and 2.

1465

Mr Chairman: Stand part of the Bill.

Clerk: The long title.

1470

Mr Chairman: Stands part of the Bill.

**Gambling (Amendment) Bill 2017 –
First Reading approved with amendment**

Clerk: A Bill for an Act to amend the Gambling Act 2005.
Clause 1.

1475 **Mr Chairman:** Stands part of the Bill.
There is an amendment there just to the date: 2017 to be amended to 2018.

Clerk: Clauses 2 and 3.

1480 **Mr Chairman:** Stand part of the Bill.

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

**Mutual Legal Assistance (Council of Europe) Bill 2018 –
Clauses considered and approved**

1485 **Clerk:** A Bill for an Act to give effect in Gibraltar to the Council of Europe's European
Convention on Mutual Assistance in Criminal Matters made in Strasbourg on 20th April 1959.
Part 1, clauses 1 to 3.

Mr Chairman: Stands part of the Bill.

1490 **Clerk:** Part 2, clause 4.

Mr Chairman: Stands part of the Bill.

1495 **Clerk:** Part 3, clauses 5 to 8.

Mr Chairman: Stands part of the Bill.

Clerk: Part 4, clause 5.

1500 **Mr Chairman:** Stands part of the Bill.

Clerk: Part 5, clause 10.

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

Clerk: Part 6, clauses 11 to 17.

Mr Chairman: Stands part of the Bill.

1510 **Clerk:** The long title.

Mr Chairman: Stands part of the Bill.

**Extradition Bill 2018 –
Clauses considered and approved**

1515 **Clerk:** A Bill for an Act to provide for the extradition of persons pursuant to any Conventions, Treaties, bilateral or multilateral agreements that apply to and have been extended to Gibraltar or any extradition arrangement or agreements which have been entered into by the United Kingdom and extended to Gibraltar and for connected purposes.

Part 1, clauses 1 to 4.

1520 **Mr Chairman:** Stands part of the Bill.

Clerk: Part 2, clauses 5 to 74.

Mr Chairman: Stands part of the Bill.

1525 **Clerk:** Part 3, clauses 75 to 85.

Mr Chairman: Stands part of the Bill.

1530 **Clerk:** Part 4, clauses 86 to 102.

Mr Chairman: Stands part of the Bill.

Clerk: Part 5, clauses 103 to 123.

1535 **Mr Chairman:** Stands part of the Bill.

Clerk: Schedules 1 and 2.

1540 **Mr Chairman:** Stand part of the Bill.

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

**Terrorism Bill 2018,
Animals in Travelling Circuses Bill 2018,
Mutual Legal Assistance (Council of Europe) Bill 2018,
Extradition Bill 2018,
Gambling (Amendment) Bill 2018 and
Port Operations (Registration and Licensing) (Amendment) Bill 2018 –
Third Readings approved: Bills passed**

Mr Speaker: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to report that the Terrorism Bill 2018, the Animals in Travelling Circuses Bill 2018, the Mutual Legal Assistance (Council of Europe) Bill 2018, the Extradition Bill 2018 and the Gambling (Amendment) Bill 2018 have been considered in Committee and agreed to with some amendments, and I now move that they be read a third time and passed.

Mr Speaker: I will now put these five Bills as a package and then we will proceed with the last one.

I now put the question, which is that the Terrorism Bill 2018, the Animals in Travelling Circuses Bill 2018, the Mutual Legal Assistance (Council of Europe) Bill 2018, the Extradition Bill 2018 and the Gambling (Amendment) Bill 2018 be read a third time and passed. Those in favour? (**Members:** Aye.) Those against? Carried.

1545 **Hon. Chief Minister:** I move that the House divide, Mr Speaker.

Mr Speaker: You do not wish to have ...? There is a Bill ...

Hon. Chief Minister: Sorry, have you put the Port Operations ...?

1550

Mr Speaker: The Port Operations Bill separately – division?

Hon. Chief Minister: Yes, that is why I moved that the House should divide now when you are going to put it.

1555

Mr Speaker: Very well, yes. A division will now be taken on the Port Operations Bill.

Clerk: P J Balban. (**Hon. P J Balban:** Aye.) R M Clinton (**Hon. R M Clinton:** Abstain.) J E Cortes. (**Hon. Dr J E Cortes:** Aye.) D A Feetham. (**Hon. D A Feetham:** Abstain.) J J Garcia. (**Hon. Dr J J Garcia:** Yes.) M D Hassan Nahon. (**Hon. Ms M D Hassan Nahon:** Yes.) A J Isola. (**Hon. A J Isola:** Aye.) G H Licudi. (**Hon. G H Licudi:** Yes.) S E Linares. (**Hon. S E Linares:** Aye.) L F Llamas. (**Hon. L F Llamas:** Abstain.) E J Phillips. (**Hon. E J Phillips:** Abstain.) F R Picardo.

1560

Hon. Chief Minister: I think it is our duty always to decide, Mr Speaker. Aye.

1565

Clerk: E J Reyes.

Hon. E J Reyes: I abstain, Mr Speaker.

Voting resulted as follows:

FOR	AGAINST	ABSTAIN	ABSENT
Hon. P J Balban	None	Hon. R M Clinton	Hon. Sir J J Bossano
Hon. Dr J E Cortes		Hon. D A Feetham	Hon. N F Costa
Hon. Dr J J Garcia		Hon. L F Llamas	Hon. T N Hammond
Hon. Ms M D Hassan Nahon		Hon. E J Phillips	Hon. Miss S J Sacramento
Hon. A J Isola		Hon. E J Reyes	
Hon. G H Licudi			
Hon. S E Linares			
Hon. F R Picardo			

1570 **Mr Speaker:** There are four Members absent, 8 have voted in favour, 5 have voted against. Therefore, the Bill has received a Third Reading and is carried.

Hon. E J Reyes: Mr Speaker, you said they voted against; it was an abstention, no?

1575 **Mr Speaker:** Did I say that? Let's clarify that. There are 8 votes in favour, five abstentions – my apologies – and four Members are absent, so the Third Reading has been carried by majority and therefore I put that it be read a third time and carried.

Chief Minister.

Hon. Chief Minister: Mr Speaker, having dealt with considerable legislative business today, I move that the House should now adjourn to next Thursday at 10 a.m.

1580 I can tell hon. Members that it is the intention of the Government to then be able to deal with all questions still outstanding. I hope to be able to conclude the session with all questions dealt with by the end of Friday at the latest, so that we can adjourn *sine die* and start next year afresh, conscious of the fact that we have banned the travelling animals but that we can bring on the clowns next Thursday at 10 a.m.

1585 **Mr Speaker:** The House will now adjourn to next Thursday, 20th December at 10 in the morning, when we shall be going into Question Time.

The House adjourned at 5.51 p.m.