



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.36 p.m. – 5.17 p.m.

Gibraltar, Friday, 23rd February 2018

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# The Gibraltar Parliament

*The Parliament met at 3.36 p.m.*

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

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

## PRAYER

*Mr Speaker*

## IN MEMORIUM

### Tribute to former Member, Mr Aurelio Montegriffo

**Clerk:** Meeting of Parliament – Friday, 23rd February 2018.

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

5

**Chief Minister (Hon. F R Picardo):** Mr Speaker, when a person who has served this nation in this place passes, it is incumbent on us, however long ago he may have graced this Chamber with his presence, to remember what it is that his contribution was to the development of our country. This week, we had over the weekend the sad news of the passing of Aurelio Montegriffo, a man who in the time that I have been politically conscious, after he had retired, was well known to all in Gibraltar of his generation as the first Gibraltarian Minister for Health.

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In the tributes that I have read, written by those who shared time with him in this Parliament and the memories shared of his time in this Parliament, he is not just a man who was Minister for Health, he is also a man who was very highly regarded across the community, even across the political divide. Mr Speaker, I think it is right to say that you were his closest political colleague still in this House, but the Father of the House, who is not with us this afternoon, has had fond memories to recall also of Aurelio Montegriffo although he sat opposite him in this House.

15

You will make your own tribute and you have already said some things, Mr Speaker, that indicate the affection that you had for Mr Montegriffo and the regard you had for his political ability. From this side of the House, on behalf no doubt, of the whole community and of the whole of this House, our condolences go to his family.

20

It is true, Mr Speaker, that we all build on the work that those who have come before us have done. In the context of somebody who passes away at the age of 97, I am left to reflect that this is a man of my own father's generation: of the Gibraltarians who were in Gibraltar before the war and when the war came, they were not taken from Gibraltar, they remained in Gibraltar to defend Gibraltar and from their efforts before the war, they started to build, as we saw the return of the Gibraltarians to Gibraltar, a community that would become a nation.

25

We owe them that forever. *(Banging on desks)*

30

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

**Hon. E J Phillips:** Mr Speaker, there is little that I can say about the late Aurelio Montegriffo CBE, former Minister for Medical and Health Services and former Deputy Chief Minister, that has not already been said by those who knew him well and who had the opportunity to engage with him. It would be ineloquent of me to reflect on a life of contribution and achievement in relation to matters which took place long before I was born and where so many in our community have contributed to numerous eulogies and reflections of one of Gibraltar's sons.

In my quest to learn more about Aurelio's contributions to this House, I discovered that not only was he a man of deep conviction and faith, he was a staunch defender of Gibraltar. Aurelio's family have rightly and importantly, via traditional and social media, reflected on a full life lived well.

It does, however, fall on me in my contribution to ensure that on this side of the House, the Parliament reflects on Aurelio's life and his contribution to our political development as a community. I will simply refer to his journey as passing in what he stood for, his values and his deep faith.

I never knew Aurelio, but I suspect that I have missed out, on not knowing him.

In my research and looking into some of our old *Hansards* I notice that from Thursday, 30th October 1969, Aurelio made a passionate contribution to the then constituted House of Assembly on a motion brought before this House on the subject of initiating talks between the Government of Gibraltar and the British Government on the question of UK Citizenship.

Aurelio said:

We, as I have said before, have agreed very forcibly with the rest of the Members of this House, and I am sure with the rest of Gibraltar, that Gibraltarians have a right, not only because of the situation prevailing in Gibraltar, not only because of the square miles, but because, Mr. Speaker, we have thrown in our lot with Britain too. We have done our part in the Referendum. Therefore, Sir, we must initiate these talks, not as beggars begging for something – even a concession, – it is something we are entitled to. We have not only thrown in our lot with Britain but we share our land with Britain. We give her facilities of a base; we give her our workers to help in those facilities and, if I may say, *en passant*, the sweat and labour of our workers at not a very high price, because we all know too well we have been in this struggle [...] So, Sir, we must initiate these talks with the understanding that we are going to fight, and fight it all the way.

Mr Speaker, in my further research, I discovered that his very first question in the House of Assembly as it was then, and as he was then an Opposition Member, was in relation to the provision for people with mental health issues. That for me revealed much about the man and his clear ability to navigate Gibraltar internationally and on the domestic agenda. It is impressive to note that we as a community are rightly putting much emphasis now on mental health, which for many has been a taboo for many, many years and understanding Aurelio's concern for its provision in 1969, demonstrates his commitment to the health of our community and to tackle an important issue.

Mr Speaker, I could go on about Aurelio's contribution to this House, but I have purposely made out two examples which demonstrate his staunch defence of our community and his empathy on important domestic issues such as mental health.

Aurelio was clearly a politician of his time and although political flags move in the wind, Aurelio's values and what he stood for stand the test of time. I do like to think that the same inbuilt humanity and passion and drive for bettering our community exists in this House today as it did in Aurelio's time. Aurelio does, I think, represent a political class which the current crop of politicians on both sides of this House have much to learn from. Gibraltar indeed is a different place to when Aurelio was a politician. Our challenges are different and in many ways are more complex and are the product of an evolution of our community, but we can learn many lessons from our forefathers.

It is important to ensure that our young people, Mr Speaker, know about the political journey, not only of our community but of those individuals who are pivotal in their development. One suggestion I would have to the Government is trying to make politics more accessible to young people, by looking at the personalities behind the politics and making it easy

75 for our young people to digest them and identify the struggle that Aurelio described in his contribution for example, to the UK Citizenship debate in 1969.

In celebrating the life of Aurelio, we celebrate Gibraltar. In celebrating Aurelio's political achievements, we celebrate Gibraltar. They go hand in hand. It is right that Aurelio's children, grandchildren and great grandchildren celebrate a life well lived as a family and record his contribution to public life in this way. I would like to express on behalf of Her Majesty's Opposition not only our condolences to the family, but also our genuine and sincere gratitude for sharing a significant part of Aurelio's life with his homeland. (*Banging on desks*)

**Mr Speaker:** The Hon. Ms Marlene Hassan Nahon.

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**Hon. Ms M D Hassan Nahon:** Mr Speaker, when I heard of Aurelio Montegriffo's passing in the early hours of Sunday morning, I felt like I had lost another piece of my father, because since losing my father at the tender age of 21, and hearing the stories of the development of our nation ever since from his peers and contemporaries, I learned how crucial members of his political family had been to him, both politically and personally. And naturally, Mr Speaker, Aurelio Montegriffo was one of my father's closest, political and personal allies during his long and substantial political journey.

90 Mr Speaker, Aurelio Montegriffo is the last of the AACR founder members to leave us – the end of an era one could say. An era of men and women of pure conviction, serving at a time when there was no precedent or template to follow. A time when foundations were being laid and existential battles were being fought. Aurelio Montegriffo was one of our pioneers, our defenders, our forefathers and therefore we as a society must reflect on this and make known our eternal gratitude to him for securing our democratic platform that we take for granted today.

100 As Deputy Chief Minister, he offered Sir Joshua Hassan an invaluable and solid co-stewardship of our community at a time when my father would so often feel isolated and shunned by the external forces trying to play a part in our destiny.

In those days, Mr Speaker, it was all about purpose. Today, there is intrigue, intel, hearsay, technology, self-interests and a barrage of factors, including apparently even the Russians, Mr Speaker, that influence and play with our decision-making processes. In those days, Mr Speaker, it was about conviction, conviction and more conviction.

110 Health, Mr Speaker, is one of those things in life that binds us all. It knows no parties, it knows no sides. It is the one portfolio that we are all invested in. Other portfolios can benefit many or a few, but health is the one issue that we all depend on and Aurelio Montegriffo had the foresight to understand the magnitude of delivering this essential service to our citizens and to our society at a time when Gibraltar was far from being the wealthy state that it is today.

Aurelio had the vision to provide Gibraltar with the first primary care centre known then, and even still by many known today, as the Health Centre, as well as to extend a much-needed section to the original St Bernard's Hospital.

115 These accomplishments would have certainly enhanced the quality of life and even the life expectancy of so many of our citizens at the time because of course, it follows that having a dedicated health centre and better facilities at our hospital would have translated to an overall better and more sophisticated level of general healthcare in our community. And for this, we have Aurelio Montegriffo to thank, Mr Speaker.

120 Mr Speaker, my father always used to tell me that we have to hope to get lucky not just in life but also even in death, and Aurelio Montegriffo did not have an untimely or painful death. Last Sunday, Mr Speaker, Aurelio Montegriffo had peacefully died in his sleep, had lived for almost ten decades and had been a pivotal part of a collective that shaped our democracy in the harshest times of our political history.

125 Aurelio died a committed husband and father of six on 18th February 2018, leaving 18 grandchildren and 18 great grandchildren. It was incredible to see that the number 18 was all

around Aurelio, Mr Speaker, because a religious, God-fearing Christian like him might have known that in the Old Testament, the numerical value in Hebrew of 18 translates to the words 'God' and 'life' and is time and time again associated with luck, health, positivity and fruitfulness.

130 Mr Speaker, just like the number 18, Aurelio Montegriffo was all of these things and equally we, as a society, have indeed been as lucky as the number 18 to have had this exceptional man in the front line, shaping our political development to the proud nation that we are today.

Thank you. (*Banging on desks*)

135 **Mr Speaker:** The Hon. Dr Joseph Garcia.

**Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, I would like to add my own tribute. I was fortunate enough to have met Aurelio Montegriffo in the old days of the *Gibraltar Evening Post* when I was still a child.

140 I think he has shown and his political trajectory shows that he is one of those historical political figures of Gibraltar, somebody who, like many others, were born in the heyday of the AACR and who cut their teeth in that political organisation and indeed who participated actively in the political and constitutional changes which followed very rapidly since the end of the Second World War – so the City Council, the Legislative Council and later on, the House of  
145 Assembly.

So I think one thing which people will know about him, those who knew him, is his very human approach to politics and that sense of humanity which sadly is sometimes is lacking in politics in general. But at the age of 97, I think that people will agree, however painful, it was perhaps a good innings and that certainly he has made his mark in the political and  
150 constitutional development of Gibraltar.

So I pay my own condolences to his family. (*Banging on desks*)

**Mr Speaker:** Yes, the Hon. Lawrence Llamas.

155 **Hon. L F Llamas:** Mr Speaker, I did not have the privilege of knowing Mr Aurelio Montegriffo. Nevertheless I am acquainted with many of his descendants, some of whom are here today and others who are not here. What is definitely true from his life is that you know more about the person when they pass away, and that is sad, about the legacy that they leave, than when they have been alive. Obviously, that is as a result of the age gap between some politicians who are  
160 here today and when he was serving.

Nevertheless, Mr Speaker, what I have learned this week from the late Aurelio Montegriffo is what a genuine and loving person he was, as much as he cared for his family, but also the deep respect he had within his faith.

165 I would like to pass my condolences officially to the family who are here today and represented, and obviously join and echo what has been said already from Members in this House contributing to his tribute. (*Banging on desks*)

**Mr Speaker:** Any other Members? The Hon. Neil Costa.

170 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I too unfortunately never met Aurelio and the House has discussed already the many excellent attributes he had as a politician and as a family man. Therefore, there is very little for me to add, except to say that many of the foundations that we take for granted today in our health services were in fact laid by Aurelio.

175 The Hon. Ms Marlene Hassan Nahon has spoken about the fact that he started the Health Centre and indeed he inaugurated it in June 1973 and all of us today will take for granted the fact that we have an outstanding Primary Care Centre and that, as the hon. Lady has said, health is one of those issues that touches all of us at one time or another in our community.

180 But it is not only the Health Centre which Aurelio envisaged and which he inaugurated. To his credit, he also started another foundational block of the Health Service, which is the GPMS scheme and that also occurred during his tenure, so that we have a system whereby we are prescribed medicines in the Health Service and that was all down to the Act which he enacted as Minister for Health in 1974.

185 So in two consecutive years, a primary Health Centre and the GPMS – again another foundational block of a health system which we all take for granted today, but which I think the record of this House should reflect is thanks and due to the vision of Aurelio Montegriffo.

190 But Mr Speaker, there is also yet another revolutionary foundation block which he also instigated, which is the Sponsored Patients Programme, which he started in 1974 during his tenure for Minister for Health. So my predecessor, Dr John Cortes and myself have to thank him for having laid those foundational blocks which have allowed all of us today to receive the health care free at the point of delivery, which we take for granted but which we all I think must agree must pay tribute to his efforts, to his vision and for laying those foundations which provide today the health system that we have today.

195 So I wish to associate myself with all of the words that have been spoken here in remembering Aurelio Montegriffo and to pay my condolences to his family. *(Banging on desks)*

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

200 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, I have very little to add to all the things that have been said here today, except for one thing. Being I think the oldest elected Member present here today, I did know Aurelio Montegriffo. He was a close friend of my late father and his name was very often mentioned at home. I remember visiting his office on more than one occasion with my father when I was a child.

205 What I want to say, Mr Speaker, is nothing more than this. Everything that everybody here in this Chamber has said about him, for the people who did not meet him, I can confirm was absolutely true. *(Banging on desks)*

**Mr Speaker:** Anybody else?

210 Listening to hon. Members, it just struck me for the first time that the fact that I am sitting here today, I probably owe to Aurelio Montegriffo since he, more than anybody else, was the person that opened the door to my entrance into Gibraltar politics back in 1963.

215 I first came across Aurelio Montegriffo when I was about 10 years old. My family moved to Willis's Road and we lived a couple of floors below Aurelio, Lourdes, and his already growing family. Then in 1963 when I returned from University, it was through him that I was invited to join the executive committee of the AACR. Then of course, in 1972, we both came into Government when we defeated the Integration With Britain Party in 1972.

220 Aurelio, I have already paid tribute to his qualities as a journalist and as a politician, a man of great ideals and commitments. His ideals as part of the philosophy of the AACR, his ideals of Gibraltarianisation, that the Gibraltarians were fit and proper people to take over the management and the running of Gibraltar, his commitment and nurturing of the campaign for recognition to the right to our land, Gibraltar belongs to the Gibraltarians – these are matters which he always pursued most ably in the columns of the *Gibraltar Evening Post*.

225 Then our friendship grew and developed from 1963 onwards and throughout the last six decades as we shared many similar hopes and ideals.

Another thing that happened in 1972 was that my brother-in-law, my wife's brother, married Aurelio's only daughter and they are our neighbours and so my wife and I, we feel part of that extended family that are the Montegriffos here today.

230 Finally, as I say, going back over these six decades, I share very many happy memories of Aurelio. May he rest in peace. *(Banging on desks)*

The Hon. the Chief Minister.

**Hon. Chief Minister:** Mr Speaker, before we end on this subject, can I just quickly reflect that I did not realise that Mr Montegriffo lived in Willis's Road. Interestingly, therefore, that makes Willis's Road a place which has had one Chief Minister and two Deputy Chief Ministers, like Buena Vista Road has had.

Not that that is relevant in any way but it is relevant to say that the fulsome gratitude that has been expressed here today to Mr Montegriffo for his contribution and to his family is a reflection of the character of the man and the love that Gibraltar had for this particular servant.

If I could for just one moment reflect that *The New People*, which is not a newspaper that has been known for its praise of the record of the AACR, (*Laughter*) nor indeed those who pretend to be its successors, carries a very fulsome obituary, a very generous obituary of the man, which I think recognises that affection across the political divide that must be a characteristic that we must seek to carry forward. Today, Mr Speaker, as we turn to debate and we characterise each other in less than perhaps as friendly terms as we might, we must bear that in mind as we go forward.

So, Mr Speaker, I would like to thank all hon. Members for the contributions they have made in this House to reflect the contribution of Mr Montegriffo and see the power that a Montegriffo/Hassan partnership had brought before this House before, and hope we never see one again. (*Laughter*)

## Order of the Day

### BILLS

#### FIRST AND SECOND READING

#### **Pensions (Amendment) Bill 2016 – First Reading approved**

**Clerk:** We now move to Bills.

A Bill for an Act to amend the Pensions Act and Pensions Regulations.

The Hon. the Chief Minister.

255

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

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

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**Clerk:** The Pensions (Amendment) Act 2018.



**Pensions (Amendment) Bill 2016 –  
Second Reading approved**

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

Mr Speaker, this Bill amends the Pensions Act and the Pensions Regulations. The Bill gives effect to the agreement entered into by the Chief Secretary, the Gibraltar Port Authority and Unite the Union, to make port officers an essential service akin to fire, prison, police and  
270 customs officers and which commenced on 1st April 2016.

Port officers of a marine grade, with the exception of the Captain of the Port, who were transferred from service under the Government to the Port Authority, and to whom the Pensions Act applies, will receive all the benefits attributed to essential services. This includes officers receiving a pension rate of 2/600ths of his pension emoluments between his 20th and  
275 27th year of service as a port officer, in accordance with regulation 4(1) of the Pensions Regulations, commonly referred to as the 'doubling up rate'.

Furthermore, like the other essential services, port officers will have their compulsory retirement age set at 55 years. Those measures will be deemed to have applied to all port officers as from 1st January 2018.

280 Officers who retired between 1st April 2016 and the 1st January 2018 are entitled to similar benefits in accordance with the terms of the early exit scheme agreement approved by the Financial Secretary. Like other essential services, port officers will benefit from not paying tax on their pensions as from the age of 55. This will be implemented by way of amendment to the Income Tax (Allowances, Deductions and Exemptions) Rules, 1992.

285 Mr Speaker, we will also be moving amendments to the Bill at Committee Stage. An amendment is required to change the year cited in clause 1 of the Bill, because the Act shall now be known as a Pensions (Amendment) Act 2018 when it becomes an Act.

A further amendment is required to give this Bill retrospective effect as from 1st January 2018, which was the date when the provisions were meant to apply to all port officers. As this  
290 date has now passed, amendments to clause 3(4) are required and clause 4(3) can be deleted in its entirety.

Lastly, amendments have been made to remove the Assistant Chief Fire Officer and the Deputy Commissioner of Police from the definitions of 'fire officer' and 'police officer' respectively so that only the heads of department are excluded from the definitions. In any  
295 event, the two posts that have been removed from the definitions actually no longer exist.

I therefore commend the Bill to the House.

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

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

**Clerk:** The Pensions (Amendment) Act 2016.

**COMMITTEE STAGE AND THIRD READING**

**Pensions (Amendment) Bill 2016 –  
Committee Stage and Third Reading to be taken at this sitting**

305

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

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

**Mr Speaker:** Would the Chief Minister formally move that the House resolve itself into Committee.

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**Hon. Chief Minister:** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bill clause by clause, namely the Pensions (Amendment) Bill 2016.

*In Committee of the whole House*

**Pensions (Amendment) Bill 2016 –  
Clauses considered and approved**

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**Clerk:** A Bill for an Act to amend the Pensions Act and Pensions Regulations.  
Clause 1 as amended.

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

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**Clerk:** Clause 2 as amended.

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

**Clerk:** Clause 3 as amended.

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

**Clerk:** Clause 4 as amended.

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

**Clerk:** The long title.

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

**Pensions (Amendment) Bill 2016 –  
Third Reading approved: Bill passed**

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Pensions (Amendment) Bill 2016 has been considered in Committee and agreed to with amendments, and I now move that it be read a third time and passed.

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

**GOVERNMENT MOTIONS**

**Select Committee on Brexit –  
Increase in committee membership –  
Motion carried**

**Clerk:** We now move to Government Motions.  
The Hon. the Deputy Chief Minister.

350

**Mr Speaker:** Yes, the Hon. Dr Joseph Garcia.

**Deputy Chief Minister (Hon. Dr J J Garcia):** Yes, Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

*THIS HOUSE:*

*RECALLS the establishment of a Select Committee on the UK and Gibraltar's departure from the EU known as "Brexit";*

*HEREBY RESOLVES that The Hon P Balban and The Hon L Llamas be added to the membership of that Committee.*

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Mr Speaker, the motion is self-explanatory. I do not propose to add anything further to it.

**Mr Speaker:** I now propose the question in the terms of the motion moved by the Hon. the Deputy Chief Minister.

The Hon. the Leader of the Opposition.

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**Hon. E J Phillips:** Mr Speaker, it is unfortunate that the Government's rationale for altering the composition of the Brexit Select Committee has not been fully explained to Members on this side of the House.

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The Gibraltar Social Democrats is the only political party represented on this side of the House. We occupy five out of the seven seats. All seven Members on this side of the House participated in the 2015 General Election under the same GSD banner and supported our programme for Government.

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Our community decided that we should form Her Majesty's Loyal Opposition and we are proud to serve our community in Opposition and aspire, with the support of our community, to govern Gibraltar. It is a great privilege, Mr Speaker, and responsibility to serve our community in the role of Opposition and we do so with pride and respect.

Mr Speaker, Opposition is not easy. It requires us to hold the Government to account and we are required to challenge their decisions and robustly test their policies. There is a time when

375 the greater good and the public interest of our community means that we must put aside our  
differences, swallow our pride and do what is right for the wider and sometimes unseen  
interests of Gibraltar as a whole. My colleagues in and outside this place will always put Gibraltar  
first.

380 The decision of the UK to leave the EU was not one that we as a community shared or agreed  
with, but it is one which we must accept. The world did not stop turning and we must get on  
with the job we have been elected to do. We must ensure that Gibraltar continues to succeed in  
the context of international challenges to our way of life. Gibraltar will survive. There is no  
question that we will overcome the challenges Brexit presents to us. I for one, although  
disappointed that we are being dragged through this process, see it as an opportunity for us to  
refocus on the domestic agenda and our people.

385 Of course, no one doubts that the Government should be doing everything it can to ensure  
Gibraltar's survival, but we must not forget the people who we do this work for. We cannot  
forget those in whose name we act for in and out of this place. They are people with real  
concerns about education, health, housing and skills training, to name a few.

390 We will support the Government on areas of common interest and put Gibraltar first.  
However, we cannot support the Government on a motion when they are demonstrably playing  
party politics in relation to the composition of this important committee. It is clear to us that,  
despite what anyone says, they will force this issue in without any real analysis and without any  
explanation.

395 I know that Members opposite are fond of comparing us to the UK from waiting numbers at  
hospitals, to education and in that vein, perhaps they should look at how select committees are  
comprised in the UK. In its brief guide to select committees published on the UK Parliament  
website, the principle is that the membership of committees reflects the party balance in the  
House as a whole, meaning that a majority of each committee will be MPs from governing party  
or parties.

400 I remind the House that it was on this principle, the principle that composition should reflect  
the composition in this House, that the Government brought a motion establishing the Brexit  
Committee in the first place, in August 2016, and it is on this basis that we supported the August  
2016 motion. In fact, Mr Speaker, it was the Hon. Chief Minister when bringing the August 2016  
motion who recited the following: 'believes that the composition of the select committee should  
405 reflect the composition of the House.'

In the debate on the motion of 7th October it was the Hon. Chief Minister himself who made  
the following observations on composition of the Brexit Committee namely – quoting the Chief  
Minister:

Mr Speaker, the one thing that I think is important is that I explain why the composition would be four, two and  
one. In the context of select committees the Government will have always an inbuilt majority, and, in order to  
ensure that the committee stays nimble and small enough, the only way that we would be able to have an inbuilt  
majority if it were bigger would be to have five Members of the Government, three Members of the Opposition,  
and the Hon. Lady, because we think the Hon. Lady, as an independent parliamentarian, should be represented in  
that select committee. That would mean that the Parliament would be meeting with almost half its Members in  
select committee – there would be eight of us – so, in order to keep it nimble and try and reflect the numbers  
opposite, the only way we can do it is to do three and therefore four on our side, if the Hon. Lady is going to be  
one on the other side. Of course, the other way to do it is to keep it three on our side, the Hon. Lady, and just one  
of the Members representing the party opposite. We thought that would be less representative, so that is why we  
are proposing four, two and one, to keep it nimble in that way.

410 Mr Speaker, it is on this basis that I wrote to the Hon. the Deputy Chief Minister in response  
to his motion currently before this House, changing the composition of the Brexit Select  
Committee and consistent with ensuring that committees are nimble, that the current  
composition remain or that, should an addition be made, that the official Opposition should also  
be provided a further seat in that form.

415 We make this point as the only Opposition party and the Members who hold the majority on this side of the House and it is our view, that should properly be reflected in the select committee of this House, as has always been the case.

420 To try to construct this in any other way is an attempt to eliminate and denigrate our contribution as the elected official Opposition of Gibraltar. It is not right and it reflects very badly on the GSLP Liberal Government's supposed democratic credentials. It is telling that both the Select Committees on Parliamentary Reform and Constitution Reform have not sat for two years since their establishment by this House. It is a shameful reflection of its purported support for democratic reform.

425 We also suggest that the Government, consistent with further observations by the Chief Minister in the previous debate, could at any stage brief other Members of Parliament at any stage. The Hon. the Chief Minister will recall that, at page 26 of the debate on the 2016 motion, that he himself said:

But hon. Members should know that we do intend to advise them, even without the select committee, of such aspects of the discussion and negotiation ...

Mr Speaker, the Chief Minister went on to cement what he was saying by saying:

but that the hon. Members should be briefed, they will be, select committee or no select committee.

Mr Speaker, what are we doing here? To recap:

430 (1) The official Opposition has five out of seven Members on this side of the House and over 5,000 people voted for us to be in this House. We are the majority and the only Opposition Party in this House.

(2) The Chief Minister is on record as having stated that select committee composition should reflect Parliament's composition.

435 (3) The Chief Minister, is on record, has stated that the independent having the same number as the official Opposition would be less representative.

(4) The Chief Minister is on record as having stated that he could utilise briefing to Members of this House, select committee or no select committee.

440 Mr Speaker, the Chief Minister's clear change of position on all four points smacks of playing party politics with the most important duty and responsibility that he is charged with, namely safely navigating Gibraltar's exit from the European Union.

I call on him to abandon the motion, under Standing Order 22, which has little to do with protecting our community and more to do with him and his petty crusade against the Opposition. (*Banging on desks*)

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

**Chief Minister (Hon. F R Picardo):** Mr Speaker, what a petty crusade I have just heard the hon. the subordinate to the Leader of the Party that is the Official Opposition, namely the Leader of the Opposition, embark upon, to seek to exclude an independent Member of this Parliament from a Select Committee of the House.

450 I think it is probably the only time in the history of democracy in the world that an opposition has argued for *less* involvement from members of opposition benches in the work of a parliament. It could not happen in a dictatorship, because in a dictatorship the government is the one that is excluding the opposition, but in this democratic society in which we operate, in these complex and difficult times, the Government is seeking to include *more* Members of the Opposition benches in the determinative work that we are doing in respect of the future relationship that we will have with the European Union.

And the leader of the official Opposition – not even the Leader of the Opposition; the Leader of the *official* Opposition – makes an argument to keep fellow parliamentarians out of a select

460 committee process, because he says we can brief them anyway. Of course we can brief them  
anyway, but the Select Committee is about briefings and other things too. It is about making  
decisions together when the time comes.

That is why ... The Hon. Mr Llamas knows that he and I sometimes have very big  
disagreements, Mr Speaker. We probably have many more disagreements than we have  
465 agreements. In this Select Committee, he may come in to disagree with us – because we do not  
know what attitude he is going to take, because we do not know what we are going to put to the  
Select Committee yet – but we think he should be there.

How can it be right to try, as parliamentarians – forget the fact that we sit on this side of the  
House as Government and they sit on the side of the House over there as Members of a  
470 fractured Opposition – how could it be right to try to exclude a parliamentarian from a select  
committee process? I would have thought the argument was to *include* more parliamentarians  
in the process.

But of course, we are a small Parliament and we have to be careful not to find ourselves in a  
situation where the whole Parliament is sitting as a select committee of the Parliament. But,  
475 Mr Speaker, we have to have an inbuilt majority in a committee where we are going to make  
decisions. We owe that to the result of the last General Election and we feel that it is right,  
proper and appropriate to include Independent Members in that decision-making process.

Now, Mr Speaker, we have been accused of many things unfairly, but never, never with the  
lack of political logic that the hon. Member has for what he has got up and said in this House.  
480 Mr Speaker, I hope he is fast receiving WhatsApp messages from his Leader outside this place to  
try and get himself out of the mess that he has got himself into! Because it is impossible now,  
Mr Speaker, in the future for the hon. Member to say anything that will restore any democratic  
legitimacy to any argument he can ever make. It is absolutely impossible.

Let us look at the type of contradiction that the hon. Member has brought to this House,  
485 both being Leader of the official Opposition and before his Leadership of the Opposition, to  
judge the logic of what he says now.

The hon. Member has said to us, alongside his former leader, when we were facing the result  
of the referendum, that the Government should stop work on everything and concentrate just  
on Brexit. Today, Mr Speaker, he has told us that Brexit should not stop us from continuing our  
490 national political agenda. That is the sort of black-and-white thing that the hon. Gentleman will  
say and not even blush. He will go from black to white without going red. It is really quite  
incredible, Mr Speaker! It is quite incredible. This community deserves better. It deserves a  
better and more mature political debate in these difficult and challenging times than a  
purported defender of the Parliament getting up to seek to exclude a fellow parliamentarian  
495 from an opportunity to discuss and debate the future of this community in a select committee.

Mr Speaker, I do not think that if you were seeking to do petty partisan politics, you would be  
excluding parliamentarians who represent independent views from a process of debate. If you  
were trying to do petty partisan politics, you would not have included any of the Independents  
in the select committee; you would simply have said, 'Right, you are the Opposition, you have  
500 got two, we have got three – let us get on with it quickly.'

It is absolutely the opposite of what the hon. Gentleman has said that we are actually seeking  
to do, because it is obvious – the hon. Gentleman said, 'We have got 5,000 votes' – well, it is  
obvious that the 5,000 votes were not for him, Mr Speaker. They might not even have been for  
the person who at least had the gumption to lead the party at the election. I hope he is not  
505 claiming those votes for the person who now leads the party, who was not even a Member of  
the party at the time they got those 5,000 votes.

But those 5,000 votes, Mr Speaker, would in some measure have been for the hon. Lady. She  
came second in the ranking of those 5,000 votes. That means, Mr Speaker, in any democracy,  
she is the second biggest vote winner on the other side, Mr Speaker; not him. (**A Member:** Hear,  
510 hear.)

And the hon. Gentleman may have just been the 17th Member to caress the list of those elected, but he is nonetheless an important part of the team elected opposite – except that he is no longer a Member of that team. But he is also entitled to claim the credit for his votes – these are the people that he represents.

515 Now, we may have a party system but the hon. Gentleman may wish to reflect upon the fact that each of us has been elected individually, with the votes individually of members of this community. And the Hon. Mr Llamas, although I might disagree with what he says and what he does with those rights of representation that those votes give him, has been elected with a large share of those votes. I cannot actually remember the numbers, Mr Speaker – I think it was just  
520 18 more than somebody who thought that they would have been first but it was more than the person who came 18th. Therefore, Mr Speaker, an argument that seeks to exclude somebody like that from the position advanced by the Government, which is an inclusive one, is not an argument that can be said to be based on any attempt to extend democratic legitimacy in a representative democracy like ours.

525 Now, Mr Speaker, I said all the things the hon. Gentleman has read from *Hansard* about being nimble, with the situation that I was presented with – except, Mr Speaker, that the fracturing of the official Opposition as much as it has fractured up to now – up to now – means that we are less nimble. We were dealing with one party first and there was another as Government on this side, Mr Speaker, with two parties but acting as one Government. So one  
530 and one suddenly became one and two. Now it is one and one and one, Mr Speaker. We find ourselves, Mr Speaker, with three Oppositions. When it comes to education, we deal with all of them separately, some of them together, one of them doing ...

Mr Speaker, this is really a nightmare for the Government! In the old days, I almost miss the hon. Gentleman and his aggressive press releases. There was one coming and one back, one  
535 coming and one back. Now there are three coming and there has got to be three back! (*Laughter*) This is the reality that the breakup of the GSD has visited on our community. But to say that we have to pander to that breakup and that we have to ignore the fact that there are others who have different views, on something as fundamental as Brexit, is really frankly just not acceptable.

540 Mr Speaker, look, we have just seen how the Leader of the party opposite not in Parliament has sought to change the way that the rules on broadcasting should be changed as a result of the circumstances in which they have put themselves. Well, Mr Speaker, that was rightly not agreed to by the GRA, on the unanimous response of everyone who was not in the GSD who was asked for a point of view, Mr Speaker.

545 Indeed, I seem to recall that was the view expressed by Mr Llamas and I wonder, Mr Speaker, whether the very unparliamentary and contra-democratic approach taken by the Hon. the Leader of the official Opposition today is not a vindictive attempt to pay back Mr Llamas for the response he gave to the Gibraltar Regulatory Authority on the attempt by the Leader of the GSD to try and change those rules.

550 But, Mr Speaker, all of the answers are in the way that we have to address each other. The Hon. Mr Phillips is today in Parliament, although not the Leader of the GSD, the Leader of the official Opposition; and there are others in Opposition. We will make a decision in the Brexit Select Committee about things we may put to this Parliament, Mr Speaker and we will make it with the official Opposition and with the Independents, who also represent the voice of the  
555 community in however small a way, however deprecatory I have to be about it on other instances, but it is absolutely right that they should form part of that decision-making process.

That is why, Mr Speaker, the motion brought by the Hon. the Deputy Chief Minister enjoys my full support and it will of course enjoy the support of the Government. It was something that we considered in Cabinet, Mr Speaker, and it is a motion which hon. Members may expect to  
560 see rolled out in respect of the other Select Committee issues that this Parliament is dealing with, so that the Select Committee decisions made in respect of those other matters are also

truly representative and inclusive of the views, even if I disagree with them, of hon. Members who represent independent opinion in this House.

And if I may say so, Mr Speaker, I am grateful to the Hon. the Leader of the official Opposition for the way that he has represented the view he has expressed in this House today, because never again in any debate will hon. Members be able to claim the mantle of democratic legitimacy and/or indeed, Mr Speaker, to pretend that they are truly parliamentarians at heart. What they represent is an attempt to use this place for their own ends. They demonstrated it when they were in Government and they used the power of the Executive always to get away with it and they thought, Mr Speaker, they would be able to get away with it in Opposition too, and exclude Independent Members.

They have fallen apart already and lost two, Mr Speaker. I would not be surprised if that was not the end to it. *(Banging on desks)*

**Mr Speaker:** Does any other hon. Member wish to – ?  
The Hon. Marlene Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Mr Speaker, I have to say I have been really surprised by this intervention by the GSD, I honestly did not expect it at all. I have no idea why the GSD would want to curb a voice when it suits them, while at the same time demand and consider it appropriate to be treated as an equal by the GRA, when they have a leader that is not an elected Member of the House. The double standards are totally palpable.

And as for petty crusades, Mr Speaker, I can talk a little bit about petty crusades. Petty crusades is, for example, when Members by my side over here try to get me kicked out of the reception when David Cameron came to town and other such examples which there are many of. *(Interjections)* Those are petty crusades, Mr Speaker, but curbing the voice of another independent speaker, whether they are with them or not, is just an addition to our democratic voice here in this Parliament. So I have no idea why this would even be an issue and I think it is a waste of parliamentary time.

I for one welcome an extra voice on these benches to the Brexit Select Committee.  
Thank you. *(Banging on desks)*

**Mr Speaker:** Is there any other contributor before I call on the mover to reply?  
The Hon. Daniel Feetham.

**Hon. Chief Minister:** Hear, hear! *(Laughter)*

**Hon. D A Feetham:** I can see that you have all missed me! *(Laughter)*  
Well, Mr Speaker, I had hoped to say either very little or nothing at all during the course of this debate, but I think that the contribution of the Hon. the Chief Minister has left me with no alternative but to rise and to give my own views on the matter.

The Hon. the Chief Minister referred to logic and what I would like to do is to examine through the cold calculus of logic some of the issues that are at stake in this debate, because I think what we are doing today is setting a very dangerous precedent indeed in simply inviting or electing somebody onto a select committee by dint of his status as an Independent Member of the House.

What I would like to do is to examine very briefly what the role of a select committee is, not only in Gibraltar but also elsewhere; then look at the question of ‘Who does Mr Llamas actually represent?’, because that lies at the heart of this debate. When we talk about somebody or a select committee being representative, we do not talk about a select committee being representative simply because somebody is in this House. A person represents people and I would like to examine more closely who exactly Mr Llamas represents.



615 And then finally, Mr Speaker, I would like to draw a distinction, even though she has been particularly ungenerous to me today, but I would like to draw what I believe is a distinction between the hon. Lady and the hon. Gentleman. I will conclude with that and I hope that I will be able to persuade Members opposite that it is not the right course of action. I will not hold my breath but nonetheless, let us examine some of the issues logically.

620 Mr Speaker, in the United Kingdom, select committees are convened on a cross-party basis – and I will return to the concept of cross-party – and provided by Parliament with a very specific remit in order to report back to Parliament on its findings. It is then Parliament that makes a decision on any recommendation made by the select committee. There is no question of anybody curbing a voice by not forming part of a select committee, because of course, the hon. Gentleman, Mr Llamas, will have as much of a say of what is recommended by the select committee as anybody else in this House, and nobody is trying to dampen or quiet or suppress the voice of Mr Llamas.

625 In the UK, although there are differences between the select committee here and the UK, because in the UK select committees are selected from the cadre of backbenchers – very rarely do we see a front bench spokesman either on the Government side or on the Opposition side, forming part of a select committee because their function is usually to hold the Government to account – but the way that they are chosen I think is instructive, and it is not unusual to have a competition for places in a select committee. An individual may propose himself to a select committee, may be proposed by Members of a political party, but what the Parliament actually does is it chooses the best people for a particular role in a particular select committee.

630 There is not a Parliament in the world that simply says, ‘Because you are an Independent Member of the House, you have got to form part of a select committee.’ It is an absolute absurdity and an absolute nonsense with respect to the position that is being adopted today by the Government.

635 And it is easily tested. Look, Mr Speaker, there have been occasions and I know that the hon. Gentleman when I make this point, it is going to draw derisions from the other side and the usual response about the GSD breaking up and all the rest of it. But look, in 1975-76, the IWBP crumbled. You could have a situation in the future whereby for whatever reason, you have seven Members in the Opposition that are all Independents because of circumstances. Are we seriously suggesting (*Interjection*) that in those circumstances, every single Member of the Opposition, because by dint of the fact that they are Independents, should form part of a select committee? I think that is nonsensical and it sets a dangerous precedent.

640 And in fact, Mr Speaker, I probably would have sat down, would have made no contribution but for the fact that the Chief Minister appeared to suggest, which caused me concern, that this is the precedent that we are establishing. Not only is it going to be this committee but it is going to be the Constitutional Committee, it is also going to be the Committee on Parliamentary Reform.

650 Let us look at it logically. We are a Parliament and we are making a decision that is extremely important: choosing the people that the Parliament believes are best suited to be on a select committee to set out a road map about how Gibraltar deals with Brexit.

655 And do you know what? If the Hon. the Chief Minister had come to this House today and he had said, ‘Look, we want to add one more person on the Government’s side’ – the Hon. Sir Joe Bossano, for example – ‘because we feel that his knowledge of public finance and of certain areas in the economy is such that he can make a valuable contribution, but because we do not want the select committee to become unwieldy, we are not going to be adding anybody else on the Opposition side’, do you know what I would have said to the Leader of the Opposition and to my colleagues? I think that is a good enough reason and therefore we should not object to what the Government is trying to do. Because what we should be doing is we should be choosing the best people for this particular job as indeed the best people for the role of the Select Committee on Constitutional Reform and the best people for the role of the Committee on Parliamentary Reform.

665 And we have to look at it logically – what does Mr Llamas have to offer this particular select committee that Mr Bossano does not have to offer, or Mr Licudi, or Mr Clinton with his experience in banking, or Elliott Phillips with his experience of cross-border commercial litigation extraditions, which could be useful in terms of considering Justice and Home Affairs as part of Brexit deliberations?

670 If we had been talking, for example, if we had been saying this is a select committee on canine welfare, for example I would have been the first one to say – and I am not suggesting that that is the only talent that the hon. Gentleman has or that he cannot contribute in other ways, but I would be the first one to say – (*Interjection*) that his expertise is second to none. But the reality is, that to say that we are adding somebody by dint of the fact that he is an Independent Member of this House is not, in my respectful view, the right decision.

675 I know that the Government will come back and the Government will say, ‘Ah, but the Select Committee ought to be representative of this Parliament,’ and that lies at the heart of this debate, because when we examine who Mr Llamas actually represents, we are drawn to the inevitable conclusion that he represents no one that he is not represented by the people here in the GSD, Mr Speaker.

680 Look, the hon. Gentleman has mentioned the number of votes that Mr Llamas obtained at the last election. Fact number 1: Mr Llamas obtained less votes than anybody else in this Parliament. Fact number 2: a swing of 14 votes would have meant that Mr Llamas would have been left out at the last election.

685 Now, I give the hon. Gentleman an example that I wish the Parliament to consider. Let us assume that he had been selected for the GSD and after nominations had closed, Mr Llamas turned round to the electorate, we could not add somebody else to the slate, and Mr Llamas turned round to the electorate in 2015 and said, ‘We intend, I intend, to now ask the people of Gibraltar to vote for me as an Independent.’ The reality, Mr Speaker, the inescapable truth is that Mr Llamas would never have been elected to this Parliament, because at the very least there would have been a swing of 14 votes against him, if not thousands of votes. Therefore, when we ask, ‘Who does he actually represent, that the GSD does not actually represent?’, no one, Mr Speaker – that is the reality of the situation.

695 Then I come to, Mr Speaker, the difference between the hon. Lady and the Hon. Mr Llamas. Because you see, I think there is an important difference here, and if there had not been this difference, perhaps my view would have been different.

700 The hon. Lady has said, ‘I intend to fight the next election and set up a political party.’ That is my understanding of her position and she has said, ‘Look, even though I stood for election with the GSD in 2015 and I left within six months of being elected as part of the GSD slate, I will ask the people of Gibraltar to hold that in the balance with all the other positive things that I have done in the last four years, and if the people of Gibraltar decide to elect me, fine.’ But she has had the courage to come out and to say, ‘I have an office in Main Street at Headquarters and I intend to fight the next election and it is my aspiration to form a political party.’ That takes courage, whatever my criticisms of her may be as to how she is where she is now but that is the reality. That is the reality.

705 Now, Mr Llamas, we all know – we are not stupid – we all know is not a lone wolf. (*Interjections*) He forms part of a pack of wolves, political wolves. (*Laughter*) A rather timid pack of wolves, (*Laughter*) one that prefers to lurk in the political shadows (**A Member:** Hear, hear.), rather than come out openly in broad daylight, but a pack nonetheless.

710 And indeed, Mr Speaker, the House should not take my word for it. I will just read from the hon. Gentleman’s, Mr Llamas’s Christmas message. He said, ‘I am acutely aware of the privilege that serving you as an Independent MP represents’ – and of course it is a shame that he did not have and feel that same privilege and honour to represent people in the capacity that he was elected. But look that is not the type of logical argument I am asking the House to consider, let us ignore that.

715 But what he said was this:

I share a vision with a growing number of people who I am working with. We believe that it is important that this new vision for Gibraltar be alive to the dangers we have yet to articulate, whether home-grown or external. We believe that this vision requires honesty, regardless of whether we like what we find when we search within.

Then he says:

Join me and others who already share these views, others who are keen to make a difference and keen to see the vision I have set out a moment ago become a reality. You can make a difference. We can make a difference.

Mr Speaker, the Hon. the Chief Minister, a few weeks ago, asked Mr Llamas from a sedentary position whether he was asking anyone by WhatsApp what supplementary question he should ask next. *(Interjections)* Indeed, and he is absolutely right, I have a lot of sympathy from the view that he expressed from a sedentary position. Politics should not be conducted vicariously. Politics is not a form of ventriloquy. Politics is to be conducted openly, Mr Speaker.

The hon. Gentleman and I have had many battles over the years in this Parliament – many, many battles but nobody can accuse me of not saying to him in his face anything, because that is the way that politics ought to operate. And, Mr Speaker, I say also this: that the majority of people in this Parliament have tasted defeat in politics in one form or another. The reality is that you have got to be able to take defeat in order to make success meaningful. *(Interjection)* I once said that victory is all the sweeter when you have tasted defeat, but you have got to have the ‘castanets’ to be there! *(Laughter)* Yes sir, and I am not referring to a Spanish percussion instrument when I use the analogy ‘castanets’! But you have got to have the courage and the guts! **(A Member: Hear, hear.)**

That is why whatever the hon. Lady may say and whatever the hon. Lady’s historic decisions, look, she has had the courage to say, ‘That’s my aspiration.’ But the people around Mr Llamas do not appear to have the same type of courage. *(Interjection)* If you are a political person and you aspire to lead this community, you have got to have the guts to say, ‘I am going to stand as the leader of a political party,’ the same way as Mr Clinton had the guts to do so. Or if you do not agree with that political party, you have got to have the guts to set up your own outfit, openly, transparently, out of the shadows, into the full glare of the sunlight.

But what you cannot and what is objectionable is to do what Mr Llamas and his group are doing, which is operate from the shadows as I have indicated a few moments ago.

And, Mr Speaker, in the immortal words of the US rap singer, Eminem: ‘Will the real Slim Shady please stand up, please stand up?’ *(Laughter)* And that I am afraid is the message that this Parliament – *(Interjection and laughter)* I can assure the hon. Gentlemen that my gym sessions have not been the same ever since. Every time the song comes up I have visions of ‘slim’. *(Laughter)* Behave please!

The message from this Parliament should be that if Mr Llamas has, and those around him have the courage that she has shown, well then, the Parliament will consider him as a separate political entity that intends to contest the next election, that they will form part of other select committees. But not in this way, Mr Speaker, when we can all laugh, but we all know what is going on.

Some of the people around Mr Llamas continue to be GSD members, so what are we saying? What is this? That this Parliament provides political cover for a situation where, let us use Mr Llamas as the Turk’s head, let us see whether his cry to arms to people, ‘Come and follow us, come and follow us,’ whether that succeeds or it does not succeed. If it does not succeed, we are still in the GSD, Mr Llamas can come back to the GSD and we will do an Alien Resurrection and let him take over the GSD from within. It is not right, Mr Speaker, and I think that this Parliament is making a wrong decision in doing what it is doing and is setting out the precedent that it is establishing for the future.

Therefore, Mr Speaker, for all the reasons that I have outlined, I think that this Parliament should not be setting the precedent that it is setting, which is just that by mere dint of the fact that somebody is an Independent – not elected into this Parliament as an Independent – that

person is entitled to form part of every single select committee. And I have risen, Mr Speaker, because the Hon. the Chief Minister appeared to indicate that that is precisely what the Government intends to do.

765 I have to say, I am going to think about things very, very carefully over the next seven days, but at this stage of my political career I do not have to hide from anybody. I have always been known to speak my mind, more so now than ever, and I feel so strongly about this particular issue that I will be considering my own position within the Select Committee over the next seven days, because I think that this one I might have been prepared to just allow under the radar, but  
770 it is the precedents establishing for the future.

And lest anybody says, 'This is a piece of political vindictiveness by Feetham', let me set the record straight. I was one of the biggest supporters in the Executive of the decision to have a joint platform with the hon. Lady on education. I believe that you have got to make the right decisions for Gibraltar and to the extent that it is possible for the Opposition to come together  
775 and hold the Government to account on issues, I think that is important.

And look, if the hon. Member wanted tomorrow to join his members of his group and return to the GSD, I am not going to attempt to block him at all. I am not, as indeed I left before he left. He did not have to leave because of me, so I am nobody's political beard, but what we cannot do is just simply ignore realities and ignore what is going on in this Parliament and in politics today,  
780 with Mr Llamas and the people around him, and something that the Hon. the Chief Minister knows that is happening. And I for one, just cannot just remain seated and not express my views about this.

Mr Speaker, thank you very much for your indulgence. *(Banging on desks)*

785 **Mr Speaker:** Is there any other contributor to this motion? If not, I will call – Yes, the Hon. Lawrence Llamas.

**Hon. L F Llamas:** Mr Speaker, I am grateful for the Government on bringing this motion to the House giving effect to that commitment of including Independent Members of the House in  
790 relevant select committees and I look forward to contributing in this Select Committee and any other further select committees requiring our attention as we move forward.

Unfortunately, Mr Speaker, it was never my intention to cause any harm to the GSD whatsoever. It has certainly not been my intention to do anything that may in any way negatively influence the process of consolidation, repair and rebuilding which I expect the GSD is  
795 engaged in, following its leadership election.

It is clear on the party's own admission that the GSD is at a critical juncture in its path and in that context, the return of a credible and capable people who once sat on that Executive should be welcomed and not resisted.

It would seem, Mr Speaker, that Mr Feetham is unable to accept the possibility that I have  
800 developed a rapport with such people – people who remain GSD members and people who hope and keep the possibility of rebuilding bridges alive. This is, in my view, the approach the current Leader is hoping to engender, and I would have expected and would have welcomed a more positive approach, especially from Mr Feetham.

I do not wish to reopen the reasons for which I left and resigned from the party I once stood  
805 for. For whatever reason and from the party's own admission, there was a communication breakdown on such an important issue and on the analysis of facts, I had been left out of a decision-making process on such an important Bill such as the Appropriation Bill.

It was my view, Mr Speaker, at the time that I had to put Gibraltar first and my party second. It was my view that voting against the Budget, however much I agree with the arguments put in  
810 favour, Gibraltar in the context of a Brexit backdrop needs to unite. Mr Speaker, Gibraltar at this point in time, needs parliamentarians to have faith and to support the Government of the day and to show a vote of confidence in Gibraltar, in its economy, in its workers and in its public service.

815 Mr Speaker, unfortunately the main Opposition Party, the GSD failed to realise the implications of their actions or lack thereof. When the original motion for the Brexit Select Committee arrived in this House, they unflinchingly allowed the original motion forming various select committees, debated in this House, to go through. Back then, they made absolutely no mention of any dissatisfaction with this setup and therefore endorsed what they now consider a weakening of the GSD Opposition.

820 This, once again, Mr Speaker, exposes the lack of foresight the GSD has and the characteristic hypocrisy of the party. It is quite rich, Mr Speaker, for a party who has a leader in this House, and a party who has a leader outside the House, to make representations to the GRA on challenging the legitimacy of how broadcasts are done by GBC, even though the leader of the party does not enjoy a seat in this House. But for it, Mr Speaker, it is the audacity to challenge a democratic, legitimate participation of a Member of this House in a select committee.  
825 Mr Speaker, it is deplorable and you simply could not make it up.

All this, Mr Speaker, while still publicly declaring a desire for the return of past Members. It is awfully confusing, Mr Speaker, but awfully confusing is what the GSD appears to have become. *(Laughter)* A leader inside and a leader outside. *(Laughter)* Being led, or perhaps misled, by the other Independent Member to make joint statements is utterly confusing.  
830

Mr Speaker, the GSD is asking who I represent. *(Interjection)* Yes, I do my homework and I am committed to what I do. *(Interjection)* The GSD is asking who I represent. Well, Mr Speaker, I represent those who contact me, those who know I am always on the other side and, Mr Speaker, in particular, I represent many of the GSD members who are lost, many of the electorate who are lost.  
835

What qualities do I have, Mr Speaker? I am not one to judge myself. I shall let the electorate do that, if I do stand again. But what I can say, is that I do possess a vision and an initiative which they so far have failed to provide this community. Unlike a former member of my party, a former colleague I should say, I consider my parliamentary allowance to be simply a stepping stone in order to fulfil my commitment in this House and a way in which I can provide for my family. I do not consider it, Mr Speaker, to be my holiday money.  
840

Mr Speaker, for me it is a privilege to serve this community and I shall ensure and endeavour that that privilege is always met. No doubt, Mr Speaker, I shall be voting in favour of this motion *(Interjections)* on the basis that it is legitimate, that I should be included following the precedent set in this House by all its Members.  
845

Thank you, Mr Speaker. *(Banging on desks)*

**Mr Speaker:** Is there any other contributor? The Hon. Roy Clinton. *(Interjections)*

850 **Hon. R M Clinton:** I rise only to talk about numbers. *(Laughter and banging on desks)* I am glad to have brought a smile to people's faces.

Mr Speaker, the original composition in terms of ratios of the original Select Committee, in fact as it stands today is in a proportion of four to two to one; I am happy to be corrected on that. But with the proposed amendment, it becomes five to two to one to one.  
855

So from the point of view of the Opposition, regardless of the arguments we have heard this afternoon, the Official Opposition of which the Government must recognise we are the majority on the Opposition benches, there being five of us, no longer have a majority of the Opposition views in that Select Committee.

And where the Government have been very careful to ensure that their representative majority is retained, we being the Official Opposition, have lost ours. And, Mr Speaker, it is on that point I feel that the proposed amendment is inequitable because all the Government has to do is add one more Member from the Official Opposition and then perhaps we might be satisfied in terms of ratios at the very least.  
860

Thank you, Mr Speaker. *(Banging on desks)*

865

**Mr Speaker:** Any other contributor?

I call on the mover to reply.

870 **Hon. Deputy Chief Minister:** Yes, Mr Speaker. I think little did the Government know that when we tabled a two-line, seemingly (*Laughter*) perfectly innocent motion for this House, it was going to lead to this kind of discussion.

But I have to say that in 19 years as a Member of this House, I have seldom heard such nonsense coming from an official Opposition. (*Laughter and banging on desks*) (*Interjection*) And I think, as the hon. Member said, it was unfortunate and that it was remarkable that this motion  
875 had been presented. What is unfortunate and remarkable, I think, is the lack of pure political acumen that is continued to be displayed both inside this House and outside it.

And they said that the rationale for the motion had not been fully explained. But, Mr Speaker, the reality is that the rationale *had* been fully explained to them. It has been fully explained by me, by email to the hon. Member when he asked what it was. I told him then and I  
880 agreed from the email, the position of the Government is that select committees should contain as wide a representation of Parliament as possible. We believe that Mr Llamas is therefore entitled to be on the Committee and to have his views heard within its formal structure.

It is also our view that such committees should be composed of one more Government MP than all the Opposition MPs combined. The proposed arrangement for the Brexit Select  
885 Committee would provide for four Opposition MPs and five Government MPs.

The further expansion of the Committee runs the risk of making it unwieldy and unworkable in the context of Gibraltar, were six Government MPs to continue, or to sit as members of the committee for no good reason. And then I told him that we would have to agree to disagree on  
this one.

890 So, Mr Speaker, the rationale behind the decision taken by the Government to propose the motion was fully and properly explained to the hon. Members opposite. When they are going to accuse the Government of indulging in party politics over this issue, I think the reality is in them indulging in their own internal intra-Opposition party politics, which really has got absolutely nothing to do with us. (*Interjection*)

895 When the hon. Lady left the Opposition, the official Opposition as Mr Llamas I think has rightly explained, the Government then changed the structure of all the Select Committees and decided to add the hon. Lady to each of them. (*Interjection*) Then to balance that, a Government MP was also added to each of those Committees.

900 So, Mr Speaker, what we are proposing to do now with Mr Llamas is exactly what we did when the hon. Lady left the Official Opposition. It is exactly the same.

We believe, as I said, that there should be as wide a representation of parliamentary views as possible on the Committee. What we cannot do is to add an MP from the official Opposition every time that an MP is added or an Independent MP is added to the committee. That would then require us to add a Government MP as well and we will end up with a situation where we  
905 have more than half the Government sitting on the select committee. So, Mr Speaker, that is simply not possible and is not going to happen.

So, we took the view as I said that Mr Llamas is entitled to be on it and whatever views he may care to express on the important subject of Brexit, he is therefore entitled to sit on the committee and to express it.

910 But I should also add, something that was said earlier about who represents who and who do each of us represent. The reality, Mr Speaker, is that, as the Chief Minister rightly said, Members are elected individually and that we sit as Members of Parliament also on each or any select committee.

915 But this whole situation reflects very poorly not on the Government as the Leader of the Opposition has said, but I think the petty, short-sighted and nit-picking approach they have taken reflects very poorly on them, Mr Speaker. That they should seek to exclude an Independent Member with clearly different views to them and to the other Independent

Member, from expressing an opinion on a select committee, is unacceptable and undemocratic. It also betrays, I think, a singular lack of knowledge of what select committees are for and how they work.

920

I have had the opportunity to sit on every select committee in this House in the last nearly 20 years that I have been a Member of it, and the hon. Members should know that this idea of having more MPs from the official Opposition than Independent MPs on the committee, really shows that they do not know what they are talking about, because each individual Member represented on a committee is free to dissent or to disagree with the view expressed by the majority of Members on that committee.

925

And there can be, and there are in the UK and in other places, there is a majority report expressing the majority view of the committee on any given issue and there are then also minority reports on minority views expressed on whatever that issue might be. So the actual manner and the procedures, the way in which select committees operate, allow for that to happen already, does not require for there to be more MPs from the official Opposition than there are Independent Members on it.

930

And I think, Mr Speaker, I have to say also that I think it is particularly inappropriate, and I did raise this issue with them too, that they should choose to raise this particular issue with this particular committee, which is a Select Committee about Brexit, which is a hugely important issue of our time – not only for Gibraltar but also for the wider United Kingdom and European Union, where we have tried I think, as far as possible, to be as united as we can in the views that we express, indeed in the information that we provide to the hon. Members opposite and where we are trying to work together for the wider interests of Gibraltar.

935

There are other select committees already in existence where they could have taken this view and perhaps behaved in this petty and inappropriate manner with regard to those issues, which are still also considerably important – I would not try to diminish that – but on Brexit, Mr Speaker, to choose Brexit to raise this issue is wrong.

940

I think it was, the hon. Member mentioned this idea that Mr Llamas was the last one who had been elected and that it took a swing of 10 or 14 votes. Well, I think my answer to that, although really it is perhaps not for me to answer, but my answer is that look, Members are elected and elections are lost by one vote. So if it was 14 or 9 or 10 or 15, so be it. But it just takes one vote to lose an election. That is what democracy really is all about.

945

And who do we represent? Well, Mr Speaker, all 17 of us represent the 32,000 people of Gibraltar. That is who we represent. Each of us represent all the people of Gibraltar, not just the people who voted for you. **(A Member: Hear, hear.)**

950

So, I think as I said before, it is intolerant of different opinions, it is blinkered, it is undemocratic, it is holier than thou, and is an approach to politics that we thought was confined to the dustbin of history in 2011. So I was very sorry to hear all this resurrected again in this particular motion on Brexit.

955

So, Mr Speaker, as I said earlier, the Government value having Independent voices on the committee. It is our policy that those voices should be there and before I close on the motion, I give way to the hon. Member who I think wants to say a few words.

960

**Hon. Chief Minister:** I am grateful to the hon. Gentleman for giving way, Mr Speaker, because in the course of the intervention that the hon. the former Leader of the official Opposition – *(Interjection)* former, former Leader of the official Opposition made, he told us that he had considered not making any intervention and it was just something I said that moved him to become involved in referring us to the cold calculus of logic.

965

Well, Mr Speaker, what he is missing is the abacus of parliamentary mathematics and that is what he has got to put in the balance. The abacus of parliamentary mathematics tells us that we started with ten and we have still got ten. They started with seven and then they lost one, and now they have lost another one. And for that reason, Mr Speaker, it is necessary for us to act in

970 the way that we are going to act by supporting the motion that the Hon. the Deputy Chief Minister has put before the House.

He started with a theory, Mr Speaker, that because Mr Llamas no longer sits with the GSD whip, he now represents no one – or at least no one that the GSD does not also already represent, although he wants us to think that that does not apply to the hon. Lady because she said that she is going to stand for election with a political party in the future.

975 Well, Mr Speaker, that may be true about the future. The hon. Lady may seek her own independent mandate in the future, but the hon. Lady's position is, as he knows, whether he shares the view or not, that she has an Independent mandate today because she had 4,892 votes. That is the position.

980 Why should the position of the Hon. Mr Llamas, because he had 4,565 votes, be any different? He may or may not yet evince an intention to stand for election in the future, with her, with them, with us or with the wolf, (*Laughter*) but that does not change his position, Mr Speaker. It does not change his position at all today and the regard we must have for the democratic legitimacy of his position in this House.

985 Mr Speaker, he then presented the work of select committees as if we had not on this side understood what the work of a select committee is here and in the United Kingdom and indeed, in the work of the former select committees that have been in this House, including important ones like the ones on the Constitution. It is because we understand the work of select committees that we have thought it appropriate to bring this motion and have indicated that we will bring similar motions in respect of other select committees.

990 And, he told us in one breath that the GSD is not breaking up, although he then told us in another breath, in what was clearly, Mr Speaker, a further fit of pique, that there are some within the GSD who are working with the hon. Gentleman, Mr Llamas. Well, Mr Speaker, we may not be a million miles away from thinking that breaking up is hard to do, unless you are in the GSD these days, because the breakup does not seem to have ended yet. The fissures may not have become entirely visible to all of us on this side of the House or in the public yet.

995 The example he gave of the breakup of the IWBP is perhaps the wrong example for him to have chosen, for a simple reason. Good students of history, other than those who have lived history like Mr Bossano or Mr Speaker, will have read in the Deputy Chief Minister's book on the political history of Gibraltar that in fact those who stood with the Gibraltar Democratic Movement, did not just leave the GDM after the breakup of the IWBP; they left the GDM and then were seduced by the clutches of a formidable actor then as Leader of the House, and they crossed the floor.

They did not become Independents, Mr Speaker. (*Interjection*) Mr Mascarenhas and –

1005 **Mr Speaker:** The Hon Mr Mascarenhas was not a Member.

**Hon. Chief Minister:** Mr Mascarenhas was not a Member, you're right. The Hon. Brian Perez (*Interjection by Mr Speaker*) and Mr Valarino crossed the floor, Mr Speaker, at the time. They did not stay Independents, Mr Speaker. So that is not the best example to have chosen.

1010 And what if they all went Independent, Mr Speaker? Well, he did not say that this would not happen, which was interesting. The hon. Member said, 'What happens if we all go Independent?' without saying, 'but of course that will not happen', because of course with the underlying tensions, there is very little GSD on the other side, Mr Speaker. There is the Hon. Mr Clinton, Mr Reyes; but I look up and the rest of what I see is PDP and Labour Party so it could still go a million miles from where it is today.

1015 What happens if they all go Independent? Well then, Mr Speaker, I suppose we would ask them as a group of Independents, to nominate who they would like representing the Independents on the select committee (*Laughter*) because it would be impossible, Mr Speaker, to have a select committee of the House with seven Independents in it without having at least eight Members of the Government.

1020



But then there would not be an official Opposition. Doesn't he realise that the example that he postulates lacks logic because there is no official Opposition in that example; there are seven Independent Members? That is the reality and that is not what we are dealing with.

1025 And if there are people, Mr Speaker, in the GSD who are working with Mr Llamas as he has said today, well then, Mr Speaker, it is important that we hear their voice and we will not hear it from him, we will hear it from Mr Llamas who is working with them. He has legitimised the exercise that we are doing in that respect.

1030 He pretends to try and drive a wedge between us on this side of the House, by saying, 'Of course, if you were saying Sir Joe Bossano should be a member of the Select Committee, well then, we would take a different attitude. Does the hon. Gentleman think that we did not ask Sir Joe Bossano whether he wanted to be a Member of the Select Committee before we determined who should be in the Select Committee?

1035 But he should know Sir Joe well enough that Sir Joe says he wants to spend more time at his desk if possible and give us his input in Cabinet, which is the place where we have the benefit of the input of Sir Joe Bossano, of Gilbert Licudi who he mentioned, Albert Isola, Paul Balban, Neil Costa, Samantha Sacramento, John Cortes and Steven Linares. We do not need to bring them into a select committee to hear their contribution. Frankly, it is nonsensical to have made that attempt to drive a wedge between us. We meet together in the Über-Select Committee every Monday morning.

1040 'And what has Mr Llamas got to offer?' he says in such a derisory fashion that it is impossible for him, the hon. Gentleman, to not demonstrate the utter vindictiveness with which he has approached this debate. Now, we saw some of that vindictiveness in the now legendary press conference that he gave when he retired as Leader of the GSD. He talked about dogs and canine issues and I am not going to talk about crocodiles and tears, Mr Speaker, but we saw some of that vindictiveness then.

1045 If Mr Llamas is putting together a group, it is even more important that we hear what he has to say in the Select Committee. If there are people assisting him, we must hear their views. But how does he know that he represents no one but the people who voted GSD. Is it that we do not have secret elections in Gibraltar, Mr Speaker? We have a secret ballot, don't we? How does he know that the 4,565 people who voted for Lawrence Llamas are included in the 5,054 that voted for him? How does he know that?

1055 There is enough difference, Mr Speaker, between 10,852, which is the number of people that voted for me and 5,054, the number of people that voted for him, that they could represent the 4,565 that voted for Mr Llamas. Hasn't he worked that out? People who voted for him might have been called Peter and Keith and the people who voted for him might have been called Ned and Marlene for all we know, Mr Speaker. So it is just utter nonsense to say his votes are represented by the GSD. It is just remarkable, Mr Speaker, that we have heard that in this House today.

1060 And if the hon. Gentleman is going to pretend that he was not pejorative, then to refer to the hon. Gentleman as a wolf and talk about canine aspects of what he does, Mr Speaker ... I mean to think that he got up and said that it was wrong to have referred to a dog show, when the hon. Gentleman was not here and he now talks about canine aspects of what the hon. Gentleman can be an expert at, and talk about wolves –(Laughter) the petty crusade was never clearer than at that moment.

1065 But it was not on this side, Mr Speaker. The petty crusade was on the lips of the hon. Gentleman and I apologise to Mr Phillips, Mr Speaker, the Leader of the official Opposition because I thought he was getting his prompts from WhatsApp and from beyond this House; he was obviously getting them from just across the way from next door. He did not need an electronic device; he had the former, former Leader of the Opposition to give him all of the vindictiveness and pettiness that was required, because that was clearly what was coming across.

1075 But for him, Mr Speaker, of all people, to get up and say that politics is not ventriloquy, well Mr Speaker, tell it to Michael Bain – that is what I say. But I will say one thing, Mr Speaker, to the hon. Gentleman. It is true that in politics and here, he and I are fully in agreement: if you want to succeed you have to suffer defeat as well. He will recall the editorial of the former editor of *The Gibraltar Chronicle* who referred to the cold steel of election night, cold steel that we have both felt on election night, Mr Speaker. That is absolutely true.

1080 I give him another quote to match the one he gave us. Nixon said on the day of his impeachment that his supporters and those who worked with him should not have pity for him, because it was only by being in the lowest valley that he could understand the value of having been atop the highest mountain, namely to have held the office of President of the United States. If somebody wants to hold high office, Mr Speaker, they have to have the courage to suffer defeat in elections. Otherwise, the political system that they want to operate in is not the political system that he and I have operated in with relative amounts of success.

1085 So, Mr Speaker, he talked about, in all of that context, people having to come out of the shadows; but he was the only one shadow boxing in the course of this debate. He was the only one who seemed to be talking not at Mr Llamas, but at someone else, Mr Speaker, in the context of this debate. In fact, I will say that one of the reasons I miss him so much, Mr Speaker, is because he is probably, he is the only person who can masquerade as wholesome in the way that he presents himself in debate, whilst actually being petty and vindictive like no one else.

1090 But to talk about wolves, Mr Speaker, when he is the perennial wolf in sheep's clothing, especially in the way that he has presented the arguments today – and I am very sorry to have seen us reach that level of discord in the context of a debate on enlarging the Brexit Select Committee – something as important, as the Deputy Chief Minister said, as Brexit.

1095 I can only say, Mr Speaker, that in respect of the things that Mr Llamas has said when he referred to the 'characteristic hypocrisy of the GSD', I sometimes feel with him that I have found a political soul mate, Mr Speaker, and that when the *Hansard* of this debate is available, I will ask him to autograph a copy of his speech and give it to me for posterity. Because it is absolutely right, Mr Speaker, that hon. Members of the official Opposition opposite present themselves as wanting democratic legitimacy and wanting parliamentary debate and then when we come to a moment where we seek parliamentary involvement, they try and shut it down.

1100 I can only say one thing, Mr Speaker, to this community today after this debate. The Deputy Chief Minister, the Attorney General, the Cabinet, the Financial Secretary, who is an important part of the team also, the Brexit team must be doing a pretty good job for Gibraltar if the Opposition think that the use of parliamentary time to which they have put the last hour makes any sense in the context of the challenges facing this community today.

1105 And, Mr Speaker, I know that the Deputy Chief Minister will now rise to commend the motion to the House. Before he does, I will say, Mr Speaker, that involving the hon. Gentleman opposite I think is a demonstration of the inclusiveness of the debate that we want to have in the context of this difficult moment, but that today in this debate more than one mask has slipped and once they slip, they can never go back.

1115 **Hon. Deputy Chief Minister:** Mr Speaker, I commend the motion to the House. (*Banging on desks*)

**Mr Speaker:** I now propose the question in the terms of the motion moved by the Hon. the Deputy Chief Minister.

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

1120 **Hon. Chief Minister:** Mr Speaker, I think that it is appropriate for the purposes of history and *Hansard* that we call a division.

**Mr Speaker:** A division, very well.

*A division was called for and voting resulted as follows:*

**FOR**

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

**AGAINST**

Hon. R M Clinton  
Hon. D A Feetham  
Hon. T N Hammond  
Hon. E J Phillips  
Hon. E J Reyes

**ABSENT**

Hon. J J Bossano  
Hon. A J Isola

1125 **Mr Speaker:** Two Members are absent. There are 10 votes in favour, 5 against. The motion is carried. (*Banging on desks*)

**Rules on Points of Order and giving way –  
Ruling by the Speaker**

**Mr Speaker:** Before we move on to the next motion, there is something that I feel bound to say. I must draw the attention of hon. Members to the Rules of Debate, Rule 45(10):

No Member shall interrupt another Member except:  
(i) [on] a point of order ...

and then Rule 45(10):

(ii) to elucidate some matter raised by another Member in the course of his speech, provided that the Member speaking is willing to give way and resumes his seat and that the Member wishing to interrupt is called by the Speaker or Chairman.

1130 I think the intervention this afternoon of the Hon. the Leader of the House goes beyond that. It goes beyond the spirit of that Rule. What has happened I think is that sometime between 1991 and 2012, this practice grew. It did not happen during the years that I was a Member of the House of Assembly.

1135 Yes, a Member might give way, say, on the Government's side or on the Opposition's side, to give one of his colleagues an opportunity to make a point. But to make a point is not to make a speech and what we have had this afternoon from the Chief Minister is a speech. Therefore, the Government have had really two rights of reply and that is wrong.

1140 When the Hon. Mr Feetham spoke, I suspected that the Chief Minister would want to answer him. If it had been the other way round, if Mr Feetham had spoken before the Chief Minister spoke in the debate, he would have answered him in the course of his speech. But of course, having lost the opportunity in the debate, he then had to ask his colleague to give way in order to make a speech answering Mr Feetham. I believe sincerely, as Speaker, that that is not the spirit of this Rule and I hope hon. Members will agree. I hope the Chief Minister will agree that he went beyond the bounds of clarifying a point.

1145 Now, given that it is also incumbent on the Speaker to call the Member, because the Rule says (a) a Member must give way and (b) the Speaker has to call the Member, I feel today that the spirit of that Rule has been exceeded, and I hope that that practice will not continue in whatever time there remains for me to be Speaker, because if it were to continue, then I will invoke the Rule which requires that I call the Member, because then I will not call any Member to interrupt.

1150 Having said that, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I am very grateful for that clarification. As you said, this is a practice that has built up in the time that you have not been here, but I think your Ruling is a helpful one. We shall ensure that of course, we abide by your Ruling and the spirit of the Rule that you have referred us to, which I have no doubt is exactly as we should be behaving.

1155 But hon. Members will know that with so much talk of sheep and wolves, it was essential that I get up and reply.

Mr Speaker, I think this might be a convenient moment for us to recess for 15 minutes for a comfort break before we come back to deal with other business.

1160 **Mr Speaker:** The House will now recess for 15 minutes.

*The House recessed for 15 minutes.*

**Gibraltar Courts Service –  
Caseload and waiting times; monitoring need for fourth judge –  
Motion carried**

**Mr Speaker:** The Hon. the Minister for Health, Care and Justice.

1165 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

*‘THIS HOUSE:*

*ACKNOWLEDGES the work of our excellent Judiciary, Justices of the Peace and the Gibraltar Courts Service in upholding the highest standards of judicial independence and ensuring the effective administration and delivery of justice in Gibraltar;*

*NOTES the oath made by the Minister with responsibility for justice, pursuant to the Judicial Services Act 2007, which provides that the Minister should discharge his duty to ensure the provision of resources for the efficient and effective support of the courts;*

*NOTES that the appointment of judges on a temporary basis to deal, when the need arises, with the short-term needs of the judiciary, namely, backlogs of specific types of cases, dates back to 2011;*

*FURTHER NOTES that in 2014 a need was identified for a fourth judge to be employed on a temporary, fixed-term basis for a period of three years in order to clear a general backlog of civil cases in the Supreme Court and that, with the contract having come to an end, the backlog being cleared and in the context of Brexit, the Government deemed a fourth judge, in that role and at that time, unnecessary to the effective working of the Courts;*

*NOTES that the Honourable Mr Justice Dudley, Chief Justice, at the Opening of the Legal Year on the 29th September 2017, stated that-*

- 1. he did not have any legitimate expectation that the post would continue beyond the 3 year term;*
- 2. it was always clear to him that the funding was made to provide for the short-term needs of the judiciary and this was not a permanent increase to the judicial complement and;*
- 3. “The judiciary, like any public service needs to justify the need for resources and that includes justifying an increase of the judicial complement. I will be monitoring the impact which the reduction in the number of judges has upon the*

*workings of the court and if the evidence justifies it, I will seek to persuade Government to reconsider its funding decision.”;*

*AND THEREFORE RESOLVES that the Government should, in close consultation with the Honourable the Chief Justice and the Bar Council, keep the case load of the Courts and the waiting times for cases under constant review, so that, if evidence justifies it, the need for a fourth judge may be reconsidered in order to meet the short-term needs of the judiciary AND that such review should pay particular attention to future demands regarding complex and high value litigation and any impact that the proposed legal assistance reforms may have on current resources.’.*

Mr Speaker, I am pleased to say that the text of this Government motion has been agreed with the Hon. the Leader of the Opposition and therefore counts with the support of the official Opposition.

1170 I am also pleased to say, Mr Speaker, that both hon. Independent Members, the Hon. Ms Marlene Hassan Nahon and the Hon. Mr Lawrence Llamas, have also agreed and that therefore the motion enjoys the support of the whole House.

1175 There is no doubt in my mind, Mr Speaker, none whatever, that our judiciary upholds at all times the highest standards of judicial independence and that the service works tirelessly in ensuring the effective administration and delivery of justice in Gibraltar.

I remind Parliament of the Oath which, as Minister with responsibility for Justice, I took under the Judicial Services Act. The Oath provides among other vital duties, that I will ensure the provision of resources for the efficient and effective support of the Courts.

1180 Mr Speaker, this is a duty that I, like all the previous incumbents in the post have taken with the utmost seriousness and we have all given the Oath the weight and attention it deserves. In fact, it is an opportune moment to note that the investment and commitment of Her Majesty’s Government of Gibraltar, as well as the excellent work of the Judiciary and Court Services, has meant that there continues to be no backlog at the Magistrates’ Court and the Supreme Court in respect of dates provided for criminal trials and for civil and family applications waiting for first hearing dates.

1185 Furthermore, the Gibraltar Court Service continues to modernise and improve the services provided to court users. In this respect, since October 2016, court users can enjoy the use of Wi-Fi facilities in all of the courtrooms. The Gibraltar Court Service website continues to be regularly updated, with judgments being available for the Supreme Court and Court of Appeal since 1997 to date.

1190 Since January 2016 sentencing pronouncement for criminal trials at the Supreme Court are also available to download from the website, enabling the general public and the service users to keep up to date with court decisions.

1195 Further, the Laws of Gibraltar Judgments website continues to be up to date, with all reported judgments since 1812 available for download, with future reported judgments to be uploaded subsequent to the publication in the Gibraltar Law Reports Volumes.

The Gibraltar Court Service is constantly looking at ways in which to improve the services and level of performance, with court users today enjoying a modernised, open and approachable court service, through which the public can have access to the justice system.

1200 Of course, Mr Speaker, as the Hon. the Chief Justice has pointed out, the making of provision for the administration of justice in a small jurisdiction such as ours is as much an art as a science. It is, when one looks at, for example, the number of senior judges required, an art that necessitates finding the right balance between having sufficient resilience to cope with unforeseen extraordinary demands whilst not being at the same time over-resourced and therefore wasteful. Such a delicate assessment is all the more necessary given the uncertainties

1205 that the current Brexit position brings to our shores.

It is against this background, Mr Speaker, that the custom of appointing additional judges on a temporary basis is, in the Government’s view, adequate and sufficient to address the short-

1210 term needs of the judiciary, namely backlogs of specific types of cases such as criminal trials or complex commercial matters.

The solution, Mr Speaker, as I have had occasion to note previously, dates back to 2011 and commenced under the then GSD administration. The criteria set out for such an appointment by the then Minister for Justice is the same as it is today. Short-term appointments will be made and I quote:

‘for a limited period to help with the backlog of cases and the idea is to have a temporary appointment, so effectively as and when there is no need for that fourth judge, we will go back to three judges.’

1215 It is on exactly the same basis, Mr Speaker, that the Government decided that the most recent appointment of a fourth judge in 2014, which was for a fixed three-year period to deal with a backlog of civil cases, was no longer necessary for the efficient and effective support of the courts. This decision was made in the context of the backlog having been cleared and, as mentioned, in the context of Brexit.

1220 The motion, Mr Speaker, sets out the most salient points that the Hon. the Chief Justice had set out in the context of judicial resourcing, namely that it did not have any legitimate expectation that the post would continue beyond the three-year term. It was always clear to him that the funding was made to provide for the short-term needs of the judiciary and that this was *not* a permanent increase for the judicial complement and that, and I quote:

‘the judiciary like any public service needs to justify the need for resources and that includes justifying an increase of the judicial complement. I will be monitoring the impact which the reduction in the number of judges has upon the workings of the Courts and if the evidence justifies it, I will seek to persuade Government to reconsider its funding decision.’

1225 It is also, Mr Speaker, important to note that the Hon. the Chief Justice set out that, in the context of the decrease in civil claims, the Government’s decision was not unreasonable and that the three remaining judges should be able to cope with the demands that are made of the Supreme Court.

1230 Mr Speaker, the Hon. the Chief Justice has to date not sought to persuade the Government to reconsider its funding decision.

Mr Speaker, it is of course right that I and the Government should keep the caseload of the courts and the waiting times for cases under constant review and that this should be in consultation with the Chief Justice and all relevant stakeholders.

1235 Mr Speaker, as in 2011 and as in 2014, if the evidence justifies it, funding for a short-term, fixed-period puisne judge will be made available to meet the needs of the judiciary at that point in time. I am more than happy for the need to keep this under review, to be included on the face of the motion as it is already the case.

1240 I am also happy to agree that the possible areas that should be most closely monitored are those of high value civil litigation and the possible impact of the legal assistance reforms on judges’ caseload. (*Banging on desks*)

**Mr Speaker:** I now propose the question in the terms of the motion moved by the Hon. the Minister for Health. Does anybody wish to ... ?

Yes, I call upon the Hon. the Leader of the Opposition.

1245 **Hon. E J Phillips:** Mr Speaker, initially, firstly I would like to seek leave of this House to withdraw the motion that stands in my name of 13th October 2017 in respect of this particular issue of judicial resourcing.

1250 Mr Speaker, the starting point for my contribution, of course, was the original motion that we have now sought leave to withdraw. Both the Minister and I have enjoyed a useful discussion in an attempt to deal with the contents of this motion which has been agreed by way of consensus and agreement. Although we describe it, Mr Speaker, as a joint motion, clearly the Rules do not

provide for a joint approach in the way that was suggested and therefore, mechanically it has been done in this way.

1255 Both the Minister of Justice and I met to discuss the redraft. That was circulated and it is our hope, Mr Speaker, that the joint motion will reflect the unquestionable support that this House has for the function and role of the judiciary in our community and the administration of justice.

1260 Mr Speaker, it is of course, common ground that all Members of this House hold in high regard the work being done by our judges to preserve, protect and advance the administration of justice in Gibraltar. Our judges are very ably supported by the work of civil servants and in the Court Service.

1265 Mr Speaker, there is a strong bond between the legal profession, the Courts and many of us in this House, who have the privilege of working in the court environment on each day. Many of us will recall fondly not only our time preparing and appearing before our judges past and present, but also the friendly and efficient interaction with the Court Service and the Registry.

I am sure that both – if she was here – the Minister for Housing and Mr Licudi, who I see here, will remember our many interactions as opponents at the Bar and our almost daily contact in a set of interesting cases which dominated the resources of the Acting Chief Justice as he was then.

1270 Our legal profession, Mr Speaker, our judiciary and our Courts have seen radical changes in the last 16 years. We have all in this House been impressed with the investment that the Minister talked about in his contribution and the redevelopment of our Courts into a modern court complex which by any standard, and from comments that I receive from visiting professional cousins, our Courts are the envy of many of the British Overseas Territories.

1275 Mr Speaker, we have four Supreme Court rooms which can cater for any type of case from complex fraud, international commercial disputes including commercial trust disputes, to serious crimes involving vulnerable witnesses. I am proud of what we have done in respect of the investment into our court infrastructure and our human capital. I am especially proud as a commercial litigator, when I am asked to express a view of our court structure and our judges, and to demonstrate to the outside world the high value and high regard in which our judiciary is held by people abroad.

1280 Mr Speaker, if we are serious – and this was the reason why the original motion was put in that language – about attracting big business to our homeland, then we have to be equally serious about ensuring that we respond accordingly to having a robust judicial resource that can be called upon by litigants to have their disputes adjudicated here. Our legal disputes are becoming more complex, more technical, with values of some cases eclipsing our own GDP. Dealing with cases such as these brings new opportunities to develop our jurisprudence even further and to show to the outside world that we are able to adjudicate important cases that involve the common law. Just as the Cayman, the BVI, Jersey and Guernsey have developed a body of trust law, for instance, so should we.

1285 Mr Speaker, if we are serious about creating more access to justice from those who cannot afford to vindicate their rights in terms of the legal assistance, we will need a robust and flexible justice system that delivers to the ordinary citizen. Mr Speaker, the Government has announced, following a consultation with the legal profession that it intends to increase the threshold for legal assistance from £5,000 to £14,000, which may well see an increase in litigation before our courts.

1290 We should be live to the impact of those reforms on our judicial resources and I think it is appropriate that the Minister, when he has talked to the motion on the second page, has referred to that specifically after our discussion at his offices. This is something that both the Minister and I focused a great deal of time on.

1300 Mr Speaker, I am fortunate, as Mr Licudi, Miss Sacramento and Mr Feetham have, to be involved in very complex and high value litigation, which from time to time places very significant pressures on the resources of our Courts. Members will know that it does not take long for a fairly busy judge to be entirely overtaken by one complex criminal or commercial case.

1305 It is said by the Government and echoed by the Attorney General in his speech at the Opening of the Legal Year, that the number of actions instituted may be down on previous years. That is right, Mr Speaker, but on the ground, cases are becoming more complex and more document heavy than ever before. Therefore, we should be careful to rely solely on statistics in an area which requires a degree of flexibility.

1310 Mr Speaker, the Chairman of the Bar, in the Opening of the Legal Year, said, amongst other things, that the number of cases are only a small and not a decisive indicator of the need for judicial resources nowadays, he said. The lower numbers of cases that hit the Courts are also significantly more complex both in terms of issues that they raise and in terms of the volume of paper that they generate. That requires resources. In a jurisdiction with three or four Supreme Court judges, it is easy to see the emergence of a couple of complex trust matters or a long criminal matter in effect put a judge out of action for a long time.

1315 Mr Speaker, the Chief Justice in his unprecedented statement also said that the judiciary required this degree of flexibility. He said that the workload of the court cannot be measured exclusively by relying upon statistics, but it is also dependent upon the complexity of matters coming before the courts. The Chief Justice went on to say:

‘Because we are demand led, it is also useful to retain an element of flexibility, which the extra judicial resource provides. Therefore, whilst I understand the decision not to fund the post of a third puisne judge at this stage, it is one that I will seek to persuade Her Majesty’s Government to reconsider.’

1325 Mr Speaker, the front-line litigators on both sides of this House will appreciate the force of both points that I have raised on this issue. The motion, Mr Speaker, has been brought to this House on a joint basis and on a collaborative approach, as both sides of this House clearly wish to ensure that our judiciary receives the appropriate support it needs to perform its vital function.

I have set out, Mr Speaker, two practical examples which I hope reflect on the ground views in response to the production of judicial resources. There are of course, important matters of principle that I would just like to raise very shortly... thus far, in terms of the position that has been adopted so far by the Government.

1330 On 17th August, Mr Speaker, the Government said that the reduction of the number of Supreme Court judges will not make our court less agile or robust. Secondly the Government say that the policy of fixed-term judicial appointments was implemented by the GSD. Thirdly, it is said on behalf of the Government that in 2014, a need was identified for a fourth judge to be employed on a temporary fixed-term basis in order to clear the backlog of civil cases in the Supreme Court. Fourthly, Mr Speaker, it was said that the fixed term had come to an end and in the context of Brexit, a fourth judge was deemed unnecessary to the effective working of the Courts.

1340 If I can deal with those particular arguments that were deployed by the Government in this way. Firstly, as regards GSD policy yes, the Government is correct: just as the Government has done, the former GSD administration had utilised fixed-term judicial contracts in line with the Commonwealth Latimer House principles on the three branches of Government.

1345 Latimer House addressed the question of judicial appointments and said judicial appointments should normally be permanent, whilst in some jurisdictions, contract appointments may be inevitable. Such appointments should be subject to appropriate security of tenure. Secondly the appointment judges on fixed-term contracts requires special justification.

1350 Secondly, Mr Speaker, Latimer House acknowledges that fixed-term contracts in small jurisdictions may be inevitable, where there is a shortage of candidates with the legal skills and experience required at that level. However, Mr Speaker, the Venice Commission recommends strongly against the use of fixed-term contract appointments for ordinary judges, due to the concern about judicial independence, although the Commission makes an exception for constitutional judges who are appointed for fixed-term contracts in some European countries.



1355 It is true, Mr Speaker, that the making of non-permanent judicial appointments is controversial and the IBA Minimum Standards of Judicial Independence in 1982 recommended the practice should be avoided as far as possible, except where they exist along democratic tradition.

1360 In summary, Mr Speaker, there is clearly a debate about the efficacy of fixed-term contracts, but I am inclined to agree with the Minister of Justice that in a small place like Gibraltar and in the absence of willing members and senior members of the Bar to be able to make that contribution to our legal precedent, we may need to look beyond our country for suitable candidates on fixed-term appointments. In our view, it is not a question of the efficacy of the fixed-term appointments; it is a question of funding.

1365 This brings me to the second point. The Government has said that with the contract having come to an end, the backlog cleared and in the context of Brexit, a fourth judge has been deemed unnecessary to the effective working of the Courts.

1370 Mr Speaker, as the Minister for Justice did refer to in his contribution, he swore an Oath to this House under section 7 of the Judicial Services Act, which guarantees the respect for the rule of law, defence of the independence of the judiciary and a discharge of his duty to ensure the provision – and this is the key point – provision of resources for the end, for the, and effective support of the Courts.

Mr Speaker, the Chief Justice in his unprecedented statement and the Chairman of the Bar are clear in their views, which I have already repeated to this House and I understand the Minister of Justice also repeated the comments from the opening of the new year.

1375 I know from my dealing with the Government and particularly the Minister of Justice on this issue that they will keep a close eye on judicial resources with close consultation with the Chief Justice, the Bar Counsel and the Bar generally, given the likelihood that they may have to return to a fourth provision within our judiciary.

1380 Mr Speaker, this brings me neatly to the main thrust of the position and that is one of funding, which is an important thread running through. Mr Speaker, Principle IV(b), Guideline 2 of the Latimer House Principles declares the following:

Sufficient and sustainable funding should be provided to enable the judiciary to perform its functions to the highest standards. Such funds once voted for the judiciary by the legislature, should be protected ...

The footnote to that declaration states the following:

The provision of adequate funding for the judiciary must be a very high priority in order to uphold the rule of law, to ensure that good governance and democracy are sustained and to provide for the effective and efficient administration of justice. However, it is acknowledged that a shortfall in anticipated national income might lead to budgetary constraints.

Finance ministries are urged to engage in appropriate consultations in order to set realistic and sustainable budgets where parliaments should approve to ensure adequate funds are available.

1385 Mr Speaker, in summary and although there has been much debate on the question of the fourth judge publicly, we hope that the raising of this issue in this place and the joint collaborative approach adopted by the Government and the Opposition will serve as an example how our continued co-operation on the question of matters that relate to the delivery of justice and access to justice.

1390 Our courts are in many respects the window to the common law world and interactions with business high-end commercial activity is often played out in our courtrooms. It is with this that is at the forefront of our minds, alongside the important legal assistance reforms which demonstrates to many that there is a real requirement for flexibility and the resourcing of our courts.

Mr Speaker, in a number of common law jurisdictions, commercial courts have been established to deal with complex matters and one day, I would like to see our courts being

1395 resourced to that level. Step by step, Mr Speaker, we shall develop but we must ensure that we do not take a step back in the level of judicial resourcing and expertise.

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

**Mr Speaker:** Does any other hon. Member wish to contribute to the debate on this motion?  
The Hon. Lawrence Llamas.

1400 **Hon. L F Llamas:** Mr Speaker, I would just like to say that I am glad that the Brexit context has been taken into account and acknowledged in this House, a context requiring a prudent and sensible approach to the management of the public purse, and I shall hereby support the motion.

1405 **Mr Speaker:** Any other hon. Member?  
I call upon the mover to reply.

1410 **Hon. N F Costa:** Mr Speaker, I think it is a very good thing that the whole House has unanimously supported the motion on the administration of justice. I think it shows that there is consensus on this issue. I just want to reply on a few matters that were raised by the Hon. the Leader of the Opposition.

1415 He said that we should not rely solely on statistics but I want to assure him that that is not the case. I think that statistics are important to the extent that they show that there was a vertiginous drop of I think it was 60% from one year to the other in ordinary civil claims and that from 2015 to 2017, the drop is still something like 40%.

1420 So, although he is right to say that statistics cannot be the only yardstick, and we agree with him completely, it is also true to say that it is a salient fact. But I have given a commitment to the Hon. the Leader of the Opposition, and indeed to Parliament and therefore the wider community, that we will keep a close eye on the potential of complex commercial matters overwhelming the judiciary because there may be interlocutory applications, submission of large volumes of documentation and that therefore, whereas there may be a lower number of civil cases, one or two civil cases could in effect overwhelm a judge more than a particular number of cases.

1425 So we have agreement across the floor of the House that it is not only the number but also the complexity of any particular case, which is why we both say on the face of the motion, that we will keep a particular eye specifically on complex commercial matters and also, the impact on the legal assistance reforms.

1430 I wish to say, in respect of the legal assistance reforms, that there has also been unanimity both from the former Leader of the Bar, which is the Leader of the GSD and also the Chief Justice, during the course of the Opening of the Legal Year, that the legal assistance reforms as currently formulated and put to the community will result in a significant increase in the access to justice, which is why I agree with him entirely that we should have made particular mention of any potential impact on judicial resources that may come from the positive consequence of having more members of our community having access to legal assistance.

1440 He did say, and I really do not want to sound controversial in saying this, during the course of his contribution that 'it is said by Government'. With respect to him, it is not said by Government; it is said by the entirety of this House. It is also said by him, because the motion, although presented in my name on behalf of the Government, also enjoys his support. So all the matters raised in that motion in fact are agreed by all of us.

1445 Therefore, Mr Speaker, I think it is fair to say that in respect of the practice instituted in 2011 of having fixed term appointments, we are persuaded and the hon. Gentleman at the conclusion of his contribution, also said that notwithstanding concerns about the potential impact on access to justice due to the legal assistance reforms, the possibility that the judicial calendar may be overwhelmed as a result of a particularly complex commercial case, as a result of interlocutory

applications and so on, that they are inclined to agree with the Government that fixed-term appointments in a small jurisdiction such as ours, are necessary.

1450 He makes the point, and I am going to disagree with him on this point only: he says that it is a question of funding, but with respect to him, for us it has never been about funding. The contract clearly stipulated that the contracting of this particular fourth judge was expressly stipulated within for the short-term needs of the judiciary for a fixed period of time, so that both parties knew that there was a particular period of time in respect of which this fourth judge would be serving the community.

1455 And in that respect, it bears mentioning that the Hon. the Chief Justice himself, in the Opening of the Legal Year, himself says that he did not have any legitimate expectation that the post would continue beyond the three-year term and it was always clear to him that the funding was made to provide for the short-term needs of the judiciary and that this was *not* a permanent increase to the judicial complement.

1460 As a result, Mr Speaker, it is not that we are taking a step back; it is that we are returning to the usual complement of the Supreme Court, which comprises one Chief Justice and two puisne judges. Therefore, Mr Speaker, for all of the reasons that I have mentioned, I commend the motion to the House. (*Banging on desks*)

1465 **Mr Speaker:** I now put the question in the terms of the motion proposed by the Hon. the Minister for Health, Care and Justice. Those in favour? (**Members:** Aye.) Those against? Carried.

#### ADJOURNMENT

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

1470 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I am conscious that there are other motions on the Order Paper and I know that hon. Members have been giving indications that they do not wish to progress with them today, given that the time at which we find ourselves makes it impossible for the House to sit for much longer and so, Mr Speaker, I am going to move that the House should now adjourn *sine die* – with this final thought.

1475 Thirty-seven years ago today, in a parliament in the Iberian Peninsula, shots were fired. Today in this Parliament, the only bullets flying are the words we throw at each other in democratic debate, Mr Speaker, and long may it be so in this place, that we never have to commemorate anything like that, Mr Speaker.

I now move that the House should now adjourn *sine die*.

1480 **Mr Speaker:** The House will now adjourn *sine die*.

*The House adjourned at 5.17 p.m.*