



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.06 p.m. – 7.46 p.m.

Gibraltar, Friday, 20th December 2019

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The Gibraltar Parliament

The Parliament met at 3.06 p.m.

[MR SPEAKER: Hon. M L Farrell BEM GMD RD JP *in the Chair*]

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

COMMUNICATIONS FROM THE CHAIR

Procedural – Motions re Public Services Ombudsman

Clerk: Meeting of Parliament, Friday, 20th December 2019.
(iii) Communications from the Chair.

5 **Mr Speaker:** Hon. Members will have noticed that there are two notices of motions dealing with the Public Services Ombudsman. The Hon. Roy Clinton gave notice of his motion on 27th November, and the Hon. the Chief Minister did so on 19th December. Yesterday, the Hon. Roy Clinton made representations to me on the basis that both motions were on the same subject and that therefore the Hon. the Chief Minister's motion infringed Standing Order 47(1) 10 on the grounds that it constituted anticipation, and as such should therefore be ruled as being out of order.

Using a ruling by Speaker Alcantara as a precedent, there were no grounds for not accepting the tabling of the motion by the Hon. the Chief Minister, as putting it in the Order Paper safeguards the moving of his motion had the first motion been withdrawn. That was a bit of a 15 mouthful, that one!

The Hon. the Chief Minister's view is that it does not infringe Standing Order 47(1), since the wording of some parts of the motion is different to that of the Hon. Roy Clinton. Moreover, he added that Government motions are transacted ahead of Private Members' motions in the Order of Business and therefore it has to take precedence.

20 My attention was drawn to a ruling made by a former Speaker in which it was declared that two motions on the granting of the Freedom of the City to Sir Joshua Hassan dealt with the same subject and ruled that the second motion by the then Chief Minister of a later date could not be moved.

Both the motions which are the subject of the present discussion are lengthy and generally 25 similar, although the wording and phraseology varies. There are, however, several paragraphs, the contents of which should be noted. In summary, these are as follows.

The Hon. Roy Clinton resolves that the relevant Act be amended to allow for own motion investigation, whilst the Chief Minister's resolves that the Act be reviewed to enable the office of the Public Services Ombudsman to launch investigations of its own motion.

30 The Hon. Roy Clinton makes specific references to two Departments, namely the Housing Authority and the Civil Status and Registration Office, included in the Public Services Ombudsman recommendations contained in the 2018 Annual Report, whilst the Chief Minister's does not.

35 The Hon. Roy Clinton speaks about the Public Services Ombudsman's office being created for the public to complain about any act of maladministration. The Chief Minister's motion is silent on this.

The Hon. Roy Clinton calls on the Ombudsman's recommendations to be acted upon in a timely manner; or, if not, that a proper explanation is given by heads of Departments on a case by case basis. The Chief Minister is silent on this.

40 On the basis of the aforementioned, and whilst I recognise that there is merit to the Hon. Roy Clinton's argument, I am not sure whether Standing Order 47(1) has been breached.

In the absence of any Gibraltar clarifying references, I have looked to *Erskine May*. In its 25th edition, it states on anticipation – and I paraphrase – at the second paragraph of paragraph 20.13: 'Stated generally, the rule against anticipation, which applies to other proceedings as well as motions, as strictly enforced in earlier times, was that a matter must not be anticipated if contained in a more effective form of proceeding than the proceeding by which it was sought to be anticipated, but it must be anticipated if contained in an equally or less effective form.'

50 In layman's language, that means, for example, a Bill or any other Order of the Day is more effective than a motion, which in turn has priority over an amendment, which is in turn more effective than a Written or Oral Question. If such a motion were allowed, it could indeed forestall or block a decision from being taken on a matter already on the Order Paper.

It should be noted that at the Meeting of Parliament held on Friday, 7th October 2016, Parliament debated two motions that were substantially similar. In fact, *Hansard* records the Hon. Roy Clinton saying:

Mr Speaker, it is regrettable that the Government has seen fit to bring this counter motion in what the *New People* describes as an attempt to hijack my prior motion for the creation of a Public Accounts Committee.

55 Given the precedence set by Speaker Canepa in allowing both motions to go ahead and the advice contained in *Erskine May*, I am allowing both motions to stay on the Order Paper.

Clerk: We now proceed to –

60 **Hon. R M Clinton:** Mr Speaker, just a small point of order. I am grateful for your ruling, and in the interest of making the most effective use of parliamentary time, may I suggest to the Government benches that perhaps before coming to debating the Government's motion, we might be able to sit down and agree a consensus motion that might be agreeable to the Government?

65 **Chief Minister (Hon. F R Picardo):** Mr Speaker, we would have been agreeable to agreeing a consensus motion if before the hon. Gentleman had put his motion he had sought that consensus. Now that the hon. Gentleman has decided to progress in another way, today we will progress with the terms of the Government motion as already set out.

70 **Hon. K Azopardi:** Mr Speaker, on a point of order, given the effect of your ruling, is Mr Speaker intending to take debate on both motions simultaneously? I think there is a paragraph in *Erskine May* that suggests that if there are motions that are on the same subject they should be taken together, and perhaps we can reflect on that practice, especially because the Hon. Roy Clinton's motion had been filed before the Government motion.

75 But as we say, that is not the intention. The intention of my hon. Friend's suggestion to the Chief Minister is that perhaps there is still time for us to come up with language which we can all agree without wasting time.

80 **Hon. Chief Minister:** Well, Mr Speaker, the Government is confident that its motion is likely to pass, and that is the language that we believe should be recommended to the House. You have ruled and we accept your ruling, of course, and will look forward to the debate.

Questions for Oral Answer

EDUCATION, EMPLOYMENT, UTILITIES AND THE PORT

Q259/2019

**Bayside and Westside Schools –
Completion date for works**

Clerk: We now return to answers to Questions.

We commence with Question 259. The questioner is the Hon. Ms M D Hassan Nahon.

85

Hon. Ms M D Hassan Nahon: Can Government give a date by when it commits to all works being completed at the new Bayside and Westside Schools?

Clerk: Answer, the Hon. the Minister for Education, Employment, Utilities and the Port.

90

Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi): Mr Speaker, all building works at Bayside and Westside have been completed. There are some minor works which are in the process of being completed, but these are expected to be ready by 31st January 2020. In addition, as with all new buildings, there will be a period of snagging.

95

Mr Speaker, when I say the minor works are expected to be ready by 31st January, there may be a little bit of slippage in respect of one or two minor matters, but that is normal, and then there will just be a normal period of snagging.

Q260/2019

**Scheduled power cuts –
Whether anticipated to continue**

Clerk: Question 260, the Hon. Ms M D Hassan Nahon.

100

Hon. Ms M D Hassan Nahon: Scheduled power cuts have been happening routinely in recent months. Can Government confirm if these will continue and for how long?

Clerk: Answer, the Hon. the Minister for Education, Employment, Utilities and the Port.

105

Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi): Mr Speaker, scheduled power cuts tend to occur for maintenance and system upgrade reasons in relation to the electricity supply distribution system, and where possible, except in emergencies, customers are duly informed in advance by using the local press and social media.

110

Scheduled power outages are envisaged to continue as part of the network's maintenance and upgrade programmes. None of the scheduled power outages have been in relation to the new North Mole power station.

Attachment 1, which is a schedule, shows a list of scheduled outages for the calendar year 2019 to date.

Answer to Question 260/2019

Scheduled power cuts 2019

Maintenance/upgrade	Date and time	Location
Interruption of Electricity Supply- Low Voltage Distribution System	Wednesday 9 th January 2019 at 2300hrs for approx. eight hours	Kiosk by Bus stop in Winston Churchill Avenue (North) Coach Shelter Bureau de change by frontier Toilets by frontier Revenue offices by frontier Pumping Station Watering Jetty Coastguards and borders offices Churchill Centre Octagonal complex GJBS Site Supply Sewage pump house
Interruption of Electricity Supply- Distribution System.	Friday 11 th January 2019 at 0930 hrs for a period of approx. two hours	Churchill House (in its entirety) 2-14 Witham's Road
Interruption of Electricity Supply- Distribution System.	Saturday 16 th February 2019 at 1300 hrs for a period of approx. three hours	Unit 10, The New Harbours Unit 11, The New Harbours Unit 12, The New Harbours Unit 13, The New Harbours Unit 14, The New Harbours Unit 15, The New Harbours Unit 17, The New Harbours Unit 81, The New Harbours Unit 83, The New Harbours Unit 84, The New Harbours Unit 90, The New Harbours Unit 91, The New Harbours Unit 92, The New Harbours Unit 93, The New Harbours Unit 94, The New Harbours
Interruption of Electricity Supply- Distribution System.	Sunday 17 th February 2019 at 0930 hrs for a period of approx. three hours	Unit 5B, The New Harbours Unit 28, The New Harbours Unit 29A, The New Harbours Unit 29B, The New Harbours Unit 29C, The New Harbours Unit 29D, The New Harbours Unit 29E, The New Harbours Unit 30, The New Harbours Unit 31, The New Harbours Unit 32, The New Harbours Unit 33, The New Harbours Unit 34, The New Harbours Unit 35, The New Harbours Unit 36, The New Harbours Unit 37, The New Harbours Unit 38, The New Harbours Unit 66, The New Harbours

Answer to Question 260/2019 continued

		Unit 68, The New Harbours Unit 69A, The New Harbours Unit 69B, The New Harbours
Interruption of Electricity Supply-Distribution System.	Friday 15th February 2019 at 0015 hrs for a period of approx. three hours	Cornwall's Parade (in its entirety) Cornwall's Centre (in its entirety) 15 Cornwall's Lane, Corkbay House (in its entirety) 173 Main Street
Interruption of Electricity Supply-Distribution System.	Friday 15th February 2019 at 0215 hrs for a period of approx. three hours	New Passage (in its entirety) Hospital Steps (in its entirety) Boschetti's Steps (in its entirety) Benzimra's Alley (in its entirety)
Interruption of Electricity Supply-Low Voltage Distribution System	Thursday 21st February 2019 at 0930 hrs for a period of approximately three hours	Willis's Passage (in its entirety) Willis's Road from its junction with Castle Steps to its Junction with Paradise Ramp.
Interruption of Electricity Supply-Low Voltage Distribution System	Sunday 24th February 2019 at 1100 hrs for a period of approx. four hours	Governor's Lane in its entirety (from its junction with Main Street to its junction with Secretary's Lane) – Not including Convent Place.
Interruption of Electricity Supply-Low Voltage Distribution System	Friday 22nd March 2019 at 0930 hrs for a period of approx. 1 hour	Eaton Garages; Devils tower Road Opposite Red Roof House.
Interruption of Electricity Supply-Distribution System.	Saturday 23rd March 2019 at 0930 hrs for a period of approx. 7.5 hours	Bassadone Building, North Mole
Interruption of Electricity Supply-Distribution System.	Saturday 23rd March 2019 at 1400 hrs for a period of approx. 3 hours	Western Arm in its entirety (Ferry Terminal Building to end of Western Arm).
Interruption of Electricity Supply-Low Voltage Distribution System	Tuesday 26th March 2019 at 2300 hrs for a period of approx. five hours	1 Fountain Ramp Ex Police Station 122 Irish Town 87 Irish Town 95 Irish Town
Interruption of Electricity Supply-Low Voltage Distribution System	Friday 29th March 2019 at 0930 hrs for a period of approx. three hours	Orillion House Causeway House Bayside House Laguna House
Interruption of Electricity Supply-Distribution System.	Wednesday 3rd April 2019 at 1600 hrs for a period of approx. three hours	St Bernard's Nursery 9-24 Castle Road Paradise Cottages Chicardos Passage

Answer to Question 260/2019 continued

Scheduled power cuts 2019

Maintenance/upgrade	Date and time	Location
Interruption of Electricity Supply- Low Voltage Distribution System	Wednesday 9 th January 2019 at 2300hrs for approx. eight hours	Kiosk by Bus stop in Winston Churchill Avenue (North) Coach Shelter Bureau de change by frontier Toilets by frontier Revenue offices by frontier Pumping Station Watering Jetty Coastguards and borders offices Churchill Centre Octagonal complex GJBS Site Supply Sewage pump house
Interruption of Electricity Supply- Distribution System.	Friday 11 th January 2019 at 0930 hrs for a period of approx. two hours	Churchill House (in its entirety) 2-14 Witham's Road
Interruption of Electricity Supply- Distribution System.	Saturday 16 th February 2019 at 1300 hrs for a period of approx. three hours	Unit 10, The New Harbours Unit 11, The New Harbours Unit 12, The New Harbours Unit 13, The New Harbours Unit 14, The New Harbours Unit 15, The New Harbours Unit 17, The New Harbours Unit 81, The New Harbours Unit 83, The New Harbours Unit 84, The New Harbours Unit 90, The New Harbours Unit 91, The New Harbours Unit 92, The New Harbours Unit 93, The New Harbours Unit 94, The New Harbours
Interruption of Electricity Supply- Distribution System.	Sunday 17 th February 2019 at 0930 hrs for a period of approx. three hours	Unit 5B, The New Harbours Unit 28, The New Harbours Unit 29A, The New Harbours Unit 29B, The New Harbours Unit 29C, The New Harbours Unit 29D, The New Harbours Unit 29E, The New Harbours Unit 30, The New Harbours Unit 31, The New Harbours Unit 32, The New Harbours Unit 33, The New Harbours Unit 34, The New Harbours Unit 35, The New Harbours Unit 36, The New Harbours Unit 37, The New Harbours Unit 38, The New Harbours Unit 66, The New Harbours

Answer to Question 260/2019 continued

	0930 hrs for a period of approx. three hours	
Interruption of Electricity Supply- Low Voltage Distribution System	Wednesday 26th June 2019 at 2330 hrs for a period of approx. five hours	Duke of Kent House Joshua Hassan House Governors Lane Georges Lane Leon House Bristol Hotel Cathedral Square Cathedral of the Holy Trinity Main Street – Between Library Street and Georges Lane
Interruption of Electricity Supply- High Voltage Distribution System	Tuesday 2nd July 2019 at 1100 hrs for a period of approx. two hours	New Harbours (in its entirety) GBC Site Supply
Interruption of Electricity Supply- Low Voltage Distribution System	Thursday 4th July 2019 at 0930 hrs for a period of approx. three hours	Cheshire House, Buena Vista Estate (in its entirety)
Interruption of Electricity Supply- Distribution System.	Wednesday 21st August 2019 at 0930hrs for a period of approx. 1 hour	Queens Hotel Queens Cinema Piccadilly Restaurant AquaGib Building – Ragged Staff Road Gibraltar Electricity Authority - Rosia Road Electricity Centre 1 to 10 Europa Road
Interruption of Electricity Supply- Low Voltage Distribution System	Tuesday 3rd September 2019 at 0700hrs for a period of approx. ½ hour	GIB V William Jackson Estate in its entirety
Interruption of Electricity Supply- Low Voltage Distribution System	Wednesday 4th September 2019 at 0700hrs for a period of approx. ½ hour	GIB V William Jackson Estate in its entirety
Interruption of Electricity Supply- Low Voltage Distribution System	Sunday 22 nd September 2019 at 0915 hrs for a period of approx. 5 hours	No's 1 to 16 Bomb House Lane Hebrew School Line wall Rd Synagogue
Interruption of Electricity Supply- Low Voltage Distribution System	Saturday 28th September 2018 at 0915hrs for a period of approx. 3 hours	Orion House, Georges Lane 26-28 Georges Lane
Interruption of Electricity Supply- Low Voltage Distribution System	Thursday 10th October 2019 at 0930 hrs for a period of approx. 4 hours	2 to 4 Town Range 13 and 15 Town Range 10 to 28 Georges Lane Orion House, Georges Lane

Answer to Question 260/2019 continued

Interruption of Electricity Supply- High Voltage Distribution System	Thursday 10th October 2019 at 1400 hrs for a period of approx. 3 hours	Calpe Road Castle Steps (upper) Old Civil Prison Tank Ramp (East of No.8) Tarik Road Upper Castle Steps Waterworks Willis's Multi Storey Car Park Willis's Passage (North of No.17) Willis's Road (North of No.17) Hay's Level, Princess Caroline, Bruce's Farm, World War II Tunnels, Upper Galleries
Interruption of Electricity Supply- Low Voltage Distribution System	Thursday 17th October 2019 at 0930hrs for a period of approx. 3 hours	Rosia Road Meeting Hall
Interruption of Electricity Supply- Low Voltage Distribution System	Thursday 21st November 2019 at 0015hrs for a period of approx. 3 hours	Bedlam Court Office Block Turnbull's Lane, in its entirety Pizza Hut 1/5 Irish Town
Interruption of Electricity Supply- Low Voltage Distribution System	Wednesday 20th November 2019 at 2300hrs for a period of approx. 1/2 hour	GIB V William Jackson Estate in its entirety GASA swimming pool complex
Interruption of Electricity Supply- Low Voltage Distribution System	Thursday 21st November 2019 at 0100hrs for a period of approx. 6 hours	GIB V William Jackson Estate in its entirety GASA swimming pool complex
Interruption of Electricity Supply- Low Voltage Distribution System	Wednesday 4th December 2019 at 0930hrs for a period of approx. 4 hours	Knights Court; in its entirety
Interruption of Electricity Supply- Low Voltage Distribution System	Thursday 5th December 2019 at 2000hrs for a period of approx. 4 hours	Telecoms Towers by British Lines Customs Building and Barriers. (Not including offices in air terminal)

115 **Hon. M D Hassan Nahon:** Mr Speaker, I was asking a question which I do not think I got the answer to, regarding whether we can expect the basic practical inconvenience of more power cuts in the future. As the hon. Member will know, they affect people, they affect businesses and the economy, and I was just trying to understand whether the power cuts that have been happening will happen less and less, or are they going to continue to happen in Gibraltar?

120 **Hon. G H Licudi:** Mr Speaker, the question is specifically about scheduled power cuts, not power cuts generally which may happen as a result of perhaps testing or a fault or an outage, which occasionally happens.

The question specifically says ‘scheduled’ power cuts have been happening in recent months – will they continue? Well, they have always happened. There have always been scheduled power cuts to specific areas, and the list which the hon. Lady now has shows not just the reason for the scheduled power cuts but the area or the building that is affected by that specific power cut.

There has been a process for some time of upgrade of the distribution system. This has absolutely nothing to do with power generation and therefore nothing to do with either Waterport generating station or the new power station. You are talking of scheduled power cuts and they only happen when there is a need to open up a bit of the road to change a little bit or change something in the distribution system or the distribution centre, which happens around Gibraltar. That is the reason why scheduled power cuts occur.

Also, in relation to new buildings, when there is a need to put new power to a new building, there is a need to connect something to a distribution centre and possibly the need to schedule a power cut to an adjoining building at the same time. That has always happened and will obviously continue to happen, but the disruption is minimal. The hon. Lady has in the list itself the time that it takes in respect of each scheduled power cut that has occurred this particular year, and they tend to be for a couple of hours, or two or three hours.

It has always happened and clearly it will continue to happen whilst upgrades to all distribution systems and all distribution networks in Gibraltar continue to occur, as we have been doing for the last eight years, but again I stress this has absolutely nothing to do with power generation in Gibraltar.

Hon. Ms M D Hassan Nahon: Mr Speaker, I thank the hon. Member for his answer, and perhaps I did make a mistake. It was not through lack of doing any homework, just a genuine mistake in not putting ‘and other power cuts’.

Would the hon. Member indulge me, even though he does not need to, to give me some idea of whether normal general power cuts might be happening as frequently as they have, or whether he feels confident that normal power cuts ...? Or would he like me to pose the question next month again in different terms?

Hon. G H Licudi: Mr Speaker, I understand where the hon. Lady is coming from. I focused, obviously, as the hon. Lady will understand, on the specific question. I understood that what the hon. Lady wanted to know was about these scheduled power cuts and why they occur, or how often they occur. That is why the answer has been given to the specific question.

If the question is about power cuts generally, there are occasions when there are power outages. There have been one or two occasions when as a result of building works a contractor has hit a cable, for example, and that has ended up in a power outage. I am told that as a result of upgrades to the distribution system and new systems being put in place, those things will either disappear or will be less and less in the future, because there will be automatic systems which recognise where there has been that fault in the distribution system itself and automatically redirect the power supply through the rest of the system so that there is no power outage. I am even told that when that happens – and it is already in place, for example, in all the new buildings, all the new estates that are being done, all those have this new system – when that happens that redirection occurs, in milliseconds, there might be a flickering of the light but that is all that is felt.

The hon. Lady knows that we have been undergoing a process not just of improvements to the distribution network and supply throughout Gibraltar but to the generation of electricity. With the Waterport power station in the process of being decommissioned and the final stages of commissioning of the brand new power station in Waterport – which will be running, we expect, in future, almost exclusively on gas, even though some of the engines are dual-fuelled – when that process is complete, then we expect that the resilience of the system will obviously be much better than it has been in the past with the old generators.

It is impossible for me, or any Government Minister, to say that power outages will forever be a thing of the past and there will never be a trip-up or an outage for whatever reason. There might be an electrical reason, an electronic reason. At the moment, there is a phase of testing of the new generating station. There have already been occasions, and I can certainly think of one occasion last week when the whole of the power supply in Gibraltar was being generated from the new power station in the North Mole with the gas generators on. That is the whole of power generation. There is sufficient capacity there for the whole of Gibraltar on a long-term basis and we expect, therefore, this to be a much more reliable, much more resilient system. But there are, of course, periods of testing that need to take place. You need to load up the machines and see how the machines actually react in certain situations and it is impossible to say, because of the electronic nature of the system, that something might not trip up in testing. That is the whole point of testing: to see how the system holds up to different provisions. But certainly with the new power station not only will we have cleaner energy, cheaper energy, but we will have much more reliable energy in the future.

Q324-27/2019

Victoria Keys –

**Publication of developer contract and more detailed information;
timetable; details of loan**

Clerk: We now move to Question 324. The Hon. K Azopardi.

Hon. K Azopardi: Mr Speaker, will the Government publish the contractual arrangements entered into with the developers of Victoria Keys; and, if so, when?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this question together with Questions 325, 326 and 327.

Clerk: Question 325, the Hon. K Azopardi.

Hon. K Azopardi: Mr Speaker, is there an agreed or projected development timetable for the Victoria Keys development or period by which the developers need to commence or complete the development?

Clerk: Question 326, the Hon. K Azopardi.

Hon. K Azopardi: Which company or entity will fund the Victoria Keys development or lend the developers £50 million, and what is the rate of interest and term of the loan?

Clerk: 327, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: When can the people of Gibraltar expect to receive more detailed information regarding the Victoria Keys development project?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, we will publish the terms of the agreement with the developers of Victoria Keys once the negotiations of these are entirely finalised. I believe it is important for all of Gibraltar to see the excellent terms we have secured for the people of Gibraltar.

The timing of the development of this project will be dependent on the Development and Planning Commission approval and the engineering aspects of the project and we look forward to the project progressing as quickly as possible.

The Government will determine which funding vehicle it will use to provide lending to Victoria Keys when the loan is established. The terms of the loan have not yet been entirely finalised, but when they are, they will be transparent to the public as they will form part of the full publication of the terms of the agreement reached with the developers, which I have repeatedly committed to and which I look forward to.

Her Majesty's Government of Gibraltar has nonetheless already released detailed information regarding the Victoria Keys development project. More will be said as and when the project develops and as we start the process of delivering against this excellent opportunity for the enhancement and growth of our nation by the establishment of this beautiful, carbon-neutral garden city by the sea, an important part of the delivery of our Green Gibraltar manifesto.

Hon. K Azopardi: I think the pronunciation yesterday was '*gasto*', not '*gusto*', for the tone of those pronouncements by the Chief Minister.

I appreciate that he is going to publish the contractual arrangements when the negotiations are finalised. Can he indicate how close to finalisation they are and a likely timescale for that?

Hon. Chief Minister: Mr Speaker, I cannot, because then I will be told that I have not been precise if they go on any further than I might expect. And I do not do finger in the air. I have been advised not to announce things until the ink is dry on the paper and I am going to take that advice.

Hon. K Azopardi: Who has given him that advice?

Hon. Chief Minister: Mr Speaker, if he cares to turn to his right and look to his not immediate but pre-immediate predecessor as former leader of the party – or FLOP for short – it was him.

Hon. K Azopardi: It is very pleasant to hear that the Chief Minister is taking advice from the GSD now.

Mr Speaker, he said that the development timetable depends on the planning process. In my experience, it depends on perhaps two things sometimes. One is the planning process, but sometimes there is a timescale built into a development licence or a building lease. Is the Government contemplating that kind of arrangement, where it gives the developer a finite end timetable?

Hon. Chief Minister: Mr Speaker, yes, sir.

Hon. K Azopardi: Has that end timetable been identified already, and can he illuminate us as to that?

270 **Hon. Chief Minister:** Mr Speaker, I have said the negotiations are not finished, and as he will
know, it is not in the interest of the taxpayer that we should stymie ourselves by putting out
there what our position in that may be. I understand that those negotiating for the other side
already have an indication from us of what that may be, but we may want to tighten that and
therefore I do not want to be held to having told the Parliament something which I might then
275 seek to make even tougher in the context of the negotiations in the interest of the taxpayer.

Hon. K Azopardi: And in relation to Question 326, where I asked about the funding – and I
apologise if this was already contained in the Chief Minister's answer, but he was going quite
fast and I was a bit distracted by the enthusiasm of his delivery – can he tell us if he did give us
280 that information, and if not, is this also part of the finalisation issue?

Hon. Chief Minister: Well, Mr Speaker, I shall take it as a compliment that he sees me
enthused, and I am just disappointed I do not seem to appear to have been able to enthuse him
with the same sort of gusto for the job that we are entrusted to do.

285 Mr Speaker, I said that the Government will determine which funding vehicle it will use to
provide lending to Victoria Keys when the loan is established.

Hon. Ms M D Hassan Nahon: Mr Speaker, if I can ask, the Government boasts of the
carbon neutrality of this project, this development, but how carbon neutral will the actual
290 development time for the project be, the years of development? And how does the Government
propose to mitigate any negative effects of this development? Is it taking environmental advice
or lead on the project?

Hon. Chief Minister: Mr Speaker, we are taking advice on how to deliver our key objective,
295 which is that Gibraltar should continue to see development, but that that development should
be done in a sustainable way which is also carbon neutral.

She will have seen the designs of this, which I think, even though she may or may not back it,
she will no doubt agree, at least as artist's impressions, are the sort of area that one might like
to see developed, the sort of approach that one might like to see developed in the future in
300 Gibraltar. And this is obviously not just about the look of the place, it is about the carbon
neutrality of the place, how the guts of it are going to be put together, and on that we are taking
advice on those issues.

In my Government the Minister for the Environment leads. He is one of Gibraltar's leading
specialists on the subject and he is leading a team that is addressing these key issues and
305 bringing together both the need to continue to see growth and development in our community
and the fact that we should do so sustainably and that we should do so in the context of carbon
neutrality.

Hon. K Azopardi: Sorry, I had one final supplementary to the Chief Minister, which is to ask
310 him – I appreciate the negotiations are ongoing – who is, on the Government's side, leading on
these negotiations?

Hon. Chief Minister: The man, Mr Speaker, who I described yesterday as the finest financial
and accounting brain of his generation.

315 **Hon. K Azopardi:** Okay. And how are the procedures that the Chief Minister described to us
in respect of conflicts being navigated on that basis?

Hon. Chief Minister: They are being navigated, Mr Speaker, on the basis that they should not
320 arise.

Hon. K Azopardi: In what way should they not arise?

325 **Hon. Chief Minister:** Because the negotiations are not being handled between people who are in any way in a situation of conflict.

Hon. K Azopardi: Mr Speaker, who is on the other side of these negotiations?

330 **Hon. Chief Minister:** A man, Mr Speaker, who we considered might have been in a situation of conflict when they were in Government.

Hon. K Azopardi: Mr Speaker, that is far too oblique for me, so can the Chief Minister perhaps name that person?

335 **Hon. Chief Minister:** I can, Mr Speaker, but it would be unfair to name a person across the floor of the House. I am happy to tell the hon. Gentleman, but it is the director of a company that they entered into a number of contracts with at the time that they were in Government, in particular the contracts to deal with the supervision of the Airport and road projects. But I do not want to simply name the individual across the floor of the House.

340

Hon. K Azopardi: Mr Speaker, I appreciate that, and perhaps the Hon. the Chief Minister can tell me privately. Until such time, of course, he will understand that it is impossible to take a view on that last exchange over the last two minutes until we have more details.

345 **Hon. Chief Minister:** Mr Speaker, I appreciate that he might not be able to take a view, but given that it is up to me to take a view, I am sure when I tell him he will take the same view, although it will not be as relevant to the conduct of the negotiations as my view.

Q328/2019
Voter fraud –
Legislation to eliminate

Clerk: Question 328, the Hon. Ms M D Hassan Nahon.

350 **Hon. Ms M D Hassan Nahon:** Does Government intend to bring in legislation in order to eliminate the rare, yet real and intolerable incidences of voter fraud?

Clerk: Answer, the Hon. the Chief Minister.

355 **Chief Minister (Hon. F R Picardo):** Mr Speaker, no instances of electoral fraud have been reported to the Returning Officer, nor has the Returning Officer found any occurrence of electoral fraud.

I am sorry to be so precise, but the hon. Lady asked a precise question and I think I should give her a first answer that is that precise.

360

Hon. Ms M D Hassan Nahon: Mr Speaker, the Chief Minister quotes me as having said 'electoral' fraud – I said 'voter' fraud and that is what is in the question on the Order Paper.

One could say that there was voter fraud. There is always some voter fraud, in that people report that their own name has been used to vote, and this year was no different. We saw it being reported to the Returning Officer and we saw people making complaints on social media.

365

So my question was rather simple and, I think, quite clear. What I would ask in that regard is whether something as easy as legislating in favour of voters having to present their ID card at the polling stations is something that this Government would look at implementing.

370 **Hon. Chief Minister:** Well, Mr Speaker, I do not agree that there were instances of voter fraud. For me to be able to agree to that, and indeed for any of us to think that there was voter fraud we would have needed the Returning Officer to have identified that there was voter fraud or electoral fraud.

375 What the Returning Officer has said is that there are three instances of administrative error which led to three voters not being able to cast their own vote because their names had been marked as having voted already when they appeared to vote. So it is within the realms of statistical human error to be expected that when there are similar names on the list individuals may be crossed out accidentally. There has not been any suggestion that in any of those three instances, which are not outside the sort of instances seen in previous elections ... There has
380 been no suggestion that any of that has resulted from an act of impersonation, which would be something akin to fraud. The Election Rules already provide for that to be an offence, so if the hon. Lady is asking us whether we would legislate to eliminate this, the legislation is already there. I am told it is Rule 35 of the Election Rules, which she may care to have regard to.

385 Mr Speaker, in the context of the way that general elections are run in Gibraltar, where I think we will all want to congratulate ourselves for how the electoral staff run the elections, the instances which the hon. Lady refers to and which she may recall I referred to in the context of my speech on the morning of the election result being announced ... even if there is one instance of a voter not being able to cast his vote, we are all equally concerned that that should not happen again. We are equally concerned when people who believe they have registered have
390 not registered, or where people have not realised that they needed to take steps to register. So we always need to up our game.

The Returning Officer has always been careful to ensure that any changes which are required are brought to the attention of the Parliament, and indeed to the Government, so that we can act. I think in this instance what we must understand is that this is in the realms of what has
395 happened in other elections, in the realms of the sort of statistical margin which is to be expected, and that we need to ensure wherever possible that the systems are in place to avoid this happening again. But an onerous system which requires people to turn up with identity carnets or passports etc. might actually put people off. I must tell the hon. Lady I turn up with my ID card every time and I put it on the table every time. Most people in Gibraltar have an ID
400 card, but we do not want to make it difficult for people to vote, and therefore, Mr Speaker, anything which changes the requirements today, whatever they may be, would have to be something we consider very carefully.

I think that this is an issue which we should always continue to have under consideration and it is not a bad thing for the Select Committee on Reform of the House, which comes about as a
405 result of elections, to look at. There is a motion on the Order Paper that reconstitutes that Committee and that puts her on it. It may be that she wants to raise that in the context of the work of that Committee, and I would welcome any suggestions that she might make there.

Hon. Ms M D Hassan Nahon: Thank you to the Chief Minister for that answer.

410 I accept the statistical margin of error, as the Chief Minister says, but the truth is that the Chief Minister says that there is no indication of it being voter fraud and it is probably human error, but we do not know either way whether it was or whether it was not voter fraud – we will never know – or whether it was or was not human error, but the point of suggesting the possibility of having to present your ID card is to eliminate any of the two possibilities, whether
415 it is fraud or whether it is human error. It would help perhaps the staff, because they are checking the names and numbers all day, throughout the day. It would actually maybe help them be clearer on the line that they have to cover, considering how much of it they are doing.

So, when the Chief Minister talks about implementing systems, I think that this is something very minor that could make a big change and would make the system fairer.

420 The other ... well, I would ask that question another time, but I think that my question was mainly about whether he would be open to put this minor addition in place in order to make things run smoother and fairer, Mr Speaker?

Hon. Chief Minister: Well, Mr Speaker, I have not said no. I have told her to raise it in the context of the Select Committee.

425 But I must say that I do believe that she is wrong in one respect. If there were an instance of likely voter fraud, I think we would know. In other words, we would likely have had a report from one of the tables where the three instances arose, that they believed that – let me use the hon. Lady's name – Marlene Hassan Nahon had actually come before and somebody had
430 identified themselves as Marlene Hassan Nahon of whatever address. That was not the instance. This was an instance of what the people in the polling stations considered was an administrative error on their part at a human level. So I think there is a difference and there would be an indication if there had been a suggestion that there was a fraud in play here, which would have come to our attention before today.

435 Mr Speaker, I think with the suggestion that she puts the matter in the Select Committee ... that would be helpful. I am assisted, Mr Speaker, by the Clerk in reminding her that in the United Kingdom, where people could not vote ... even where they had to identify themselves with polling cards, there were also instances of this administrative error. So it is not something that is cured so easily, although I do think that we need to do everything possible to avoid it. But I think
440 we do also have to commend ourselves for the fact that this only happened in three instances in the context of a voting population of over 23,000.

Q329/2019

Select Committee on Parliamentary Reform – Scheduled consultation/meetings

Clerk: Question 329, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: Regarding parliamentary reform, will further consultation or
445 meetings of the Select Committee be scheduled for the near future?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, yes, there is a motion on the Order Paper that
450 will deal with these issues.

Hon. M D Hassan Nahon: Mr Speaker, can the Chief Minister give us any clarity on how often, more or less? We know of the Brexit cloud over all of us, but has he got any idea how often he would like to meet in the lifetime of this Parliament?
455

Hon. Chief Minister: Well, Mr Speaker, I think it is something for the motion. If the hon. Member allows me, I do not want to talk on the subject and the substance of the motion until we get to it, because I think she will get some of the clarity that she is seeking there.

Q330/2019

**Abortion referendum campaign—
Rules regarding funding and expenditure**

Clerk: Question 330, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: Mr Speaker, I respectfully say that on this question I will probably get a similar answer, which I understand, as we have a motion on the following question coming up. But I will ask it anyway: will the Government be imposing rules regarding the funding and/or expenditure for the abortion referendum campaign?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I respectfully tell her that she is right. Yes, sir, there is a motion on the Order Paper which will deal with these issues.

Clerk: Written Questions.

**Standing Order 19 suspended
to proceed with Government motions**

Clerk: (ix) Order of the Day – Government Motions.
The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows.

I hereby give notice of Motion under Standing Order 59, to proceed with a suspension of Standing Order 19 in order to proceed with four Government Motions.

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

GOVERNMENT MOTIONS

**Reconstitution and establishment of Select Committees –
Motion carried**

Clerk: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

This House:

Agrees to reconstitute the Select Committee on Parliamentary Reform, the Select Committee on Constitutional Reform and the Select Committee on work related to our departure from the European Union (Brexit);

Resolves and establishes a Select Committee on the Environment which will be chaired jointly by the Chief Minister and the Leader of the Opposition;

And further resolves that these Committees shall each consist of four Members nominated by the Chief Minister, two Members nominated by the Leader of the Opposition and the Independent Member.

Mr Speaker, hon. Members will know that the work that has been done by the Brexit Select Committee has been praised by me and by the Deputy Chief Minister in our various interventions in respect of that subject. We have also referred to the number of meetings that have been held, some chaired by me, most chaired by the Deputy Chief Minister, who is the Minister with responsibility for our departure from the European Union.

In the context of those meetings we have been able to share, not selectively but quite openly and quite extensively, a lot of information with hon. Members, which has helped them, I hope, to understand the detail of our progress through our departure from the European Union – although it is not our choice that we should of course leave the European Union – and indeed to enable us to receive their input and consider such ideas as they might have in respect of that process. So we are going to re-establish that Committee in order that we may be able to continue to do that work, as we still have to finalise our departure from the European Union.

Mr Speaker, I would be considering, if hon. Members agree, that we should amend this motion to include the words ‘and future relationship with’ after ‘departure from the European Union’, so that the same Committee is able to consider the issues that relate to the negotiation of the future relationship and we do not have to come back and establish a new committee for that purpose, especially as there may be an element of overlap between one period and the other. We think it makes sense that we should be able to do that work in that way.

Mr Speaker, I met recently with the Leader of the Opposition to discuss the work of the House in relation to Select Committees and I indicated to him, when I sought that he should provide the names that he would seek to populate the Committees with on his behalf, that it was the Government’s intention – and this addresses the point made by the hon. Lady – to seek to have the Select Committees meet at least once a month, on Tuesday mornings.

In an attempt to make the life of Ministers, and indeed the life of hon. Members, easier to plan as we start the lifetime of this Parliament, I wanted to try and shape the political month in a way that would be best for all Members to be able to plan travel or indeed to plan other work which they may have outside of this place. In order to do so, Mr Speaker, I expect, as I already indicated to you in the course of the Ceremonial Opening, to have a monthly meeting of the Parliament in the third week of each month. In that week I expect to be able to be in the House with the questions in the afternoons on the Monday, Tuesday, Wednesday or Thursday of the week and take the Friday to deal with issues relating to motions and legislation, insofar as that is possible.

I would propose, therefore, that the morning of the third Tuesday of each month should be set aside for the work of Select Committees to enable us to give regularity to the work of the Select Committees that are meeting on issues as important as the reform of this Parliament and indeed the reform of the Gibraltar Constitution. Additionally, this will also give us an element of regularity for meetings of the Brexit Select Committee whilst that remains necessary and indeed for the discussion of the future framework. I think that discipline will also mean that we are able to get through a lot of work that we might not otherwise get through.

Of course, this is subject to the vicissitudes of Brexit and the vicissitudes of government life, or indeed where hon. Members on the other side might not be able to make one or two meetings I think we also need to understand that, in the same way as Members on this side of the House have Government responsibilities that may on one month or another prevent one of us from attending the Select Committees, it should not stop the Select Committee from meeting, and that hon. Members have working lives, in some instances, outside of this Parliament, and if

one of them who is a member of a Select Committee is not able to attend, the Select Committee work can continue. I therefore would envisage that, subject to August and Easter breaks, we would have a good 35 to 40 meetings of these Select Committees in the context of the lifetime of this Parliament, something which I would commend, the regularity of which I believe will enable us to see the work of these Select Committees really being taken apace in a way that has not been the case until now.

Mr Speaker, I am happy to deal with any questions that hon. Members may have, if they want to ask any questions during the course of their interventions.

It is a very short amendment that I am proposing, but if hon. Members want me to, or indeed if Mr Speaker wants me to put it in writing, I am happy to do so.

I therefore, Mr Speaker, would move, with your consent, both the motion and the short amendment that I have proposed.

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

Hon. K Azopardi: Mr Speaker, we welcome this motion and we will support it, and indeed the amendment that the Chief Minister has just proposed.

These are important Committees, of course, and just to touch upon all of these, they are going to cover important issues as we go forward over the next few years, and indeed important challenges.

Touching upon the parliamentary reform one, just being back for two or three days, the Chief Minister knows that I am committed to the area of parliamentary reform generally, not just in terms of the granular mechanics of this House but the wider questions as well that need to be discussed in terms of how this House interacts with the public; the composition of the House; indeed the whole concept of electoral reform, whether it needs to be discussed; the Standing Orders and general practices. So, when the Chief Minister gives us an overview of how he views the way forward over the next 12 months, or indeed the lifetime of the Parliament, and the way he has just described how the House should sit on the third week of the month and so on, I welcome that.

But of course it deals only with one aspect of the work on parliamentary reform, and one of the things that the Committee itself will need to do is to set an agenda of issues that need to be discussed. That is not just for that Committee, of course; it is in relation to all the Committees that are being reconstituted today and the new Committee on the Environment. It is a welcome start, Mr Speaker, and indeed because of it and because of the structure – and of course I am understanding entirely what the Chief Minister says about the fact that work sometimes gets in the way of a specific structure – because of the way that the Chief Minister puts it, that once a month on Tuesday mornings we will have the Select Committees and the third week of the month there will be Parliament and so on, it should be possible for us to lay out a calendar amongst each other – even at the Select Committee stage there are enough of us there, because this Parliament is small – so that to lay out a calendar and at least agree amongst ourselves, and indeed for the convenience of the parliamentary staff, may I say also, the specific days that we are going to sit as a Parliament for the next 12 or 24 months. It should be completely possible and all within the realms of what we have said.

I entirely agree with the Chief Minister when he says that there will be times, because of Government business or indeed business that other people on this side of the House may have, that meetings will go on without them. I entirely understand that. Again, there are enough people on these Committees to make that work, and there should not be a problem in having some kind of regular process to ensure that there is real work conducted through these Committees.

I am not going to speak about the specific work of each Committee because that will be for the Committees to set, but of course the Members opposite, in particular the Hon. Sir Joe

Bossano and the Hon. Dr Garcia, will recall the work that was done by the Select Committee on the Constitution between 1999 and 2002, which had followed the exploratory discussions that we had with the UK and organised well and at pace with regular meetings.

These Committees can indeed lead to quite a lot of output and we would welcome certainly that they should be real Committees where real work is done and not Committees that should stay on the Order Paper without any great level of proactivity, because in all of these areas ... Brexit responds to the fact that there is a real ongoing challenge out of our control in part, but the rest of these agendas, or at least two of them – parliamentary reform and constitutional reform – can be driven here locally by us.

The Environment is an important new Committee which responds to a global challenge and what we in Gibraltar can do from our small perspective to contribute to that challenge, and I think it is a good recognition of that major importance of that area, especially now, in the days of the climate change challenge.

All these Committees, Mr Speaker, represent important areas of either reform policy or challenges for Gibraltar, where cross-party work can lead to a real legacy of progressive change and measures that can protect Gibraltar in the future. We therefore look forward to contributing through those Committees and we will certainly support this motion.

Mr Speaker: The hon. Lady.

Hon. Ms M D Hassan Nahon: Mr Speaker, I echo the words of the Leader of the Opposition, who makes some very valuable points, obviously, and I look forward to the work within the Select Committees.

I take this opportunity to thank the House for involving me and incorporating me in these Committees and acknowledging the strong mandate afforded to me by the people of Gibraltar to represent them in Parliament in as many committees as I can be available to in order to discharge my duties as an elected Member. So, thank you very much.

Mr Speaker: If no other hon. Member wishes to speak, I will call on the mover to reply.

Hon. Chief Minister: Mr Speaker, I am grateful to hon. Members for their confirmation that they will be supporting the Government motion.

Dealing with the points that the Hon. the Leader of the Opposition has made, the agenda for the Select Committee on Parliamentary Reform to a very great extent is set by the work that was done by your predecessor on the commission that was established for parliamentary reform. We now need to take that further. There is a list of items there that we are dealing with. Some of them have already been implemented by the Government of its own motion, some require other consideration, and indeed the Select Committee may take the view that some of those recommendations are no longer the recommendations that we would propose to the House because we may be, together, more progressive in the approach that we take to reform. But I think it is important that we do not forget that there is that agenda item that needs to be dealt with.

Mr Speaker, dealing with the regularity of meetings and the possibility that we should be able to see the work of these Committees be done, and indeed that these are real Committees that do real work, I do detect, if the hon. Gentleman will forgive me, that he is urging me to do exactly what I said to the House I was intending to do. So I will take that less as being urged and more as just agreement that we are on the same page in respect of the work that can be done by these Committees.

I do not think a Leader of this House has ever proposed that committees should meet with the regularity that I am proposing and with the discipline, if I can call it that loosely, that I am proposing in order to seek to achieve an outcome in the time that I am proposing. But I think this is a time of change for Gibraltar. Leaving the European Union will have consequences, both

630 economically and socially for Gibraltar, and those must also be felt in the context of the development of our democracy, our constitutional relationship with the United Kingdom, and that must also I think be reflected in the way that we engage with the public in this House as we continue to modernise the work of this House.

635 I will say to him that although I think the Select Committee on the Constitution which was previously established by the former House of Assembly did do work which resulted in a new Constitution, I do think that there are different views as to whether that Committee worked with the alacrity that all parties would have proposed, or indeed that its Chairman was discharging the functions that he was telling the Members that he was discharging. There was one particularly colourful moment, Mr Speaker, when a particular knight of the realm could contain
640 himself no longer and expressed in graphic terms what he felt the approach of another now knight of the realm had been in promising the Committee work two years before, which he then had told the Committee had absolutely no intention of pursuing. So I think it is better that we look forward.

645 He and I are going to also jointly chair the Environment Select Committee. He will know that that arose from my offer at the time of the General Election campaign, if I was elected and returned as Leader of the House, to have that Committee jointly chaired in order to illustrate the importance that all parties give to the environment. So I think we want to reflect in particular the cross-party approach by having that joint chairmanship of the Select Committee.

650 Mr Speaker, if I may say so to the hon. Lady, the proposal that she should be a member of all of the House's Select Committees is the Government proposal. We have taken that approach since the time that she became an independent Member. I must tell her it is not the approach of all Governments and it has not been the approach of all Governments of Gibraltar that independent Members should be in select committees, but in the context of the nature and size of this House I think it is valuable to hear her views in respect of the Select Committees that we
655 are establishing today. I am pleased that this appears to be accepted by hon. Members opposite but it is the motion of the Government that she should be a member of these Committees.

660 **Mr Speaker:** I now put the question in the terms of the motion and the short amendment proposed by the Hon. the Chief Minister. Those in favour? (**Members:** Aye.) Those against? Carried.

Composition of Select Committees – Motion carried

Clerk: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that the motion standing in my name, which reads as follows, should now be moved:

This House:

Agrees the composition of the Select Committees listed below as follows:

The Permanent Select Committee on Members' Interests:

The Hon S E Linares

The Hon S J Sacramento

The Hon E J Reyes

The Hon R M Clinton

The Select Committee on Parliamentary Reform:

*The Hon F R Picardo
The Hon Dr J J Garcia
The Hon G H Licudi
The Hon V Daryanani
The Hon K Azopardi
The Hon R M Clinton
The Hon M D Hassan Nahon*

The Select Committee on Constitutional Reform:

*The Hon F R Picardo
The Hon Dr J J Garcia
The Hon J J Bossano
The Hon S J Sacramento
The Hon K Azopardi
The Hon E J Phillips
The Hon M D Hassan Nahon*

The Select Committee on work related to our departure from and future relationship with the European Union (Brexit):

*The Hon F R Picardo
The Hon Dr J J Garcia
The Hon Prof. J Cortes
The Hon A J Isola
The Hon D J Bossino
The Hon D A Feetham
The Hon M D Hassan Nahon*

The Select Committee on the Environment:

*The Hon F R Picardo
The Hon Dr J J Garcia
The Hon Prof. J Cortes
The Hon P J Balban
The Hon K Azopardi
The Hon E J Phillips
The Hon M D Hassan Nahon*

665 Mr Speaker, this is in the nature almost of an administrative motion which is required to populate the Committees which we have just discussed the establishment of.

It is an area of particular consternation for the Deputy Chief Minister and I that it is necessary to have a separate motion to populate the Committees that are separately established, and in discussion with the Hon. Leader of the Opposition we have wondered whether in future it might
670 just be possible to have one motion establishing a committee and actually setting out the names of the people on it. It seems to me that nothing turns on that, but that by supporting this motion the Committees will now be properly populated and their work can start.

I therefore commend the motion as amended to the House.

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

I now put the question in the terms of the motion proposed by the Hon. Chief Minister. Those in favour? (**Members:** Aye.) Those against? Carried.

**Abortion Referendum –
Amended motion carried**

Clerk: The Hon. the Chief Minister.

680

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

This House:

Takes note of the public discussion in Gibraltar on the question of abortion;

Further notes the debate on abortion in this Parliament on 12 July 2019 and the subsequent passing of the Crimes (Amendment) Act 2019 to be referred to hereafter as ‘the 2019 Act’;

Recalls that the 2019 Act contains a proposed new Section 163(A) of the Crimes Act which defines the circumstances under which abortion would be legal in Gibraltar;

Recalls that such circumstances relate to injury to the physical or mental health of the pregnant woman or to whether there is substantial risk of fatal foetal abnormality;

*Takes into account the announcement made on 12 July 2019 that the question of the commencement of the said Act would be put to the people of Gibraltar in a Referendum;
And hereby resolves:*

1. That a Referendum be held in Gibraltar on Thursday 19 March 2020 under the Referendum Act 2015.

2. That the question put to the people of Gibraltar in the said Referendum will be:

‘Should the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, come into force?’

3. That the answers to the said question should be YES or NO.

4. That Mr Paul Martinez, Clerk of the Gibraltar Parliament, be appointed by notice in the Gazette as the Referendum Administrator and that an official YES campaign and an official NO campaign be recognised by the Referendum Administrator in accordance with such recognition criteria established by him and funded on an equal basis in an amount not exceeding £50,000 (‘the funding’) and that such funding be disbursed in such manner and in accordance with such procedures as the Referendum Administrator may set for that purpose.

5. That over 50% of the votes cast be required for the result to be treated as qualifying for recognition as a winning lead.

6. That the Referendum Administrator should provide a neutral information document (in terms to be approved by motion in this House) to every person eligible to vote in the Referendum setting out in clearly understandable language the relevant provisions of the Act.

7. That Mr Simon Galliano be appointed by notice in the Gazette as the Registration Officer with Mr Kevin Balban being additionally appointed as his alternate.

8. That Registered Gibraltarians and British Citizens aged 16 years or over on the date of the referendum who have been resident in Gibraltar for 10 years or more and eligible to be so registered under the Referendum Act shall be eligible to vote.

AND THEREFORE AGREES that an Order for a referendum under Section 3 of the Referendum Act 2015 now be made.

685 Mr Speaker, I am able to inform the House that I put this motion after having consulted with the Leader of the Opposition, and although this is an area on which I think the political parties represented in this House all have a different position, which I will come to, it would be a very good thing indeed if we are able to tell the public in Gibraltar that the question and the referendum mechanics that are to be deployed are coming about as a result of unanimity in this
690 House, even though there may be disparity in this House in the views as to the need for a referendum and what the outcome of that referendum should be.

So, it is fair to say that the beginning of this motion refers back to the debate that we had in this House when this House was considering the Crimes (Amendment) Act 2019. In the context of that debate on the Second Reading of the Bill for that Act, the House had an opportunity to
695 ventilate the respective views of each side of the House in respect of the substance of the issue that is contained in that Act now, then a Bill, and the views of each of the individuals, and indeed parties represented here, as to whether a referendum should be held or not.

I am going to seek to avoid referring to particular views in respect of the substance of the different positions that we each have in respect of the issue of abortion, or indeed the issue of
700 the referendum, in the context of presenting this motion, because I think the House today is concentrating and should concentrate on mechanics and on how we can agree that. The only thing I would say about that is, as I have said before, that I recognise that there are different views both in respect of the main party of opposition and in respect of the hon. Lady as well as in respect of the Government.

705 Having those different views, I think it is absolutely right that we should recognise the effort being made by all hon. Members to acquiesce around a motion that we can all agree as to question and as to mechanics. In that respect, I think that the important thing to point out is that the question that will be considered during the course of that referendum is now the question that will emerge from today as a result of this debate: should the Crimes (Amendment)
710 Act 2019, that defines the circumstances which would allow abortion in Gibraltar, come into force? Yes or no?

In discussions with the Hon. the Leader of the Opposition we have been keen to ensure that the question is as neutral as possible and admits of debate, once the referendum campaign starts, that both of the campaigns to be recognised can vigorously present to the public in
715 Gibraltar, so that they can each set out their view of the answer that each citizen should be giving to this question.

We have also provided, in the context of the motion, for the Clerk of the Parliament, Mr Martinez, to be appointed the Referendum Administrator. To a very great extent here we are led by the Referendum Act 2015, which sets out who should be responsible for the running of a referendum, and in the motion we are required, therefore, just to identify who should be designated as the Referendum Administrator, who is already a creature in the Referendum Act, that he should recognise a Yes campaign and No campaign and that there should be funding provided to that campaign.

Mr Speaker, I recognise that the hon. Lady has moved an amendment in respect of that funding, which we will come to – and I do not want to speak to the amendment before she has had a chance to address it, but I do recognise it is there. The reason that we have put in the sum of £50,000 is because it is the amount I referred to during the course of the election campaign that we would want to see available, but she is making a proposal in that respect which we will come to and which we can debate once she has moved that amendment.

The Government's view is that there should be equality of arms and that one campaign and another campaign should not be able to outspend each other, should not be able to steal a march on the amounts that they spend in trying to persuade the people of Gibraltar in one way or another. Much as there is in a general election campaign a limit that can be spent in respect of each candidate, so there should be a limit here on the amounts that can be spent in respect of each of the campaigns.

We have then set out that that funding that should be available should be disbursed in a manner and in accordance with procedures which the Referendum Administrator might set for that purpose.

Mr Speaker, we have set out that the threshold for success in persuading the people of Gibraltar one way or the other should be 50%, a simple majority of those voting, and we have also, as a result of a discussion with the Leader of the Opposition, felt it appropriate that the Referendum Administrator should provide what we have described as a neutral information document that should go to every voter, setting out what the Crimes (Amendment) Act 2019 provides for and what the question should be, and that should be expressed in totally neutral terms so that everybody knows neutrally what it is that they are being asked to consider and what the question they are being asked to answer in respect of that which they are being asked to consider should be.

That is not, Mr Speaker, for us to become involved in the campaign; it is quite the opposite. It is for us to ensure that directly from this House there should be, in a form to be approved by motion in this House, a direct communication with each voter that sets out what the issue is, and the Yes and No campaigns can then go at each other on the subject or indeed express their views on what is set out in that neutral information document in a way that is designed to persuade voters, in keeping with the rules, to accept their views or reject the views of others.

We have also appointed a Registration Officer, who would be Mr Simon Galliano, and Mr Kevin Balban to assist him also as an alternate Registration Officer, to assist with the work that will have to be done on the registration of individuals to vote in this referendum.

Importantly, we have been able to agree – and I think this is a very important aspect of what we are dealing with today – that the franchise for this referendum should be extended to all otherwise eligible voters who are over the age of 16. The Select Committee on Parliamentary Reform I think will have to consider whether the franchise in general elections should in future be extended to those aged 16, or not. This step is a step only in relation to this referendum, but it is a step that I think is an important one, especially given the nature of this referendum campaign, the types of individuals the underlying issue might affect and the rules that relate to the age of sexual consent in our laws.

And so I am very pleased indeed that we have been able to agree that particular paragraph with Members opposite and indeed that we have been able to step away from those areas of dispute as there may be between us on the underlying subject of the referendum, or indeed on whether or not there should be a referendum, and to produce an agreed text that I hope will be

770 able to pass unanimously so that the people of Gibraltar, when they come to vote in the referendum, will know that although their Parliament may be divided on the substance of the issue on which they are going to vote, we have been able to be united on the mechanics of that vote and the question that is to be put to them.

775 Mr Speaker, for all those reasons, I commend this motion to the House and I commend the fact that this will be now a resolution for an Order for a referendum under section 3 of the Referendum Act 2015.

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

780 **Hon. K Azopardi:** Mr Speaker, we are going to support this motion as drafted and presented by the Chief Minister, and I want to explain why. And, again taking a leaf out of the Chief Minister's book, I am not going to speak on the amendment; I will speak separately on the amendment, if I may. I will make a short intervention in respect of that, so I am not going to talk about that.

785 There are several issues here, and indeed, stepping back from the issue itself, the mechanics, because I want to get to the mechanics ... But the Chief Minister is of course correct that on the issue of substance there were very distinct positions at the election.

I am not going to describe our position in great detail, but I do want to say this: that we had a very clear position when it came to the debate on the legislation in July and we voted against it for a variety of reasons, that we explained at the time and that we do not abandon. So the points that we made in July we made, and it is the issues of the presentation of the legislation, the run up to that legislation, the bundling up of what we viewed as the constitutional issues and the non-constitutional exceptions that gave rise to greater latitude in some countries – we viewed all that, and for those reasons we voted against and we presented a clear position at the election which was different to that of the Government.

795 In doing so, we explained what we would do if we were elected to government, but of course we were not. What we said in our manifesto was that if we were elected we would introduce legislation of a certain type, which in our view would have been more limited. We also said in our manifesto that we did not contemplate going beyond the position that we set out in our manifesto, but we said this: that if any future Government contemplates going beyond those limited exceptions, then we consider that question should be put to a referendum. So, when I speak to this motion it is in our view entirely consistent with our manifesto position to say there has been a Government elected that has a position that wants to go beyond the position that our party advocated at the election and it is right that that question should go to a referendum.

805 For that reason, we support the principle that there should be a question on a more liberal position put to a referendum, but of course in so doing uppermost in our minds we had the concern that the process should be neutral and fair, as indeed the Chief Minister echoes in his thinking. We welcomed the process that we had with the Chief Minister and those discussions that we had on a number of issues. We are satisfied that the language that we have reached and the mechanics can indeed deliver a neutral and fair referendum. The question itself we think is simple enough to understand. It is cast in terms which are not loaded in one way or the other, which was certainly one of my core concerns.

815 The date itself is not of our making, I should say. The date was announced by the Chief Minister, I believe, in the presentation of the Bill in July and that amendment that they put forward in July, and he repeated it in the manifesto. I have got my own views on the date and I will just share them with the hon. Member.

820 My own view is that if that date had not been set in stone and had not been announced previously, it might have allowed a bit more latitude to put in place mechanisms in relation to other matters, that I will come on to, that might have allowed a better process of thinking on some of these things. But we have not sought to dislodge that date at all. We have accepted,

again, that the Government made clear during the election campaign that if it was re-elected it wanted to organise a referendum with a very clear date in mind that it had told the people of Gibraltar. So we accept that, again; but that of course influences some of the things and some of the mechanics around which this referendum is organised, and I want to come to a couple of those in particular.

We have got a simple question, and the legislation itself that we are asking people to say yes or no to – whether it should be commenced or not commenced – is short, is brief, but legislation sometimes does not read in a friendly way to the layman. So it is, I think, an important part of the mechanics that the Referendum Administrator, as the neutral supervising body to the referendum, should be able to, when he writes to people with a polling card, include in that communication some kind of summary of the main provisions of the legislation.

The Chief Minister knows, because I have said that to him, that there are in effect four categories in section 163(A) of the Act, the proposed new section, and it should be possible to take those categories and put it in a neutral communication from the Referendum Administrator in terms – and I am not drafting, but in terms of: ‘The House has voted for a referendum to take place in Gibraltar on 19th March. The question will be this ...’ and it asks whether you want this Act to come into force or not, ‘and the main provisions of this Act are the following ...’ It should be possible to construct an easy to understand communication.

May I say also that we support the fact that, as the motion says, that the communication should then be approved by motion in this House. I will say, and I am sure it will be delivered, that it is in my view crucial that there is unanimous support to that communication and that if we were to arrive at a stage where that would not be possible, it would be a deep flaw in the process, and I very much hope that that will not be the case. I am sure, with the efforts of the Referendum Administrator, we will ensure on all sides of this House that we get to a place where we are able to construct that neutral communication.

Mr Speaker, I want to say something about the franchise, because for the first time ever we would be allowing 16-year-olds to vote in any public process in Gibraltar. I think that is an important development and I want to say several things there.

First of all, this, from a personal perspective, because not everyone, of course ... Certainly on the GSD side we did not have a manifesto commitment on the lowering of the age for voting, and there may not be a uniform view in any political party on that question. There are, I have heard, many views on this question of whether 16-year-olds should have the right to vote or not. I express my own personal view and I caveat it as a personal view.

I think that there is a very big case for bringing the voting age down, but I express it as a personal view. I know that there are people in my party who take a different view and that is a matter for internal debate, as indeed it is a matter for Gibraltarwide debate. We, certainly on this issue, support that 16-year-olds should have the right to vote on this question at a variety of levels, because clearly 16-year-olds, who are beyond the lawful age of consent for sexual relations, can be affected by a question like this.

But I would say this, Mr Speaker – and this is why I would have preferred, in terms of process, that we perhaps would have gone a different way, but we are going to support this and I am very clear about that and I hope that is clear to the House – we are going to support the extension of the franchise in this respect to 16-year-olds on this occasion.

As I say, I have a personal view on it, but in general terms, when you are making a change to the democratic system which is as fundamental as this one, I would have preferred – if nothing else, I would have preferred; I put it no higher, I would have preferred – that there should have been a wider consultation process on the issue. The reason that that has not been possible is, of course, because to a large measure we accept the date of the referendum and it may be that it is not possible to do that – well, it is certainly not possible, because the Referendum Administrator would be left with the headache of trying to reorganise the electoral register with a very tight timescale, which will be impossible if we are meeting the 19th March deadline.

In reality, it is not possible to do that, but in an ordinary sense I would have preferred that across the floor of this House there would have been a proposal, which we would have supported, for a consultative process on the issue of adjustment of the voting age, that there would have been such a process and that in the ordinary way perhaps we would have ended up supporting the same measure. But that would only have been possible in respect of this referendum if the date of the referendum had been two or three months hence, and that is not the case today.

The reason I say all that is because in the same way as I say that there is a big case for inclusion of 16-year-olds voting on this referendum ... Again I express my personal view, but once that door is open, the logic of the argument – that the 16-year-olds are affected by this referendum because they can have sexual relations by consent and they can be affected by whether they get pregnant or not – the logic of their argument in the wider context is the same, in my view, because 16-year-olds can get a job and 17-year-olds can join the Gibraltar Regiment even though they cannot serve in active scenarios, 17-year-olds can have learners' licences and they are affected by transport policy, and 16- and 17-year-olds are affected by education policy. So the whole idea of the logic of the argument ... As soon as you open the door, in my view you open the door much more than simply ajar.

But I am only expressing a personal view. I would recommend to the hon. Member opposite that at some point – and it is not for today, but at some point – in the context perhaps of the Parliamentary Reform Committee, we widen the scope of that Committee to consider issues such as this and that we run a consultative process on a wider level on the issue of the franchise generally.

This is a chance for society to express a view on a very important subject and I want to say a couple of things on this. First of all, I have heard the argument that referenda should not be used to determine these rights. I believe that, in my view certainly, it is a legitimate view to hold, that you should not use referenda to determine issues of rights, but may I say that I consider it a bit of a myth, because they are common.

Referenda around the world are commonly used to determine rights of peoples in all legislative rights in different ways. They are commonly held in many countries. California, Switzerland – we can name lots of examples of places around the world where rights are adjusted one way or the other as a result of referenda. Indeed, our own Constitution envisages that the rights in Chapter I of our Constitution can be adjusted if there is, first of all, a motion passed by three quarters of a majority of this House together with a simple majority in a referendum. So the Constitution itself envisages that kind of procedure. I am not saying ... and indeed this referendum is not adjusting the rights in Chapter I of our Constitution, but it is a good example of how referenda are used to adjust rights, because at the end of it, Mr Speaker, rights are simply a manifestation of society's development of existing norms. That is all it is, and as it moves forward they are dynamic and organic. They change.

Sixty years ago, people were not acceptant of gay rights and today they are indeed the norm, and rightly so in my view. So it is worth reminding ourselves that these are moving rights and the fact that there is a chance for society to express a view in a referendum is not one to be decried but rather celebrated, in my view.

I will say this, though, on an issue which is connected to that: it is an opportunity for society to express a view, and that view should be expressed, in my view, unhindered, with equality of arms in a fair and neutral process. I remind myself of this: we are, in this motion, organising a scheme that will be administered by the Referendum Administrator and his team in the most effective and efficient way, as they indeed organised the last election, but we are the ones – the Members of this House – who are convening this referendum to allow society to express a view. In doing so, we must be very cautious about the role that we respectively play in that referendum.

And so I make a very big distinction across the floor of this House between the right to express a view on this referendum and the ability of campaigning in it. On this side of the House at least, speaking for the GSD as I do, in approaching this referendum we may express a view, but none of us are going to campaign in this referendum and I urge the hon. Member to consider that with his colleagues as well. I do so because I have seen comments, I think one particular tweet some weeks ago – and it may be that the hon. Member has reflected further on the issue – where he suggested that he would campaign for one side or the other. I consider that we are the conveners of this referendum and it would be wrong for us to actively campaign, because as the organisers and referees of the process we should not don the jackets or sides of any of the particular teams on the field, in my view.

I will also say this about the stance of the party that I lead in this referendum: we will, as I say not campaign. Individuals may express a view, but I think I said during the election campaign – I certainly did when I was asked, and I have said throughout the last 18 months when this has been an issue – that the GSD is a broad church and of course there are different views in the GSD, as indeed there are in the GSLP or the Liberals on this issue. When we arrived at a position it was a position by majority, of course, so when it comes to this referendum, MPs or Members of the executive will of course have the right to express a view, we will not be campaigning for one side or the other and it will be a free vote for those people who want to participate in the referendum and vote one way or the other and express a view one way or the other. We will adopt that kind of position.

I agree with the Chief Minister and I have tried to keep my speech within the measured parameters. I have not tried to stray into the substance of this issue. This referendum allows society to speak on an issue of importance, on an issue where rights are being balanced between the rights of the woman and the rights of the unborn. We have expressed many comments before on that conflict of rights which society now has a chance to express itself on and we will support this motion on the basis that we are delivering this neutral and fair process for people to have a say on. *(Banging on desks)*

Clerk: The Hon. Marlene Hassan Nahon.

Hon. Ms M D Hassan Nahon: Mr Speaker, on 19th March this community will be slumped into a nasty, divisive and unnecessary referendum. Families will be torn; lifelong friendships are going to be tested. The social fabric of this community will be strained and we will all be subjected to an emotional pounding which will take a long while to heal.

I am not speculating with this or being overly dramatic. We all know this is the case, because we have seen it happen every time politicians have bailed out on their responsibility to lead on this issue: in Ireland, in Argentina and in Portugal. And all this over a law which would have had to be changed and would be changed, whether or not the result is a yes or a no, sooner or later anyway as a matter of legal imperative because our legislation violates the human rights of our women. Where rights are violated it should be incumbent on us, as legislators, to spearhead such change, instead of shirking our responsibilities so as not to upset certain lobbies.

I have to remind the Leader of the Opposition that he spoke of gay rights and referenda just now. We did not need to have a referendum on equal marriage. We legislated and I commend the Government for that. To allow society to express a view on rights and for that view to be enshrined in law if the result of that view contravenes human rights is simply not good enough. I have always therefore maintained that it is wrong from a principled and human rights perspective to put this question to the public.

So in principle, Mr Speaker, this motion which enables this referendum to take place poses a dilemma for me to vote in favour of, and I have to stipulate that today. However, the fact of the matter is that this referendum is going to take place regardless and at this stage the procedure for the mechanics and logistics of the referendum presented within the same motion is crucial. As mentioned by the Chief Minister, we need to focus on these mechanics at this motion

because if we are going to go down this path let us at least exercise some integrity over the process of the referendum itself.

In terms of the question itself in clause 2, it is neutral and fair and perfectly acceptable, in my view.

On clause 8, the matter of enfranchising the 16-year-olds, I believe it is imperative that the enfranchisement criteria are cohesive with the fact that legislation be linked to the stakeholder, and the main stakeholder is the 16-year-old woman and upwards.

The reasons to back the proposal to lower the voting age in clause 8 of this motion for this particular referendum are very specific and targeted. The subject of the voting age itself is a widely discussed topic across modern western democracies, with countries in Europe affording voting rights to citizens of ages ranging from 14 to 18 years. I also believe the debate about the democratic enfranchisement of our youth is a wider one and one that our evolving society is already beginning to demand. But any seminal change in the mechanics of our democratic system always deserves much discussion prior to legislation and I look forward to having that debate within the Committee on Parliamentary Reform in due course. I consider it vital to do so, as the Leader of the Opposition said himself.

So, Mr Speaker, today in this motion clause 8 is one of the most significant clauses, given that for the first time in our history it allows for the enfranchisement of the 16-year-olds to vote in our abortion referendum.

In Gibraltar, the legal age of sexual consent is 16. This means that as from 16 a woman can legitimately get pregnant. Across Europe, the non-commercial age of consent ranges from 14 to 16. Only in three countries – Ireland, Turkey and Cyprus – they have set the age at 17, 17 and 18 respectively. This effectively means that in Europe, and, for the purpose of sexual intercourse, women are considered adults at 16. This in turn means that if Gibraltar did have abortion legislation in place, a 16-year-old woman would have the same access to the medical process of terminating her pregnancy as would an 18-year-old or a 40-something-year-old. A 16-year-old would be dealt the same advice, counselling and medical care as her older peers.

Conversely, if that legally entitled to have sexual intercourse 16-year-old woman wants to have a vote to negate her own bodily autonomy and that of other women – something which, as you well know, Mr Speaker, I and lawmakers in the UK, and in most western democracies, would disagree with – she is no less worthy of registering her vote in the context of a referendum than someone over the age of 18. Therefore, it very logically follows that engaging this prime stakeholder demographic in the referendum is absolutely necessary.

Furthermore, I think nobody in this Chamber will disagree with the fact that 16-year-old girls would be better off attending education or working towards establishing a career than being mothers. I do not wish to condemn teenage pregnancy, but I would not like to condone it either. It is important for our women to continue advancing in many areas of society, such as business, politics and other areas of professional and public life, and in order to do so it is important that they have all the tools necessary to plan their journey into motherhood wisely.

Not only are 16-year-old girls directly impacted by this legislation, but they are the ones who need reproductive autonomy the most. This referendum is about whether or not a woman will be legally entitled to autonomy over her own sexual reproductive system, and here in Gibraltar a woman is legally entitled to use that reproductive system as from the age of 16. It is clear as water that a woman should have every right to partake in a referendum that concerns her; and the same applies to men, who can legally impregnate as from the age of 16 and must also be enfranchised in this referendum.

Mr Speaker, in my role as a parliamentarian I always strive to be coherent, and the coherent course of action here is to enfranchise the 16-year-old for the clear reasoning that I have provided.

In this case, I would disagree with anyone who thinks that we need consultation on this matter. A woman who can legitimately get pregnant must be enfranchised into this choice. It matters not whether you are on the anti-choice or the pro-choice side of the argument. For as

long as nobody in this Chamber challenges the legal age of consent, then it would be the height of hypocrisy to negate those very stakeholders to have a voice in a referendum that concerns them, as well as making an exercise of direct democracy, however futile it may be, anti-democratic. I therefore support the Government wholeheartedly on this particular section of the motion.

However, on the issue of campaign funding I believe it necessary to highlight the extortionate sum of £50,000 being set in clause 4 as a limit for each side on funding expenses for the period of the campaign. To paraphrase the Hon. Chief Minister, we have entered the age of responsibility, and as much as I believe that publicly funding campaigns is the best way to protect the interests of Gibraltarians from lobbies and other interest groups, I feel that asking the taxpayer to shoulder a budget of up to £50,000 potentially for each side of the campaign is utterly unreasonable.

Firstly, I would like to remind the Chamber that this is one of many referendums that have already taken place around the world about this issue. Hundreds of organisations of almost all nationalities and denominations have taken part in this debate, producing extensive amounts of literature and media. In our General Election we have also seen parties espousing completely different views on this issue and several local organisations have been engaging in a very public discussion over abortion for many years. We have had even a heated exchange about it in the last leaders' debate during the election campaign, which I am sure both the Hon. Leader of the Opposition and the Chief Minister remember very well. My party, Together Gibraltar, has been one of these active organisations, producing a significant amount of material in favour of women's right to choose. All of this media, covering all sides of this debate to a very detailed degree, is available online at the click of a button.

In general elections we cap party spending at £30,000 – of which, by the way, we do not fund a single penny. At these democratic junctures our people choose between a large number of candidates and their positions on a wide-ranging variety of issues, such as public spending, healthcare policy, education, international relations and, this time, Brexit. A large amount of that budget, as we all know very well, goes to fund the production and delivery of 100-plus-page manifestos describing party policies on all fields of public governance. Each of these decisions, particularly in these times of uncertainty, can define the lives of generations, not just on the issue of women's reproductive freedom but on all aspects of the future of this community. In order to inform the electorate on this choice, we find it fit to cap funding at £30,000 and not fund a single penny of these political campaigns.

This referendum, Mr Speaker, is a one-issue choice whose nuances have already been debated by nations both more conservative and more progressive than ours. It is also a vote that, as endlessly parroted by politicians around the world, is a very sensitive one which will be determined by deeply rooted moral and spiritual convictions, which is to say that most people have actually already made their minds up on what to vote for on this one and nothing we can do or say will change that.

I therefore believe that, in the age of responsibility and reasonable public spending, at the very least the same budget of a general election should suffice in order to provide our very own take on this extensively debated issue. Without the burden of manifesto printing, it should provide both camps with enough funds to create a larger media output than all of our parties at the last General Election.

I would therefore urge Government to limit the cap at no more than £30,000 per side. To put things into perspective, the £40,000 saved if we cap the spending to £30,000 per side could fund the services of 1.5 – thereabouts – extra nurses at one of our elderly care homes. If £30,000 is not enough for this referendum, then further debate about our campaign financing is well overdue.

Furthermore, with reference as well to clause 4, I find that the permissible amount to be spent in total on this campaign has not been made clear enough. Clause 4 commits Parliament to awarding an equal amount to each side fighting the referendum 'not exceeding £50,000', but

1080 does not stipulate whether that is the entire amount permissible to be spent during the campaign or whether it is simply the maximum that Parliament itself is going to be awarding to this campaign.

1085 It is precisely, because of the point on equality of arms, which the Chief Minister quite rightly pointed out just earlier, that brought me to propose this very amendment. I therefore believe – and given the already overgenerous limit set by Parliament – that we should specify that what the Parliament is awarding will in fact be the overall ceiling or the overall limit that will be set across the board in order to place a clear and unequivocal cap on campaign spending.

I am therefore proposing an amendment to this effect, which has been circulated, and the amendment reads as follows:

At the end of clause 4 insert:

‘The campaigns recognised shall not spend any sums in excess of £50,000 in the course of campaigning in the referendum campaign, whatever the source of that spending or funding may be.’

Thank you.

1090

Mr Speaker: I now propose the question in the terms of the amendment moved by the hon. Lady.

1095 **Hon. Chief Minister:** Mr Speaker, speaking just to the amendment at this stage, the Government takes the view that there must be equality of arms – it is for that reason that we have proposed that financing should be made available – but I do think it is important that that equality of arms should be ensured during the course of the referendum campaign for both sides, whoever might have benefactors beyond the public purse.

1100 I will deal with the issue of quantum when I address the hon. Lady’s speech as a whole; I am just dealing with the issue of the maximum amount that might be spent. Therefore, we would be supportive of a clause like the one that the hon. Lady has proposed. Looking at it, I think it does what she intends. I would be interested to hear if the Leader of the Opposition has a view about the language and whether it is the language necessary at least to indicate to the Referendum Administrator that in the procedures he now sets out – which is referred to in the body of the motion, that he must now set out procedures – he should set out that the maximum amount of
1105 spending allowed by the campaigns is to be the sum of £50,000 each.

1110 I think that is in keeping with the Government position, I think it is expressed in the sentence that the hon. Lady has proposed and I am open to any suggestions there may be as to how that might be tightened up or otherwise included in the context of what I think the hon. Lady is indicating is unanimity across the House if we are able to agree also the inclusion of language of the sort she has proposed with whatever minor changes might be suggested. But otherwise, the principle that the hon. Lady is putting is one that is acceptable and I think the language does what she intends it to do and what would be agreeable.

1115 **Mr Speaker:** The Hon. the Leader of the Opposition.

1120 **Hon. K Azopardi:** Mr Speaker, just speaking on the amendment if I may, of course we see the sense of what the hon. Lady is trying to achieve, which is to ensure that there is a cap. The difficulty that I see, and this is where I land on this issue, is how is that actually going to be policed, enforced and work, because up until the moment of the hon. Lady’s amendment what we were saying is, let the House vote equal funding for an official yes and an official no campaign. So the Referendum Administrator will have an equal pot for both official sides which he will disburse, on the basis of production of invoices or whatever, up to a certain limit. He has

got that. But we would now be saying you have got to cap the general funding that the official
yes and official no campaign can spend on the referendum.

Is the Referendum Administrator going to also intervene in anybody else doing campaigning?
When the Referendum Administrator, under the guise of the Returning Officer of an election, is
ensuring the enforcement of a cap on expenditure he does so with statutory backing because
there is a whole string of legislative procedures in regulations and in the Parliament Act that
provide what you can and cannot do for spending. It provides that you have to submit accounts.
It provides a whole number of mechanical things that are not in the Referendum Act.

So it is easy, in my view, to do what we have said we would do, which is to give him a pot of
money which he disburses, but if we are going to go the extra mile of saying there should be a
cap on expenditure and let's behave as if we were in a normal election, well then I am afraid to
say that I do not know how he is going to do that in the short period of time that is being made
available and also update the register and so on. I think he would need –

Yes, I will give way.

Hon. Chief Minister: I am grateful to the hon. Gentleman for giving way just on that point.

Mr Speaker, I do think that the issue of who is able to campaign in the referendum is one that
is determined by the motion. In other words, there are only two campaigns and only those two
will be the ones campaigning. To take his position, other people can express views but in terms
of campaigning there will only be two recognised campaigns. That will have a consequence in
the context of broadcasting etc. and what the GRA and the local national broadcaster do, what
some newspapers do etc. So there will only be two campaigns, much as in the Brexit referendum
there might have been people who had many views but two campaigns were recognised and
there was a competition to be recognised as one or the other.

Therefore, Mr Speaker, there can be a requirement for those individuals to produce returns
after the referendum, which I think goes to the point the hon. Gentleman is making, which is
how do you police it? You police it by seeking those returns. When do you do it? It does not
interfere with the work that is being done during the referendum campaign because, as in a
general election, the returns are provided at the end of that process and the issue is, if there has
been a breach, there may have been an electoral offence committed, or indeed you could even
vitate an election in that way. So you could vitiate a result.

But those things are *ex post facto* the result, and so I do think that some of the concerns that
the hon. Gentleman has are dealt with about the amendment. I think we are agreeing that the
spirit that the hon. Lady is putting is one that makes sense – that there should not just be an
equal pot, there should be an equal cap – and I wonder whether we might not agree this
language or any variation of it that he might care to propose and then offline, if I could put it in
that sort of modern lexicon, sit with the to-be-appointed Referendum Administrator together
and see how the procedures that he is going to create, as provided for in the motion, might
address this concern.

Hon. K Azopardi: It sounds like a sensible suggestion, Mr Speaker, but the problem is that it
may need statutory backing in the same way as the Parliament Act.

Here we are talking across the floor because this amendment has just been presented, but
we are giving it, with all due respect, not a huge amount of thought.

I know that the common aspiration is to make sure that this referendum is fair and neutral
and there is equality of arms. I share that sentiment. Let me be clear about that: I share that
sentiment wholeheartedly. If this is achievable is a different debate given the rather, probably,
different statutory frameworks that we have under the Referendum Act and under the
Parliament Act, which is a tried and tested set of rules that goes back decades, where there are
very clear procedures that the House is very familiar with. It may not be as easy as just sitting
down with the Referendum Administrator after today and saying 'Come up with a list of 20

1175 principles that apply', because for there to be real enforcement and statutory force, sometimes you do need it to be underpinned by regulation or legislation.

I think we are all speaking from a common desire, but the additional problem that we have is the same problem that we have in confronting the issue of 16-year-olds. It may be that you have to jump one way or the other because we are compromised by time; and in being compromised
1180 by time, unless we are absolutely sure that this is an enforceable mechanism, I would be very reticent about adding language that then puts us in the quandary that we either have to rush for the line in terms of legislation, or puts the Administrator in a position where he is being asked to do something that he cannot properly police.

Those are things going through my mind, even though the objective is something that clearly
1185 we share, but I believe that unless there is a clear path forward it would be not particularly wise to agree language that we have not tested would work in practice.

Hon. Ms M D Hassan Nahon: Mr Speaker, I thank both hon. Gentlemen for their interventions.

1190 It was precisely for equality of arms that this clause struck me in terms of leaving a void which did not provide that equality of arms. For example, let's say that Parliament awards £50,000 to each side and this clause is not stipulated and you have this void. What exactly does that mean? That each side can equally fund privately however much else they want?

There is no ceiling, and I do not understand how allowing for putting in a clause where the
1195 Returning Officer ensures invoicing receipts in order to contain within the ceiling of the limits that we are setting ... would be a problem in terms of carrying out the framework for the campaign. It would be the same as accounting for that in a general election, where we have to provide the returns after an election and it is very simple to have the different sides officially registering. Are we saying that we should not cap general election spending, or that rogue
1200 supporters are entitled to extend the limit of that funding during general election campaigns?

This amendment tightens and provides the equality of arms just in the way that a general election does and I think it is the only fair alternative.

We have seen, for example, one of the sides of the referendum campaign already boasting that they have collected £40,000. What does this mean? That if we allocate an extra £50,000 to
1205 each side, one side might have £90,000 and the other side might have the £50,000 plus £2,000 that they collected? I do not find that that is equality of arms and I think that it is incumbent on this House to find whatever regulations and framework to ensure that there is not a void for this to be possible at all.

1210 **Mr Speaker:** Does any other hon. Member wish to speak on the amendment?

I now put the question in the terms of the amendment proposed by the hon. Lady. Those in favour? (**Members:** Aye.) Those against? Abstained? Carried.

We now revert to the original motion as amended. Does any hon. Member wish to speak on the amended motion?

1215 **Hon. K Azopardi:** Yes, Mr Speaker. On the basis that that language has been adopted and the House has not taken my more cautionary bit of advice and rather jumped off without looking at whether legislation needs to be in place, and regulations, and there needs to be a system, and we have now placed the Referendum Administrator in that position, all I would say is that
1220 certainly from this side of the House, as I am sure will be shared by the Chief Minister, we will now need to support the Referendum Administrator in ensuring that the mechanics are in place to enable him to enforce and police it as if it were an election.

It may require legislation to be taken at short notice in the House. I do not know if that is the case – that is something that will need to be looked at – but if he forms the view, the
1225 Referendum Administrator, that he needs regulations or legislation, then clearly he will have our support.

Mr Speaker: If no other hon. Member wishes to speak, I will call on the mover to reply.

1230 **Hon. Chief Minister:** Mr Speaker, just on a quick, narrow point. I do not know that it was in order – although I am not taking the point – for the hon. Member to get up and speak on the motion as amended, having already spoken on the motion.

I am not complaining – (*Interjection*) I know that hon. Members were being invited; usually it is hon. Members who have not spoken yet. I think it is not controversial at all and I think it is very helpful to have heard the hon. Gentleman's view on that, but can I just put down a marker
1235 that we should consider whether that is how the procedure works in the context of motions? It is just a point that I think it is important should be reflected.

I will give way to the hon. Gentleman.

1240 **Hon. K Azopardi:** Certainly. First of all, I responded because I thought we were being invited. Secondly, it was to try to be helpful. And thirdly, if that is not the procedure – it is a long time since I have been in this House, so I may get a bit rusty on the procedure – I will certainly make sure that we follow the right procedures.

1245 **Mr Speaker:** If I could just intervene for a moment, I think the procedure is correct. You were speaking to the amendment and I think everybody has an opportunity to speak to the amendment.

1250 **Hon. Chief Minister:** Mr Speaker, the hon. Gentleman spoke to the amendment. In fact, the hon. Lady proposed the amendment, I spoke to the amendment, the hon. Gentleman spoke to the amendment and gave way to me. I then sat down, he continued speaking to the amendment, the hon. Lady replied on the amendment and the amendment was passed. Then the motion as amended was before the House and anybody, I think, can speak again who has not spoken yet.

1255 There is debate – (*Interjections*) If hon. Members let me finish, Mr Speaker, they might all agree with me. This is the problem when they jump the gun, as we will see when we get to the other motion. There is debate in the *Hansard* as to whether those who have spoken already and then speak again may speak only in relation to those parts of the motion which are new or whether they can speak again on the whole motion as amended. That is the point I want to reserve the position on, simply because I could find myself on the other side of the House in the
1260 future and I think it is important that we understand that there should be clarity on that issue.

So, now speaking in reply to the whole motion as amended, if I may start with the position set out by the Hon. the Leader of the Opposition, I recognise entirely that in giving us support for this motion they are not abandoning the positions that they set out in July or indeed during the General Election campaign. The same is true for the hon. Lady.

1265 If I might simply summarise, Mr Speaker, there were three positions, broadly, at the General Election campaign – and I am going to try and do this again without myself falling into the trap of addressing the substance of the issue, although I dare say that the hon. Lady has given us the substance of her views, but I am going to continue to try and avoid setting out at this stage the substance of my views on the underlying issue. The three positions broadly were: the position of
1270 the hon. Gentlemen's party, which was that they would have no referendum if they were elected, that they would not commence the law that was passed in July and that they would propose a different law, and there was no statement from them, that I can recall, on whether that law would then be put to a referendum or it would simply be brought to the House for individuals to vote according to their conscience; there was our position that there should be a referendum and the commencement of the Act; and there was the hon. Lady's position that
1275 there should be no referendum and the Act would simply be commenced if she were elected. I think broadly those were the three positions, without going into which is carrying more merit or not.

Needless to say, we were elected and that is why we are here, proposing the referendum, and therefore hon. Members are simply, in my view, I put it to them, honouring the decision of the electorate to select the second of those three options by giving effect to the motion that triggers the referendum. I would put no higher than that their support for this motion and I hope that that demonstrates that we want to play this with a straight bat. I am not suggesting anything otherwise in thanking them for their support.

We agree entirely that the mechanism should be fair and neutral, and that is why we have been able to agree the terms of this motion, but we do not agree that it is necessary for the date to be further in the future than it already is. Hon. Members will know, indeed the hon. Gentleman reminded us today, that the date of the third Thursday in March was one that was alighted upon during the course of the debate on the Bill, as it then was, in July. So, already from the period since July, with the hiatus of the General Election, which might have vitiated the need for a referendum if another party had been elected, the community knew that on the third Thursday of March there would be a referendum. I think that is important because that has informed people's thinking about the issues as much as the referendum campaign will. Indeed, this issue was debated in our community from before July 2018. This is an issue that really had come from earlier in that year and one which was already in the throes of causing people to want to put their separate and quite disparate views.

So we do not believe that there is a need for a later date, and indeed, coming to the point that the hon. Gentleman made later, even if there were need for legislation in the context of the issue of spending, there is still time for that amendment in legislation to be put. Indeed, I think there may soon be, or may already be, a Bill on the Referendum Act, or there may be some regulations coming in the Referendum Act and it may be that if, as the hon. Gentleman says, we have to support the Referendum Administrator with legislation, we are in time to do so.

Mr Speaker, I have been proposing since 2014 that the franchise should be extended to 16-year-olds, not just in referenda but also in general elections. I have a very clear view, which I have expressed on a number of occasions in this respect. I am roundly supported for having that view and roundly condemned for having it, so it is a position that I know causes the usual political division, which as he indicates is not on party lines. There are different views in different parties about this issue, but I am very clear about my view. I think on the issue of this particular referendum it is even clearer and puts into sharp focus the rights of those that are to be determined, and therefore I am grateful that hon. Members across the floor of the House, led by the hon. Gentleman – and the hon. Lady on her own here, but in support of what we have said – are going to acquiesce around the proposal that 16-year-olds should be enfranchised for the purposes of this particular election.

As I said during the course of my original intervention, this is something that I think must also be considered by the Select Committee on Reform in respect of voting in general elections, so the hon. Gentleman is not inviting me to do so, he is accepting my invitation that we should do so; I am just very pleased that we will therefore do so, because this is an issue that is now long overdue. I think the three of us who have spoken in the course of this debate have a very clear view in that respect and none of us have gone into the detail of why we have that clear view. I think we have unanimity of view, so I need not labour the point, but I do think that it is something that will benefit our community when the time comes and I look forward to having an exchange of views with them in the course of the Select Committee.

Mr Speaker, I am reminded by the Hon. the Deputy Chief Minister that there is a Bill, that has not yet passed its six weeks, for an amendment to the provisions of the Referendum Act 2015 to provide for proxy voting and connected purposes, and so therefore we will have a vehicle that is already running through its stages that we might, if necessary, during the course of the debate at the Second Reading amend if we come to the conclusion that it is necessary to support the Referendum Administrator in some way.

The hon. Gentleman has taken us to the issue of whether or not referenda should be used to determine issues of rights, and I want to conflate my answer to the hon. Lady and to the hon.

Gentleman in this respect. He has said that it is a bit of a myth that you cannot have referenda to determine issues of rights, and of course as the mover of this motion I am bound to agree with him because I am moving the motion for a referendum having defended the principle of a referendum on this issue during the course of a General Election campaign. He gave the example, rightly, of the provision in our Constitution which allows for a referendum to amend the first chapter, which is the chapter that deals with fundamental rights and freedoms. Therefore, in our Constitution there is envisaged the mechanism for a vote to give rise to the entrenchment of rights into the Magna Carta.

You might take the view, Mr Speaker, 'well, so be it', but you can still legislate short of constitutional rights without going to a referendum, and this is short of a constitutional right. But I would put the point even higher than he has in agreeing with him and disagreeing with the hon. Lady in this way: our Constitution, which contains the chapter that the hon. Gentleman has referred to, which sets out what are our fundamental rights and freedoms, was itself adopted as the result of a referendum. In other words, even the fundamental right to life, which is in the first clause of the first chapter of our Constitution, is adopted as a result of a referendum, and therefore that is not a bad point that the hon. Gentleman has taken and which I have developed, because I think it is important that we reflect that this is not a vitiation of rights. This is, for those of us in particular who are going to argue for it – and I will come to whether we will be campaigning or simply expressing views in a moment – exactly the way that we should be ensuring that these rights come about.

I would say to the hon. Lady that I know circumstances change, but they do change for all of us, and she started part of this debate by calling for a referendum on reproductive rights. Of course her circumstances have changed afterwards and she has explained why she has changed her position. Indeed, during the course of the election campaign she explained that, but it is clear that even in her view there was a moment when a referendum might have been an appropriate way of progressing with this particular issue.

If I may say so – it is a point that I do not think any of the three of us have taken, but I would take it now, I am sure, with unanimity across the floor of the House – we have to be careful as this referendum gets under way to ensure that we keep the rhetoric on the right side of respectful, and, if I may say so, even in respect of the convening of the referendum we should try and keep the debate on the right side of respectful. I am not suggesting this afflicts any of the points of view expressed here, but beyond this place I think it is important that we all are careful in the way that we describe each other's positions.

Therefore, I do agree with the hon. Gentleman that having a referendum on an issue like this is something to be celebrated and not decried, although of course I am left with the happy view that I was the only one defending having a referendum in the General Election campaign.

As to whether or not Members of this House should be expressing views or campaigning and the probity or lack of probity thereof, I am afraid we are going to have different views, because it is common for those who convene referenda to take positions in them and to campaign in them – if not to lead campaigns, certainly to be parts of campaigns and to express views in that respect.

I wonder whether all we are left with is really a question of fact and degree between us, because I do not expect to be leading the campaign in the referendum for the particular side with which I have expressed an affinity but I do expect to be a part of it by the expression of my views. And so I think it is right that those of us who are leaders in our community should not abdicate our responsibility to lead in respect of those views which we hold when the time for decision has come.

The hon. Gentleman said that as far as he was concerned he would be giving a free vote in respect of the referendum. If I may say so, with respect, I think that this is to put it a little too high. The referendum will be an exercise of democracy, where there will be a secret ballot, where every individual will be entitled to express his view behind a curtain and by law is

therefore a free vote. People will be free to tell us what they did behind that curtain honestly or less honestly, depending on their own views.

1385 The position of the Government is that we have a mandate to convene a referendum and our collective responsibility is to convene, but on the substance of how people will vote in the referendum I already made clear that people who were on this side of the House in July were free to express their views and their conscience and they will continue to be able to do so. So this is not an issue, when it comes to the view to be expressed in the referendum, which is covered by collective responsibility.

1390 The hon. Lady started by using fairly emotive language to express how she felt about the convening of the referendum. She said that we were being 'slumped' to a 'divisive' referendum and that we were going to take an 'emotional pounding' as a result. Well, Mr Speaker, I have to put it to her that that is not fair, in my view, because the fact that we are going to a referendum is the choice of more than half of the electorate and therefore it is absolutely the right thing for us to do. It is not to 'slump' to anything other than to the expression of the popular will, as set out as recently as eight weeks ago.

1395 The hon. Lady talks about the fact that this was a law that would have to be changed and that we, as legislators, would have to do this. I respectfully disagree with her, whilst agreeing with the sentiment that she expresses as to the substance of the law. In other words, she knows that I have expressed my view about what the law should be and how it should change, but as she might have observed, when others were in administration there were those who, even faced with decisions of courts of similar compunction, have simply taken the view that they take a step back and allow the courts to change the laws by way of decision.

1400 And so we are not abdicating our responsibility as legislators. We are taking a step forward as legislators in having, first, passed the Act; and second, now moved a referendum to commence the Act. So she will understand that I do not agree with her at all, and in particular I would refer her to the fact that there have been referenda on this subject in many other developed countries around the world, not least recently in Ireland.

1405 Mr Speaker, she told us during the course of her intervention that she had always been against a referendum. As I set out a moment ago, that is obviously not the case. Although she may have explained why she changed her position, the fact is that she took a position which was that there should be a referendum.

On the issue of the amount to be spent – we have now accepted her amendment as to the totality to be spent, now on the issue of the amount to be provided we have to be clear that this is the age of responsibility, but the fact that it is the age of responsibility does not mean that we cannot afford £25,000, more or less, to ensure that people are properly informed.

1415 We have to understand that this is going to be a longer campaign than a general election campaign. Yes, the issues are starker, but it is going to be longer and therefore there might be a good reason for there to be a larger amount available. But I do think that one of the things that we can do in order to ensure that there is proper control of the expenditure is that the Referendum Administrator, who will be seeking to disburse amounts and therefore will have control over the amounts being disbursed, should consider having an initial limit of £25,000 and then a more stringent approach to any amount above that. But that is something I think we can debate in the context of the procedures that he is going to be putting in place whilst being able to reach the higher amount.

1425 She is wrong to say that there are no referenda where funding has been made available from the public purse. In the Brexit referendum there were competing campaigns and those competing campaigns accessed a public purse which was then made available to them. That is probably why there was such a competition to be recognised as the leaders of each of the relevant campaigns in the course of the Brexit referendum.

1430 Mr Speaker, having dealt with those points and now having the motion for the referendum as amended before the House, and taking into consideration the point that the hon. Gentleman made when he got up to speak on the motion as amended, I would commend now the amended

1435 motion to the House and I would thank all hon. Members for having indicated that there will be unanimous support for this motion which deals with a fundamental issue that will soon be before all voters in Gibraltar.

Mr Speaker: I now put the question in the terms of the motion, as amended, proposed by the Hon. Chief Minister. Those in favour? (**Members:** Aye.) Those against? Carried.

**Public Services Ombudsman –
Amended motion carried**

1440 **Clerk:** The Hon. the Chief Minister.

The Chief Minister (F R Picardo): Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

This House:

Notes:

1. That it has been 21 years since the House of Assembly passed the Public Services Ombudsman Act ('the Act') unanimously, with the support of the GSLP in its then role of official Opposition in November 1998;

2. That 2019 marks the 20th anniversary of the appointment of the first Public Services Ombudsman under the Act by motion of the House of Assembly, which motion also enjoyed the support of the then GSLP Opposition; and

3. That the office of the Public Services Ombudsman enjoys the full support of all members of this Parliament.

Further notes the publication by the Public Services Ombudsman of its Annual Report for 2018 as well as the recommendations contained therein;

Acknowledges the Government's support for the review and modernisation of the function and powers of the Public.

And resolves that the Act should be reviewed to enable the office of the Public Services Ombudsman to launch investigations of its own motion, as recommended by the Public Services Ombudsman in 2016.

1445 Mr Speaker, this is a motion that arises from the Report of the Ombudsman, Mr Dilip Dayaram Tirathdas, who is the third of Gibraltar's Public Services Ombudsmen. It also arises from various meetings I have held with former incumbents of the post of Ombudsman, namely Mr Pinna and Mr Hook.

1450 The first thing to reflect upon is the success of the office of the parliamentary or Public Services Ombudsman in Gibraltar. This was an initiative of the then new GSD Government of 1996. Within two and a half years of their election they moved the creation of an office in Gibraltar for an ombudsman.

On balance, having been outside of Government and in Government, in exchanges with the Ombudsman both as a Member of Parliament and not as a Member of Parliament before I was

first elected in 2003 and after I had been elected as Chief Minister, I think the public as a whole recognise that the role of the Ombudsman in our community is one to be universally considered as having been a positive one. In particular, I want to congratulate all of the individuals who have held the post of Ombudsman in the two decades since that office has been created and I want to reflect in particular on the success of Mr Dilip Dayaram Tirathdas in the role.

The House has already reflected on the successful tenure of Henry Pinna and Mario Hook and I do not mean, by not concentrating on their contribution, to suggest that their contribution has been any less important than Dilip Dayaram Tirathdas's, but I do want to concentrate, as the House has not already done so, on his contribution.

I want to say, Mr Speaker, that although we had what might have been called a fairly unnecessarily divisive debate on the appointment of Mr Tirathdas to that post on 26th July 2017 because of his previous role as a member of the public service, as a civil servant in Gibraltar, I think in the time since his appointment Mr Tirathdas has demonstrated that his integrity and ability, of which we all spoke at the time of his appointment, have not in any way been vitiated by the fact that he was a retired senior civil servant. In fact, as I indicated when I presented the motion to the House for his appointment, his understanding of the mechanics of Government from the inside – from the guts, if those listening in the Treasury will permit me; almost from the pancreas of Government, Mr Speaker! – has assisted the way that we have seen Mr Tirathdas being able to resolve issues and engage with senior officers in the administration. I think that the position that the House took to appoint Mr Tirathdas – unfortunately not unanimously but with Members opposite abstaining on the appointment – was a wise choice indeed and I congratulate Mr Tirathdas for the work that he has done in his role.

One of the things that Mr Tirathdas has written about in the context of his reports and indeed one of the issues on which he has written generally to the public is the adoption of what are known as the Venice Principles on the Protection and Promotion of the Institution of the Ombudsman. The Venice Principles are adopted by the Council of Europe, Mr Speaker. They were adopted earlier this year, in March 2019, and those set out 25 principles for the protection of those who hold the office of ombudsman and indeed for the protection of the institution of ombudsman in all of the jurisdictions in which ombudsmen operate. Those are laudable principles, a review of which will indicate to hon. Members of this House that most are already understood and respected in Gibraltar.

I think there is one in particular that is not, and that is the issue of the Ombudsman's ability to initiate his own investigations without having to have a report signed by a member of the public. That is now recognised, not just in the Venice Principles but in most of the jurisdictions where there are ombudsmen, as a valuable tool in the hands of those who discharge the office of the ombudsman, and that is why the Government's motion will seek not just to congratulate those who have held the post of Ombudsman and indeed to look at the value of the work that they have done, but also to seek that there should be a review of the legislation that creates the office of the Ombudsman in order to provide for own motion investigations.

The key issue that you see coming across in the Venice Principles is the principle of respect for the findings of ombudsmen. I am very pleased indeed to be able to refer the House to the Ombudsman's latest report, which is of course tabled in this House; the Ombudsman is a Member of this House *ex officio*. In his introduction, Mr Tirathdas refers to the fact that the recommendations made by the Ombudsman are invariably respected and followed by Government Departments, which I think is a laudable position for the Government to be taking. At 2.1, he talks about recommendations are normally given very careful consideration by public service providers and in most instances taken on board – absolutely exactly the right approach that the Venice Principles seek there should be to the role of the ombudsman.

Mr Speaker, setting out that position, the Ombudsman himself issued a press statement on 10th July this year welcoming the adoption by the Council of Europe of the Venice Principles, which is what put the Government on an inquiry in respect of these issues, and recently has

written to a local newspaper setting out his position and confirming that he would be welcoming of the ability to commence those own motion investigations.

I do appreciate that there is likely a consensus in respect of the issue that I am putting to the House today. It would have been absolutely better to take the view together that we could present this motion, but unfortunately we were not presented with the opportunity to do so by those Members opposite who sought to present their own motion.

I am afraid that it would not be possible for us to agree that one should *have* to follow the recommendations of the Ombudsman, for a simple reason – which I hope hon. Members will understand and share – and that is that if a Government Department were to be required to *have* to follow recommendations of an Ombudsman, then the Government Department would have to become involved in the investigation leading to those recommendations, almost as if it were involved in a court case. That would clog up the mechanism, which is so successful, for the Ombudsman to be able to become involved and to have the utmost goodwill provided to him by the Departments without the Departments needing to consider taking legal advice or legal representation in making submissions to the Ombudsman. For that reason we will go down the road of pursuing the Venice Principles and agreeing the own motion investigation, but I do not think it would be in anybody's interest that we should go further.

Mr Speaker, for all of those reasons 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 Chief Minister.

Hon. K Azopardi: Mr Speaker, there is no other party that has supported the office of the Ombudsman more than the GSD. **(A Member:** Hear, hear.) Indeed, we introduced the legislation. When I was on the other side of the House I had carriage of the work that led to the drafting of the Public Services Ombudsman legislation 21 years ago and I was the Minister responsible for the Ombudsman and any liaison with the Ombudsman initially. So I have no doubt that we introduced the legislation, supported the office of the Ombudsman and the principle that the office should be there, and have for decades been supporting it.

The hon. Member, when I look at the motion that he has presented it is clear that all he is seeking to do in this motion is take a scoop and react against a motion that was presented by the Hon. Mr Clinton some weeks earlier, because in some way he felt as if the initiative had not been taken by him. The first couple of paragraphs, and, I have to say I am quite dismayed by that, because the motion of Mr Clinton – to which I am not speaking, but of course I must respond to some of the comments that the hon. Member has made because he has made reference to it – was entirely, much more neutral, much more non-partisan than his, and yes, called upon the Government to ensure that all the recommendations are acted upon, but the hon. Member in his last comment, when he said 'I cannot accept the idea that Government should act upon the recommendations', should not stop there because that is not what that motion says. It does not say that we want to force the Government to act upon all recommendations, because it then continues 'that if not that a proper explanation be given', so that the Government has leeway to do that.

Twenty years on, it is right and proper that we look at the office of the Ombudsman and see what improvements can be made. That is the only message that was being put across in a non-partisan motion. For the hon. Member to bring forward his own motion in a petulant kind of way and then reject, after the Speaker's ruling today, the offer that we sit down and seek consensus when we have just done precisely that – pass a motion on an issue of public importance in Gibraltar by consensus ... For the Hon. the Chief Minister to react in that petulant and childish way is a matter of dismay. That is the reality behind that gesture and refusal to engage with the Opposition on this issue.

If he did not like the language of the motion that the Hon. Mr Clinton put forward, it was within his gift to engage with us and come to a conciliatory position on it and we would have

welcomed that initiative. Instead, he brings forward a motion which in essence is seeking to congratulate the Ombudsman – which of course we congratulate the work of the Ombudsman and intends to support the initiative that they can launch their own motion investigations, which was in our first motion. So it is not new ground but adds a couple of paragraphs, as a preface to his motion, of a self-congratulatory nature. He wants to congratulate the GSLP for voting, in opposition, in support of the legislation that the GSD introduced but without mentioning the GSD, and wants to congratulate, in his paragraph 2, that in 2019 the motion which appointed the first Ombudsman also carried the support of the then GSLP Opposition.

Mr Speaker, the hon. Member knows I am fond of him, but there are times when I almost feel, when I view his performance, that he is in a Monty Python film. There are moments when I honestly feel there are stances that he takes that he does not need to take if he wants to behave like a statesman and as a leader of this community, and this is an example. Perhaps it is not the most, the biggest example, but it is an example where it was within his gift as Chief Minister of this community to engage with the Opposition. We would have come to a consensus. We would have supported the work of the Ombudsman without the need for these facile self-congratulatory statements that are incredible and beyond belief.

For those reasons, we are unable to support the motion and we will abstain on it. We will abstain because of the self-congratulatory, childish paragraphs of this motion, but we absolutely make clear in doing so that we support the work of the Ombudsman, as we have done from the initial moments of the office of the Ombudsman when we introduced the Bill on that side of the House 21 years ago. *(Banging on desks)*

Mr Speaker: The hon. Lady.

Hon. Ms M D Hassan Nahon: Mr Speaker, I really think that the people of Gibraltar must be very confused – if they are watching Parliament at all, that is. We have two motions before us which are actually almost totally identical. The hon. Gentleman initially came in with a motion, which then has been hijacked by Government, and of course Government has the front foot on this and gets to speak on it first. We still do not even know when the Opposition Member's motion will even, if ever, be heard.

I consider myself a layperson, and I am around many political veterans here and I find myself tied up in knots in legal and parliamentary language which does not really make sense, because now there seems to be a precedent. What does that actually mean for opposition? That every time we may be the architects of a motion that maybe Government has not thought of, that Government will then run with their own motion and put ours to the back of the shelf and we have to wait until it is deemed appropriate to be heard, when the heat of the moment is over?

I do not consider it fair and I will reserve my offering on the actual substance of the motion of this discussion to when the Hon. Roy Clinton presents his own.

Thank you. *(Banging on desks)*

Mr Speaker: If no other Member wishes to speak, I will call on the mover to reply.

Hon. Chief Minister: Mr Speaker, it had all been so convivial until now.

The hon. Gentleman says that no one has supported the office of Ombudsman as much as he has, and he reminds us of the time when he had carriage of the legislation when he was a Minister in the Social Democrats. I do sense that he is going to remind us more and more of the work that he did in the Social Democrats, hoping perhaps that we will forget more and more the work that he did to denigrate the Social Democrats when he was the leader of the Progressive Democratic Party. But however often he tries to do that, he knows that I will be his foil – *(Interjection and laughter)* in ensuring that Gibraltar will remember that indeed we almost have to thank him for our election victory in 2011, because if he had not taken the 400-odd paltry votes that he was able to take from the GSD, we might not have won by 200 votes. But I do

know that I do not need to remind staunch supporters of the GSD of what it is that they need to remind themselves that he was responsible for.

The hon. Lady and hon. Gentleman are making points which seem to ignore the reality of the political system in which we run. The political system in which we run is tried and tested. It will no doubt need reform, it needs to be modernised, but it has done this community proud in the time that we have run it. Indeed, it is based on the Westminster model. In the Westminster model you win an election and you have a majority in the Parliament. In the context of our Parliament, without backbenches, we have what is known as an inbuilt majority. And so, in order to pass legislation or motions in this Parliament one must enjoy a majority of the votes supporting it.

Hon. Members on this side of the House meet every Monday, unless it is impossible for us to do so; we debate the legislative measures that we are going to take, we agree in what form we would each support them and therefore when we present a motion or where we present a piece of legislation, we do so in the knowledge that out of the 17 votes in this place 10 will be deployed to support it. That is the way in which democracy works. In other words – and I am sorry to have to labour this point – out there, the voter decides who should enjoy a majority in this place. Once they have determined who enjoys a majority in this place, 10 votes are provided to one side and a spread ... Usually, successful Oppositions enjoy seven. In this case, the hon. Gentleman enjoys six; I suppose on most occasions, he should enjoy six. We have seen that fracture even more under a former leader of his party – another FLOP, Mr Speaker, the one sitting to his left. I say ‘FLOP’, as the hon. Gentleman understands, only as an abbreviation. So, if you want to see a measure prosper in this place, it must enjoy the support of a majority of Members in this place who will raise their hands or their voices in support of it.

I was very conscious, in discharging my obligations as Chief Minister when it came to the motion that we have just debated on abortion, which I could simply have passed by a Government majority, to reach out to the hon. Gentleman and seek on that issue, which is greatly divisive as to the substance – as we have managed to avoid showing today for the reasons that hon. Members have heard and Members of this community will have heard – to reach a consensus in respect of that very difficult issue.

On an area where it might have been possible to reach consensus ... and indeed the hon. Gentleman is right, there are two motions on the Order Paper and there are areas between them which are almost identical. It might also have been possible to reach a consensus. But of course, Mr Speaker, it is not possible to reach a consensus on the basis of that consensus being sought after a measure has been published. In the normal way, in the responsible way, the mature way of doing things ... And I must say to the hon. Lady she sometimes does it, so I do not see why she does not expect her fellow Members of the Opposition to do it – picks up the phone and says, ‘I am intending to move a measure. Would it enjoy the Government’s support? And how might the Government wish to see it change in order to enjoy support?’

If you want to enjoy the support of the majority in this House, you get in touch with the leader of the majority, you do an agreement, and then you still move it and you have the benefit of saying, ‘I am moving this, even if it is from the Opposition benches, knowing that I have the support of the majority in this House.’ That would be the normal way of genuinely trying to do something which is not designed in order to try and steal a political march – in other words, all of the things that the hon. Gentleman has described that he says I have tried to do: the petulance, the childishness and the other matters that have led to his dismay. Well, he might have said that, but he knows in his heart of hearts that the disagreement on an issue which could have been an issue of agreement arises from the fact that a Member of the Opposition published a motion, in relation to an issue on which we might have agreed, without getting in touch with the Government and understanding the Government’s sensitivities on the issue.

The Opposition motion goes much further than the Government motion. Indeed, Mr Speaker, the Opposition motion goes further than the Opposition’s manifesto. The GSD manifesto contains a paragraph on the issue of the Ombudsman which is much more circumspect than

what they have tried by motion to seek the Government's agreement for. If the hon. Gentleman does not recall that, Mr Speaker, then I do not know who the author of his manifesto was, but he might like to look at the fact that the paragraph in their manifesto talks about certain Departments and categories of cases being specified where the Ombudsman's recommendations will have to be followed within 120 days or reasons given for the failure to do so. That is not included in the motion. In the motion that is being proposed the language is different. Of course, they are now not in Government. They might have sought a way out with a 120-day period – I will give way to the hon. Gentleman in a second – and written reasons and certain specific cases. In their motion, which I am not debating and which comes later on the Order Paper, the language is completely different. So, Mr Speaker, I do not accept that there is even a good reason for them to say that they had sought a mandate on what they are now seeking to put a motion on.

The hon. Gentleman has asked me to give way – and we have had a convivial afternoon, so I shall agree.

Hon. K Azopardi: And I will not abuse the request to give way, because there is a simple explanation for that.

In the motion, that was drafted when we debated it, we are not seeking to implement what was GSD policy. We were trying to call on the Government to put in place a mechanism to ensure recommendations are followed, or, if not, reasons are given, but to give the Government side leeway to do it in whatever way it wanted and not necessarily do it in implementation of the GSD manifesto.

Hon. Chief Minister: I am grateful for that clarification, Mr Speaker, because simply reading the two, one might have been left with the impression that they were seeking to impose on the incumbent Government a tighter position than they were seeking to have imposed on themselves by way of their manifesto commitment on the subject.

So let's be very clear. It is possible for this House to continue to work on the basis of us, together, being able to reach difficult decisions which are good for the community and where we might have different views but where there may be areas, like a Venn diagram, on which we agree and where we can proceed together. That is not going to be possible if we do not talk to each other. The hon. Gentleman and I, as leaders of our respective parliamentary factions, and the hon. Lady, speak to each other and were therefore able to reach consensus. We speak to each other directly; we do not speak to each other over the airwaves. By the time we get to the airwaves we are expressing the differences between us.

And so, Mr Speaker, I commend anyone who wishes to bring a motion to enjoy the support of the majority of this Parliament ... that there should be more inter-parliamentary debate and discussion between Members before we escalate matters to publication, because otherwise all that happens is that you are exposing the old politics of trying to steal a march.

I say to the hon. Gentleman, as I have said before in this House – and I want this to be on the record, on *Hansard* – if I am approached by a Member of the Opposition seeking my support for a motion or other measure which can enjoy the Government's support, when I tell that Member of the Opposition that they will enjoy the Government's support they will be able to publish their measure and say that they will have the Government's support when it comes to the House. I will not seek to tell them that it will only enjoy my support because it is now a lovely, good idea if they allow me to put the measure or a Government Minister to move the measure. I say 'measure' because it could be a motion or it could be a piece of legislation that can be moved as a Private Member's motion.

So, Mr Speaker, for all of those reasons, the Government is ready to act as the leader of this community and to support the Opposition in putting measures which might enjoy the support of the whole community. But what we are not ready to do is to see petulant, childish games played by Members of the Opposition who simply want to get their name in print and get their name in

a headline as soon as possible, having been disregarded by the general public once again, having seen their support fall during the course of the General Election, and looking desperately for relevance once more.

And so, Mr Speaker, for all of those reasons, I commend the motion standing in my name to the House and I ask that hon. Members now, in future, act in a way more consonant with their parliamentary responsibilities going forward.

Mr Speaker: I now put the question in the terms of the motion proposed by the Hon. the Chief Minister. Those in favour? (**Members:** Aye.) Those against? Abstentions? Carried.

Hon. Chief Minister: Mr Speaker, I wonder whether that might be a convenient moment to recess the House for 15 minutes.

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

The House recessed at 5.52 p.m. and resumed its sitting at 6.15 p.m.

GOVERNMENT BILLS

FIRST AND SECOND READING

Marriage (Amendment) Bill 2019 – First Reading approved

Clerk: Bills – First and Second Reading.

A Bill for an Act to amend the Marriage Act. The Hon. the Minister for Justice, Multiculturalism, Equality and Community Affairs.

Minister for Justice, Multiculturalism, Equality and Community Affairs: (Hon. Miss S J Sacramento): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Marriage Act be read a first time.

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

Clerk: The Marriage (Amendment) Act 2019.

Marriage (Amendment) Bill 2019 – Second Reading approved

Minister for Justice, Multiculturalism, Equality and Community Affairs: (Hon. Miss S J Sacramento): Mr Speaker, I beg to move that the Bill for the Marriage (Amendment) Act 2019 be read a second time.

The Bill is a simple one. It consists of three clauses. The substance of the Bill is contained in clause 3, which deletes section 6B of the Marriage Act in its entirety.

This House will recall that in 2016 the Marriage Act was amended to introduce civil marriage to same-sex couples in our legislation. That amendment included clause 6B, which provided for

registrars to opt out of conducting a same-sex marriage in exercise of their freedom of conscience.

By way of background, Mr Speaker, you may recall that this legislation was laid before Parliament following the publication of a Command Paper which had, at that date, the largest response to a Government Command Paper. The majority of the responses were in favour of equalising civil marriage. However, there was a split, in that of the 2,336 contributions made, 1,368 were comments in favour, whereas 955 were against same-sex marriage. This shows that there was a split in the community and it was on the back of this split that section 6B of the Act was included, so as to ensure the rights of any persons employed by the Government as deputy registrars who may be unable to perform same-sex marriages as a matter of conscience, while still ensuring that marriage finally became equal and available for all.

Mr Speaker, when the Bill was debated in Parliament and became law after a unanimous vote, this section was the only point of contention. Some Members expressed their disquiet at the inclusion of this clause, and in fact an amendment was put forward for its deletion but this was defeated by 11 votes to four.

This law has now been in force since 15th December 2016, just over exactly three years from today. In these three years that same-sex marriage has been available in Gibraltar there have been a total of 192 civil marriages of couples of the same sex, 88 of these in this year alone, and the opt-out provision in section 6B has not once been engaged. As such, it is the Government's view that this statutory protection in the Marriage Act that we considered necessary in 2016 no longer is.

It was the right thing to do at the time to ensure that the rights of anyone employed as a deputy registrar were protected, even though I must also add that there was no deputy registrar, even at that time, who expressed to the Government any suggestion that he or she did not want to undertake such same-sex marriages. It was, however, the right thing to do at the time and we are more than happy to see that it is now no longer necessary, and hence why we are doing away with it now.

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

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

Hon. K Azopardi: Mr Speaker, yes.

As the Hon. Minister has reflected in the chronology of her exposition to this Bill, indeed last time this situation was here there was a debate around the issue which became section 6B, and there was an attempt to repeal it and there was a free vote on the GSD side. I was not here, so I am not sure if there was a general free vote, but there was certainly a free vote on the GSD side in respect of this matter. Consonant with that position, we on this side, in respect of the GSD, will also provide a free vote on this issue today. In doing so, therefore, in the remarks that I make I speak for myself in respect of the position that I take on this Bill.

I will be supporting this Bill. Indeed, not only do I support it, I feel rather strongly about it, because I believe it was unnecessary at the outset. **(A Member: Hear, hear.)** I was not in this House when this House debated it, but I do not believe it was either necessary or constitutional when it was first introduced in this House.

I believe that the state needs to act in a manner compliant with the Constitution. People might be free to do whatever they want if they are not employees of the state, but as soon as they are employees of the state and they are delivering a state service it is not right for those employees to place the state in a way that the state discriminates against people on the grounds of sexual orientation.

So I feel rather strongly about it and that is the reason why I am going to support this Bill, and I believe that the vast majority of Members on this side of this House will do so as well.

Hon. Ms M D Hassan Nahon: Mr Speaker, the overturning or reversal of clause 6B comes as a welcome step, a step away from discrimination and, albeit unfairly delayed, a small step towards legislating with courage and conscience instead of legislating to appease all demographics. It is also a step that I strongly advocated for when this law was discussed and voted on in this Chamber in October 2016.

At the time, I put forward an amendment in order to stop the giving of powers to registrars to opt out – a practice that clearly condones discrimination on the grounds of sexual preference – of same-sex marriage ceremonies. I considered this clause prejudicial then, as I do today, and this is why I am pleased to finally see the back of it. At the time, my arguments were shot down by Members opposite citing things like, and I quote:

They come to the Government and they say, ‘Can I please have a cake?’ and the Government says, ‘After this change in the law, you will have the cake.’ But we cannot be told that inside the Government the cake must be baked by Joe or by Jerry, by Diane or by Dorian.

Mr Speaker, it has to be said that as pleased as I am to see the reversal of this clause, the reasons for this move are less than satisfactory, I am sorry to say, and I feel that this must be pointed out as a matter of principle.

Reasons cited for the removal of clause 6B by Government have been, and I quote, ‘because there has never been a situation where section B has been needed’. Mr Speaker, from where I stand, it was never about whether registrars would or would not use or need it, but about applying the law of the land in a way that makes a strong, principled statement in support of equality.

The cake arguments were abhorrent then and are abhorrent now. If we allow the freedom of conscience of public servants to get in the way of equality in our society, this opens up the doors to all sorts of forms of publicly endorsed discrimination. They knew it then, as they know it now – but somehow Together Gibraltar are the populists, Mr Speaker.

Whether it has been used or not is totally immaterial to the principle. Had this clause been used frequently, would we be saying we enjoy having this clause because it is serving its purpose of discriminating and those with prejudices are protected by law to act their prejudices out?

It is simply not good enough to remove it because fortunately our registrars themselves understand that this clause is wrong and choose not to make use of it. Let us pause for a second to reflect on the fact that our public officials have actually taught a valuable lesson on real equality to those lawmakers holding these portfolios. We, as parliamentarians, have a duty to pave the way for a fairer and more equal society. This clause sent out a strong message that the state understands and endorses those who reject equal marriage. This message was in direct conflict with the legislation to allow for equal marriage to take place – something I genuinely commend this Government for bringing in – in a move that seemed clearly aimed at appeasing those offended by this just and necessary change. The offence that was inflicted on this community when this clause was allowed to remain must be undone with an unashamedly principled statement from this Chamber, and I believe that an apology is also in order. (**A Member:** Hear, hear.) (*Banging on desk*) We move to eliminate this clause today because it is the right thing to do for equality, for freedom and for justice and it was wrong to allow discrimination to exist in the first place.

Mr Speaker, if I may pick up on something that the Leader of the Opposition just said – he said that he was going to give a free vote to the GSD. From what I understand, the reversal of this clause was a GSD manifesto commitment, so I am at a loss as to how the GSD Members of Parliament to my right would actually justify any of their Members of Parliament voting against it today.

In conclusion, today is a great day for the fight for real and not half-hearted, half-baked equality. Needless to say, I will be supporting this Bill.

Mr Speaker: The Hon. Edwin Reyes.

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

I thank the Hon. Minister for Justice for her introduction because I concur with her views. When we took the vote in Parliament I was one of those who voted, because like her I believed it was the right thing to do.

1855 As a politician, one has to be open and hear the views of your constituents and take them into account. That, combined with the issue that the need to impose this clause has not really arisen, has led me now to lean towards the other side.

I would have been happier if in the same way that legislation was introduced whereby newcomers into the Civil Service had to opt in to a different pension scheme and it safeguarded the pension rights of those who were in the service before, as indeed the same thing applied to parliamentarians. That perhaps would have been an easier way out, of safeguarding, should the need arise, for anybody who joined the Civil Service – knowing that they would not be forced to have to conduct marriages if they did not want to. That would have been the easy option, but given as it stands and given the arguments in favour of ‘is it constitutionally correct to have this section’, I am now inclined to change my mind from the way I voted in the past, and therefore, Mr Speaker, I will be supporting this Bill.

Mr Speaker: The Hon. Elliott Phillips.

1870 **Hon. E J Phillips:** Mr Speaker, I certainly identify with the comments made in this Chamber by the Leader of the Opposition and indeed the Hon. Ms Hassan Nahon in respect of the matters in relation to 6B.

I said at the time that 6B was offensive and I say it again today: it is offensive and it is a great shame that the Government at the time passed this piece of legislation with 6B in place. In fact, I said quite strongly that it should be removed at the time.

1875 But it goes further than that, in fact. The Chief Minister, on 26th October, when hearing the debate, actually talked about the ‘balance’, so obviously he had considered 6B in some detail and he actually said:

So this strikes the balance because we will provide absolutely that service that is required in order to provide equality to those who must have equal marriage, but we will not force it down anyone’s throat that they must also officiate those marriages when – I do not understand why, but – they may have an objection to it.

1880 What the Chief Minister was trying to explain there is that a balancing exercise had been done when they looked at the law, reviewed it and put in place 6B. But it is wrong of him to say that. In fact, 6B was offensive, it was not necessary then and it is not necessary now, and therefore I repeat the position that I have made since 26th October 2016, I identify my contribution with that of the Leader of the Opposition, and I will be supporting this amendment.

1885 **Mr Speaker:** The Hon. Damon Bossino.

Hon. D J Bossino: I am grateful, Mr Speaker. I am grateful also to the Leader of the Opposition and my colleagues in the GSD parliamentary team for allowing me the latitude to express my own personal views in relation to this Bill.

1890 I will be voting against the Bill and I think that is in fact a reflection of the strength of the party rather than its weakness; it shows that we continue to be a very broad church. I cannot in all conscience vote in favour of this proposed amendment and there is nothing, I am afraid, that the Hon. Minister has said which assuages my concerns in relation to this removal.

1895 I will be very short in terms of my submission. In fact, I will be quoting at some length some of the things that the Hon. the Chief Minister himself said, I think very usefully and helpfully, when he himself was one of the prime movers behind the introduction of this sort of ring-fencing clause.

1900 This is clearly one of these situations, which is happening more and more often nowadays, where matters of faith and the law collide, resulting, in many respects, in potentially irreconcilable differences. But in my view, in relation to this particular section of the Act, which is the status quo before it is amended, presumably, by a vast majority of this House – I am probably going to be the only Member voting against this, I suspect ... where we could have it, using the Chief Minister's own words when he made his presentation to the House, that people could have their cake and eat it and where those differences could in those circumstances be reconciled.

1905 As I said earlier, I need only cite some of the excerpts from the Chief Minister's speech, and I quote, where he said:

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

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

1910 I also wish to read from this short paragraph, which I think is very relevant. It was not just to deal with a situation as it was in 2016 when the Bill became the Act and was approved by this House at the time – I was not a Member of it; he also spoke, I think quite rightly and quite correctly, about potential aspirants to the position of deputy registrar and that those individuals who may not at the time have been deputy registrars and want to be deputy registrars in the future will be allowed to exercise their conscientious objection in relation to this issue. He said this:

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

1915 And then he rightly quoted from an opinion piece given by His Lordship the Catholic Bishop of Gibraltar, Carmelo Zammit, when he said ... This is the Bishop of Gibraltar:

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

And then – on to the Chief Minister – he said:

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

1920 Mr Speaker, the conscience clause, in my view, provides that happy medium which works, as I said earlier. With the law as it stands, no official will be expected to go against his conscience, but at the same time the state will make another official, who does not have a conscientious objection, to do what is required by the state. I do not consider it offensive in the least, as my learned and hon. Friend said earlier.

1925 The state is entitled to have its own working definition of marriage – and indeed this Parliament decided to change that working definition three years ago – which may be different to the Church's, but the state is also obliged, in my view, in the interests of harmony and

cohesion to respect the consciences of its officials and of its citizens, and in this regard I disagree entirely with the Leader of the Opposition in that respect.

1930 In fact, we have an example – and I do appreciate it is not quite the same thing – in relation to the Bill to amend the Crimes Act in relation to the introduction of abortion, where there is a very specific clause which deals with the right of doctors to conscientiously object in relation to the performance of abortions, and these are doctors who would be employed by the state as well, so there is some analogy, although I agree that it is not exactly on all fours and there can be differences.

1935 Mr Speaker, simply to say that the opt-out clause shows respect for the conscience or convictions of individuals and also reflects, in my humble estimation and view, maturity, responsibility and sensitivity on the part of the state and should therefore be kept and not abolished.

1940 **Mr Speaker:** The Hon. Roy Clinton.

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

My position on this clause is exactly the same as it was when this came up before the House in October 2016. I believe the clause was unnecessary and I think this House owes a collective

1945 apology to the community that it has directly affected.

Mr Speaker, I think in this place we must in future consider the need to consider principle over political expediency. It is obvious that on a point of principle this clause should never have been inserted in the Bill (**Two Members:** Hear, hear.) in the first place and I welcome the Minister for bringing this amendment today to have this offensive clause removed. (*Banging on*

1950 *desk*)

Mr Speaker: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the hon. Lady has led this community on all

1955 issues of equality since she was elected to this House in December 2011. She led this community when we first introduced the Civil Partnerships Act, and indeed at her instance the Civil Partnerships Act in Gibraltar did not just cover the opportunity for same-sex couples to enter into civil partnerships, it also enabled opposite-sex couples to enter into civil partnerships, the position that was eventually found to be what the United Kingdom should have done after

1960 appeals to the Supreme Court there. I can disclose to the House – I think I may have already told them – that Gibraltar adopted that position because it was the position that Samantha Sacramento took in the Cabinet, that she passionately believe we should take. She led on that equality issue. On issues of disability equality Samantha Sacramento has led on those equality issues, and on the key issue of equal marriage Samantha Sacramento has led this community. So

1965 I am frankly a little surprised that there should be some here who suggest that she should be making an apology for the way that we have brought the community to a situation where there is now finally marriage equality in our community. Frankly, there are those who now take that position having initially told the public, when they were seeking their vote, that they stood for traditional values, get elected to the House and then say that they want to bring about the values which they did not initially have the gumption to associate themselves with.

1970

Mr Speaker, I do not suggest that that is the Leader of the Opposition. I think he has been clear on what his views are from the time that he has been involved in politics, and those are the views that he has espoused today. Indeed, his manifesto in this General Election campaign is clear on the issue of 6B of this Act; indeed, our manifesto is clear on the provisions of 6B of this

1975 Act. So I must say that on this issue there is broad agreement and I am grateful that he has put his intervention as he has. He has not suggested that we should be apologising to anyone. He has set out his position as he did in his manifesto, telling us that his view is that constitutionally

that clause should not be there. He knows that we have taken a different view but he has played his position I think absolutely fairly and rightly in setting out the position that he has taken.

1980 But, Mr Speaker, in taking the position that he has taken and expressing it as he has, and setting it out clearly also in his manifesto, he has put the position in a way that we have not. In other words, we did not think that having section 6B was unconstitutional for all the reasons some of which have been summarised by Mr Bossino. We thought it was appropriate and we felt that this was a time-limited provision that could be there whilst also delivering the holy grail of
1985 equal marriage. I make no apology for having delivered the holy grail of equal marriage, and frankly I think those who suggest that we should be giving an apology for having delivered the holy grail of equal marriage are simply playing politics with the emotions of those who were prejudiced by the absence of equal marriage in our law. People who play politics are seen through in politics.

1990 Mr Azopardi has made his position very clear indeed and set the standard higher than we have. The things that the hon. Gentleman has said today are entirely consonant with what is set out in his manifesto, where he said this:

S6B MARRIAGE ACT

We will repeal the provision that enables Registrars to refuse to marry same sex couples. The State must act constitutionally and its employees cannot act in a way that breaches constitutional rights.

That is his view; it is the position for which he sought a mandate.

1995 And so, Mr Speaker, it is one thing to say that one gives one's Members a free vote, a vote on matters of conscience; it is quite another to take a view that something is unconstitutional and to then see one of one's Members take the view that the Parliament and the law should continue to be unconstitutional.

I put it to Members opposite that this is not something that strengthens the GSD, as the Hon. Mr Bossino has suggested; this is something that demonstrates that they are not just divided but
2000 that they are at a church before schism and that they do not need a general meeting to elect a new leader, they need a general synod to decide what it is that they believe, because you cannot have one part of the party saying that something is unconstitutional and another part of the party saying that he is going to vote to keep it unconstitutional. At least we never took the view that it was unconstitutional.

2005 We have never taken the view that this is something to apologise for. Two of them – the hon. Lady is not one of them – have said that we owe people an apology for having done what one of them ... Indeed the leader of their political faction, in terms of electoral popularity – by two handfuls of votes, but the leader nonetheless, Mr Speaker – is taking a position which their former Leader of the Opposition in Parliament and their former leader of the party before their
2010 current leader of the party says we should be apologising for. There are so many 'formers' here, Mr Speaker, I feel like I am in the old days of the PWD with so many foremen around! It is really something quite remarkable and I congratulate them for continuing to push the boundaries of political credibility. In that respect, I do confess that they have absolutely no equal in this community.

2015 The Hon. Mr Phillips has, for once, been consistent in the positions that he has put – for once. In the debate in 2016 he said that he found 6B offensive. Today he has continued to take that view and express it both from a sedentary and a standing position, and has suggested that we should apologise for it. Well, Mr Speaker, we are not going to apologise for it; we do not think there is anything wrong with it. He has been consistent in his position and the only thing that he
2020 fails to explain to us is how he could have stood for election for a party that did not support equal marriage – that indeed, in its first iteration in opposition after we were elected, asked us to confirm that we would *never* allow the aberration of equal marriage!

2025 Mr Speaker, it is absolutely right that we should all have our personal opinions about this issue, it is absolutely right that we understand that the community is in progress and that values change, but I think that hon. Members should give us an apology for not recognising how we

have led on these progressive issues and how Gibraltar today benefits from a *Corpus Juris* – which is, given that the hon. Gentleman quoted my Latin, a body of laws – that better protects the rights of minorities than at the time that they were in Government, and that instead of talking about whether or not we should be apologising for anything or for anyone they should indeed be supporting the measure that we are taking today, understanding that Mr Clinton is wrong to say that the measure had any consequence for the minority that was being dealt with, because as the Hon. Minister has said, no one ever sought to rely on the exception and therefore there was no consequence.

If I may, Mr Speaker, also commend the Hon. Mr Feetham, who at the time ... He will excuse me for not remembering whether he was Leader of the Opposition at the time or not, because I am losing count of how many of them I have seen off already. (*Interjection*) No, just losing count; not losing it, just losing count of how many of them I have seen off already. He supported both the Bill and the amendment for the reasons I think that the hon. Lady was eruditely able to set out so that people understood that we were doing this in the right way and in a progressive way to deliver a progressive agenda.

So I make absolutely no apology for the excellent, sterling work that has been done by my Government at the instance and leadership of the Minister for Equality, who has been the leader of this community on these issues and who deserves the support and praise of all of those in this class and other classes of minorities whose rights she has defended in her usual sterling fashion.

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

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

Hon. Chief Minister: Can we have a division, Mr Speaker? A bit more convenient.

A division was called for.

Clerk: K Azopardi (**Hon. K Azopardi:** Aye.); P J Balban (**Hon. P J Balban:** Aye.); J J Bossano (**Hon. Sir J J Bossano:** Yes.); D J Bossino (**Hon. D J Bossino:** No.); R M Clinton (**Hon. R M Clinton:** Yes.); J E Cortes (**Hon. Prof. J E Cortes:** Aye.); V Daryanani (**Hon. V Daryanani:** Aye.); D A Feetham (**Hon. D A Feetham:** Aye.); J J Garcia (**Hon. Dr J J Garcia:** Yes.) M D Hassan Nahon (**Hon. Ms M D Hassan Nahon:** Aye.); A J Isola (**Hon. A J Isola:** Aye.); G H Licudi (**Hon. G H Licudi:** Yes.); E J Phillips.

Hon. E J Phillips: At last, yes.

Clerk: F R Picardo.

Hon. F R Picardo: Yes, at exactly the right moment.

Clerk: E J Reyes (**Hon. E J Reyes:** Aye.); S J Sacramento (**Hon. Miss S J Sacramento:** Yes.).

Voting resulted as follows:

FOR

Hon. K Azopardi
Hon. P J Balban
Hon. Sir J J Bossano
Hon. R M Clinton
Hon. Prof. J E Cortes
Hon. V Daryanani
Hon. D A Feetham
Hon. Dr J J Garcia
Hon. Ms M D Hassan Nahon
Hon. A J Isola
Hon. G H Licudi
Hon. E J Phillips
Hon. F R Picardo
Hon. E J Reyes
Hon. Miss S J Sacramento

AGAINST

Hon. D J Bossino

ABSENT

Hon. S E Linares

Mr Speaker: The result is that there are 15 in favour, 1 against, and there is 1 absent.

Clerk: The Marriage (Amendment) Act 2019.

COMMITTEE STAGE AND THIRD READING

**Marriage (Amendment) Act 2019 –
Committee Stage and Third Reading to be taken at this sitting**

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

2070

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

2075

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

In Committee of the whole Parliament

**Marriage (Amendment) Act 2019 –
Clauses considered and approved**

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

2080

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bill clause by clause, namely the Marriage (Amendment) Bill 2019.

Clerk: A Bill for an Act to amend the Marriage Act.
Clauses 1 to 3.

2085 **Mr Chairman:** Stand part of the Bill.

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

**Marriage (Amendment) Bill 2019 –
Third Reading approved: Bill passed**

2090 **Clerk:** The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to report that the Marriage (Amendment) Bill 2019 has been considered in Committee and agreed to without amendments, and I now move that it be read a third time and passed.

2095

Mr Speaker: I now put the question, which is that the Marriage (Amendment) Bill 2019 be read a third time and passed. Those in favour? (**Members:** Aye.) Those against? Carried.

PRIVATE MEMBER'S MOTION

**Public Services Ombudsman –
Amended motion carried**

Clerk: Private Member's motion. The Hon. R M Clinton.

2100 **Hon. R M Clinton:** Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

This House:

Notes the Public Services Ombudsman's Annual Report for 2018 and the recommendations contained therein especially in respect of the Housing Authority and the Civil Status and Registration Office.

This House further notes:

1. That it has been 20 years since the office of the Public Services Ombudsman was created in order for the public to complain about any act of maladministration by Government Departments or Public Service Providers,

2. That the Office of the Ombudsman enjoys the full support of Parliament,

3. That twenty years on the powers of the Office of the Ombudsman and the duty of Government Departments or Public Service Providers to take account of recommendations should be reviewed to see what improvements could be made to the current system.

Calls upon the Government to ensure that all the recommendations of the Ombudsman are acted upon in a timely manner, or if not that a proper explanation is given by heads of department on a case by case basis.

Resolves that the Public Services Ombudsman Act 1998 be amended so as to allow for Own Motion Investigations as requested by the Ombudsman in 2016.

Mr Speaker, the role of the Public Services Ombudsman is an important one in giving the public an independent avenue to complain about any act of maladministration by Government Departments or public service providers. This importance is reflected not just in the powers granted to the Ombudsman under the Public Services Ombudsman Act 1998, but also that under the Gibraltar Constitution Order 2006 the Ombudsman is a parliamentary officer under section 25(3)(b). And so, Mr Speaker, the Ombudsman should thus be able to rely on the support of this House in performing their duties.

Every year, for the last 20 years, the Ombudsman's Report is formally laid in this House – without, I must say, much further comment or debate, although I am sure that Members do read his report with considerable interest.

The motion I have brought to the House today should, I hope, enjoy the full support of Members, including those opposite, as the office of the Ombudsman deserves. My motion tackles two specific areas arising from his report and his recommendations for 2018: firstly, addressing the recommendations; and secondly, looking to review legislation following the request by the Ombudsman for additional powers.

Mr Speaker, let me deal first with the recommendations. The 2018 report varies from the previous year in that it carries over a number of findings that have yet to be acted upon by the relevant Government Departments. I am glad the Minister finds it so amusing. These can be found on pages 9 to 15 of the report.

There are four outstanding recommendations from 2017, and one, in fact, in respect of 2016. These are in respect of the Gibraltar Electricity Authority, the Housing Authority, the Driver and Licensing Department and the Gibraltar Health Authority. If the Ombudsman's recommendations are not acted upon in a timely manner, it undermines his credibility and authority in the eyes of the public. The Ombudsman had to state publicly, in an interview with the GBC on 12th November 2019, that it is now for Parliament to take the matter up and he has no power of enforcement, nor does he necessarily seek such power. The Ombudsman has appealed to this place for help, and help we must give.

This motion calls upon the executive, i.e. the Government, to act upon the recommendations. This is necessary if public faith is to be maintained in the office of the Ombudsman. To fail to act is to fail the Ombudsman and to fail the people of Gibraltar.

Over the last 20 years a lot has changed in the world of public finance and administration. The public now, quite rightly, demands a high level of accountability and scrutiny. In his 2016 annual report the Ombudsman at the time requested that his powers be extended to allow for what are called 'own motion' investigations. Ombudsman offices in other jurisdictions were asking for this, as it was reasoned that it would, and I quote, 'allow the investigation of matters which are brought to their attention but where people may be reluctant to make written complaints for a variety of reasons'. We can achieve this simply by adding such powers to section 13 of the Public Services Ombudsman Act 1998.

Mr Speaker, such is the strength of their conviction that such powers are necessary that the two previous Ombudsmen wrote and co-signed a letter to the *Gibraltar Chronicle* on 6th December 2019. For the purpose of recording their views into *Hansard*, this is what they had to say on the matter, and I quote directly from their letter:

As previous holders of the post of Gibraltar Public Services Ombudsman, we are pleased that Parliament will shortly be considering a resolution to allow 'own motion' investigations to be carried out by the Ombudsman. This

will certainly be a welcome development, especially following the 20th anniversary of the establishment of the office of the Ombudsman in Gibraltar.

We are of the view that the ability of the Ombudsman to investigate any issue of maladministration without having to rely on receiving a written complaint from the public should not be underestimated. The power to conduct own motion investigations is a much desired and necessary tool to have in the pursuit of administrative justice. We would also like to highlight that the Public Services Ombudsman in Gibraltar is now one of the very few such ombudsmen worldwide that is not empowered to conduct own motion investigations. In our view, this is a matter that should be regularised by the Government and by Parliament as soon as possible.

2145 Mr Speaker, if this appeal is not convincing enough for Members, the current Ombudsman also wrote to the *Gibraltar Chronicle* a few days later, on 9th December 2019. He wrote that he was 'fully agreeing with the views expressed by my predecessors and I would welcome such a development in Gibraltar'. He also urged the full adoption of the Venice Principles in Gibraltar, which are a set of internationally accepted standards for the proper functioning and independence of public service ombudsmen.

2150 Mr Speaker, the issues are really quite clear as to outstanding recommendations, and the request for a review of legislation is clear and unequivocal. It is now time for us to act.

I commend my motion to the House. (*Banging on desks*)

2155 **Mr Speaker:** I now propose the question in the terms of the motion moved by the Hon. R M Clinton.

Chief Minister (Hon. F R Picardo): Well, Mr Speaker, the motion, of course, as we all know, has been overtaken by events, namely the motion that the House considered earlier on the substance of the issues that the hon. Gentleman has now addressed, but which dealt with –

2160 **Hon. R M Clinton:** Point of order, if I may? Mr Speaker, you did, did you not, rule that they were different motions?

2165 **Hon. Chief Minister:** Mr Speaker, you did rule that they were different motions, but the substance of one of the parts of the motion is clearly one that has already been overtaken by events, namely the earlier motion, because the hon. Gentleman has told us everything in his motion and completely ignored that one part of his motion has already been dealt with. And although the motions addressed different aspects of what ombudsmen might want, past and current, he has not addressed the fact that one of the key things that he was putting is already

2170 dealt with now with the motion passed already.

I nonetheless fully recognise the human issue that was in play here: the hon. Gentleman had written a speech and he wanted to read it. Look, Mr Speaker, given that it is almost Yuletide we should not hold that against him. If he wants to come here and read us the speech that he had prepared, I think that is absolutely within the remit of what he is entitled to do as a Member of

2175 this Parliament.

On the issue of whether or not the Ombudsman's recommendations are followed, I will remind the House of what I said earlier about the Ombudsman's own introduction to his annual report of 2018, filed in this House on 17th April 2019. The introduction says:

The investigations carried out by the Ombudsman's Office and the many recommendations made by the Ombudsman, which are invariably respected and followed by Government Departments ... have made a significant contribution towards the improvement of our public services over the years.

2180 I think that that is an excellent testament to the position that this Government takes to the investigations and recommendations of the Ombudsman, but for the reasons that were ventilated during the course of the debate earlier, Mr Speaker, I do believe that this motion is no longer necessary and I do believe that it is important that we do not simply let this pass.

The things that the Hon. the Leader of the Opposition said to me about why I had put my motion etc. I have already replied to, but I do think we need to take this further, Mr Speaker. I do think that we need to ensure that we start to behave in a more convivial way, and therefore I am asking hon. Members, as I did during the course of my earlier intervention, to remember what the structure of this place is and how it is that they can bring motions which might enjoy Government support.

And so, Mr Speaker, I hereby give notice of an amendment that I intend to move to this motion. The notice that I am passing in writing of the amendment that I intend to move is:

Delete every word after 'This House' and insert thereafter the following:

'This House calls upon all Members to seek to work together for the benefit of the community as a whole on all matters on which consensus may be achievable and to consult widely with other parliamentarians in order to seek to achieve that consensus in debate.'

Mr Speaker, in formally moving this amendment to the motion, what I am seeking to do is to turn a moment of discordant disagreement into a step forward for consensus in this House to ensure that the community sees us working together wherever possible to try and achieve that consensus.

On the substance, the key issue which the Ombudsman wrote about to the *Chronicle* and has been pursuing, which is the issue of own motion investigations, is already on foot. The other aspects of the motion which the hon. Gentlemen has put, he knows, for the reasons I set out before, we are not going to agree. But this is an important step forward, an important way taking ... the way that the Hon. the Leader of the Opposition and I, and the hon. Lady, have demonstrated that it is possible to take areas of discord and produce unity for our community, therefore showing the maturity that we are required to show in leadership at this difficult time, and leaving aside the sort of point-scoring that we have seen attempted by the Hon. Mr Clinton. Let us call that all the deleterious approach of the past Parliament, and let us look forward to trying to continue to work together to achieve consensus in debate where possible, to lead this community together, where all of that consensus is possible on this particular issue.

Mr Speaker, a moment ago we saw a genuine, heartfelt disagreement on the issue of 6B, where Mr Bossino has acted to vote in a way that his leader suggested is unconstitutional. There will be areas where we cannot agree. But where there are opportunities for agreement, let us work harder to try to achieve that agreement. Let us set down in the *Hansard* of this place and in the decisions and resolutions of this place our opportunities to do so, by seeking conviviality and seeking consensus in a way that puts down a marker for the future, so that we can see that it is possible, even where we disagree, to find a way to work together that delivers for this community an approach that we need to see delivered, especially given the moment in which we find ourselves. This is now not a question of trying, each of us, to present a position which the other cannot support. It is trying to find a position going forward which each of us can support, even in the areas where at first blush there might be disagreement, or indeed not mining away to find the opportunity for petty political disagreement where there is broad political consensus.

For that reason, Mr Speaker, I think moving this amendment can help us – in the New Year, perhaps when each of us have had an opportunity to reflect – to try and keep foremost in our minds those principles that make Parliament strong, that make democracy what it is and that enable us to look always forward in the way that we take the mandate that the people of Gibraltar have given us and turn it into action in a positive way. Not to do so and to simply be dismayed when we do not get our way, (*Laughter*) to seek to simply get a way for the purposes of trying to score cheap political points, is not what people have elected us to do. That is why I genuinely commend to the House the approach of talking to each other before we publish what it is that we intend to bring, of talking to each other in an attempt to reach that understanding, and of doing what we have done in very difficult circumstances – probably on the issue of

2230 deepest disagreement that we will have in the context of the lifetime of this Parliament, which is the separate positions that we have each defended on the issue of abortion, and yet we have been able to come together.

Mr Speaker, we must never allow disagreement to be snatched from the jaws of consensus, as we appear to have allowed each other to fall into the trap of doing in respect of this important issue, namely the issue of the office of the Ombudsman. I therefore move the amendment as set out in the written notice. *(Banging on desks)*

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

2240 **Hon. Chief Minister:** On the amendment only.

Hon. K Azopardi: On the amendment only.

Mr Speaker, the hon. Member is a master at snatching seriousness from the jaws of comedy. It really is quite incredible how he can, with a straight face, propose this under the guise of being uber-reasonable, when I said to him that he is like a Monty Python sketch on the other issue and he transitions into now hijacking this motion of the Hon. Mr Clinton and transforming it. Rather than it being anything to do with the Ombudsman, he wants to delete all the words and now it is a motion about consensus.

Mr Speaker, I do not need a motion to be voted on by this House to call upon me to be how I am. The hon. Member knows, because I have said it during the election campaign, I am not a tribal politician. When I used to sit on that side ... Those people who were in this House at the time know that I am not a tribal politician. I may disagree, but I always try to find the most constructive way forward, and answer questions and be clear and honest. That is what I stand for in politics, and I will never be a populist. There may be a time when I am out of sync with the way that politics is run, but that is what I believe in.

And so the Chief Minister, when I rise to make this contribution on the amendment ... I know he does it with great mirth; we are days away from Christmas and there will be party games, no doubt, played in his house, but this is not one of them. Most of the Members in this House – all of them, I would say – are here because we feel strongly that we want to make a contribution to the politics and the future of this community. We may disagree with each other when we do so, but I have no doubt that every single Member in this House does so from a standpoint of good faith and of the interests of this community. We do not need to play games with each other and this is the second time today that the Chief Minister tries to play games with this House and with the Members opposite. *(Banging on desk)*

2265 **Mr Speaker:** The Hon. Daniel Feetham.

Hon. D A Feetham: Mr Speaker, I rise because I think that there is an important point of principle that has been raised in the speech that the Hon. the Chief Minister has given in response to the motion brought by my hon. Friend Mr Clinton.

He has said during the course of his intervention, and in fact he was very keen to emphasise, that my friend's motion on the Ombudsman was 'no longer necessary'. He then said it had been 'overtaken by events'. What he is really saying is that my friend Mr Clinton's motion was rendered otiose, redundant, irrelevant by his later motion.

2275 Of course, the rule against anticipation is there, Mr Speaker, in order to prevent that kind of situation. It is there to prevent a situation where a Member files a motion for debate within this House and then there is a subsequent motion that effectively renders it irrelevant, redundant and otiose, which is what the Hon. the Chief Minister is essentially saying.

It raises an important point, because although of course we accept Mr Speaker's ruling that the motions, on reading, there were some differences in the motion, in substance one can see

from his intervention that they were exactly the same, and that impacts, in my respectful submission ... and whilst we accept the ruling of Mr Speaker, I urge the Government not to go down this route, because it is, in my respectful submission, a route that is fundamentally undemocratic.

2285 Here you have an Opposition that... Yes, of course we have an obligation at times, and I would say in the majority of times, if it is possible, to attempt to work with the Government of the day in order to achieve the best outcome for this community, but it is also the role of an Opposition to hold the Government to account – that is why we are here – and to bring before this House, so that there is a proper debate, the issues that are impacting on the community at any given moment in time.

2290 I myself have said that I am going to be presenting a motion on disability benefit in the New Year. If I do that and I find that the Government then presents another motion which renders, somehow, mine irrelevant, redundant and otiose, I think that that does a disservice because what the Hon. the Chief Minister is really doing ... Whether by design or not, the effect of it is that before we present a motion, in order to avoid the situation that we have been faced with today we are going to have to go to the Government of the day and say, 'We are presenting this motion – what do you think about this?' Effectively it leads us to a situation where the Government of the day – and our role is to hold the Government to account – become the ultimate arbiters (*Interjection by Hon. Chief Minister*) of what we can or we cannot present to debate before this House, and that cannot be right.

2300 I just leave this House with this thought: most of us here have been both in government and in opposition. Well, I think most of us have been in government and in opposition. My maths is not my best point, but a lot of us have been in government and opposition, and you know that it is very difficult when you are in opposition because the Government of the day holds all the cards. The Government of the day always has the last word. When we ask questions, our questions have got to be short and sharp – and I am very grateful to Mr Speaker for the indulgence that he has provided Members of this House during the course of this session, which I think has been extremely convivial, where there has been a toing and froing in great spirits; it has allowed us to do our job and the Government to do theirs, but they always have the last word.

2310 In relation to motions, for example, it has always been possible ... I happen to think that it infringes both the spirit and the letter of Standing Orders – the previous Speaker, as indeed other Speakers, have not been with me or with others in relation to that argument – where a Government can just simply say, 'I am deleting from (a) to (z) and I am replacing it with a completely different motion'. That is when we present a motion. The reason why I have always felt that that infringes the spirit or the letter of Standing Orders is because Standing Orders provides that there ought to be five clear days for a motion, so that you give advanced warning to the other side that you are bringing a motion. The Government has the capability of in fact coming to this House, without notice at all, and amending the motion, completely substituting it for a different motion, without notice. If, on top of that, we are going to be faced with a situation where there is going to be a virtually identical motion, certainly in substance, presented by the Government before ours, that, I think, represents a democratic deficit, in my respectful view. I would certainly urge the Government to deploy the device as infrequently as possible; otherwise it is going to be a very slippery road indeed. Ultimately, we want democracy to function; we want democracy to function efficiently and we want democracy to function properly.

2320 I hope, Mr Speaker, that my intervention has not been interpreted as a criticism of your ruling but rather as a caution to the Government – who ultimately, judging from the Hon. the Chief Minister's words and his new motion, obviously want to work with the Opposition, want democracy to function – for the Government not to stifle debate by using this device inappropriately in the future.

Mr Speaker: The hon. Lady.

2335 **Hon. Ms M D Hassan Nahon:** Mr Speaker, I am really sorry to be here on a Friday night – when I usually do not even like to be working – to have to witness this sad situation, honestly. I find it sad that the Government is denigrating the integrity of a motion that was the brainchild of an Opposition Member and mocking him for wanting to read a speech, a speech that he himself wrote and thought of himself before the Government even exercised its privilege to overtake him and now somehow undermine this motion.

2340 I think it is great that the Government have put this amendment to work together, and I welcome that – my own party name implies the importance that we give to unity and working together – but that should not mean that if Opposition Members choose *not* to consult, that we should lose the right to own our own motions. Where does that leave each and every Member of Parliament in opposition now? Either we consult or we lose our steer on our own motions? Basically,, does Opposition now not have any tools anymore to own the mechanisms that allow us to present a debate effectively?

Mr Speaker, following on from my reasoning, I will present my own amendment to the Government amendment, which will read as follows:

After ‘and to consult widely with other parliamentarians in order to seek to achieve that consensus in debate’ insert ‘but if and when motions are not consulted in advance this will not render them effectively meaningless and undermined’.

2350 Mr Speaker, I had a few words to say on the substance of the motion, but the mover is not even here, so what has happened today has totally overtaken and I find that extremely sad, so I will not even bother.

Thank you.

2355 **Mr Speaker:** If no other hon. Member wishes to speak, I will call on the mover to reply.

Hon. Chief Minister: No, Mr Speaker, I am afraid that we have found ourselves in a difficult situation. I am not going to rise to reply to the contributions that have been made, because first I think I am required to reply to the amendment to the amendment that has been put. So I will limit myself to the amendment to the amendment before speaking to the amendment.

2360 The amendment to the amendment is frankly nonsensical. It does not have any meaning whatsoever and it will not enjoy the support of this side of the House because hon. Members have not understood what it is that we are talking about and how it is that motions appear to work. The Hon. Mr Azopardi, as the Leader of the Opposition, a man who has been in this House before as a Member of the Government and a Member of the Opposition, understands how motions work. His contribution has been different, but the things that Mr Feetham has said and Ms Hassan Nahon has said just make absolutely no sense whatsoever, and the amendment is more nonsensical than even their contributions. So I will restrain myself and not respond to their contributions on my amendment until I reply to that, and I will simply say that this amendment to the amendment takes us absolutely no further and it flies in the face of how Parliament is designed to work, not just here but also in the United Kingdom.

2375 **Hon. K Azopardi:** Just on the amendment to the amendment, and in particular that last contribution, yes, I have been on that side of the House and I understand how motions work. I remember being in this House when Sir Peter might have taken the view that he would have deleted every word after ‘This House’, but that was a practice that he followed from Sir Joe. *(Interjection by Sir J J Bossano) (Laughter and interjections)* No, but the point that I was making in my contribution was that in my experience that has happened, and in both cases they have adhered to the subject matter, so when we have been debating something on education and

2380 they have deleted every word after 'This House', it has been on the subject matter. That has
 been my experience. It may have changed since I was away, but that was my experience and
 that was why I made the contribution that I did, and why also the amendment to the
 amendment does not address the substantive point that I was making, that I fear ... Where I do
 not want to go is to play this game of in effect presenting a motion on Ombudsman of a Health
 2385 Service and it ends up being a motion on sovereignty or something completely different. That is
 not what we are trying to do; nor is it, surely, what the Chief Minister is commending to this
 House.

I entirely understand the point that he makes, that you have a majority and we do not, and
 that if we wish to maximise the prospects of ensuring a motion is carried, if we engage with you
 2390 it *might* maximise those prospects. I get that. All I am saying is that when and if we take the view
 that we should not play a game with each other ... That is the only point that I make.

Mr Speaker: Does the hon. Lady I wish to respond as the mover of the amendment to the
 amendment?

2395 **Hon. Ms M D Hassan Nahon:** No, Mr Speaker, very much the same, and the Chief Minister
 knows himself I often consult him – I want to find effective and constructive results for this
 House – but I would not want to feel that on the occasions where we do not the mechanics are
 taken and swept from underneath us.

2400 That is the only reason why I proposed this amendment to the amendment, because one
 thing is calling for collaboration and co-operation – and I think that is a great thing and is
 constructive for all sides of the House – but I do not want that to be the only vehicle that allows
 for every Member to actually have the possibility to own their motion and to ensure integrity
 over their own vehicle for debate, which is the way to present it being a motion. Today we have
 2405 seen that that has been overtaken, and this is why I felt compelled to propose these two lines,
 Mr Speaker.

Mr Speaker: I now put the question in the terms of the amendment to the amendment
 proposed by the hon. Lady. Those in favour?

2410 **Hon. Chief Minister:** Aye! No, sorry, the amendment to the amendment – no! (*Laughter*)

Mr Speaker: Those in favour?

2415 **Hon. Ms M D Hassan Nahon:** Aye – I am on my own again.

Mr Speaker: Those against? (**Several Members:** No.) Defeated.

We now revert to the amendment to the original motion, and it is the mover of that
 amendment.

2420 **Hon. Chief Minister:** Mr Speaker, the Hon. Mr Azopardi started his intervention on my
 amendment once again seeking to suggest that there was comedic value to what we were doing.
 I am sure that this is a theme that will develop, and I am sure that we will develop jointly about
 each other in the less convivial moments that this Parliament's life will continue for, but I do
 2425 think, frankly, that it is unfair. It is unfair because I have been very careful with what I have said
 in the context of the amendment that I have proposed. I have not sought to be tribal; I have
 sought to be neutral. I have sought to be neutral in the context of what I had already said about
 the way that the motion was being pursued.

In this place we win and we lose votes, depending on where we sit. In some instances, if
 2430 matters are not on Government whip, so to speak, we may lose votes even if we are on this side,
 or we may win votes even if we are on that side. When we lose a vote, or when we lose an

argument, we do not walk away from it and we certainly should never walk away from this place.

2435 Today what I have done is to try and, at the first session, lay down a marker which is positive, not negative. It is not comedic in any Monty Python sense. It is actually designed to try and set out for hon. Members how it is that we can work together.

2440 It is not often – indeed in the time that I have been in this House since 2003, the moment that he left, I have not seen an invitation from a Leader of the House to try and allow Members the opportunity to succeed in votes that they might present. That may or may not be something that they are willing to pursue. I think the hon. Gentleman has completely understood my position, and indeed he and I have already demonstrated how we are able to work in that way. But he is absolutely right that this motion is not intended to change his attitude, because he and I have shown that our relationship and our attitude enables us to do very difficult things together and to leave disagreement outside and to bring agreement – in other words, to snatch
2445 agreement from the jaws of disagreement and not do the opposite, which is to seek disagreement where there is agreement. That is an important dividing line. There is nothing Monty Python-esque about understanding that, and I am going to have to, unfortunately, develop this during the course of my intervention in response because it is fundamental. What we have done at the beginning of today's session is what everybody must want us to do: to seek
2450 that agreement from the jaws of disagreement. That is what we are here for. To disagree, we can issue press releases against each other setting out the different positions we might take in respect to a particular issue. Here we are to debate, to parley – that is what Parliament is about – not to seek to find disagreement where there actually could be agreement.

2455 When Mrs Thatcher became Prime Minister, he will recall the famous words she uttered: that she was there to seek accord and not discord. It would take us more than three or four volumes to determine whether in 12 years she actually found more discord than she found accord, but that must be one of the leading principles of whichever ideology we represent, to try and find that agreement. There is nothing Monty Python-esque about trying to do that, although I do recognise that the hon. Gentleman is trying to use that device, and I am interested to see how
2460 he develops it going forward. I have some devices in mind which I will be developing in respect of his leadership. But I am not for one moment suggesting that he is a populist. I was expressly saying that his example and my example and the hon. Lady's example on abortion is the position that we should be following.

2465 So, Mr Speaker, frankly this is not something that can be described as playing games with this House. It is the opposite. It is being able to demonstrate that this House is about more than just politics; it is about seeking community consensus, and that unfortunately was not the case in an attempt to bring the motion that the Hon. Mr Clinton was bringing.

2470 Turning to the position that Mr Feetham put, I said it was no longer necessary for us to consider the substance of this motion not because the rule of anticipation had been incorrectly applied ... And if I can just footnote here for a moment, Mr Speaker – your rulings are your rulings; they are not open to appeal and we must not tangentially seek to appeal them or to speak against them. Very often, those who find that you rule against them seek, by the device of the point of order, to try in effect to appeal them. I hope I have never fallen into that mistake in the context of any ruling that a former Speaker may have made against me and I certainly will
2475 endeavour not to fall into that trap should you ever find that you need to call me to account, as may be the case going forward. But we have to be careful that when that device is used the points do not go unanswered.

2480 Mr Feetham, not in a point of order but now in the context of replying to my amendment, was suggesting that my actions had demonstrated why the rule of anticipation was there. He is wrong for this reason: my motion dealt with congratulations and the own motion ability of the Ombudsman; Mr Clinton's motion dealt with congratulations, own motion ability and review in other respects. My position is that on own motion the Government was prepared to have a consensus motion if we had been consulted before publication of the Opposition motion, but we

were not prepared to do the other aspect of the substance of what the Opposition motion sought to do – for the reasons I explained. In other words, the Opposition motion sought to do what the Opposition manifesto had sought to do in a wider, more restrictive way of the Government. And so, for that reason, there were two very key differences of substance and we are not prepared to go down the route of supporting the motion as presented by the Opposition. That is why it was not necessary to continue with it, because it was not going to enjoy Government support. It was going to be, in the words of the great Manolo Mascarenhas, *palabras al viento*. (Interjection)

In that context, Mr Speaker, there is nothing undemocratic about the Government putting its own motion. Indeed, it is the very essence of democracy. And we are still within touching distance of the election result. Hon. Members, I am sure, can still feel the heat of the result – the warmth on this side; the heat on that side – that which the former editor of the *Gibraltar Chronicle* used to describe, in the years when he and I were the young fillies of the political parties in Gibraltar, as the ‘cold steel’ of election night.

Still feeling the cold steel of election night, hon. Members will know that the maximum exercise of democracy is the general election. It has given us 10 votes here and them six, and in that context their paragraph on the Ombudsman was not accepted by the majority. Indeed to do the maths, the way that the hon. Gentleman likes to do it, their paragraph on the Ombudsman was rejected by 75% of the electorate, because the hon. Lady did not have it in her manifesto and neither did we. It is not just 21 and 25 that can be added; it is actually 54 and 21 that can also be added to demonstrate the level of rejection –

Hon. Ms M D Hassan Nahon and Hon. D A Feetham: The grand alliance.

Hon. Chief Minister: – that there was for the position that they have today tried, through their motion, to get the Parliament to approve. So it is not undemocratic; it is indeed wholly democratic that this attempt to now pass by motion that which did not pass by general election should not pass.

Then Mr Feetham did one of the things he tends to do a lot, and I think is why he finds himself where he finds himself today: where we can, we should work together. (A Member: FLOP.) As a FLOP – a former leader of the party opposite, Mr Speaker – he knows that he has consistently sought to find a way for us *not* to work together where we might be able to, by seeking always to steal a political march from an otherwise potential consensus. That is what Mr Clinton has fallen into the trap of. That is exactly what I do not accuse Mr Azopardi of falling into the trap of, exactly what he described himself as being in a non-tribal sense. So I am afraid Mr Feetham has chosen the wrong issue on which to try and give that example.

He seems, however, to understand that you do need the Government’s support in order to pass an item through the Parliament. But you do not need the Government’s support to present it. I am not suggesting that you need the Government’s support if you want to present a motion, and this is where the hon. Lady has got it wrong. Of course you can present your own motions, you can own your motions and you can speak to your motions, but we can own ours too and we also own our votes, and we owe our votes to our voters – and we are not going to come here to give support to motions that we do not support and to give support to motions that set out the position of their manifesto and not ours. So I am afraid that they have got it completely wrong.

It is also wrong to say that the Government holds all the cards. That is a very defeatist way to look at the important role that hon. Members are now elected to discharge in holding the Government to account and in bringing their own motions and in bringing their own Private Member’s Bills. It is if they want them to prosper that I advise them to call us. They can bring their motions and they can speak to them, and we can support them or vote against them – of course, because we all own our parliamentary action – but what they do not own is the right to have us accept their parliamentary action and not react with the parliamentary devices that are available to us. That is to defeat democracy. It is an attempt to stymie a Government that has

won a third successive majority. We will not have it, Mr Speaker. We will not have it, and the reason we will not have it is not to play a parliamentary game, but because we need to be the defenders of the ability of the executive to act, whether it is our executive or their executive.

Mr Speaker, the Hon. Mr Azopardi has referred to the fact that these things might have been done in the past but always on the same subject. Well, first of all I do not accept that; and second, I do not accept that this is not the same subject, because we were talking during the course of the first motion about how motions can pass and conviviality and consensus. It has been a practice in this House to amend motions in this way, and of course we have to continue to have the right to do so.

The Hon. Ms Hassan Nahon gave us an introduction which was, as usual, laced with her view that we should all be better with each other. It is a view that the Government subscribes to of its own motion, but it is also true that she says that even her name talks about us working together – until we disagree with her, because I have not seen more passion displayed in fighting a corner in a tribal manner than when we might have the temerity to take a view which is different to hers.

On the issue of clause 6B she has been tough on us. She will say, ‘I am elected to hold you to account and be tough on you’ – of course you are, but then do not pretend that you are just here to work together with us. We are not here just to work together with each other, but what I am saying is where we are able to work together we must make the effort to do so. That does not mean that we will not be supportive of action which we support in reasons which are clear from our policy, but what we will not do, Mr Speaker – and she needs to understand that this is not about owning motions, it is about owning *our* decisions and answering to *our* voters – is brought here to support a motion that gives effect to their manifesto.

In the context of the pity that she expresses, I must say that today will be a day that will go down in this Parliament’s history because it is to treat this Parliament and the principle of democracy and of parleying with utter disrespect to walk away from its argument and from its decision making, in particular on a motion that you may have put yourself. So perhaps less pity might be expressed in respect to the actions of a particular Member, and one might remember that that same Member is the Member who makes allegations against others in print and then does not stand up against them, and that today we are here to debate.

We are about to end our deliberations. We have done excellent work and we are going to end on a discordant and sour note because somebody has walked away from owning his own failure. That is the reality, Mr Speaker, and I therefore commend the amendment to the House. *(Banging on desks)*

Mr Speaker: I now put the question in the terms of the amendment proposed by the Hon. the Chief Minister. Those in favour? **(Members: Aye.)** Those against? Carried.

This amendment now becomes the motion before the House and any hon. Member who has not spoken to the original motion may do so now.

I now put the question in the terms of the amended motion proposed by –

Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi): Mr Speaker, on a point of order, should you not call upon the mover to reply?

Mr Speaker: Yes, I should have called the mover of the original motion to reply, but he is not present, he has absented himself, so we now move to my putting the question in terms of the amended motion as proposed by the Hon. the Chief Minister.

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

Voting resulted as follows:

FOR

Hon. P J Balban
Hon. Sir J J Bossano
Hon. Prof. J E Cortes
Hon. V Daryanani
Hon. Dr J J Garcia
Hon. Ms M D Hassan Nahon
Hon. A J Isola
Hon. G H Licudi
Hon. F R Picardo
Hon. Miss S J Sacramento

AGAINST

Hon. K Azopardi
Hon. D J Bossino
Hon. D A Feetham
Hon. E J Reyes

ABSENT

Hon. S E Linares
Hon. R M Clinton
Hon. E J Phillips

Mr Speaker: The count of the division is that there are 10 persons in favour of the amendment, there are 4 against and there are 3 absent, so the amended motion is carried.

Adjournment and season's greetings

2590 **Chief Minister (Hon. F R Picardo):** Mr Speaker, thank you very much.

Seeking to set aside that discordant note now, and to thank all hon. Members for the things that we have been able to agree during the course of this afternoon, I rise to adjourn the House *sine die*. In doing so, I want to welcome the fact that this has been the first working session of the House since the General Election and I look forward to the work that we will do in the coming 45 months.

2595 I advise the House that we may have to return earlier to work than we might expect, because of the publication of the Withdrawal Agreement Bill, although I note that the Speaker and the Clerk will be representing Gibraltar at the CPA meeting of Speakers and Clerks in Canada, which you will no doubt do with the support of all Members and in doing so you will do Gibraltar rightly proud – although I do fear for the cold that you will suffer.

2600 I would wish the hon. Lady a happy Hanukkah and all Members of her community – and apologise to her for sitting late on the Friday, which as she knows we seek to avoid – and to offer all other Members the best wishes of the Government for a very Happy Christmas, and to wish every member of this community, no doubt on behalf of all Members of this House, a healthy and happy Christmas feast and a healthy, happy and prosperous 2019. **(A Member: Twenty.)**
2605 **Twenty! (Laughter)**

Mr Speaker: I now propose the question, which is that this House do now adjourn *sine die*.

2610 I now put the question, which is that this House do now adjourn *sine die*. Those in favour? **(Members: Aye.)** Those against? Passed.
The House will now adjourn *sine die*.

The House adjourned sine die at 7.46 p.m.