PROCEEDINGS OF THE

GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.08 p.m. – 10.22 p.m.

Gibraltar, Friday, 20th January 2023

Contents

The Gibraltar Parliament

The Parliament met at 3.08 p.m.

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

[CLERK TO THE PARLIAMENT: S Galliano Esq *in attendance*]

Standing Order 7(1) suspended to proceed with laying of document

Clerk: Meeting of Parliament, Friday, 20th January 2023.
Order of Proceedings: Suspension of Standing Orders. The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I beg to move, under Standing Order 7(3), to suspend Standing Order 7(1) in order to proceed with the laying of a document on the table.

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

PAPER TO BE LAID

Clerk: Papers to be laid – the Hon. the Chief Minister.

Hon. Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to lay on the table the Licensing and Fees (Amendment of Schedule) Order 2023.

Mr Speaker: Ordered to lie.

BILLS

FIRST AND SECOND READING

**Commonwealth Park (Amendment) Bill 2022 –
First Reading approved**

Clerk: (ix) Bills – First and Second Reading.
A Bill for an Act to amend the Commonwealth Park Act 2014. The Hon. the Minister for the Environment, Sustainability, Climate Change and Education.

Minister for Environment, Sustainability, Climate Change and Education (Hon. Prof. J E Cortes): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Commonwealth Park Act 2014 be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Commonwealth Park Act 2014 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Commonwealth Park (Amendment) Act 2022.

Commonwealth Park (Amendment) Bill 2022 –
Second Reading approved

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

Commonwealth Park is a green space in the heart of town which has become much loved by families with children, individuals looking for a quiet spot and anyone wanting to enjoy some outdoor time and fresh air. Thankfully, we have been able to extend the space available for outdoor leisure and recreation through the creation of Campion Park, which is now being enjoyed by hundreds of people every day.

This Bill arises for two reasons. Firstly, whilst the rules made under the Commonwealth Park Act had been extended to the new park, they did not reflect its new name, Campion Park. Secondly, I am amending secondary legislation under the Smoke-Free Environment Act 2012 to prohibit the smoking of cigarettes in Commonwealth Park and I wanted to ensure this also applied to Campion Park. As a result, it is necessary to ensure the legal definitions of both parks are clear.

The Bill amends the name of the Commonwealth Park Act to the Commonwealth and Campion Parks Act. It also establishes in law Campion Park as a distinct park to Commonwealth Park and delineates its boundary in a plan. The Bill also amends the Commonwealth Park rules, extending their application to Campion Park.

Whilst this Bill is short and simple, it paves the way for a much greater objective, to keep our parks smoke free to ensure they are green spaces where people can enjoy fresh and clean air, to ensure Gibraltar can truly be a child-friendly city.

I commend this Bill to the House.

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

Hon. K Azopardi: Mr Speaker, this is a short Bill which has already been described by the Minister in its overall objective and we will support this Bill.

Mr Speaker: Would the mover like to say a few words?

Hon. Prof. J E Cortes: Mr Speaker, I am grateful to the Leader of the Opposition for his support and I am happy to proceed to Third Reading.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Commonwealth Park Act 2014 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Commonwealth Park (Amendment) Act 2022.

Commonwealth Park (Amendment) Bill 2022 –
Committee Stage and Third Reading to be taken at this sitting

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

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

Employment (Amendment) Bill 2022 –
First Reading approved

Clerk: A Bill for an Act to amend the Employment Act. The Hon. the Minister for Housing, Employment, Youth and Sport.

Minister for Housing, Employment, Youth and Sport (Hon. S E Linares): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Employment Act be read a first time.

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

Clerk: The Employment (Amendment) Act 2022.

Employment (Amendment) Bill 2022 –
Second Reading approved

Minister for Housing, Employment, Youth and Sport (Hon. S E Linares): Mr Speaker, I have the honour to move that this Bill now be read a second time.

This Bill introduces new powers to make subsidiary legislation for the purpose of providing the framework for the recognition of employers of trade unions, for collective bargaining purposes and for any other matter or purposes connected therewith. Although draft legislation in this area has already been subject to a Command Paper, amendments to the Act are deemed necessary to ensure that sufficient vires are established in order to proceed with such regulation.

Mr Speaker, I commend the Bill to the House.

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

Hon. K Azopardi: Mr Speaker, I rise on this Second Reading because my colleague Edwin Reyes is unwell and he would normally have taken the speech.

I confirm our support for the Bill. The only question I would have for the Minister – perhaps he can answer when he replies – is whether there has already been a draft of regulations and whether there has been any consultation with employers' representatives – the FSB and the Chamber of Commerce – and indeed with the main unions on this issue.

Mr Speaker: Does the mover of the Bill wish to respond?

Chief Minister (Hon. F R Picardo): Mr Speaker, it is a pleasure to see this Bill being moved. The Government considered many different ways of bringing about the recognition of trade unions in the private sector. We considered the possibility of bringing a Bill that contained all of the rules. We thought of an amendment to the Trade Union and Disputes Act, which would provide a new part, in effect. But we have been advised that it is better to make this short amendment in the employment provision and be able then to have regulations that could be adapted, because this is going to be a new area of recognition for trade unions.

The Government won an election on the basis that we would do this. This is an issue that has been ventilated in our manifestos and we are in government with the obligation to pursue this recognition. In doing so, in our capacities beyond this House – in other words, as members of political parties – we have sought the opinions of unions and employers' representative organisations. As the Government, some time ago, when I was Minister with responsibility for

industrial relations, I commenced a process of consultation with the Chamber of Commerce, with the Federation of Small Businesses and indeed with the relevant unions – the unions that have general membership, not those that are representative exclusively of the public sector – and the regulations that will be made when they come to be made, if the House approves this Bill, have the benefit of that detailed consultation both with unions and employers' representative organisations. Of course, the balance of convenience here may not be exactly the one struck that the unions or indeed the employers' representative organisations might have wished struck; it is what we believe is the right balance, and indeed the right balance on which to start this new regime, and that may indeed change as we see the evolution of the recognition of trade unions in the private sector.

In saying that, and in using that nomenclature, the recognition of trade unions in the private sector, I think it is important just to pause for a moment and reflect upon the fact that they are very few the employers who do not already recognise membership of a trade union by their staff. Indeed, the vast majority of employers in the private sector do recognise trade unions, they engage with trade unions, and unions in vast measure behave in a responsible way and bring collective bargaining to the table, which is in the interest of both the employees the employers when both sides are acting reasonably, as the Government itself has found in its engagement with the unions that represent employees in the public sector, even when we might disagree and even when we might have to take issues into dispute etc., which we seek to resolve in a way that is favourable to all parties.

Mr Speaker, I am very pleased, as Leader of the House and as Chief Minister of this Government, to see the movement of this Bill. I am very pleased to see that the Opposition will support it and I hope that in the remarks I have made in support of the Bill I have also answered the question of the Leader of the Opposition. He asks me to give way, so I will before I sit down.

Hon. K Azopardi: I am grateful for him giving way. Just one small issue for clarification of what he said: have I understood correctly from his explanation that the Government will, then, not pursue the other legislation they had published some time ago?

Hon. Chief Minister: Mr Speaker, this is the way we are advised to do it. In other words, this is the way to create the rules that will govern the recognition of trade unions in the private sector. Instead of doing them by way of primary legislation, we are creating a hook in a piece of primary legislation which enables a regulation to be made, and that regulation, therefore, will be subject to being amended, when necessary, in a way that relevant Ministers of the relevant Government at the time may consider becomes appropriate.

If we were regulating by these regulations unions' rights to engage with the Government that holds the pen on the regulations, then you might say, 'Well, you are not really creating an objective standard because when you have a dispute with the union you could simply amend the regulations without coming to Parliament.' That is not the case. These are rules for the recognition of trade unions by third parties, by the private sector. We are going to make these rules so that they can engage in the way that they will need to engage.

The advice we have is that it may be necessary in the future to adapt these rules one way or the other. I am sure that when the trade unions look at these rules they will say they would have wished they were a little more in the direction of their responses to our consultation. I am sure that when the employers' representative organisations look at the rules and regulations they will say they wish they were more in favour of their responses to our consultation. But I think we are striking the right balance.

I think we are creating a new area of engagement. Indeed, I think it is important to remember that the vast majority of employers in the private sector already recognise trade unions, and the fact I think is also important to remember is that our Constitution recognises the freedom of association. We have a written Constitution. It specifically provides for the freedom of association to be protected, so you do not need to have protection for a group of people to come together to

represent their interests in the context of a particular employment scenario, because it would be contrary to law for the employer to challenge the employees getting together as an association if they wished to do so and to be engaged with a union. What that does not do is bring about the collective bargaining issue, and I think this, by doing it with regulations, does that and does it in a slightly flexible way that permits an element of engagement by the Government with the unions and with the employers' representative organisations to make changes in relation to the rules that will regulate their playing field – not their playing field with us, but *their* playing field – through regulation. If it were their playing field with us, then I think I would have insisted that the matter should be deal with by way of primary legislation, so that if a future Government, or indeed the current Government if it were to have a dispute with the unions, wanted to change the rules of the game of our engagement with the unions and the unions' ability to engage with us, we should come here and justify it to the community in a way that could be ventilated across the floor of the House, and everybody's views represented by those elected here could be heard. But this is not the regulation of our relationship with the trade unions, it is the regulation of the relationship with between the trade unions and the private sector employers, and for that reason this is the way we propose to do it.

Hon. S E Linares: Mr Speaker, just to thank the Opposition for being in favour of the part of the Act that is, as the Chief Minister calls it, the hook on which all the other legislation the Chief Minister has just presented to us will hang.

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

Clerk: The Employment (Amendment) Act 2022.

Employment (Amendment) Bill 2022 –
Committee Stage and Third Reading to be taken at this sitting

Minister for Housing, Employment, Youth and Sport (Hon. S E Linares): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken today, if all hon. Members agree.

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

Personal Light Electric Transporters Bill 2022 –
First Reading approved

Clerk: A Bill for an Act to regulate the operation of personal light electric transporters, to amend the Traffic Act 2005 and the Crimes Act 2011 and for related purposes. The Hon. the Minister for Transport.

Minister for Transport (Hon. P J Balban): Mr Speaker, I have the honour to move that a Bill for an Act to regulate the operation of personal light electric transporters, to amend the Traffic Act 2005 and the Crimes Act 2011 and for related purposes be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to regulate the operation of personal light electric transporters, to amend the Traffic Act 2005 and the Crimes Act 2011 and for related purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Personal Light Electric Transporters Act 2022.

Personal Light Electric Transporters Bill 2022 –
Second Reading approved

Minister for Transport (Hon. P J Balban): Mr Speaker, I move that a Bill for an Act to regulate the operation of personal light electric transporters, to amend the Traffic Act 2005 and the Crimes Act 2011 and for related purposes be read a second time.

The purpose of this Bill is captured in the descriptive title I have just read, formally known as the long title. Essentially, this Bill brings personal light electric transporters (PLETs) within a sound legal framework.

The Bill covers personal light electric transporters and creates a framework that allows them to operate legally and safely and only by individuals 17 years of age or older. The Bill also makes some amendments to the Traffic Act 2005.

In drafting this legislation, we have taken into consideration the views of the technical experts and the public. We have consulted widely and thoroughly. The consultation process included the May 2018 consultation paper. Secondly, through the issuance of a Command Paper in May 2020 by my colleague Minister Daryanani, then the Minister for Transport, and also, throughout the whole drafting process, with extensive input from transport officials within my Ministry liaising closely with the insurance industry regarding the Bill's effect on said industry.

I should mention that this proposed legislation is not based on the law in any other jurisdiction, and in fact few countries have actually taken legislative steps in this respect, although many, we believe, are currently in the drafting process.

The Traffic Act would naturally see PLETs classified as motor vehicles as they are powered by a motor, but it is well accepted worldwide that PLETs are not equal to motor vehicles, neither are PLETs bicycles or motorcycles. Therefore, the Bill defines a PLET by reference to a schedule.

Amongst other things, a PLET will be fitted with a speed-limitation device that curtails its speed to no more than 25kmph. Any PLET that has had its speed-limitation device tampered with or is designed to travel at speeds beyond 25kmph will be strictly prohibited. This will include any PLET made available for hire or supply – or to offer to do so – that has had the speed-limitation device tampered with or removed.

PLETs will only be allowed to operate on the road and in bicycle lanes, where present, and users must be at least 17 years of age. Furthermore, users will not be permitted to tow other similar devices or carry another person. PLET users will need to wear appropriate protective headgear, deemed an important part of keeping the use of these devices safe.

The Bill will also provide powers for those who stop a person operating or transporting on reasonable suspicion that they are contravening the legislation. It also requires a person to provide their name and address and creates an offence for users who give a false name or address.

Moving to penalties, the legislation sets a penalty of level 3 fines – currently £1,000 – for all offences under the legislation, with the offence of modifying a PLET by removing the speed-limitation device or selling such device also attracting a potential custodial sentence. Meanwhile, the Bill allows for the issuing of fixed penalty notices of £300 for all offences.

Much of the delay in bringing this Bill to Parliament has been as a result of the intention to make insurance compulsory for PLETs, but this has been impossible as a result of insurance providers not having a suitable product to offer Gibraltar. Nevertheless, it is the intention of

Government to consider the matter of compulsory insurance if and when such a product were to become available in Gibraltar in the future. The Bill will allow the Minister to make regulations, including, specifically, regulations relating to making compulsory insurance a requirement for PLETs.

The Bill also amends the Traffic Act 2005 so as to exclude PLETs expressly from the definition of motor vehicles and defines PLETs in the Act. It also amends regulation-making powers to also apply to PLETs. In doing so, it will be possible to make amendments to, amongst other things, the control of traffic regulations and the Vehicles (Construction Equipment and Maintenance)

Regulations to provide that the rules on traffic control, such as rules on indicating and overtaking, also apply to PLETs, as well as ensuring that they are fitted with both front-facing white and rear-facing red suitable lights, or alternatively that operators carry suitable lights on their person. It is also intended to amend the Prohibition of Use of Mobile Phones While Driving Regulations 2010 to ensure that users of PLETs do not use a mobile telephone while riding.

The amendments to the Traffic Act 2005 have the effect of creating offences equivalent to the careless operation and reckless or dangerous operation offences of the Act which apply to motor vehicles and bicycles already. The current wording of the Traffic Act – specifically section 75(2), which sets penalties – indicates that the intention was to extend section 62 to bicycles. That is to say there was an intention to make it an offence to ride a bicycle whilst under the influence of drink or drugs. The amendment to section 75 corrects an omission in the current wording of the Traffic Act to ensure that the intention is properly reflected. In addition, this amendment goes further, with a view to ensuring the safety of every road user and pedestrian and makes it an offence to operate a PLET and a bicycle whilst under the influence of drink or drugs, or whilst over the prescribed limit. It also provides the ability, as part of law enforcement, to be able to test both PLETs and bicycle riders at the roadside.

Finally, the schedule sets out the characteristics of a PLET. The schedule can be amended by regulations so as to accommodate changes to the nature of these devices and their evolving technology.

Mr Speaker, I have given notice that I will, at the Committee Stage, move an amendment to the Bill to insert a new clause 13. This amends the Insurance (Motor Vehicles) (Third Party Risk) Act 1986 to amend the definition of 'motor vehicle' in line with the amendment being made to the Traffic Act 2005, namely to exclude personal light electric transporters from the definition.

The amendment also inserts a definition of 'personal light electric transporter' by reference to the Personal Light Electric Transporters Act, and given that the Bill will take effect as a 2023 and not 2022 Act, the amendment reflects that. An amendment to clause 1 of the Bill and clause 11(2)(b) of the Bill are also required.

Mr Speaker, the Government recognises that PLETs are a reality in today's modern cities, and although their future is not certain, it is important to amend our laws to include these devices. Gibraltar, like so many other jurisdictions, has seen the arrival of these modern devices marketed as a greener alternative to the motor vehicle, yet without the necessary legal frameworks to be able to manage, control or police them. PLETs are known to be extensively used by cross-border workers, but are also starting to be used by the local community. We also recognise that we need to strike the right balance between safety, smart technology and providing and promoting environmentally friendly transport with meaningful regulation. I believe that the proposed regulation strikes that balance.

Mr Speaker, I commend this Bill to the House.

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

Hon. K Azopardi: Mr Speaker, again, I rise on this Second Reading because this Bill would have been taken by my friend Mr Phillips, but unfortunately he had a medical issue today.

The Opposition has said on a number of occasions that we are supportive of the regulation of electrical scooters – I will not call them PLETs or the longer name. We are supportive of regulation. Clearly they are here, as the Minister has said, and not only are they here, their growth is exponential – they are on pavements and they are everywhere, and sometimes they are also … I think I had occasion to say to the hon. Member in an aside – I think it was him – that I was nearly run over by one in the middle of a pedestrianised Main Street. Clearly regulation is necessary and enforcement should follow, so we are supportive of the principles of it.

In relation to the particular power that there is on insurance, again our position is that to the extent that it is possible, all efforts should be made for there to be an insurance regime in this respect.

Mr Speaker: The hon. Member wishes to respond?

Hon. D A Feetham: I wish to declare an interest. I think it is proper that I declare an interest in that I have read the Bill and made, on behalf of the Motor Insurance Bureau, which is a client of mine in my professional capacity, suggestions in relation to this Bill to the Government. Therefore, I think it is proper that I should abstain from voting in relation to this because I have had an involvement in a professional capacity.

May I add, Mr Speaker, that of course I have not been paid by the Government for any of the comments that have been made? None was expected. It is just on behalf of my own client that I have made suggestions and amendments to this Bill before it was presented.

Mr Speaker: Does the mover of the Bill wish to reply?

Hon. P J Balban: Mr Speaker, simply to thank the Members for their support. Obviously they will be supporting the Bill.

Just to make a comment regarding the pavements, in fact it has been illegal for these scooters to ride on pavements for quite some years. I think it was 2019 or 2018 when we legislated that we should not allow these scooters on the pavement. As you rightly say, they are coming in droves and they are extremely difficult to control, but at least this gives the enforcement bodies powers to be able to police them effectively.

Thank you.

Mr Speaker: I now put the question, which is that a Bill for an Act to regulate the operation of personal light electric transporters, to amend the Traffic Act 2005 and the Crimes Act 2011 and for related purposes be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Personal Light Electric Transporters Act 2022.

Personal Light Electric Transporters Bill 2022 –
Committee Stage and Third Reading to be taken at this sitting

Minister for Transport (Hon. P J Balban): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken today, if all hon. Members agree.

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

Adoption Bill 2022 –
First Reading approved

Clerk: A Bill for an Act to provide for the regulation of the law relating to adoption and for connected purposes. The Hon. the Minister for Transport.

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Speaker, I have the honour to move that a Bill for an Act to provide for the regulation of the law relating to adoption and for connected purposes be read a first time.

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

Clerk: The Adoption Act 2022.

Adoption Bill 2022 –
Second Reading approved

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Speaker, I beg to move that the Bill for an Adoption Act 2022 be read a second time.

This Bill promotes greater use of adoption, aims to improve the performance of the Care Agency and, more importantly, puts children and their well-being at the centre of the adoption process.

This Bill modernises Gibraltar's adoption law and the adoption service and, I believe, will promote the greater use of adoption.

The Bill replaces the current Adoption Act, which commenced in 1951 and has only been amended three times since then.

The Bill will affect all adoptions and arrangements for the adoption of children in Gibraltar and all adoption applications from persons resident and settled in Gibraltar who seek to adopt children living abroad.

The Bill contains an overarching provision that will apply whenever a court or the Care Agency is coming to any decision relating to the adoption of a child. This includes any decision by the court about whether or not to dispense with parental consent to adoption or to make a contact order in respect of a child. The paramount consideration of the court or Care Agency in any decision is the child's welfare. The welfare test will be brought in line with that of the Children Act, with the important addition that the court or Care Agency must consider the child's welfare throughout his or her life and that any delay is likely to prejudice the child's welfare.

In recognition that adoption may have lifelong implications, the court or Care Agency must apply the welfare checklist set out in the Bill in determining the best interest of a child when making any decision relating to adoption. This is modelled on the equivalent provisions of the Children Act but is tailored to address the particular circumstances of adoption.

Regard must be had to the child's ascertainable wishes and feelings about the decision having regard to the child's age and understanding, to his or her particular physical or educational needs, and, if applicable, to the relationship the child has with his or her relatives, the prospect of and benefits to the child of this relationship continuing, the ability of the relatives to provide the child with a secure home and meet the child's needs and their views concerning the decision relating to the adoption of the child.

Part 2 of the Bill underpins some important areas of policy dealing with adoption support services and independent reviews of certain determinations by the Care Agency such as the assessment for adopted children and their adoptive parents and provides a mechanism to assist them in accessing adoption support services. These assessments will speak to other government functions such as education and health services, for example, where the needs of such services are identified with the aim of identifying the most efficient, co-ordinated package of support to help adoption succeed.

Part 3 of the Bill deals with placements for adoption and adoption orders. The Bill provides that the Care Agency may only place a child for adoption with the consent of the parent or guardian under an order made by the court. Provision is also made for who is to have parental responsibility for the child and the other consequences of placement with consent and placement orders. The intention here is to ensure that key decisions are taken early in the adoption process, with court involvement where necessary. This will provide greater certainty and stability for children by dealing with consent to placement for adoption before they have been placed and minimise the uncertainty for prospective adopters. The Care Agency may only place a child for adoption with prospective adopters where the parent of the child has consented to the placement or where it has obtained a placement order. 'Placement' has been given an extended meaning under the Bill, covering both placing a child with prospective adopters and, where the child is already placed with people for other purposes, leaving the child with them as approved prospective adopters. The Bill enables a parent who consents to his or her child being placed for adoption by the Care Agency to give consent at the same time to the making of the future adoption order.

The Bill intends to align adoption law with the Children Act. The same threshold for intervention in family life will apply where the Care Agency seeks authority to place a child for adoption without parental consent as applies where the Care Agency seeks to take a child into care under a care order.

The Bill provides that where an application for a placement order is pending, the child is a looked-after child for the purposes of the Children Act until the application is determined. If a placement order is made, the child continues to count as looked after.

The Bill makes provision for applications for contact in respect of children placed for adoption and where the Care Agency is authorised to place a child for adoption with parental consent or under a placement order. Where the Care Agency is authorised to place a child for adoption or a child is placed for adoption who is less than six weeks old, any contact order under section 25 of the Children Act ceases to have that effect. There may be cases where it is inappropriate for contact to take place, even though provided for under an order.

The Bill enables the Care Agency to refuse contact for a period of no more than seven days if it is satisfied that it is appropriate to do so in order to safeguard the child's welfare.

The Bill makes provision in relation to the removal of children who are or may be placed for adoption by the Care Agency to ensure that they are only removed from placements by authorised people in the appropriate manner. Where a parent withdraws his or her consent to a placement, the Care Agency must return the child within seven days if the child has not yet been placed for adoption with parental consent with prospective adopters, or the child is placed and either the child is less than six weeks old or the Care Agency has at no time been authorised to place the child for adoption.

The Bill also deals with cases where the prospective adopters want to return the child, or the Care Agency has decided that the child should not remain with prospective adopters.

The Bill also covers restrictions on the removal of the child in non-Agency cases, such as where the child has not been placed for adoption by the Care Agency. These situations may include adoptions by the partner of a parent, cases where foster parents wish to adopt a child placed with them and adoptions by relatives and private foster parents. Where a Care Agency foster parent has given notice of intention to adopt, which they may do once the child has lived with them for one year, then the child may only be removed with the permission of the court by the Care Agency

or other person, or if the child is voluntarily accommodated by a person who has parental responsibility for the child.

The Bill makes provision for what is to happen when the child is removed or there are reasonable grounds for believing that a person intends to remove a child or a child is withheld and not returned. If a person intentionally obstructs an authorised person exercising the power of removal, he or she commits an offence.

The Bill sets out the period a child must live with the applicant before they can apply for an adoption order. The Bill sets out conditions which must be satisfied before an adoption order can be made where the child has a parent or guardian. One of two conditions must be satisfied: that each parent consents to the making of the adoption order or has given advance consent to the making of the adoption order and has not withdrawn that consent and does not oppose the making of an adoption order or that the parents' consent should be dispensed with. Where the parent has given advance consent to the adoption, he or she may only oppose the making of the adoption order with the permission of the court. The second condition is that the child has been placed for adoption by the Care Agency with the prospective adopters who are applying for the order and either the child was placed for adoption with the consent of each parent and the consent of the mother was given when the child was at least six weeks old, or under the placement order no parent opposes the making of the adoption order. An adoption order may not be made in relation to a person who is or has been married or who has attained the age of 19.

The Bill provides that an application for an adoption order may be made by a couple or one person and the condition as to domicile or habitual residence is satisfied. An application for adoption order may only be made if the person to be adopted has not reached 18 by the date of the application. An application for adoption order by a couple may only be made if both of them have reached the age of 21. However, where one of the couple is the mother or the father of the child to be adopted, an application may be made if that person is 18 or over and the other person is 21 or over.

The Bill provides that an application may be made by one person who is 21 and is not married. In certain circumstances, an adoption application may be made by one person who is married. A partner of a natural parent, which includes a person married to the parent, may adopt the child of that natural parent. This means that the parent is no longer required to make a joint application to adopt his own child with his partner, as is presently the case in respect of step-parent adoptions; a very welcome proposal.

Part 3 of the Bill also introduces new provisions on the information that the Care Agency must keep in relation to a person's adoption, the information that it must disclose to adopted adults on request, the information that courts must release to adopted adults on request and the information that the Care Agency may release to adopted adults, birth parents and others. These provisions cover the two types of information held, protected information and information which is not protected.

The Bill establishes a new system for access to protected information about adopted persons and others involved in their adoption. Under these provisions, while the registrar has a duty to maintain the Adopted Children Register and the Adoption Contact Register, the Care Agency will be the main gateway for access to this information.

The Bill provides for the disclosure of information held by the Agency which is not defined as protected information. This will enable the Care Agency to disclose this information to any person for the purposes of the Care Agency's functions. This could, for example, be background information about the child's progress to be disclosed to the child's birth family without disclosing the child's new identity or whereabouts.

The Bill allows for the provision of the disclosure of information held by the Care Agency and courts to adopted adults.

The Bill importantly envisages counselling to be available to an adopted person if he or she wishes to access it.

Part 4 of the Bill provides for the status of adopted children, thereby making clear how they are treated in law.

Part 5 of the Bill deals with registration issues surrounding adoption and the duties placed on the Registrar. There is a duty on the Registrar to maintain the Adoption and Parental Order Register and provide for entries to be made in the register. The Adoption and Parental Order Register is not open to public inspection or search. There will also be a duty on the Registrar to maintain an Adoption Contact Register. The Adoption Contact Register is a register in two parts designed to facilitate contact between adopted persons and their birth relatives where both parties have expressed a wish for such contact.

Part 6 of the Bill deals with adoptions with a foreign element and makes provision to regulate intercountry adoption. The Bill places restrictions on Gibraltar residents bringing or causing someone else to bring a child habitually resident outside Gibraltar into Gibraltar with the intention of adopting the child in Gibraltar, unless the person complies with prescribed requirements and meets prescribed conditions.

The Bill sets out the prohibition of certain payments or rewards in connection with the adoption of a child. The Bill, however, provides that payments may be made in exceptional circumstances. The intention is to allow payments to be made for reasonable expenses such as legal and medical expenses in relation to an adoption or for reasonably incurred travel and accommodation expenses where a child is being taken out of Gibraltar for the purpose of adoption.

The Minister may establish and maintain a register to be known as the Adoption Act Register, which will contain details of children who are suitable for adoption and prospective adopters who have been approved to adopt a child. This provision may be used, for example, to enable the register to record information about the stability of adoptive placements.

Schedule 1 makes provision for an entry of certain adoptions in the Adoption and Parental Order Register in accordance with a direction in the adoption order. Schedule 1 also makes provision for the amendment of orders and rectification of entries and markings in the Adopted Children Register and Register of Live Births.

Schedule 2 places a duty on the Registrar to supply an adopted person, on application and subject to certain conditions, with information to enable him or her to obtain a certified copy of the record of his or her birth.

Mr Speaker, in summary, the Bill aligns adoption law with the relevant provisions of the Children Act to ensure that the child's welfare is the paramount consideration in all decisions relating to adoption; places a duty to continue maintaining an adoption service, which must include making and participating in arrangements for the adoption of children and for the provision of adopting support services; provides a new right to an assessment of needs for adoption support services for adoptive families and others; enables the Minister to establish an independent review mechanism in relation to determinations made by the Care Agency; makes provision for the process of adoption and the conditions for the making of adoption orders, including new measures for placement for adoption with consent and placement orders; provides for adoption orders to be made in favour of single people, married couples and unmarried couples; provides for a new and more consistent approach to access to information held in the Care Agency records about adoptions which take place after the Bill becomes law, by ensuring that the release of sensitive information about adopted people and their birth relatives is protected and that its disclosure is subject to strict safeguards; provides for the Care Agency to have a role in assisting adopted adults to obtain information about their adoption and to facilitate contact between them and their birth relatives where the person was adopted before the Act becomes law; provides additional restrictions on bringing a child into Gibraltar in connection with adoption, aimed at ensuring that Gibraltar residents follow the appropriate procedures where they adopt a child overseas or bring a child into Gibraltar for the purposes of adoption; prohibits certain payments in connection with adoption; makes provision enabling the Minister to establish an Adoption Act Register to suggest matches between children waiting to be adopted and

approved prospective adopters; and finally, makes provision obliging courts to draw up timetables for resolving adoption cases without delay.

Mr Speaker, for all the reasons above, I commend this Bill to the House.

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

Hon. D J Bossino: Mr Speaker, I rise in my hon. and learned Friend's stead. For the reasons the Hon. the Leader of the Opposition indicated earlier, he is unable to attend this afternoon. This has had two effects. I have not had much time to consider the Bill. I have considered as much of it as possible and as diligently as possible, but the effect is that I have not been able to write to the hon. Member with some of the points that I would have made, which is normally my style, as other Hon. Ministers know. Because we run our affairs partly in a parliamentary way, we do not give enough time, I think, to these things, to consider them in committee and all the rest of it, where I am able to advance suggestions which sometimes the Ministers accept, sometimes they do not, but we can reach an agreed position and maybe even in our speeches record what we have discussed for the benefit of *Hansard*. So I would ask the hon. Member to bear with me in that sense, and I have explained the reasons why.

As far as the principles are concerned, I think they are very laudable. This is a hefty piece of legislation. As she rightly and accurately points out, it is a wholesale replacement of the 1951 Act, which she says – I do not know – was only amended a few times, and given the passage of time, just for that reason it is a piece of legislation which I think required an overview and a reformed position, which is what I think has been achieved with this Bill.

The three points she mentioned which I think are relevant are that it aims to improve the performance of the Care Agency, to modernise the adoption law and to promote greater use of adoption. All of those three aims, I think, are highly laudable and something which certainly we support and commend her for bringing this initiative forward and putting it finally on the statute book. I am sure it is going to be welcomed by many people who are either in the throes of considering adoption or may consider adoption in the future.

The one point I would ask her to consider in terms of a broad point is whether it achieves … because it was not clear … it did not strike me when I was going through the provisions that … I assume it is not something that is necessarily obvious from a reading of a piece of legislation, whether the system … The limited experience I have professionally from when I was exposed to it – because I did it for a friend and I went through the process – is how bureaucratic the whole thing was, and as a result of that experience I realised, from speaking anecdotally to other people, how expensive it was in terms of legal fees because of the time spent by lawyers in making the applications. It results in hefty legal bills. It has always struck me that there is something immoral about the process that you have somebody, for example, who is fostering a child, leading to adoption and takes that massive step to adopt that child and give that child a better life and also has to incur many thousands of pounds in legal costs and legal bills. The point I make about that is whether she is able to say whether any of that will be streamlined so that we have a cheaper process and a more effective and efficient process leading to adoption.

Mr Speaker, again, I ask the House to bear with me, just going through the points as I go through the pages. There is a definition here for 'agreement':

> includes an arrangement (whether or not enforceable);

This is a theme that arises in some of the points I will be making. It is not clear from my perspective – but again, it could be because I do not have any professional experience in relation to this – what that, in fact, means. There is no definition of what 'an arrangement' is. All it says is '(whether or not enforceable)'. I would like her, if she could, to give me an explanation in relation to that.

In clause 3(3) – we are still dealing with the interpretation clauses – there is a reference to what 'a couple' means and it provides three different avenues. The third one is:

> two people (whether of different sexes or the same sex) living as partners

– and these are the words I would like her to focus on –

> in an enduring family relationship.

That may be borrowed from different legislation. Now, as I am speaking, I am thinking about it, but it is not defined in this particular statute. As I said, that is a theme I find, and maybe she can explain it all by saying it actually refers to different statutory provisions in different Acts.

I take her, Mr Speaker, to clause 4(1), which, in effect, sets out the test. It says:

> Whenever a court or the Agency is coming to a decision

– and it is important here, I think, to emphasise that this test applies to both the court or the Agency coming to a decision –

> relating to the adoption of a child, the paramount consideration of the court or the Agency must be the child's welfare, throughout the child's life

which I think she made an allusion to in her speech.

If I can take her to the same clause, clause 4, but subclause (4), it says:

> In coming to a decision relating to the adoption of a child, a court or the Agency

– once again, both –

> must always consider the whole range of powers available to it in the child's case whether under this Act or the Children Act 2009;

But then it is only the court – so there is a separation here between the court and the Agency – that applies this test in its decision-making process:

> and the court must not make any order under this Act unless it considers that making the order would be better for the child than not doing so.

I am not too sure that there is a massive difference between one test and the other, but I do not understand why making the order would be better for the child than not doing so only applies to the court and not to the Agency. I think it will benefit the interpretation, should it come to that, of this Act if she was able to provide an explanation for that. I have already said in my introduction that I do apologise, that in normal circumstances I would have given her notice of this issue by writing to her, but I have only come across this now, when preparing in advance of this session.

Mr Speaker, if I can take her to clause 5(3) and (4), as I see it … Well, I will read it. It says:

> As part of the adoption service, the arrangements made for the purposes of subsection (2)(b)—
> (a) must extend to the provision of adoption support services to persons who are within a description designated by order by the Minister;

I would ask her there to give me some explanation as to who is being considered, because I think this is a novel provision which did not feature in the now-to-be-replaced Adoption Act 1951.

Then it says:

(b) may extend to the provision of the adoption services to other persons.

Again, I think as things stand now – and she can correct me if I am wrong – adoption services are provided exclusively in Gibraltar by the Care Agency, but is it the intention that that provision is going to be provided by other agencies, other entities? And if that interpretation is correct, who is she thinking of?

In relation to clause 5(4), it says:

The Minister may provide any of the requisite facilities by securing their provision by other persons who are within a description designated by order of persons who may provide the facilities in question.

Again, I think it is a similar point: who is going to be providing these services in respect of which the Minister, by order, would be providing facilities?

If I can then take her … because I think it is linked to clause 9(3), which deals with voluntary adoption agencies … It is not clear, because there is no statutory definition of that entity and I am not sure if there is any connection with the provisions that I have just referred her to.

Moving on, there are many references to the powers – and I have just referred to some of them specifically – that a Minister has, but then in other provisions – it may just be a drafting point, but it may be a point that she can consider in the future – it says 'the Government shall continue', and I wonder why that is the case. Why is it the case that as far as some provisions are concerned the powers rest with the Government, and yet as far as other provisions are concerned – in fact, I would hasten to add, most of the provisions – relate to the powers of the Minister to give directions and orders and things like that?

Moving swiftly along – and this, in fairness to her, is a point that could be raised, but I would ask her to flag it. Maybe she can look at it at Committee Stage. In clause 8(1)(c) – this is simply a grammatical point – it says 'any person who the Agency are aware …' I think it should say *is*, as opposed to *are* aware 'is a parent of an adopted child'.

This may be something, as an Equality Minister, that will attract her attention. There are also various references – I will not take her through them, but there are some references in terms there is gender neutrality by reference to 'he', and in some cases she adopts that style and in other cases it is 'he' or 'she'. So maybe there should be some more uniformity in relation to that. Again, I have spotted some of them, but I am sure I have not spotted all of them, and I do not intend to go through them for the purposes of this contribution.

In clause 10(1) there is a reference to a qualifying determination. I would ask her to explain what this is, as again I have not been able to identify in the time that I have had available any statutory … Yes, it is clause 10(1) and it talks about a qualifying determination. It is in the middle of the clause. I will not read the entirety of the clause. It is not very long, but I do not want to dwell on that too much, other than ask her, if she can, to offer an explanation in relation to that.

In clause 12(4) – again, this I think links in with the point I made earlier that this may be as a result of a cross-referencing of legislation that one needs to do, but again it is not necessarily clear that the Bill asks you to do that. It is suggestive of assumed knowledge. I give her another example, and if she could assist in the interpretation of it … It talks about a mandatory order in clause 12(4). Is that an order in respect of which an application has to be made to the Supreme Court, as opposed to the Magistrates Court? Again, it is not clear.

I think I have now understood it, but in clause 13(4) it says:

An officer of the Agency may only be so authorised with the consent of the Agency.

I am assuming that that needs to be read in conjunction with clause 13(3), which says:

An inspection under this section must be conducted by a person authorised by the Minister.

I am assuming that if that person is an officer of the Agency, although the Minister orders that officer – him or her – she or he can only conduct the inspection with the consent of the Agency. Again, it is not very clear. They look like standalone provisions, but the only way you can interpret them intelligibly is if you read them together.

Again, this is a grammatical issue: in clause 13(5)(b) it says 'which they think fit', and perhaps it should be 'which he thinks fit'.

Mr Speaker, if I can take her to clause 15(1) – I know she is taking a note of all this, so I hope the speed is okay – this is an important section in the sense that it is cross-referred to further along in the Bill and it talks about consent given by parents and guardians. Consent is not therein defined, and I had no objection to that immediately but there is, I think, a helpful definition of consent in clause 49(9)(a), and I wonder why there is a helpful definition of consent in that clause, but not one in clause 15. Perhaps the solution is to cross-refer clause 15 to clause 49.

A similar point to clause 15(3)(b) when it talks about a placement order: again, 'placement order' is not defined, yet there is a definition – again a helpful definition … I think it would assist those who need to interpret this to cross-refer that clause 15(3)(b) to clause 17 because there is a full definition. Indeed, clause 17 deals with placement orders in a lot of detail.

If I can take her to clause 16(2) by way of flagging clause 16(2)(a). In the second sentence it says 'may be consent'. I assume 'be' can be deleted, as indeed it should be deleted in the following subparagraph (b). Again, it says 'may be consent to adoption' and it should be 'may consent to adoption'.

The other references are to 'care order' and 'looked after'. Again, I think that is nomenclature that somebody who is involved in these matters would immediately understand, but – the same point – it is not specifically defined in this particular piece of legislation.

Mr Speaker, could I ask for some assistance also in clarification, if I may, before I go to clause 20, which is what I was going to go to on to now? There is also, I think, an error in clause 19(5)(b) when it refers to 'the authority'. I think, if there is going to be consistency, there should be a reference to the Agency with a capital A, because that is defined.

Moving along to clause 20, again, in subclauses (2) and (3) I would ask for an explanation, because it basically says at section 20(1) – clause 20(1) at this stage:

> This section applies while—
> (a) a child is placed for adoption under section 15 or the Agency is authorised to place a child for adoption under that section; or
> (b) a placement order is in force in respect of a child.

Then it goes on:

> (2) Parental responsibility for the child is given to the Agency.

– presumably in those circumstances, I have taken that to mean. Subclause (3) seems like a standalone provision, but I think it needs to be read along with the other provisions. It says:

> (3) While the child is placed with prospective adopters, parental responsibility is given to them.

I just do not know how those two correlate to each other, and I would ask her to explain that, certainly for my benefit and for the benefit of *Hansard*.

Again, there are references to prohibited steps orders, specific issue orders, supervision orders and child assessment orders in clause 24(3), which again, without wishing to labour the point or repeat myself, it basically makes the same point.

In clause 29(1) it is the same issue, which I would ask her to amend, and I think I would find agreement across the floor of the House, where again I think there is a mistaken reference to 'the authority' and it should be a reference to 'the Agency'.

Mr Speaker, can I ask the Hon. Minister to go to clause 31(5)? I think she will understand immediately, without necessarily going through it in any detail. When there is a reference to 'the people concerned', I think that ought to be a reference to P – capital P – which has been defined in the clause. I think that makes sense, from my understanding and interpretation of it, and I think it would, going forward, also assist anybody reading it – if I am right, that is. If I am not correct in that interpretation, then I will be grateful for her explanation as to why that is referenced from the people concerned, as opposed to capital P, which is, as I said earlier, previously defined.

In clause 33 – again, it could be the same point, I am not sure, but I would ask for her assistance in relation to this – there is a reference to 'Agency foster parents', but then in the following subclauses there is a reference to 'the foster parents', and because there is no statutory definition in relation to that, I would ask her to please provide an explanation as to why that is the case. So again, whether there is a some sort of cross referencing.

Mr Speaker, I think this is important and I need to go through it. I know it sounds laborious. It is Friday afternoon and I hear some Members yawning, but I think it is important for the sake of the *Hansard* … the yawns will not be heard, or indeed the comments being made from a sedentary position.

Can I take her to clause 39(3)? Can I ask her whether the notice that is referred to is in fact the definition that is referred to in the previous subclause, which talks about notice of intention to adopt? Can I ask her to clarify that and if she agrees with me on whether that added wording, given that it is a defined term, can be included in that subclause?

This is a point that I discussed very briefly – and it will be my final point, Mr Speaker – with Mr Feetham in relation to … I must confess that this is a part of the Bill that I did not have an opportunity to consider in any detail just before coming here, but there is a reference, if I can take her to the very beginning, to the extra-jurisdictional effect, as I see it. It is in the interpretation clause 3. It is the final one, which is subclause (8), where it says:

> References to adoption are to the adoption of persons, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside Gibraltar.

I am sure there is a reason for that. It just struck me as odd that there should be an extra-jurisdictional effect of this legislation, but it could be because it is relevant to the provisions that I did not get a chance to properly consider, which are at the end and which she referred to during the course of her contribution – but if she could just confirm that that my understanding is correct.

Mr Speaker: Does any other hon. Member …? The Hon. Daniel Feetham.

Hon. D A Feetham: Thank you, Mr Speaker.

Just so the Minister does not have to respond twice, because it is just a discrete point in relation to one section, if the Minister looks at section 75, the Minister will find the references to restrictions on bringing children into Gibraltar. This section deals with a situation where somebody wants to adopt a child he has brought into Gibraltar from abroad. The reason why I focused on this is because I, myself, have been involved in assisting two constituents who have brought children from abroad for adoption in Gibraltar. Part of the process was abroad, part of the process in Gibraltar.

The Minister will see from subsection (5) that a person intending to bring, or to cause another to bring, a child into Gibraltar in circumstances where this section applies must apply to the Agency for an assessment of their suitability and give the Agency any information it may require, and then, under subsection (6) the Minister makes regulations. I would urge the Minister to take this course, which is that when the Minister publishes regulations appertaining to this section, she also includes any requirements in relation to civil status. In my experience, where there have been … not problems, but blockages, let's say, of these types of adoptions, it has not been on the Social Services side, it has been on the Care Agency side, it has been on the civil status side, and

indeed, on one of those occasions the Chief Minister very kindly intervened in order to essentially help the process along. For the sake of ensuring that people know where they stand, those regulations should be as all-encompassing as possible, not just the Care Agency requirements but also the requirements in relation to civil status.

I know this may be difficult because you are talking about an Agency and you are also talking about a Government Department in civil status, but perhaps a formula can be found in order to ensure that there is a funnelling towards one decision-making process, so that the process can be as efficient as possible.

Mr Speaker, those are just the comments that I would make.

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

Chief Minister (Hon. F R Picardo): Mr Speaker, two of the areas that hon. Members opposite have raised deal with areas of my direct ministerial responsibility, one public finance, and the other one the civil status issues that have been raised by the Hon. Mr Feetham a moment ago.

The CSRO have an obligation to ensure that all those who seek to register as British citizens or who seek to register as residents in Gibraltar are entitled to do so under our laws. I seem to recall that in your long and illustrious career in the Civil Service you spent some time in that department and you probably know its operation better than me. Given my responsibilities for that department, I have seen that the people of that department operate with a particular diligence in ensuring compliance with legislation, in particular when we are dealing with people coming from outside into Gibraltar – in other words, those who are not already permanently resident in Gibraltar and can show their residence in Gibraltar – but when we are dealing with a person who is being imported, in the best sense of the word, into Gibraltar we have to exercise particular diligence. That can happen on two particular types of occasions, although it can happen on other types of occasions. One is when a person seeks to marry an individual from outside of Gibraltar, and the second, of course, in cases of what we might call international adoption.

In the first instance, when I was elected there was almost a complete bar, as a matter of policy, in respect of people being able to marry those from outside Gibraltar and then bring them to Gibraltar. It was a very high hurdle. I took the view, which was then translated also in relation to our view in respect of marriages between all sexes on an equal basis, that the Government should not act in a way that is a bar to people falling in love, and therefore we asked the CSRO to be more discerning about how they dealt with this issue in a way that I think has now dealt with that issue.

When it comes to adoption, which is the issue the Hon. Mr Feetham raised and the reason why I gave all of that background, one has to be particularly careful because a third party who is of age and is coming to Gibraltar to marry or is marrying a Gibraltarian abroad and is coming to reside in Gibraltar can express for themselves whether they are in that marriage because they wish to be or whether they do not wish to be subject to all the issues of abuse that there might be, psychological or otherwise. A child, however, is not necessarily able to express to the satisfaction of the authorities whether or not he or she wishes to be adopted. Indeed, the child might not even be able to speak yet. Of course, those who are pursuing an international adoption are invariably – I will not say most often, almost invariably – doing something which is extraordinarily positive for that child and they are doing it out of a wholesome desire to help and of love, nascent or otherwise, but the protection that there must be of that child's interests includes the process which CSRO is a part of, and this Bill also is a huge part of ensuring is dealt with properly at a judicial or quasi-judicial level.

So CSRO have to be very careful. Mr Feetham asked me to become involved and review matters from a policy perspective also, and I hope that I was able to assist in that case, as I have in others. It is nonetheless the Government's view that making the gateway bigger is not necessarily the right way to protect children, that we must continue to exercise the controls that we exercise, so that should there be an individual who is not pursuing an international adoption for the right reasons, or where the international adoption, although being pursued for the right reasons, is not

being pursued in the right way – and getting the international aspects of an adoption right is hugely important for the future of that child; even if properly ring fenced in Gibraltar, they have to be able to go outside with an adoption that is going to stand scrutiny outside of Gibraltar – we have to be very careful before making that in any way less rigorous. Rigorous should not be onerous, rigorous should not be difficult, but rigorous must be rigorous. I hope that addresses the issue that the hon. Gentleman has raised.

In relation to the issue of public finance that was raised by the Hon. Mr Bossino, it is this. He talked about the cost of adoption procedures involving lawyers. Of course, here the only guilty party is the lawyers, because they are the ones who raise the bill – and I am one of them too. But the Government has taken the view, led in great measure by the Hon. Minister for Equality, who was pioneering when it came to the issue of fostering and we did a lot of work in pushing fostering – as Minister for Social Services, as she then was – that we did not want to do anything that stood in the way of a fostering that was going well becoming an adoption, and indeed we also wanted to help those who went down the international adoption route and where all that had to be dealt with in the context of CSRO procedures had been dealt with etc.

And so the Government, in spending public money – something for which we are routinely criticised by Members opposite – one of the things that we have done, which they did not do and which I think they should continue to do if they ever form a government in Gibraltar, is to continue to spend money in funding the cost of adoption, in particular in cases where the individual being fostered and then adopted is a child in care, but also in other instances by way of a grant to those who are pursuing the adoption, so that they can meet the legal fees. That is something we have done. That is something that has increased the cost to the public purse on a recurrent basis. It is not waste, it is not corrupt, it is not any of the things we are accused of doing when we spend public money, which hon. Members are wrong to point to. This is the right way to use public money if only … Let me just give you this headline. If the adoption goes well and the child who is fostered is taken out of public care and into a family home where he is cared for by parents, adoptive or foster, we stand a much greater chance that in the long run that person will not be somebody who needs our long-term attention through the courts, the Prison, social care etc. It is the right thing to do, and the amount of money that we spend, maybe a few thousand pounds – they do not like it when we spend public money – maybe even more, is an excellent investment in the future of that Gibraltarian that will keep him away from potentially us spending a lot more money on him or her in the future.

Mr Speaker I hope I have dealt with the issue the hon. Gentleman has raised and made clear that the Government remains committed to the funding of those issues so that those who do this community the huge service of fostering, who open their homes as they open their hearts to these children, should enjoy our support, not just morally but also financially.

Mr Speaker: The hon. the mover of the Bill.

Hon. Miss S J Sacramento: Mr Speaker, I would like to thank the Hon. Mr Bossino opposite for his praise in respect of the legislation, in that he recognises how substantive the legislation is and of course recognises that it is a wholesale review. There was significant praise for this change at the beginning of his speech and I thank him for that.

I did not entirely understand his preamble, where he expressed that it was a shame he had not had sufficient time to consider this Bill when it was published in October. I understand that Mr Phillips is not here, and that is understandable and it is regrettable that he is not here. I would like to make the point, however, that whereas the Members opposite do hold shadow portfolios, when it comes to Parliament questions there is no limit to that shadow portfolio and therefore I do not see how that does not extend when it comes to this. In any event, I appreciate the hon. Gentleman has not looked at this matter in depth and I will deal with the points that he has made. The points he has made are not really points of significant substance. A lot of the points he has

made deal with typos and such issues and I will deal with those at the Committee Stage, but I will go through the other points where he has sought clarification.

The first point was in relation to bureaucracy and expense, and the Chief Minister has dealt with that. In practice, the change that this new legislation would make would be particularly in relation to children in care, because applications for adoption would be made by the Care Agency, who hold the children in care, and therefore the lion's share of any legal costs in any event would be borne by the state through the Care Agency. So that makes that significant change in that respect. But as the Chief Minister said, even before this legislation we introduced a practice in 2012 where the Government offered grants for people in situations where they wanted to adopt, because it is that important. By doing it in this way, it places an emphasis and, in a way, encourages that adoption going forward is adoption of children from Gibraltar who are in care in Gibraltar, and that changes the dynamic pre-2011, where a lot of the adoptions were intercountry adoptions and children in care in Gibraltar remained in care in Gibraltar. That will change that emphasis for the benefit of all of us, I would say.

Mr Speaker, he asked about section 3(3) and wanted clarification on the expression 'in an enduring family relationship'. This is taken from the UK equivalent and this will have been tested in the UK.

When it comes to clause 4(4), this is a reflection of how adoptions are now to be streamlined going forward.

When he asked about why there is a reference only to the court, it is because only a court can make an adoption order. The application is presented by the Care Agency, the application of the welfare checklist is obviously made by the court and the Care Agency, but an order for adoption can only be made by a court. It is very clear in my understanding of the legislation; I hope that he now sees how it is so clear.

The hon. Gentleman then went on to refer to clause 5(3) and spoke about the adoption services. He raised these questions as to whether someone would be providing a service. I would refer him to clause 3(1) and the interpretation. It very clearly says:

> 'adoption service' means the services maintained by the Government under section 5(1);

so it is very much the intention that the Care Agency continues to deal with these. The way it works in practice is that the Care Agency will deal with the documentation and all the preparation, but ultimately, before the matter is considered by the courts, the matter is dealt with by an adoption panel, which also includes people external to the Care Agency and includes people who are either adopters or people who have been adopted themselves so that we have the wide range of experience when considering these all-important considerations. Again, to me it is very clear what clause 5(3) says and it most certainly reflects and codifies the current practice which has been developed in great measure in the last 10 years and is now quite formalised. There has been a significant investment in training of those who make decisions on adoption, on the professional side as well as the adoption and fostering panel.

I turn to clause 10(1), where he asked about the qualifying determination. This is to quantify the determination of the prospective adopters in situations where the Care Agency believes that the prospective adopter is not suitable to adopt a child. In addition to the proposed primary legislation, I have simultaneously asked for the drafting of regulations, which will be ready by the time this is commenced and will go hand in hand. In addition to that, I have also asked for some very simple leaflets to be produced because, whereas of course we have the body of the rules and the procedure in the primary legislation, I want to ensure that everyone who is a stakeholder in this important process understands how it works and what to expect from it.

In relation to clause 13(3) and (4), his interpretation is correct, on the basis that I understand the drafting to be very clear.

The other points that he made, in relation to clause 15, are matters that we can take at the Committee Stage. Those are all drafting points that the hon. Gentleman made.

The substantive point he made in relation to the extra-jurisdictional adoptions is because this is looking forward and envisages Gibraltar being part of the Hague Convention.

To address the final point that the hon. Member Mr Feetham made, he would not have known at the time of my speech that I will also have commissioned the regulations and the explanatory notes to be provided to people in the system, and that will cover points … because the whole intention of this is for the process … We can see that this is a very substantive piece of legislation, but legislation is complex to be understood by the layperson, so I want to make sure that everyone who is involved in this process fully understands what is happening.

Mr Speaker, thank you very much.

Mr Speaker: I now put the question, which is that a Bill for an Act to provide for the regulation of the law relating to adoption and for connected purposes be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Adoption Act 2022.

Adoption Bill 2022 –
Committee Stage and Third Reading to be taken at this sitting

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

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

Crime (Disorderly Behaviour Penalty Notice) Bill 2022 –
First Reading approved

Clerk: A Bill for an Act to make new provision for on-the-spot penalties for disorderly behaviour. The Hon. Minister for Justice, Equality and Public Standards and Regulations.

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Speaker, I have the honour to move that a Bill for an Act to make new provision for on-the-spot penalties for disorderly behaviour be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to make new provision for on-the-spot penalties for disorderly behaviour be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Crime (Disorderly Behaviour Penalty Notice) Act 2022.

Crime (Disorderly Behaviour Penalty Notice) Bill 2022 –
Second Reading approved

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Speaker, I have the honour to move that the Bill for the Crime (Disorderly Behaviour Penalty Notice) Act 2022 be read a second time.

The Bill makes provision for penalty notices for disorder that will provide the Royal Gibraltar Police with a quick and effective means of dealing with low-level nuisance behaviour. The aims of the scheme contained in the Bill are to offer operational officers a quick and effective alternative disposal option for dealing with low-level antisocial and nuisance offending; deliver a swift and simple method of deterrence; reduce the amount of time that police officers spend contemplating paperwork and attending court, while simultaneously reducing the burden on the courts; and increase the amount of time that constables spend on the street and dealing with more serious crime.

The availability of this form of disposal does not in any way preclude the use of any existing methods of dealing with matters. For example, powers of arrest are unchanged and may be exercised where appropriate. The offences that have been included are summary offences where the most likely court outcome would be a low-level fine. The offences covered include breaches of the peace, disorderly conduct, making off without payment, noise and various alcohol-related offences.

The RGP will also be issued with guidance by the Ministry for Justice regarding the use of their discretion to issue notices in particular circumstances. For example, in relation to theft, contrary to section 397 of the Crimes Act, the guidance will state that only one notice should ever be given to an individual for theft, the value of goods stolen should not exceed £100 and it is expected that in most cases the property will be recovered and, where applicable, such as in cases of shoplifting, remain fit for sale. Furthermore, a notice will not be appropriate where the theft is in breach of trust, such as where a person has stolen from their employer.

Mr Speaker, the scheme contained in this Bill is based on the long-standing fixed penalty notice scheme for road traffic offences. Notices are issued to individuals and there is no requirement for an admission of guilt, nor is a conviction recorded against the subject. There is also a mechanism in place for a person who receives a notice to request to be tried rather than pay the penalty.

A notice must only be given to a suitable person. This is defined in the Bill as a person aged 18 or over. Where doubt exists, rigorous checks must be made to establish age. If a person lies about their age, the notice should be withdrawn and any moneys paid returned. In such circumstances, a constable may proceed in any way that was available prior to giving notice.

The Bill includes a power by secondary legislation to lower the minimum age in the future, and, if that different age is lower than 18, make provision for a parent or guardian of that person to be notified of the giving of the notice and for the parent or guardian to be liable to pay the penalty under the notice. It is not intended to exercise this power at this time, but before this is done, full research and consultation will be undertaken.

In conclusion, the scheme contained in this Bill will provide the Royal Gibraltar Police with another tool that will allow them to continue the work of more effectively managing their resources. We are following the UK's lead in allowing for a speedy and effective alternative option for dealing with a limited number of low-level nuisance offending in circumstances that may not warrant attendance in court, while still providing all the relevant safeguards to the victims of crime and offenders. It is a matter that has been raised with me by the Commissioner of Police following inspections, and I am certain that allowing for resolution of the matters in this way will assist him in focusing his resources on more serious matters.

Mr Speaker, I commend this Bill to the House.

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

Hon. D A Feetham: Mr Speaker, the Hon. Lady has reached out to me on a number of occasions and has invited me to make any comments on any potential amendments in advance of today. I have to say that, having looked at it, I had no amendments and indeed the Opposition agrees with both the policy and the drafting of the Act. If I may say so, it strikes the right balance between dealing with offences of this sort, which are essentially minor offences but important offences to many people because disorderly behaviour is capable of impacting on the lives of innocent people in the community. It strikes the right balance between those types offences, dealing with them quickly – and swift deterrence, as she put it – with less paperwork as well for police officers, but at the same time ensuring that none of the protections in the law in relation to offences that may carry more serious penalty are infringed upon. For those reasons we are going to be supporting this Bill.

I apologise that I did not raise it with her in advance, but just in relation to section 7, where it says:

> The Minister may issue guidance—
> about the exercise of the discretion given to constables by this Act

I presume what means – discretion given to constables by this Act – is the discretion whether to prosecute or not to prosecute. I was racking my brains as to how guidance from the Minister may actually assist in the exercise of that discretion when, quite frankly, discretion by its nature is a wide concept and perhaps one would want, in these types of cases, for the discretion to just be vested in the police officers without guidance. Sometimes guidance can be unhelpful in restricting that discretion. Perhaps she can comment on that and provide the House a little bit more detail about that, but I do not want those comments to detract from the fact that the Opposition will be supporting and that we will be commending the Bill to the House.

Mr Speaker: Does the hon. mover wish to respond?

Hon. Miss S J Sacramento: Mr Speaker, I thank the hon. Gentleman again for the generosity in the way that he has dealt with this, and I am glad to hear that there is consensus throughout the House in this, which is, I would say, a very sensible and practical proposal going forward.

In relation to the point that he raises, precisely because of this point is the reason why I gave the example in my speech about shoplifting and when relevant. The point to be made here is so that we can identify what would be a type of offence that would be acceptable to the issue. So it is in relation to the offences that are scheduled.

Hon. D A Feetham: Rather than the exercise of [inaudible]

Hon. Miss S J Sacramento: Yes. I am happy to tell the hon. Gentleman that when this was first proposed to me, the length of the schedule was much greater than the way it has ended up.

Mr Speaker: I now put the question, which is that a Bill for an Act to make new provision for on-the-spot penalties for disorderly behaviour be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Crime (Disorderly Behaviour Penalty Notice) Act 2022.

Crime (Disorderly Behaviour Penalty Notice) Bill 2022 –
Committee Stage and Third Reading to be taken at this sitting

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

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

Domestic Abuse Bill 2022 –
First Reading approved

Clerk: A Bill for an Act to make provision in relation to domestic abuse; to create an offence in relation to controlling or coercive behaviour in intimate or family relationships; to provide for an offence of threatening to disclose private sexual photographs and films; to provide for an offence of strangulation; to make provision for the granting of measures to assist individuals in certain circumstances to give evidence; and for connected purposes. The Hon. Minister for Justice, Equality and Public Standards and Regulations.

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): I have the honour to move that a Bill for an Act to make provision in relation to domestic abuse; to create an offence in relation to controlling or coercive behaviour in intimate or family relationships; to provide for an offence of threatening to disclose private sexual photographs and films; to provide for an offence of strangulation; to make provision for the granting of measures to assist individuals in certain circumstances to give evidence; and for connected purposes be read a first time.

Mr Speaker: I now put the question, which is that Bill for an Act to make provision in relation to domestic abuse; to create an offence in relation to controlling or coercive behaviour in intimate or family relationships; to provide for an offence of threatening to disclose private sexual photographs and films; to provide for an offence of strangulation; to make provision for the granting of measures to assist individuals in certain circumstances to give evidence; and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Domestic Abuse Act 2022.

Domestic Abuse Bill 2022 –
Second Reading approved

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Speaker, I have the honour to move that the Bill for the Domestic Abuse Act be read a second time.

The Bill makes provision for domestic abuse. This is an incredibly important development on this subject and one that is designed to protect victims of domestic abuse.

Part 1 creates a new offence criminalising controlling or coercive behaviour in an intimate or family relationship where the behaviour has a serious effect on the victim. A limited defence is

available where the accused believes he or she was acting in the best interests of the victim and can show that in particular circumstances their behaviour was objectively reasonable. The defence would not be available where a victim has been caused to fear violence, as opposed to being seriously alarmed or distressed. The defence is intended to cover a situation where, for example, a person who is a carer for a spouse who is mentally ill by virtue of his or her condition, has to be kept at home to take medication. The carer's behaviour might be considered controlling but would be reasonable in the circumstances. This evidential burden will apply to the defence – that is, it will be enough for a defendant to produce sufficient evidence for the matter to be considered by the jury. It would then be for the prosecution to demonstrate to the criminal standard of proof, namely beyond a reasonable doubt, that the defence has not been made out.

Part 2 of the Bill creates new powers to deal with domestic abuse in Gibraltar. These include domestic abuse protection orders (DAPOs), which will be issued by senior Royal Gibraltar Police officers. The DAPOs will be issued by the courts.

Clause 6 defines domestic abuse. The definition applies for the purposes of the Act, but is expected to be adopted more generally. There are also provisions recognising that domestic abuse can impact on a child who sees, hears or experiences the effects of domestic abuse, and it treats such children as victims of domestic abuse in their own right. The definition of domestic abuse is in two parts. The first part deals with the relationship between the abuser and the abused. The second part defines what constitutes abusive behaviour. There are two criteria governing the relationship between the abuser and the abused. The first criterion provides that both the person who is carrying out the behaviour and the person to whom the behaviour is directed must be aged over 16. Abusive behaviour directed at a person under 16 will be dealt with as child abuse rather than domestic abuse. The second criterion provides that both persons must be personally connected as defined in clause 3(7).

Clause 8 creates a power for a police officer to issue a domestic abuse protection notice (DAPN) and sets out the conditions and considerations that must be met in order for the Police to issue a DAPN. The purpose of a DAPN is to secure the immediate protection of a victim of domestic abuse from future domestic abuse carried out by a suspected perpetrator. A DAPN prohibits the perpetrator from abusing the victim and, where they cohabit, may require the perpetrator to leave those premises. It may also prohibit the perpetrator from coming within a specified distance of the premises where the victim lives. As a form of civil preventative measure, the issue of a DAPN and a DAPO does not constitute a finding of guilt, but for convenience and to aid understanding of the purpose of these notices and order I will refer to the person against whom a notice is given or an order is made as 'the perpetrator' and the person to whom the notice or order is designed to protect as 'the victim'. The issue of a DAPN triggers a police-led application for a DAPO in a magistrates court. This is an order which can include prohibitions and requirements necessary to protect the victim from future domestic abuse or the risk of domestic abuse and assist in preventing the perpetrator from carrying out further domestic abuse.

Clause 9 sets out a list of the type of provision that a DAPN may contain. Such provision may include a prohibition on the perpetrator contacting the victim, including via social media or email, which would also apply to contacting the victim at their place of work, even if the perpetrator and victim work in the same place, or prohibit the perpetrator from coming within a certain distance, as specified in the DAPN, of the premises lived in by the victim for the duration of the DAPN. Where the perpetrator lives with the victim, provision may be made to prohibit the perpetrator from evicting or excluding the victim from the premises in question, prohibit the perpetrator from entering the premises or require the perpetrator to leave the premises. It does not matter, for these purposes, whether the premises are owned or rented in the name of the perpetrator or the victim.

Clause 10 sets out particular matters that the police officer must take into consideration before issuing a DAPN. The police officer must consider the welfare of any child whose interests the officer considers relevant. The police officer must take reasonable steps to find out the opinion of the victim as to whether the DAPN should be issued. Consideration must also be given to any

representation the perpetrator makes in relation to the issuing of a DAPN. Where the DAPN is to include conditions in relation to the occupation of premises lived in by the victim, reasonable steps must also be taken to find out the opinion of any other person who lives in the premises and is personally connected to the perpetrator, if the perpetrator also lives in the premises, or the victim. While the police officer must take reasonable steps to discover the victim's opinion and must take this into consideration, the issue of the notice is not dependent upon the victim's consent – this is at subclause (4) – as the police officer may nevertheless have reason to believe that the victim requires protection from the perpetrator and the issue of the notice is necessary to secure protection.

Clause 11 deals with further requirements in relation to notices. Subclause (2) sets out the details that must be specified in a DAPN, which include the grounds for issuing the DAPN and the fact that the Police will make an application for a DAPO which will be heard in the Magistrates court within a 48-hour period, excluding weekends and bank holidays, the fact that the DAPN will continue to be in effect until the DAPO application is determined and the provision that may be included in a subsequent DAPO. Subclause (4) requires the constable serving a DAPN to ask the perpetrator to supply an address in order to enable the perpetrator to be given notice of the hearing for the DAPO application.

Clause 12 provides that the breach of a notice is an offence.

Clause 13 describes a DAPO for the purposes of Part 2, namely an order containing prohibitions or restrictions for the purpose of preventing the perpetrator from being abusive to his or her victim.

Clause 14 sets out the various routes under which a DAPO may be applied for. First, a DAPO may be granted by a court on application by certain categories of person – subclause (2). Second, where a DAPN has been given to a perpetrator by a member of a police force, there is a duty on the Commissioner of Police to apply to a Magistrates Court for a DAPO – subclause (3) and clause 15. Third, a DAPO may be made by a Family Court or Criminal Court during any ongoing proceedings, and that is at clause 17. Subclauses (5) to (7) specify the appropriate court to which an application for a DAPO is to be made. Where an application is made by the Police, whether following the issue of a DAPN or as a standalone matter, the application will be to a Magistrates Court. Where both the perpetrator and the victim are parties to family or civil proceedings, it would be open to the court to make a DAPO in those proceedings. The victim may apply to the Family or Supreme Court, as the case may be. In all other cases – for example, where the applicant is the victim, not involved in existing proceedings or a specified third party, an application is to be made to the Supreme Court.

Clause 15 covers the steps to be taken by the Police to apply for a DAPO following the issue of a DAPN. This follows on from the requirement set out in clause 28(3) for a Chief Officer of Police to apply to a Magistrates Court for a DAPO once a DAPN has been issued.

Clause 16 makes provision for remand of a person arrested for breach of a notice.

Clause 17 enables the court in family, criminal or, in prescribed circumstances, civil proceedings to make a DAPO during ongoing proceedings where in the course of such proceedings the court becomes aware of the need to protect a person from domestic abuse. In the case of criminal proceedings in a Magistrates Court or the Supreme Court, it is open to the court to make a DAPO on the conviction or acquittal of the accused.

Clause 18 sets out the conditions for making a DAPO. Two conditions must be met, namely that the court is satisfied on the balance of probabilities – that is the civil standard of proof – that the perpetrator has been abusive towards a person aged 16 or over to be protected by the DAPO, the victim, and that the court considers that the making of a DAPO is necessary and proportionate to protect the victim from domestic abuse or risk of domestic abuse carried out by the perpetrator. That is at subclauses (2) and (3). An order may, therefore, be made where domestic abuse has already occurred and the victim needs protecting from continuing abuse or the threat of abuse where such abuse occurred outside Gibraltar – subclause (4). Subclause (5) provides that a DAPO can only be made against a person who is aged 18 or over.

Clause 19 specifies particular matters that a court must consider prior to making a DAPO. These are the welfare of any child whose interest the court considers relevant to the DAPO, the opinion of the victim and, where the DAPO is to include conditions in relation to the occupation of premises lived in by the victim, the opinion of any other person who lives in the premises and is personally connected to the victim or the perpetrator. If the perpetrator also lives in the premises, it is not necessary that the victim consent to the order.

Clause 20 deals with the making of orders without notice. Before making – *(Interruption)* (**A Member:** Okay.) Mr Speaker, before making a DAPO, a court would normally give notice to the perpetrator to inform them of the proceedings and of the hearing at which the … Mr Speaker, I am not laughing at the substance of what I am reading, I am just laughing at the very funny tune we just heard. I am not quite sure what that was aimed at. (**A Member:** Going round.) Going round, not personal. This clause allows a court to make a DAPO without notice where it would be just and convenient to do so. The clause does not apply in the case where a perpetrator has been given a DAPN, as clause 14 makes separate provision for the making of a DAPO without notice in such cases at subclause (3). Without-notice applications would in practice only be made in exceptional or urgent circumstances, and the applicant would need to produce evidence to the court as to why without notice the hearing was necessary. It may, for example, be appropriate to make a DAPO without giving notice of the application or hearing to the perpetrator where there is reason to believe that the perpetrator may seek to cause significant harm to the victim or intimidate the victim such that he or she would withdraw the application or may deliberately seek to evade service of notice of proceedings. If an order is to be made without notice, the perpetrator must be given an opportunity as soon as just and convenient to make representations about the order at a return hearing on notice.

Clause 21 sets out the types of conditions that may be imposed in a DAPO and it may include any requirements and both prohibits and restrictions that the court thinks are necessary to protect the victim from the various forms of domestic abuse set out in the definition of domestic abuse in clause 6 or the risk of such abuse. This could include, for example, specific requirements to protect the victim from physical or sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, or psychological, emotional or economic abuse. The court may decide that other requirements, such as requiring the perpetrator to attend a behavioural change programme or a drug or alcohol treatment programme may be necessary to protect the victim from domestic abuse. Subclause (4) specifies that the DAPO may prohibit the perpetrator from contacting the victim, and this relates to all forms of contact, including online contact, to prohibit the perpetrator from coming within a specified distance, as specified by the DAPO, of the premises lived in by the victim. The order may also prohibit the perpetrator from coming in a specified distance of any other premises specified by the court or any other premises of a specified description. This will include, for example, any place where the victim may commonly be found, such as the victim's place of work, place of worship or children's school. Subclause (5) specifies that where a perpetrator and the victim share living premises, the DAPO may prohibit the perpetrator from a victim or excluding the victim from the premises, prohibit the perpetrator from entering the premises, or require the perpetrator to leave the premises. Such provision may be made irrespective of who owns or rents the premises.

Clause 22 makes further provision about requirements that may be imposed by orders. The requirements attached to a DAPO must not, so far as practicable, conflict with the perpetrator's religious beliefs or interfere with the perpetrator's work, attendance at an educational establishment – so, for example, a prohibition on the perpetrator entering a defined area would not normally cover his or her place of work – or conflict with another court order. If it is not practicable to avoid the conflict, given the necessity to protect the victim the court may still impose the requirement. Where a DAPO imposes requirements on the perpetrator, it must specify the person who is responsible for supervising compliance.

Clause 23 provides for the duration of orders.

Clause 24 provides that it is an offence to breach any requirement of a DAPO without reasonable excuse. In the case of a DAPO made against a perpetrator who was not given notice at the time of the proceedings, the offence only operates from the time he or she was made aware of the existence of proceedings. The maximum penalty for breach on conviction in a Magistrates Court is imprisonment for a term not exceeding six months or a fine, or both. The maximum penalty for breach on conviction on indictment is imprisonment and a maximum term of five years or a fine, or both, and that is at subclause (5). As an alternative to prosecution for the offence under subclause (1), breach of the DAPO may be dealt with as a civil contempt of court, the maximum penalty for which is two years imprisonment or a fine, or both, except in a Magistrates Court, where the maximum penalty is two months' imprisonment or a fine. Sub clauses (3) and (4) set out that any breach has to be punished as a contempt of court and it may not be punished as an offence under this clause, and vice versa. This is to ensure that the subject of a DAPO is not punished twice for the same failure to comply with the requirements of the order.

Clause 25 provides that as breach of a DAPO is a criminal offence, the perpetrator may be arrested without a warrant by a constable exercising powers under section 42 of the Criminal Procedure and Evidence Act. Where a complainant – for example, the victim – wants a breach to be dealt with as a civil matter, that is as a contempt of court, this clause provides for a power of arrest in such cases. A person may apply to the court to issue an arrest warrant if the applicant thinks that the perpetrator has breached the DAPO. Once the perpetrator has been arrested and brought before the court, the court may either deal with the contempt of court there and then or remand the perpetrator, whether in custody or on bail, for the case to be dealt with at a later date. Schedule 1 makes further provision about remand under clause 25.

Clause 26 makes provision about notification requirements. This clause requires the perpetrator to notify the Police of their name, including any aliases and home addresses within three days, beginning with the date of the making of the DAPO. Any change of name or home address or any adoption of a new name must be notified to the Police within three days of the event. Such information will assist the Police in monitoring compliance with the DAPO and in managing risk posed by the perpetrator. The perpetrator's home address for these purposes is defined in clause 3(6) as meaning either the person's sole or main residence in Gibraltar or, where they have no such residence, the address location in Gibraltar where they can regularly be found. Subclause (7) enables the Minister with responsibility for justice by regulations to specify further notification requirements which a court may impose on a case-by-case basis when making or varying a DAPO. Where additional notification requirements are imposed by a court, the perpetrator must supply the information to the Police. Certain sex offenders are already subject to notification requirements by virtue of the provision of Part 13 of the Crimes Act, and where the subject of a DAPO is already liable to one or the other of these notification requirements the provisions in the clause do not apply, to avoid unnecessary duplication. However, if the notification requirements under one or other of these enactments or another DAPO cease to apply to the subject of a DAPO, then the requirements of this clause will instead apply.

Clause 27 sets out further provision about notification. It sets out how the subject of a DAPO must notify the Police and how notification must be acknowledged and police powers to verify the perpetrator's identity when they attend a police station to notify.

Clause 28 provides that it is a criminal offence to fail to comply with the notification requirements without reasonable excuse.

Clause 29 sets out how a DAPO may be varied or discharged, who may apply for such a variation and discharge and to which court the application should be made.

Clause 30 sets out the relevant court at which proceedings in relation to the variation and discharge are to take place.

Clause 31 sets out the circumstances in which an affected person may appeal against a decision of a court in respect of a DAPO.

Clause 32 makes further provision about appeals to provide that in any case where the Commissioner of Police is not the appellant subclauses (1) and (2) provide that the court must

afford them the opportunity to be heard before determining. The Commissioner of Police would automatically have such a right to be heard in any case where they are the appellant.

Clause 33 provides that proceedings before a Magistrates Court or Supreme Court in respect of the making of a DAPO on the conclusion of criminal proceedings or in respect of a variation or discharge made in the circumstances … Subclause (2) provides that a Magistrates Court or Supreme Court may, in deciding whether to make an order on the conclusion of criminal proceedings, consider evidence which was inadmissible in the criminal proceedings. Subclause (3) enables a Magistrates Court or Supreme Court to adjourn proceedings – for example, after passing sentence on a perpetrator – to enable further inquiries to be made before determining whether to make an order. Subclause (4) provides that where a perpetrator has been convicted of an offence but is conditionally or absolutely discharged, it is still open to the court to make or vary an order in respect of that person.

Clause 34 applies, with appropriate modifications, the special measures provisions in sections 427 to 445 of the Criminal Procedure and Evidence Act to proceedings under Part 2 of the Act. This means that victims of domestic abuse would be eligible for special measures when giving evidence in relation to proceedings of a DAPO.

Clause 35 gives the Minister with responsibility for justice the power to issue guidance to the Police and other persons eligible to apply for a DAPO by virtue of any regulations that may be made under clause 14(2)(c). Such persons are under a duty to have regard to the guidance when exercising functions under this Part.

Part 3 provides for guidance on the establishment and conduct of domestic homicide reviews, so that statutory agencies can learn lessons from them. The relevant authorities have a duty to have regard to the guidance issued by the Minister for Justice when establishing or conducting such a review. The relevant authorities are listed as the Commissioner of Police, the Chief Executive Officer of the Care Agency and the Gibraltar Health Authority. It is envisaged that the guidance will encourage multi-agency reviews in relevant cases and will provide details as to leadership, format, timing and participants, depending on the individual circumstances of the case. The Minister has the power to direct a review to be established in a particular case, specifying who must establish and/or participate in such a review.

Part 4 makes provision for offences including violent or abusive behaviour. Clause 38 amends the offence under section 97B of the Crimes Act of disclosing a private sexual photograph or film with the intent to cause distress to an individual who appears in the photograph or film to include threats to disclose sexual private photographs or films. The three specific substantive defences to the original substantive offence at section 97B of the Crimes Act would be available in relation to any threat to disclose. The new provision is added to ensure the prosecution will not have to prove the private sexual photograph or film referred to in the threat exists, so long as the individual is said to feature in them.

Clause 39 creates a new offence of non-fatal strangulation or suffocation of another person. The use of choking or strangulation as a form of domestic abuse or violence is well documented as the fact that such behaviour may be undercharged or minimalised if there is no physical injury caused. This offence is not limited to persons who are connected. This clause inserts a new section 167A to the Crimes Act. The new section 167A will provide that a person commits the offence if the person intentionally strangles another or they commit another act that affects the person's ability to breathe and that act constitutes a battery of the other person. 'Strangulation' or 'strangles' are not specifically defined and have their ordinary meaning. 'Battery' is a reference to the common law offence of battery, an act that affects the ability of the other person to breathe and constitutes a battery can include but is not limited to suffocation. The new section 167A(2) makes clear that it is a defence for a person accused of the offence to show that the other person consented to the strangulation or other act that affected their ability to breathe. This subsection has, however, to be read in conjunction with the new section 167A(3), which provides that the defence set out in the new section 167A(2) would not apply when the person suffers serious harm as a result of the strangulation or other act that affects their ability to breathe. 'Serious harm' is

defined in the new section 167A(6) as amounting to grievous bodily harm or wounding within the meaning of section 166 of the Crimes Act, or actual bodily harm under section 176. In short, a person cannot validly consent to having serious harm inflicted on them. The new section 167A(3)(b) clarifies that serious harm must be intended by the perpetrator or that the perpetrator is reckless as to the other person suffering serious harm. This means that where a person intends to inflict harm that amounts only to a battery and the other person consents to that act, but where serious harm occurs, a valid defence of consent would only be available where the prosecution can prove that they intended to cause serious harm or were reckless as to serious harm being caused. The new section 167A(5) sets out penalties for the offence. The maximum penalty on summary conviction is 12 months' imprisonment and/or an unlimited fine. On conviction on indictment in the Supreme Court the maximum penalty is seven years' imprisonment and an unlimited fine.

Clause 40 restates the statute law of the general proposition that a person may not consent to the infliction of serious harm and by extension is unable to consent to their own death. It also reflects the exception in relation to consent in cases involving the transmission of sexually transmitted infections insofar as the law has been established.

Turning to Part 5, the Bill deals with special measures and protection for victims and witnesses in court. Clause 41 amends Part 19 of the Criminal Procedure and Evidence Act to extend the eligibility for assistance given to intimidated witnesses in criminal proceedings to complaints of any offence where it is alleged that the behaviour of the accused amounted to domestic abuse. As a result, complaints of the offence, including domestic abuse, are to be automatically treated as eligible for special measures on the grounds that they are in fear or distress about so testifying. Special measures apply to witnesses who are giving evidence in criminal courts, and these measures include giving evidence by live link, removal of wigs and gowns, and video-recorded evidence.

Clause 42 relates to special measures in civil proceedings and provides the Chief Justice with the power to make rules of court enabling the court to make special measures direction in relation to a person who is a party or witness to civil proceedings where that person is at risk of being a victim of domestic abuse.

Clause 43 provides that Part 3A of the Practice Direction 3A of the Family Procedure Rules of England and Wales applies in Gibraltar with such modifications as may be required and provides that victims of domestic abuse will be automatically eligible for access to special measures.

Part 6 relates to information sharing and gives the Minister for Justice the power to make regulations to permit the sharing of information with schools. This is intended to provide for an Operation Encompass model for Gibraltar. Operation Encompass is a police and education early information safeguarding partnership enabling schools to offer immediate support to children experiencing domestic abuse and will give the Minister for Justice the power to make regulations for these purposes. Training for all relevant stakeholders in this regard was undertaken in November last year.

Part 7 contains regulation-making powers and repeals the Domestic Violence and Matrimonial Proceedings Act.

Mr Speaker, bringing this Bill to the House has entailed many years of work and consultation. There have been numerous changes to this Bill. There has been input from lawyers, focus groups, stakeholders, interested parties and lots of conversations with victims and, importantly, with survivors of domestic abuse. This is an incredibly important piece of legislation and is in honour of everyone who has been a victim of domestic abuse in Gibraltar.

I commend this Bill to the House.

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

Hon. D A Feetham: Mr Speaker, the Opposition is going to be supporting this Bill.

It is often said that the law is a living thing. We all, in this place, strive to make improvements to our laws, and indeed that is part of our responsibility as being the legislature of this small community of ours.

When we were in government, we introduced the 2011 Crimes Act, which at the time was a seminal piece of legislation. Some of the offences that you see reflected in this Bill today, which I have no hesitation in describing as a phenomenally important piece of legislation, at the time had not been proposed or conceived either in Gibraltar or internationally and in the United Kingdom in particular, because although we do not follow the United Kingdom slavishly in every single case, many of the ideas for our legislation do emanate from the United Kingdom.

As the Hon. Minister also said at the end of her intervention, should there be any concerns about this piece of legislation, which in my view there ought not to be, the fact that she has published a consultation paper, the fact that she has consulted with lawyers and with other interest groups and allowed people to make comments on the basis of that consultation paper contributes to the quality and, if I may say so, thoroughness of the Bill presented by the Minister today.

There is no point in me going through this Bill also in detail, but I want to focus, just to explain some of the offences that are created by this Bill, on some parts of it. For example, this Bill tries to close the gap – as the Minister has described, I think, elsewhere, not in the course of her intervention – between offences that we have and patterns of controlling or coercive behaviour. Some people who may follow football – as I do, Manchester United in particular – will have followed, for example, the trial of quite a famous former player of Manchester United who was charged with coercive and controlling behaviour. Ultimately, he was not convicted – it was not an acquittal because there was a hung jury in relation to it – but that is what we are talking about.

Just to make it clearer, the type of behaviour that could amount to controlling or coercive behaviour is, for example, a partner isolating you from your friends and family; monitoring your time and how you spend your time; monitoring your time online and your communication tools – introducing spyware onto phones, for example; taking control of aspects of your everyday life, such as where you can go, who you can see, what you can wear and when you can sleep; and controlling your finances – although I have to say that my wife comes very close to this type of behaviour. They are offences. It creates an offence in relation to behaviours that can really create a nightmare situation for the person who actually suffers this kind of behaviour. Therefore, in our respectful view, it was needed and we certainly commend the Minister for introducing this legislation.

It also creates new powers to deal with domestic abuse in Gibraltar, and these include domestic abuse protection notices issued by police officers in urgent circumstances, but also domestic abuse protection orders, which are a court-issued version of the notices, including in family, criminal and civil actions.

In our view, the Police and the courts are going to be able to deal with domestic abuse in a much more efficient and focused way, and hopefully will allow all of us as legislators and the Police as the enforcement agency – and the courts, of course, where these things are going to have to be proved – in our own way, to attempt to stamp out this kind of behaviour, which has and should have no place in society and in this community.

Mr Speaker, for all those reasons, I commend the Bill to the House. The Minister, I think, in her press release said she felt proud about the work that she had done in relation to this and I think she should rightly feel proud because it is a very good piece of legislation indeed, and therefore I too commend the Bill to the House.

Mr Speaker: The Hon. Marlene Hassan Nahon.

Hon. Ms M D Hassan Nahon: Mr Speaker, while I applaud many of the measures contained within this Bill, as one out of a grand total of two women in this House of 17 representatives I feel I have to put a feminist slant on this debate for the benefit of half of the population of Gibraltar.

I would like to remind the House that while both men and women may experience incidents of interpersonal violence and abuse, women are considerably more likely to experience repeated and severe forms of abuse, including sexual violence. As an example, in the UK, for the year ending March 2022, 6.9% of women suffered this violence and 3% of men. This translates to 1.7 million women and 699,000 men, more than double are the women. They are also more likely to have experienced sustained physical, psychological or emotional abuse or violence that results in injury or death. Women experience higher rates of repeated victimisation and are much more likely to be seriously hurt or killed than male victims of domestic abuse, are liable to experience higher levels of fear and are more likely to be subjected to coercive and controlling behaviours.

Domestic abuse perpetrated by men against women is rooted in women's unequal status in society and is part of the wider social problem of male violence against women and girls. In light of this pervasive problem, I feel this Bill does a disservice when it does not make any reference to gender-based violence in its definition or making special provisions to protect women with measures aimed at countering the many biases that continue to exist – the biological, social and economy imbalances that make violence against women an endemic problem for humankind. In fact, by continuing to operate in this seemingly neutral, politically non-committal way, we are failing to make a stance that the women in our society sorely need, to the benefit of the small but loud bunch of male-rights activists out there whose role it is to tear down any kind of feminist progress.

Mr Speaker, the Bill has great elements and I do thank the Minister for her work, so I will be voting in favour of it, but an erroneous recognition of the problem will inevitably create other problems in the long term.

Thank you.

Mr Speaker: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, can I rise to thank the Hon. Minister for the introduction of this Bill? It has taken a lot of her time in government. She has sought the assistance of other Ministers at different times, but she has borne the complete brunt of the preparation of it with her advisers, and although the title might not suggest it, it is a labour of love manifest in a Bill that is about domestic abuse. It is a piece of work that I know she has taken great care to produce in the best possible way, as we do with every Bill but in particular in relation to this Bill because of the potential consequences of not having the protections that it will afford, or not having modernised the protections that it will afford.

Mr Speaker, can I – this is starting to become a habit – join Mr Feetham in that respect, in welcoming the work that the Hon. Minister has done, and can I thank him for the recognition that he has given across the floor of the House to the Hon. Minister in that respect?

I agree with the hon. Lady, Marlene Hassan Nahon, that the brunt of domestic abuse is suffered by women, not just in this country but in most countries, and in my view it is abhorrent that it should be denied and that the veneer of violence happening in a domestic setting being applicable equally to men as it is to women is just not true. That is the sort of veneer that *Vox* tried to put on the issue in Spain in the way that they present the issue. Of course there are men who suffer abuse in the home setting, of course there are, but the overwhelmingly vast majority of cases of abuse are against women. That is not to deny that there are even instances of abuse in same-sex marriages or partnerships, but the overwhelming vast number of instances are instances of abuse by male of female partners. On that, I believe that we are all in this House agreed.

Having said that, when legislating, as we are in this House, we have to legislate in keeping with the constitutional parameters. One thing is to recognise the statistic that there is one particular characteristic that can afflict the majority of the cases that are going to be dealt with. Quite

another is to legislate in that way when we all also recognise that there are instances of violence in this sort of setting which are also affecting all sexes. Our Constitution requires us not to legislate in a way that would be seeing a sexual entity rather than an individual of any type. So gender-based violence legislation is complicated. There are some instances where it is physically necessary … For example, in instances of female vaginal mutilation. There you are dealing with a gender-based issue, genital mutilation. You are dealing with a gender-based issue and you are not doing so in a sexist way. But we have to be very careful, where we are dealing with the creation offences of abuse against individuals, against citizens, that the legislation is gender neutral, although the enforcement of the legislation will no doubt reflect, as the hon. Lady has said, that the vast majority of these offences are committed against women in particular circumstances. We cannot deny, as the hon. Lady has taken us through, that there are also instances of abuse affecting children of all sexes in the home setting, where they are witnessing what is overwhelmingly and predominantly the violence of men against women, but that is also abuse of the children, and the children of both sexes.

I think this is an incredibly complex piece of legislation that delivers against an incredibly important area of our law. We have seen the most heinous incidents of violence in the domestic setting in Gibraltar in the past 15 years – they have been the most awful – and indeed in the past 10 years in our period of our tenure, we have been in office and seen, under successive Ministers for Justice, two instances of the most heinous offences, seeing the loss of life of two women and, in one instance, the loss of life of a woman and her children and also the alleged killer, the man. So legislation that helps us to deal with that and, to an extent, try to nip it in the bud is legislation I am very happy to see will have the full support of the House. It could not be otherwise, and in giving this legislation the full support of the House we are giving the Minister our full support to the fantastic work that she has done in the past months.

Mr Speaker: The hon. the mover of the Bill.

Hon. Miss S J Sacramento: Mr Speaker, I thank the hon. Gentleman Mr Feetham once again for the generosity of his praise of this work. I am very glad and grateful that he has recognised this piece of work. Obviously, as a former Minister for Justice he understands the level of work that this entailed. I am glad that he reminded me of the process of the consultation and the Command Paper, because it was as a result of the consultation that followed the publication of the Command Paper that the substance of the Bill changed significantly. If we look at the Bill in its form today, we can see that it is very different from when the consultation paper was issued and it has been, in large measure, because of feedback we received at the time, and because then we also had the intervening period of COVID there were developments in the UK and we have included those developments and those amendments.

The hon. Gentleman referred to the offence of controlling coercive behaviour and how this has developed. It is already, and has been for a considerable period, an offence in the UK. It relates to non-physical violence, and that is why, whereas at the beginning when we started our strategy we referred to incidents as domestic abuse, we have changed the nomenclature and updated it to … Sorry, initially we referred to it as domestic violence, and we have changed the communications to domestic abuse to make sure that everybody is aware of the coercive behaviour. In fact, because we have been working on this for such a considerable period of time and I wanted to make sure that everyone was ready to be able to deal with the legislation ahead of it succeeding in this House, back in 2019 I commissioned training specifically on coercive controlling behaviour, and in the autumn of 2019 every single police officer from the police constable to the Commissioner of Police has undertaken training on coercive controlling behaviour. This is because, as an offence, it is very difficult to prosecute and it is very difficult to identify. One of the principal reasons for this is because victims of coercive controlling behaviour in many circumstances do not themselves realise that they are victims of coercive controlling behaviour. The emotional abuse is such that they no longer realise it is wrong and that they are victims of abuse. That training that

we originally started has been ongoing. We have also, as part of the package that I commissioned in 2019, had a train-the-trainer package, so it means that, thereafter, training for primarily the Royal Gibraltar Police but also the inter-agency training that we do as part of the Domestic Abuse Strategy is delivered by people who have been trained in Gibraltar. We had a very moving conference in November on domestic abuse, where we had two victims and survivors of domestic abuse speak out. They spoke specifically of their experiences of domestic abuse, and both said that at the outset neither of them had recognised that they were, in fact, victims of domestic abuse and it was not until they spoke to other people that this was pointed out to them. The training that we have already undertaken and the training that is planned throughout the year is specifically focused on this because we anticipate, as is the case in the UK, that successful prosecutions on coercive controlling behaviour are incredibly difficult and there is no point in having the statutory framework that gives us an offence and not then having the tools in the armoury to be able to give it successful effect.

Mr Speaker, I regret the comments made by the hon. Lady. Unfortunately, I think she is trying to show in her comments that she is more of a feminist than I am, but it is premised, I think, on a misunderstanding of the legislation. This is a piece of legislation that will protect victims of domestic abuse regardless of their gender. The hon. Lady has quoted statistics that are not from Gibraltar that she has obtained, which is a shame because during our [*inaudible*] days of activism campaign that we had in November of last year, the statistics of domestic abuse and the gender split in Gibraltar was communicated. In Gibraltar, according to the statistics provided to me by the Royal Gibraltar Police, we have a 30/70 split of victims of domestic abuse. That means that 30% of the victims of domestic abuse in Gibraltar are men. The hon. Lady, if she wants to speak about equality and how domestic abuse impacts in Gibraltar, did not mention, as the Chief Minister said, victims of domestic abuse who are same-sex couples. Of the statistics that the Royal Gibraltar Police have in relation to reports of domestic abuse by same-sex couples, all reports and all complaints have been of male same-sex couples and there have been no reports by female same-sex couples. So, if we are going to speak about equality, let's understand what it is that we are talking about.

As the Chief Minister says, this is legislation and we have to make sure that the legislation is there and is available for all of us. The hon. Lady is right in that she says, and we all agree, that there are more victims of domestic abuse than women, but the way we deal with it, which the hon. Lady has misunderstood or overlooked, is through education, through strategy, through awareness, and not in legislation. I do not understand how the hon. Lady, apart from the exception that the Chief Minister mentioned, thinks we can legislate for domestic abuse in that way – it is certainly not legislated in that way in the UK, so it is erroneous to speak on the basis of that premise.

In order to reassure the hon. Lady so that she can be comforted that this Government fully understands its responsibilities, I can assure the hon. Lady that we have a national strategy for domestic abuse. In fact, that strategy is now being reviewed and refreshed in the context of the proposed Bill and there is a new working group. I have commissioned someone and engaged someone specifically tasked with driving the national strategy. As part of the strategy, we are looking at early intervention – that is one of the workstreams we have – and prevention, and it is through that strategy and that work that we do with women, with schools, through education, through awareness … I am not sure whether the hon. Lady has been following the Ministry for Justice campaign that we had in November. Of course we are there to support women, we are there to support everyone, but we need to understand that … We need to reach out to women, but reaching out to women, supporting women and educating women is something that we do in a different way. It is not something that we can do through legislation and it is a shame that the hon. Lady does not understand the difference.

Mr Speaker, I do not want to end on a negative note because this, as the Chief Minister said, has been a labour of love. It is so absolutely important that we get right the legislation and the support across the board, from training to services, to the help that we offer, to counselling help,

and all of that has been considered and is spearheaded through the Ministry for Justice with input, of course, from the Ministry for Equality to make sure that we do not forget anyone, do not leave anyone behind and do not leave anybody out.

Given that this important piece of legislation is being supported by everyone, I would like to reflect that fact and thank all hon. Members for recognising this important progress that we have in our legislation.

Mr Speaker: I now put the question, which is that Bill for an Act to make provision in relation to domestic abuse; to create an offence in relation to controlling or coercive behaviour in intimate or family relationships; to provide for an offence of threatening to disclose private sexual photographs and films; to provide for an offence of strangulation; to make provision for the granting of measures to assist individuals in certain circumstances to give evidence; and for connected purposes be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Domestic Abuse Act 2022.

Domestic Abuse Bill 2022 –
Committee Stage and Third Reading to be taken at this sitting

Minister for Justice, Equality and Public Standards and Regulations (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.

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

Chief Minister (Hon. F R Picardo): Mr Speaker, we have been at it now for almost three hours and the Minister has had carriage of, I think, three of the Bills that we have dealt with now, so I propose that we should recess to give you and her a break until 10 past six.

Mr Speaker: The House will now recess to 10 past six.

The House recessed at 5.50 p.m. and resumed at 6.11 p.m.

Anti-Corruption Authority Bill 2022 –
First Reading approved

Clerk: We continue with Bills.

A Bill for an Act to make provision for the establishment of the Anti-Corruption Authority and to provide it with powers of investigation and other duties, powers and functions for the investigation of corrupt conduct, and for connected purposes. The Hon. the Minister for Justice, Equality and Public Standards and Regulations.

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): I have the honour to move that a Bill for an Act to make provision for the establishment of the Anti-Corruption Authority and to provide it with powers of investigation and other duties, powers and functions for the investigation of corrupt conduct, and for connected purposes be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to make provision for the establishment of the Anti-Corruption Authority and to provide it with powers of investigation and other duties, powers and functions for the investigation of corrupt conduct, and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Anti-Corruption Authority Act 2022.

Anti-Corruption Authority Bill 2022 –
Second Reading approved

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Speaker, I have the honour to move that the Bill for the Anti-Corruption Authority Act 2022 be read a second time.

The purpose of this Bill is to (1) create a domestic body to investigate complaints of corrupt conduct and also have the freedom to investigate of its own volition without there being any complaint received from any person; (2) provide this body, the Anti-Corruption Authority (ACA) with certain powers of investigation; (3) make provision for other matters which are ancillary or related to these purposes; (4) implement an obligation under Article 6 of the UN Convention Against Corruption, which is currently not provided for under Gibraltar law.

I will take each of the clauses as they appear on the Bill.

Part 1 of the Bill contains introductory provisions. Clause 1 contains provisions in relation to the title and entry into force of the Act.

Clause 2 contains definitions, two of the most important being what is meant by 'corrupt conduct', with reference to clause 15; and 'a public official', which is widely defined. Some of the other definitions rely on meanings provided in other legislation.

Part 2 of the Bill focuses on the establishment of the ACA, its powers, functions, duties and related matters.

Clause 3(1) provides for the creation of the ACA. Clause 3(2) sets out the scope of the ACA.

Clause 3(3) sets out the membership of the ACA. We have heard the concerns that have been expressed, and given that the Government does not wish to control the composition of the ACA, we have sought an amendment to the Bill by letter today for amendments to include that the chairperson is appointed by the specified Appointments Commission and that the other four are appointed as follows: two by the Chief Minister and two by the Leader of the Opposition. There are examples of similar appointments throughout legislation.

Turning to clause 3(4), it provides for the Chair to oversee the working of the ACA. Some of their members will be investigating officers who exercise powers as authorised by the ACA.

Clause 3(5) states that public officials are not eligible to be appointed to the ACA with the flexibility that further categories of persons may be added as part of the excluded persons. 'Public official' is already fully defined under clause 2 of the Bill.

Clause 3(6) states that the initial period of appointment must not exceed three years, but under clause 3(7) any person can be reappointed unless they resign or have been removed. The person who wishes to resign can notify the Chief Minister in writing under clause 3(8).

Clause 3(9)(a) lists the reasons for the removal of any member of the ACA. There is a broad range of reasons, which is not dissimilar to the circumstances under which the Minister, under

section 36 of the Financial Services Act 2019, can declare the office of Chief Executive vacant and under section 21(7), when the Minister may remove another member of the FSC. Under clauses 3(9) and (10) removals and changes of the composition of the ACA must be published in the Gazette. In clause 3(11) there is provision where, for any reason of absence or inability to act as part of the ACA, or any other reason provided in clause 3(9), there may be a temporary replacement by the Chief Minister. Where there is a permanent removal from any post, the replacement must be appointed in the same manner as the original appointment.

The remuneration and the expenses of the ACA are to be charged on the Consolidated Fund, whether these expenses are payable to a member or the expenses incurred by the ACA at clauses 3(13) and (14). This is exactly the same as for the Financial Services Ombudsman, for instance, under section 181 of the Financial Services Act.

Clause 4 provides that the ACA be a body corporate with common seal with the necessary formalities. You need the chair or another member who is authorised, and in either case one other member also has to be present. The ACA must sue and be sued in corporate name, and service of any processes may be affected by leaving it or sending it by registered post to the offices of the ACA.

Clause 5(1) provides for meetings at dates and times as the chairperson may determine. There has to be a quorum of three members, and matters are decided by a majority vote with a casting vote to the chairperson. Clause 5(4) provides that any act done is not affected by a vacancy or the defective appointment of any person of the ACA. The ACA has the power to regulate its own procedure at clause 5(5).

Clause 6 deals with the duties, powers and functions of the ACA. Primarily, the ACA takes the responsibility of establishing and supervising processes to investigate corrupt conduct, to detect and investigate corrupt conduct, and also to receive, consider and investigate any report made to it by any person relating to corrupt conduct. It must investigate matters properly without delay, exercise the powers that it has under the Bill to facilitate the investigation, analyse the results of the investigation and transmit those and any information or material to the RGP for further investigation. That is at clause 6(1)(a) to (c). Clause 6(1)(d) to (j) contains the powers of the ACA in relation to employment, appointment, the reporting of matters, the exchange of information and power to acquire property and dispose of any property and exercise any power that may be assigned to it.

Clause 6(2) provides for the investigation of corrupt conduct predating the enactment of the Bill and refers to offences for which there is already provision. The intention is that the ACA be given the right to investigate matters that concern corrupt conduct and that occurred or partly occurred before the creation of the ACA, or where some of the elements constituting corrupt conduct occurred wholly or partly before the Act. This is understandable, in our view, because if the corrupt conduct had been committed either wholly or partly before the enactment of the Bill, it would already have been a matter for the Royal Gibraltar Police, which has unfettered powers to investigate. It is irrelevant for the purposes of the Bill whether the perpetrator at the time of the offence was a public official. There is no limit on how far back complaints can be investigated as set out in this Bill.

Clause 6(3) sets out the standard for the ACA's exercise of its duties, powers and functions. It must be independent, impartial and fair and have as its paramount concern the protection of the public interest and prevention of corrupt conduct, with the proviso that there is no obligation for the ACA to act where there is no basis or legitimate reason for the exercise of any duty, power or function.

Under clause 6(4) and (5), the ACA may appoint a member to act on its behalf, and for this purpose the member in question must be provided with an instrument of authorisation for anything authorised or required to be done under the Act. This is to ensure adequate checks and balances within the ACA.

Clause 7 provides for the ACA to keep proper books and accounts and for a statement to be prepared within nine months after the end of each financial year. The accounts must be audited

by the Principal Auditor, who must report within the terms set out by clause 7(3). Clause 7(4) says that the Chief Minister must present the audited accounts before Parliament. The ACA must furnish the Government, under clause 7(5), with estimates no later than 15th January each year.

Where the ACA, in relation to any investigation, requires the services of specialist persons, under clause 8 it has the power to engage consultants or experts.

Under clause 9 there is the standard provision on immunity for anything done or omitted to be done by the ACA, save for acts or omissions done in bad faith. This is an important protection to permit the ACA to engage its powers properly and without any influence or threat of repercussions.

Consistent with this is the duty of the ACA to indemnify persons appointed or engaged by it against claims, except for claims related to bad faith on the part of the person on the employee, at clause 10.

Clause 11 makes provision for where members of the Authority or persons engaged or employed by it have a disqualifying interest in a matter being considered.

Clause 11(1) provides that a person with a disqualifying interest must declare the interest and withdraw from taking part in the relevant matter before the Authority. The declaration or withdrawal by the person must be recorded under clause 11(2).

Clause 11(3) contains a definition of what is meant by a disqualifying interest, and this encompasses not only business or professional interests, but also personal or political interests and associations and the effect or perceived effect of the interest in the person's conduct, the independence and the person's duties, powers and functions under the Bill. The intention is to make it have a wide application and the duty on the person is taken seriously. It is an offence under clause 11(4) for a person not to comply with clause 11(1) and a defence to the offence is provided under clause 11(5).

Clause 11(6) provides that no act or proceeding by the ACA is invalidated by a person having an interest and breaching this clause. Clause 11(7) provides that this clause has no application where the person acquires the interest as a member of the public or where the right to participate by that person is offered to the public.

As part of the ACA's investigations, it will be privy to a great deal of information, and to ensure that the process of investigation is not compromised the information which it obtains must be protected and managed with care. Clause 12(1) defines 'confidential information' and sets out the exceptions to non-disclosure of confidential information by the ACA in clause 12(2). Confidential information includes what the ACA obtains in the usual course of its duties and what is provided to them in confidence by a public authority or the Government. Due to the nature of the ACA's investigations and the public importance in apprehending offenders, it is felt that information must be handled carefully and responsibly in order not to defeat or interfere with a subsequent investigation by the Royal Gibraltar Police or a prosecution. The listed reasons for disclosure of confidential information by the ACA in clause 12 are straightforward and should be generally acceptable. The duty not to disclose confidential information binds any person appointed to the ACA, employed by the ACA or engaged by the ACA to provide services.

Clause 13(1) provides the ACA with the power to publish and issue guidance to assist the public and for the prevention of corruption. This section has been inserted to give domestic effect to Article 6 of the UN Convention Against Corruption, the Mérida Convention. As Government is taking the necessary steps to seek extension to Gibraltar of this measure, the ACA can make changes to any guidance that is published and, in preparing this guidance, has the freedom to consult appropriate persons under clause 13(3).

Clause 14(1) provides for the ACA, when exercising its duties, powers and functions under the Act, to enter into co-operation agreements with public authorities in order to establish procedures for exchange of information but with the safeguards and limitations under clause 14(2) and (3). These safeguards and limitations are centred around the public authority not disclosing information without the Authority's consent and to use the information for the purpose for which the ACA has provided and for no other purpose. The Authority can refuse to exchange information

if it is not satisfied that the public authority itself is subject to the equivalent confidentiality provisions and the request falls outside a co-operation agreement that the investigation by both is in relation to the same or related conduct or is necessary to protect public interest or an essential national interest. A similar provision is made in section 51 of the Financial Services Act 2019, although this provision relates to a request by a foreign regulator.

Part 3 deals with the definition and scope of corrupt conduct, investigations, reports to the ACA and rights and powers of it. Corrupt conduct, under clause 15(1), is defined with reference to specific criminal offences listed in the schedule to the Bill, which refers to offences under the Crimes Act, the Parliament Act, common law offences and offences under certain parts of the repealed Criminal Offences Act to the extent that these offences may be prosecuted under section 601(2)(a) of the Crimes Act. These are offences that are mostly associated with corruption, but there is also power to add to this list of offences in the future under clause 15(2) of the Bill.

For the sake of clarity, it is provided by clause 15(3) that a person involved in corrupt conduct is a person who falls within the scope of the offences listed in the schedule, whether or not they are public officials.

Clause 16(1) provides that there are two routes by which the Authority can direct an investigating officer to carry out an investigation under the Bill, namely (a) a report received by the ACA from a person, and (b) where the ACA suspects the commission of corrupt conduct. Where the Authority commences an investigation under clause 16(1), it has to establish proper systems of investigation, secure the communications and evidence, process personal data in accordance with the law, and protect persons under clause 30, where appropriate.

The ACA can investigate corrupt conduct as provided under clause 6(2) with reference to the list of offences in the schedule.

The ACA can discontinue an investigation for the reasons set out at clause 16(4). The ACA may discontinue an investigation, namely where no corrupt conduct is disclosed, the matter has already been investigated and there is not fresh evidence, the matter is more appropriately looked into by another public authority, the investigation would be disproportionate, or for any other reasonable cause.

Every investigation needs to be conducted in private, but this does not affect the duties, powers and functions of the ACA, for instance where orders have been sought from a court.

At clause 17(1) it states that where a person makes a report to the Authority about a matter that concerns corrupt conduct, the report must be made in the form and manner as approved by the ACA. Clause 17(4) provides that a report that is certified by the ACA is admissible as evidence of the contents of the original report when it was recorded.

Clause 18(1) contains the power of the ACA to suspend consideration of a report or an investigation where the matter is already in the hands of the court or part of the investigation of the Royal Gibraltar Police pending the final resolution of the matter as defined at clause 18(2). Final resolution is where the RGP investigate and do not charge or, in the case of court proceedings, where a conviction has been secured and the time for appeal has elapsed or the appeal has been disposed of.

Clause 19(1) to (3) says that where an investigation is commenced under clause 16, which could either arise from a report to the ACA or from the ACA's own investigations, the ACA can by notice request any person to provide information or answer questions or provide documents which the Authority can then take copies of, request an explanation for, or make a request for the whereabouts of the documents where these are not produced but have been requested. The threshold for the exercise of this power is contained at clause 19(4), and that is that an investigation has commenced and the information or documents are reasonably required by the ACA for the purposes of the investigation. The request is not binding on any person. It is voluntary and there is no compulsion other than the ACA can seek orders from the court if it does not obtain the evidence and information it is seeking and is necessary for its investigation. Any evidence that is provided by any person can only be used as evidence against that person in a prosecution for an offence under the Bill or in a prosecution for another offence where an inconsistent statement

is made by that person. Clause 19(6) says that any disclosure made by any person in relation to an inconsistent statement may not be used against the person unless evidence is adduced or a question is asked relating to it by that person or on their behalf.

The ACA has the choice and right to apply, under clauses 20, 21 and 23, for production orders, orders for entry and warrants for search and seizure from the Magistrates Court. These sections are quite similar to section 149 onwards of the Proceeds of Crimes Act 2015. There are also useful and comparable provisions in Chapter 3 of the Competition Act 2020, where investigating officers have specific powers in relation to investigations.

Clause 20 deals with production orders. The ACA can apply to the court for a production order. The evidence for the application has to be on oath and the court needs to be satisfied that the conditions in clause 23 are met. The application for the order must also comply with the requirements under clause 24. The court can order production where there is an investigation, a person is subject to an investigation and there are reasonable grounds to believe that the person has possession of evidence, the evidence is likely to be of value to the investigation and it is in the public interest that it is produced. The order can require that the evidence be produced to a police officer or to the Anti-Corruption Authority, or require that a person give access to the evidence. Privileged material or excluded material is protected from production. The person has to comply with the order within seven days unless the court believes a longer period is necessary. Privileged material and excluded material are protected under clause 20(7) to (9). Other than these protections, no other restriction would protect the information, under clause 20(10). The ACA can take copies of evidence produced and can be retained for the duration of the investigation or until the conclusion of any court proceedings.

The power in clause 21 is triggered when the court makes a production order. A court can make an order for entry on the application of the ACA, and where the court grants the order a police officer is permitted to enter premises and seize and retain any material, take copies and use reasonable force. The order may allow any person acting under the instrument or authorisation from the Anti-Corruption Authority to accompany a police officer and exercise the powers under clause 21(3) under supervision of a police officer. For the purposes of the execution of an order, the occupier or person in charge of the premises would be provided with a copy of it. If no one is present, a copy of the order can be left in a prominent place in the premises.

I would move at this stage to make a couple of amendments to clause 21(3), which have nothing to do with the substance, Mr Speaker, but for the sake of good order I am proposing a substitute subclause (3) to read:

(3) An order to grant entry under this section is an order requiring any person who appears to the court to be entitled to grant entry to the premises to allow a police officer to-

(a) enter the premises specified in the order and seize and retain any material found in the premises appearing to be of a type in respect of which the order was granted or take any other steps that may appear to be necessary for preserving, or preventing any interference with, any material appearing to be of the relevant type;

(b) take copies of, or extracts from, any material appearing to be of the relevant type; and

(c) use any reasonable force that may be necessary.

I have provided written notification of this amendment to the Hon. Speaker.

Moving on, clause 22 provides that an application for the production order or order for entry must be made in private without notice, and the Chief Justice can make rules of court in relation to production orders and orders to grant entry. Persons who are affected by any order made or the Anti-Corruption Authority itself can apply to the court to have these orders set aside or varied under clause 22(3). The Court can discharge, vary orders or dismiss an application at clause 22(4).

Clause 23(1) gives the Authority the right to apply for a warrant of search and seizure from the court and, as in the case of other applications under the Bill, the information or evidence has to be on oath. The court can make an order where there is an investigation, there is material on any

premises that has a value to the investigation and it is in the public interest to obtain the evidence and where it is not proportionate to make a production order for the reasons in clause 23(4). The reasons in clause 23(4) are that it is not practicable to communicate with the person against whom a production order or order for entry could be made or would be required to comply, and the investigation could be prejudiced if the Authority cannot get hold of the material. The court can grant a warrant under clause 23(6) for a police officer to enter, search the premises, seize the material, take copies of extracts and use reasonable force. The Authority can, under an instrument of authorisation, allow a person to accompany a police officer and exercise the powers under 23(6) under the police officer's supervision. The warrant can authorise a person acting for the ACA under an instrument of authorisation to accompany a police officer and exercise any of the powers under clause 23(6) under the supervision of the police officer.

Clause 24(1) sets out how the application needs to be made in private and may be made without notice. An order made under clause 23 will not grant anyone the right to seize privileged or excluded information. Apart from these provisions, no other restrictions will apply to the disclosure of the information. The warrant can be in force for a month, and the order may make provision for the police officer to do other things and give proper effect to the order. The material can be retained for as long as the investigation continues, and the occupier of the premises or the person in control of the premises must be given a copy of the warrant.

In clause 25(1) and (2) the ACA and any affected person has the right to apply for the discharge or variation of the warrant. The court has the power to discharge and vary the warrant or dismiss the application.

Clause 26(1) one defines 'officer of the Crown' and under subclause (2) makes provision for the Authority to require a Minister or officer of the Crown who is able to provide evidence in relation to the investigation to produce documents, furnish information or give access to the material. There are important safeguards and limitations to this right, which are set out in clause 26(3). This provision is also contained in section 18 of the Public Services Ombudsman Act, where the Ombudsman, as one knows, is also given the right to investigate reports or complaints. Under clause 26(4) nothing in the Act affects the withholding of information on public interest immunity grounds. No information or answers may be sought relating to proceedings before the Council of Ministers or Committee of Ministers. A certificate by the Chief Minister is conclusive evidence of the matter under subclause (3).

There is also an appeal route to the Supreme Court for persons who feel aggrieved by orders made by the Magistrates Court under sections 22 and 25, and this is under clause 27. The Supreme Court can dismiss the appeal, allow the appeal or quash the order appealed against, or remit the matter to the Magistrates Court for further consideration. The Supreme Court has the power to grant a stay or other relief until the appeal is concluded. The Supreme Court can make any appropriate order as to costs under section 27(5).

Clause 28 is pivotal to the whole procedure under the Act. It provides that the Anti-Corruption Authority must refer any matter to the Royal Gibraltar Police and forward any relevant evidence at any stage of an investigation where it appears to the Authority that a person has committed corrupt conduct or any other offence. The Anti-Corruption Authority does not have to wait until the matter is fully investigated by its officers.

Part 4 of the Bill makes provision for protection measures. Clause 29 facilitates access to the Authority of persons who cannot understand English or suffer an impairment. The ACA has the duty to provide an interpreter or appropriate person to facilitate communications between the person and the Authority. This provision is also relevant to the considerations and aspirations under the UN Convention on the Rights of People with Disabilities.

Under clause 30(1), the ACA is allowed in appropriate cases to notify the Commissioner of Police where the safety of a person assisting the ACA is prejudiced or where they may be subject to intimidation, harassment or retaliation. The Commissioner of Police is duty bound to make arrangements for their safety or protection from intimidation, harassment or retaliation. The scope of this protection measure is wide and includes persons making reports, assisting,

complying with a request from the ACA or with an order from the court, or assisting in some other manner.

Clause 31 provides protection for the person assisting the ACA under clause 30. Clause 31(1) says persons assisting cannot be deemed to be in breach of their duties or contract and have the right not to suffer detriment by reason of assistance they provide the ACA. Under clause 31(2), any person who has been subjected to a detriment has a right to present a complaint to the Employment Tribunal on the basis that a report under clause 17 or assistance in relation to an investigation under this Bill is a qualifying disclosure within the meaning of the Employment Act.

There is a statutory obligation on a police officer or the Authority under clause 32 to return material which is gathered or obtained as a result of a request under clauses 19, 20, 21 or 23 if any items seized or produced to them are subject to legal professional privilege (LPP) or are excluded material. If it is possible to separate the items of LPP or excluded material from lawfully obtained material under clause 32(3), the person whose duty it is to return the material must ensure the separated item is returned as soon as practicable. The material must be returned to the owner or the person who has control or custody of it before it was seized or produced.

Part 5 of the Bill creates offences prohibiting specific conduct which would interfere with the powers, duties and functions of the ACA. They are aimed to target different forms of conduct by a variety of perpetrators.

Clause 33 has two main limbs of criminal liability. Clause 33(1) creates a liability for a person within the Authority obtaining a benefit for themselves or for another person in exchange for neglecting their duty, doing something or omitting to do something, taking advantage of their position or facilitating an offer under any law. The penalties at clause 33(1) reflect the seriousness of the wrongdoing.

Clause 33(2) makes it an offence for a person outside the ACA to confer, procure or promise to any person appointed to the ACA or any other person a benefit in exchange for the person appointed to act, as under clause 33(1). As in the case of clause 33(1), serious penalties are created for any person found guilty of the offence.

Clause 34(1) creates an offence where a person receives a request from the ACA or an order from the court under the Bill to make a false or misleading statement with the necessary intention or recklessly. Serious penalties are also imposed under clause 34(2).

Clause 35(1) creates the offence of falsification, destruction, disposal or concealment of evidence. Where a person knows or should know that a report has been made or there is an investigation, and falsifies, conceals, destroys or disposes or causes or permits these acts where they know or should have known that they are or would be relevant to a report or an investigation, they are guilty of an offence. The person would not commit an offence if they can provide that they had no intention to commit any of these acts.

Clause 36(1) creates the offence of improper disclosure of information obtained through an investigation. There are three scenarios that trigger this offence, namely where a report is made under clause 17 or an investigation under clause 16 has started, a request is made under clause 19 and this has not been refused, or an investigation under clause 16 has started, applications have been made under clauses 20, 21 or 23 and they have not been refused and the person knows or would be expected to know that disclosing any information would prejudice any of these scenarios. A defence under clause 36(2) is provided for a person who did not know or could not reasonably have known that the disclosure would be prejudicial, or has lawful authority or reasonable excuse for disclosing the material. There are also serious penalties for this offence.

Clause 37 creates the offence of disclosure of confidential information and is triggered when a person contravenes the provisions of clause 12 or clause 14(2).

For completeness, Mr Speaker, clause 38 provides corporate liability and liability in relation to partnerships for an offence created under the Bill.

Part 6 of the Bill contains miscellaneous provisions, the first one, clause 39, being that the Chief Minister can request a report from the ACA and that a report, once approved by the Chief Minister, is presented before Parliament. The report can either be connected to the Authority's

duties, functions and powers under the Act or otherwise. The report is submitted by the ACA in draft to the Chief Minister, who may require it to amend or exclude matters for good reason. Under clause 39(3), the ACA must prepare, within three months after the end of each financial year, a report under the matters stated in (a) to (d) and hand it over to the Chief Minister within two weeks after it has been finalised, and the Chief Minister must lay in Parliament each report referred to.

Clause 40(1) is a regulation-making power for the Chief Minister to make regulations for various purposes, including the exchange of information between the ACA or equivalent overseas authorities outside of Gibraltar, and also for the implementation of international agreements and conventions. This is a very common form of regulation-making power which is currently contained in various Acts. A case in point are sections 104 onwards of the Proceeds of Crimes Act. Finally, clause 40(2) defines what is meant by 'overseas authorities'.

Mr Speaker, on the basis of the explanation of the Bill, I commend this Bill to the House.

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

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

The GSD side of the Opposition are going to be abstaining in relation to this Bill. In explaining why we are going to be abstaining, can I say that other than observations that I am going to be making in relation to the Code of Conduct for Ministers and Members of Parliament, I am going to attempt to leave to one side any political points that perhaps I might be tempted to make in relation to who said what, when, in what manifesto and in what year, and I am going to try to simply focus on the substantive issues and give the substantive reasons as to why we are going to be abstaining.

There are essentially two reasons why we are going to be abstaining. The first reason is that in our view this Bill adds an extra layer of bureaucracy which will inevitably lead to extra expense for, we say, little gain. In short, we say that this Bill does not go far enough. The second reason is the way that members are appointed and indeed removed leaves room for political influence and political interference despite the amendments that the hon. Lady has or is intending to move at Committee Stage.

Just drilling down in relation to that first overarching reason that I have provided, the Bill creates an authority to investigate and indeed receive reports about corrupt conduct. If you ask the average person in the street are they concerned about corruption in public life, many will say yes – but not only now; I say that historically as well. I do not necessarily want my intervention to be perceived as an imputation of corruption on the Government side. I am talking about Governments generically. But when you drill down about what he or she, that person in the street, understands by corrupt conduct, it may not be the same as what we or lawyers would understand by the term, and it certainly does not fall within the meaning of corrupt conduct as defined in this Bill. That does not mean that those concerns, in my view, are unjustified – in fact, we share, as an Opposition, some of those concerns, as I am going to be developing and explaining to this House during the course of my intervention – or indeed that we should ignore them. On the contrary, we should, in my respectful view, be trying to ensure that public trust in politicians and those in public life is restored, difficult as it is in this day and age where social media may blow out of all proportion or indeed distort facts beyond that which is true.

Of course the public are concerned about bribery, whether of politicians, public officials or those in commercial organisations – which is covered by this Act; I will return to the meaning of corrupt conduct in a moment – but what they are concerned about and what they may understand by 'corruption' is *tráfico de influencia*, trading in influence –

Chief Minister (Hon. F R Picardo): Mr Speaker, will the hon. Gentleman give way for a second?

I often use words in Spanish also, but in the context of this debate, where we are looking at British legal concepts, can he translate that for the *Hansard*, so that we do not end up with a *Hansard* that has just a Spanish reference and not an English reference? That is all I would say at this stage.

Hon. D A Feetham: Yes, I think he did not quite hear what I said, because I said trading in influence.

Hon. Chief Minister: I did not hear you say that.

Hon. D A Feetham: Yes, I did say trading in influence. So *tráfico de influencia* – or in English, trading in influence – cronyism and nepotism, undeclared conflicts of interest.

The fact is that Gibraltar, either on its own or through the application of United Kingdom legislation, has legislated against corruption in various forms since the late 19th century. The Crimes Act 2011, for example, was a seminal piece of legislation. It imported many of the offences in the UK landmark Bribery Act 2010, but it did not expressly deal with nepotism and cronyism, trading in influence or undeclared conflicts of interest, abuse of entrusted power for private or political gain.

Members may say that all of those things, cronyism and nepotism included, may be caught by this Act, and it is true that bribery takes many forms, but one of the most difficult to pin down in the context of bribery is bribery in the context of exchange of favours. Everywhere in the world, there will always be some individual or organisation that may try to promote the interests of a public official or a business person through privileged connections or status. This person may then be expected to return the favour – for example, providing potential contractors with confidential bidding information on rival bids, choosing a particular contractor rather than others more suitable. Money does not necessarily have to exchange hands, but it is still a huge concern.

Cronyism and nepotism, where favours are given to decision makers, friends or relations to extract unfair advantage is, in my view, what people out there are concerned about. Again, I say that not as a criticism of the Government; I say that historically. There is no legislation in Gibraltar that comprehensively prohibits that type of conduct, and it is a huge lost opportunity that we come to this House establishing an Authority to deal with corrupt conduct but restrict the investigation capability of the Anti-Corruption Authority simply to bribery, election, fraud, election offences and certain conspiracy offences – in other words, offences that exist already in our statute book and that the Police are already charged with investigating. What we ought to have done is taken this opportunity to look at some of the other types of conduct. It is not easy to create new offences in the context of what I have described, but it is not impossible and it is the way we ought to be proceeding, in my respectful view, as a Parliament.

I also say that, because there is a concern about all of those types of conduct that are not included within corrupt conduct that would be caught by this Bill, the codes of conduct and disclosure obligations of Ministers and MPs are important. I remind the House that in Press Release 610/2015 on 8th September 2015, the Government said this. *(Interjection)* I did say that I would make no political – *(Interjections)* Except for this one. *(Interjections)* I did give a health warning, Mr Speaker, at the very beginning – except for this one. I quote:

> The Government is pleased to have broken new ground with the publication of the two Codes. There has been no attempt to regulate the activities of Ministers and Members of the Gibraltar Parliament …

Over seven years later, and the code has still not been implemented. And here we are, talking about the establishment of an Anti-Corruption Authority, and we in this place do not have a fully implemented code of conduct that governs the activities of all of us – not just the Government but all of us. That, in my respectful view, is not a satisfactory state of affairs and opens all of us

collectively – all of us, because in our capacity today we are here as legislators – to, in my view, deserved criticism.

The Government has a duty to promote high standards of behaviour amongst MPs and public servants. If the code is still not effective, if we do not deal with nepotism and cronyism, trading and influence or undeclared conflicts of interest, we cannot really, with any degree of seriousness, be tackling issues relating to corruption by simply creating an Authority. I accept that it is easy to criticise, as opposed to also suggesting alternatives, but that is why, in 2019 in our manifesto, we had suggested the creation of a commission for standards charged with the investigation of many of these issues.

Corrupt conduct in this Bill is defined by reference to the schedule, and the offences in the schedule are limited to offences of fraud and bribery under the Crimes Act 2011, offences relating to election practices in the Parliament Act, common law offences of misconduct in public office, and cheating the revenue, together with accessory liability. These offences can be investigated by the Police and can be prosecuted by the Prosecution Service today. No one has suggested that the current structures of investigation and prosecution are inadequate, and save that fraud offences are complex and potential improvements can be made in relation to how those are investigated and indeed tried – which of course is a different debate entirely because the way that fraud is investigated and tried, we could be talking here for another two hours in relation to that – in our view, quite frankly, no one has properly explained why these specific offences that are defined as corruption for the purposes of this Bill are not adequately or properly investigated or prosecuted today by the Police. To add just another layer on top of that, with respect, appears, in our view, to be unfocused.

What I would urge the Government to do in order to meet the points that I have just made is either create, or at least undertake to explore to create offences of nepotism, cronyism, trading in influence or undeclared conflicts of interest, and then undertake to add them to the schedule. I accept that if that were to happen, then of course it would meet the point that I have made during the course of my intervention.

The alternative is to allow the remit of the Authority to be wider than just investigating the offences that are included within the schedule, because there was an opportunity here for this Authority to not just investigate specific offences, but perhaps investigate types of conduct that may at the moment fall short of offences that we have in the statute book. Of course, our preference is for a much wider look at this in terms of looking at creating other offences relating to the types of issues that I have spoken about, but even if you do not do that, at least allow the Anti-Corruption Authority to perhaps investigate issues that amount to cronyism, nepotism, traffic of influence, all those types of issues, and perhaps issue sanctions against individuals in public office, even politicians, if that sort of thing has taken place but it does not amount to a criminal offence.

That deals with the first overarching point. The second one is this, and it relates to the way the composition and the removal of Anti-Corruption Authority … is devised in the Bill. The Bill, at section 3(3), at the moment provides for the chairperson to be appointed by the Chief Minister. Under the amendment, it is now going to be the Special Appointments Commission. And then, in relation to the four other persons, which in the Bill is the Chief Minister in consultation with the Leader of the Opposition, that is going to be changed with the Chief Minister appointing two, as I understand it, and the Leader of the Opposition appointing two. Our preference is for there to be no political involvement in the appointment of the people to the Anti-Corruption Authority. Whether it be the Chief Minister or the Leader of the Opposition, in our respectful view, if the route is the Special Appointments Committee, it should all be the Special Appointments Committee. It is important because we believe that those who sit on an authority such as this ought to be completely and utterly independent in any way, shape or form, appointment included, of any kind of actual or perceived political interference.

The amendments which relate to appointment do not deal with an important issue, and that is the removal of anybody on the Anti-Corruption Authority, because under subsection (9) it is the

Chief Minister who may at any time remove a person appointed under this section. It then says 'on any of the following grounds', and there are a number of grounds (a) to (k). The second, (b) is the failure to carry out duties, powers and functions. First of all, it is a discretionary power, but secondly, it is a tremendously wide power and potentially subjective as well, because what he, as Chief Minister, thinks is a failure to carry out a duty or a power or a function may not be what we on this side or anybody out in the street thinks is deserving of somebody getting the sack. May I therefore, for those reasons, urge the Government to at least consider an amendment and, rather than the Chief Minister, the Special Appointments Committee may, for example, exercise that function as well – the removal – rather than the Chief Minister?

What we are essentially urging in relation to this aspect of our concerns about the Bill is for the amendment that the Government is currently bringing, replacing the Chief Minister for the Special Appointments Committee for the appointment of the chairperson – which I believe is progressive; at the end of the day, it is the chairperson who is going to be responsible for overseeing the work of the Anti-Corruption Authority and ensuring that its operation is in accordance with the provisions of this Act under subsection 3(4) – to be extended to the other four individuals, rather than the Chief Minister and the Leader of the Opposition, we get rid of political involvement in that, and for the Special Appointments Committee to also be the body that effectively deals with removal. I do not urge any amendment in relation to the grounds for removal.

Mr Speaker, it is for those reasons that we on this side of the House are going to be abstaining, but being a reasonable Opposition, as we are, we will, of course, hear what the other side say in response to the points I have made and others will be making during the course of their own individual interventions.

Mr Speaker: The Hon. Marlene Hassan Nahon.

Hon. Ms M D Hassan Nahon: Mr Speaker, the new Anti-Corruption Bill is a welcome and most necessary step. The Government has been postponing this for over a decade. I appreciate that taking this step is both a recognition that the problem exists and an attempt to address at least parts of it. Please note, though, that when I refer to job title or brief, I refer to the office and not the individual.

It is not easy to admit that there is a corruption problem when you have been in charge for 11 years and therefore for which you are directly or indirectly responsible, and for this rare exercise of honesty we are very grateful. For a Government that has either created or been tolerant of a corruption problem that it recognises as real, it is also a bold move, by presenting this Bill, to effectively admit that the authorities currently tasked with curbing corrupt behaviour are ineffective. This Bill does not emerge in a vacuum. All of the behaviours that it cites are already considered either illegal or at least politically offensive.

Let's not forget that there is already an Anti-Corruption Authority in Gibraltar: the RGP. It is already part of their remit to control many of the issues that this new Authority will also tackle. In fact, it will still be the job of the RGP to prosecute investigations undertaken by the new Authority. The fact is that judging by the need for this new Authority, the Government is saying that the RGP is currently incapable of fulfilling its remit and is therefore either compromised or underfunded, or both. It is also my view that some of the problems that affect the levels of corruption in Gibraltar are systemic and therefore difficult to tackle without making enormous changes to our political and economic system. This makes the task of legislating against corruption immensely challenging.

That said, there are clear problems with this Bill. The way I see it, these are the main ones.

The biggest problem in Gibraltar tends not only to be a problem of legislation but a problem of enforcement. To adequately enforce laws that can effectively take on the centres of power in Gibraltar we need authorities that are, firstly, independent. This is the first systemic issue. Most people in Gibraltar are compromised by an omnipresent administration that is also the key player in the economy, with enormous scope for the exercise of discretionary power in the provision of grants and subsidies, government contracts, jobs, public housing, etc. In Gibraltar, if you attack

the Government, the Government can make your life extremely difficult. Even with the protections granted to whistleblowers, there is too much scope for the arbitrary exercise of power and resources to guarantee that there are no repercussions.

In Part 2, section 3 of the Bill, it states:

> The Anti-Corruption Authority consists of the following members-
> (a) the Chairperson appointed by the Chief Minister;
> (b) four other persons appointed by the Chief Minister in consultation with the Leader of the Opposition and, who, in the opinion of the Chief Minister [satisfy a series of criteria].

Apart from the independence problems I have already mentioned, this Bill clearly gives too much power to the Chief Minister and, if you dig a little deeper, perhaps also to the Leader of the Opposition. Why is the chairperson appointed by the key figure that the chairperson has to scrutinise, Mr Speaker? Can you see a Chief Minister appointed Chairman of the Anti-Corruption Authority investigating potential corruption directly affecting the Office of the Chief Minister? Why is everybody else elected between the Leader of the Opposition and the Chief Minister? Can you see this Anti-Corruption Authority investigating, for example, undue links between Government and the interests of powerful law firms, for example?

There are plenty more nooks and crannies within this Bill that afford the Chief Minister excessive discretionary powers that could be used to manipulate the work of the Authority. For example, under the all-encompassing and loosely defined pretext of the protection of security, public interest or governance, the Chief Minister may deprive the Authority of information, answers or documents necessary to investigate corruption allegations, by applying the same criteria. The Chief Minister may also tamper with reports by censoring parts of the information provided to the Authority. The Chief Minister also has the power to amend the list of offences susceptible to investigation, which means that in practice the Chief Minister will have the power to define what constitutes corruption and what kind of corrupt behaviour this Authority can investigate.

I know that it is completely inconceivable that the Chief Minister would make use of these discretionary powers for anything other than the protection of the general interest. Of course he would never move a finger to protect his supporters, funders, colleagues or employers. Surely he would never apply these loopholes to use this Bill as a weapon against his perceived enemies. But maybe, just maybe, we should legislate in a way that does not trust the wolf to guard the sheep. We should not give the man or woman in charge the ability to escape proper public scrutiny or weaponise our Anti-Corruption Authority if we want to really tackle the corruption problem that obviously exists.

We need authorities that are adequately resourced. Without adequate resources, no authority can properly do its job. Investigating corruption allegations is a complex and costly affair, but it can also bring substantial returns. In fact, the World Bank calculates a surcharge of some 10% to the cost of all business in highly corrupt countries. In Gibraltar, most regulatory authorities are left largely toothless and easily manipulable by chronic underfunding. In order to stop this, we need adequate levels of funding to be guaranteed as part of law. Will this new Authority and the anti-corruption branch of the RGP be given the safeguards and the funding to ensure that they have the necessary reach and muscle?

More things that should be tackled in this Bill, but are not. Government does many of its deals behind an iron curtain of government-owned companies or companies owned by Government puppets, the details of which it often refuses to disclose to the general public. This toxic embrace between the public and private spheres and the opacity that it creates for the taxpayer will not be solved by an Anti-Corruption Authority of the kind that is being proposed. We need an anti-corruption policy that somehow directly outlaws the opaque use of any public money, particularly the crony capitalist use of these private companies to funnel public funds to party acolytes. With this current setup, deals are perfectly legal and there is no way we can know the important details

of what is happening behind the scenes. This new law does not appear to put an end to these practices, particularly when you take into account the lack of independence issues that will arise from it.

Mr Speaker, for all these reasons and for the many others that have been raised by my hon. colleague to my right, I shall also be abstaining when voting for this Bill.

Thank you.

Mr Speaker: The Hon. Albert Isola.

Hon. A J Isola: Mr Speaker, thank you.

I think the two interventions thus far have been, as you would probably expect me to say, quite disappointing because politics clearly gets in the way of common sense.

The hon. Lady who has just finished, if I can start with her, makes comments such as 'systemic corruption problem'. As a matter of fact, as the Hon. Mr Feetham has said, and as she said herself, if there is a corrupt practice or if there is evidence of corruption, then a report is made to the Police, investigated and prosecuted today. How can the hon. Lady say 'a corruption problem which is systemic' and not have done her civic duty and reported that matter to the Police to be investigated as a criminal offence? It is a criminal offence today.

How can the hon. Lady say that all of our regulatory authorities are under-resourced and underfunded? I have worked with probably the two largest regulatory authorities and I can assure her – and she will see it from the Estimates – that they are not under-resourced and they are not underfunded. Interestingly, those two authorities that I work with investigate activities of companies, and if they discover any criminal conduct, whatever it may be, corruption or otherwise, they report it to the Police for the Police to prosecute. Isn't that, in a funny way, what the Anti-Corruption authority is seeking to do as one of its functions – receive complaints, receive information, investigate, and if they find evidence of a corrupt practice, report it to the Police to be prosecuted by the Police?

Hon. D A Feetham: No, this is part of it.

Hon. A J Isola: That is precisely what the system is designed to do and is already doing in many other areas.

Mr Speaker, for my hon. Friend Mr Feetham to start off by saying, 'I am going to leave politics aside,' and then embark on, 'We are going to abstain because we think it adds a level of bureaucracy and we do not agree with the list in the schedule, but if you add a few more other bits to the schedule, then it could begin to look more like what we think should be there.' Surely 'it does not go far enough', which is what the hon. Member has just said, means it is a step in the right direction, which is what the lady said when she started her intervention this evening. The first thing she said was, 'I welcome it. It's a step in the right direction.' What would be absolutely legitimate for the hon. Member to say is 'We believe this is a welcome step, we believe this is progress, but we think we should go further.' That would be legitimate, but to abstain in taking a step that I think everybody in this House should welcome because of the intent behind the legislation … I do not understand how you can say you are going to abstain in the establishment, for the first time, of an Anti-Corruption Authority.

The hon. Member says we still do not have a fully implemented code of conduct. It is true, we do not, but the hon. Member used to be the Minister for Justice in the previous Government. Where was the draft code of conduct? Below the belt? *(Interjection)* Mr Speaker, it is an absolutely fair point. For the hon. Member to have been a former Minister for Justice, to not have brought any legislation whatsoever on anti-corruption or a code of conduct –

Hon. D A Feetham: That is not true.

Hon. A J Isola: – and when the step is taken, it is not enough … Okay, but support it, for goodness sake, because that would be legitimate. *(Interjection by Hon. D A Feetham)*

Mr Speaker, when you look at the schedule, all the hon. Member is doing is suggesting that we should be adding other activities to that schedule. Well, let's have that discussion, but let's accept the step that we have made. Let's welcome the step that we have made.

This is why I say that politics has got in the way of common sense, because surely it is best for the jurisdiction to have an Anti-Corruption Authority. Surely it is better for the jurisdiction to have a place where … because according to the hon. Lady, the place is rampant with corruption but nobody makes a complaint anywhere. Well, let's give the establishment of the Authority the public awareness so that people feel empowered to come and make complaints, to give information, to start investigations. But the suggestion that because we have not gone far enough they are not going to support it … I just do not understand on what basis that can possibly be the right position to take.

The hon. Lady spent quite some time saying how on earth can the Chief Minister appoint the chairman. There is a letter, which all Members have, that shows that it is not the Chief Minister who is going to appoint the chairman. Not only is there a letter before all of us, but the hon. Lady the Minister for Justice explained the reasons why we are making that change. So has the hon. Lady not read the letter? Or did she not listen to the hon. Member, the Minister for Justice? It is a specified Appointments Commission that will appoint the chairman, not the Chief Minister. Why? Because it was a valid point, validly considered and changed to make sure there is no issue in that respect, there is no interference in that respect. In fact, it was welcomed by Mr Feetham. Of course it was – common sense.

So I really struggle to give any credence to the suggestions that we are creating, as Mr Feetham said, an extra level of bureaucracy, with cost, but if we add more items to the schedule, then we will be okay. Well, let's have that discussion, not the political abstention on a step forward, which just does not make sense.

I think this is a very good first step in the establishment of an Authority to do precisely what the hon. Lady has described this evening, and I have to say the mix between an Anti-Corruption Authority and establishing it and the act of corruption … When we have anti-money laundering laws, which we have over the past years been focusing very heavily on in this House, it is not because we are accepting that there is an money laundering problem and that is why we need anti-money laundering laws; it is to stop any money laundering that we have the laws. This is precisely the same. This is not this Government saying there is corruption, so we need an Anti-Corruption Authority. Nonsense! It is precisely to ensure that we maintain good standards of conduct, it is precisely to ensure that there is no corruption, that we want people to be alive and aware so they can make complaints and we can stop it, not the reverse.

I think it is very unfair of the hon. Lady to stand up and say that we have a systemic corruption problem. If that is what she believes, I would expect her to make a report to the Commissioner of Police and ensure that those acts are fully investigated and ultimately – if it is true, which I do not believe – prosecuted.

Thank you, Mr Speaker.

Mr Speaker: Is the Leader of the Opposition going to be speaking? Who is? Roy Clinton then, yes.

Hon. R M Clinton: Mr Speaker, I think we can all agree that the Bill is on a very serious topic that is the subject of much debate, not just here but around the world. And, of course, if we are going to introduce legislation in this place and we are trying to tackle either a real or perceived problem – and it may be more perceived than real – we have to make sure that in the eyes of the people we serve it is indeed credible.

I obviously identify with all the remarks by my hon. Friend the Hon. Mr Feetham, and indeed the hon. Lady.

If I had to characterise this piece of legislation, I would use two words: toothless and caged. This legislation is toothless. The Hon. Minister for Financial Services says, 'I work with the regulators, and if they find criminal conduct they go straight to the Police.' Fine, but what he fails to mention is that those organisations have the ability to sanction. They have the ability to remove licences and they have other powers by which to sanction individuals. This Bill, as far as I can tell, has no power to sanction anyone for anything, other than to refer it to the Police if there is evidence of a criminal offence. So what, in fact, is this organisation doing? What value is it actually adding to the public? Is it perhaps that we should, as a Parliament, have a public relations campaign and tell the general public, 'By the way, do you realise that you can report corruption to the Police? These are the criteria and this is the bar you need to reach.'

As my hon. Friend said, I think the general public have a different view of what they think of as corruption, and they do not necessarily look at it at a criminal level. The bar may be set perhaps too high to meet the test to be deemed corruption in that sense. There are many different ways in which, in the modern world, you can actually achieve the same result without money moving, and it may be very difficult to prove to the satisfaction of a criminal court that that offence has been committed. However, if you had a body that considered, as has happened in the UK in the past, where – certainly in my experience in banking, where they are talking about tax – they start talking about the spirit of the law, not actually the letter of the law but the spirit of the law … Perhaps what we should be looking at is a wider concept, rather than narrowly defining it in what are existing legal terms and an existing legal framework. So in that sense this legislation is toothless. It does not actually add anything to anything.

In terms of being caged, the method of appointment is very much in the control of this place. As the hon. Lady has said, that will not necessarily assuage the concerns, real or imaginary, of the general public. I think we should perhaps have been a little bit more inventive in coming up with this legislation and perhaps had a little bit more discussion across the floor if we genuinely wanted to achieve consensus, because it is a very important topic.

And so, Mr Speaker, on that overall theme, I would say toothless and caged, but specifically in terms of independence, I am going to drill down to one very narrow point, which is in respect of the public financing of this, and that is that the hon. Lady refers specifically, I think maybe once or twice, to the public ombudsman structure. I was looking specifically at the funding of this statutory body and I refer Members specifically to Part 2, clause 3(13) and (14), which reads as follows:

> The Anti-Corruption Authority must manage its affairs and any remuneration and expenses payable to a member shall be a charge on the Consolidated Fund.

Members will know that a charge has very specific meaning in public finance. It is an item that goes straight out of the Consolidated Fund without any reference to Parliament. We do not vote on charges. But subclause (14) then says:

> Expenses incurred by the Anti-Corruption Authority in the discharge of its functions shall be payable out of the Consolidated Fund.

The wording is entirely different. 'Shall be a charge' has a very different meaning to 'shall be payable out of', so you have this bizarre scenario where the appointed members are a charge, a bit like the Chief Justice, but then the expense of the Authority is subject to political discretion.

I do not think that is perhaps what the Minister for Justice was intending in drafting this legislation, because she did specifically refer to section 4 of the Ombudsman Act, and if you read section 4 of the Ombudsman Act, it has two clauses under Remuneration and Expenses:

> 4.(1) There shall be paid to the holder of the office of Ombudsman a salary, expenses and allowances at such rates as may, from time to time, be determined by resolution of the Parliament.

That raises one interesting point: who determines what the remuneration is of the members of the board? It is silent. We have nothing on that. And then secondly – and this is the important point:

(2) The salary, expenses and allowances of the office

– not the holder, the office –

of the Ombudsman shall be a charge on the Consolidated Fund without the need for appropriation.

That is very different wording to what we have here before us. If you look in the Estimates Book, for the Ombudsman it appears on page 16 as Head 6, Emoluments and Other Charges, and then the full expense appears in Appendix A as a statutory body. I am sure this is what the hon. Lady intended with this, but that does not appear to be the effect of the wording that has appeared in the legislation. Of course we are abstaining, but from a public finance point of view it seems to be undermining the independence of the statutory body, in that only the cost of the board members is a charge, but the expense of running it is a political discretion. That cannot be right, so I would urge the hon. Lady, if she is adamant to continue with this Bill, to look at that because it may not give effect to what she thought it was going to do, and that is fundamental in a body which has to be not just seen to be independent but has to be financially independent. You cannot have the members being paid without political interference, but then it cannot even pay the rent on its offices without a political sanction. I think that probably is not what the Minister intends.

Mr Speaker, I limit my contribution to that because, as I said, my hon. Friend has quite clearly laid out our position, as has the hon. Lady. As I said, if I had to sum this up: toothless and caged.

Mr Speaker: The Hon. Gilbert Licudi.

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

There may be some points that I make which have already been touched upon briefly by my colleague Mr Isola, but there are some points that need to be stressed.

Of course it is legitimate in a democratic society to have a difference of views on what legislation is or is not needed, so we can have a debate as to whether this Bill is necessary or unnecessary. What the Opposition cannot do legitimately, in my view, is say, 'This should not be done because we would not have done it.' Mr Feetham does not quite say that. He does not say this should not be done, he says this should be done but it should go even further – not that it should not be done.

What the Government has decided is that this is the right way to proceed, at least at this stage, and that this is the way it should be done, but importantly, it is the Government giving effect to a commitment that it made a number of years ago and on which Members opposite, year after year, speech after speech have been saying, 'When are you going to do it?' Now that it is being done, they get up and they are not happy, and they abstain instead of saying, 'We agree that this should be done and therefore we are going to support it, but we would have done it in a different way and we would have gone further.' That is a legitimate position for the hon. Members opposite to take, but that would necessarily involve saying, 'We agree that this is a step in the right direction.'

In fact, the hon. Lady touched upon this. I thought her contribution was going to be different, given that she started by saying this is a welcome step – a welcome and necessary step is what she says. Having described this as a welcome and necessary step, she says, 'but I am abstaining'. Well, if it is a welcome and necessary step, it is something that she ought to support. Why on earth she is not supporting it I fail to understand, given the contribution she has made.

What she said – and quite an extraordinary statement – is that this Bill is an acknowledgement that the body charged with tackling corruption is ineffective. That, with the greatest respect to

the hon. Member, is an absurd proposition to make. That is a slur on the Royal Gibraltar Police. What is it she is saying, and on what basis is she making that statement? Is she saying that the Police have received 20, 30, 50 reports of corruption and they have not done anything about it, they are totally ineffective, they have not got the expertise, they have not got the officers, they have not got the equipment, they have not got the software? Is that what she is saying? And if she is saying that, on what basis is she saying it? What is the evidence?

It is all very well to come to this this House and make these grandiose statements, but they have to be backed up. Hon. Members opposite often say that their job is to hold the Government to account, but each of our jobs is to hold to account what each Member says, and the hon. Member has to account for what she says in this Parliament. It is quite extraordinary to come here and make a serious slur on the Royal Gibraltar Police without a shred of evidence to back it up. That is shameful conduct in this House.

Mr Feetham – a point already made by my hon. colleague, Mr Isola – when he says it does not go far enough and then he says trading influence, cronyism, nepotism, undisclosed conflicts of interest and all of that should be added to the schedule –

Hon. D A Feetham: Offences should be created.

Hon. G H Licudi: Yes, that is precisely the point, offences should be created, so it is not just a question of legislating in relation to public conduct because, as the hon. Member knows – and it is important not to confuse the two issues – there are principles of public conduct, generally known as the Nolan Principles, the seven principles of public conduct, which deal with all of these issues, but those generally find their way into a code of conduct which can be breached and for which there can be sanctions. That is very different from criminal conduct, and that is not what this Bill is about. This Bill is about corrupt conduct in the criminal sense, and therefore bringing all those other matters, unless you make them criminal offences … That is, of course, a debate that can be had, but the last major piece of legislation on criminal offences was the Crimes Act 2011. And who was the architect of the Crimes Act? The Hon. Mr Feetham *(Interjections)* – a seminal piece of legislation, as he described it at the time in this House, which was not actually implemented until we came in, until we had that new dawn in December 2011 –

Hon. A J Isola: A proper Minister for Justice.

Hon. G H Licudi: We had another Minister for Justice – I forget who he was – who brought in the Crimes Act, but of course not taking away any credit from Mr Feetham. Mr Feetham created that legislation. He prides himself on it and really we do not have to derogate from that at all.

Mr Feetham has said today we are missing an opportunity, we are creating legislation which could have done this. But what about that opportunity? Why hasn't he explained, if he feels the way he feels, that cronyism, nepotism and all that should be criminal offences …? If he feels that way, why weren't they included? Has he changed his view, or is it that nepotism and cronyism have to be a criminal offence when the GSLP Liberals are in government but not when the GSD are in government? Then it is just about politics. (**Hon. Chief Minister:** Discrimination.) It is all about making political points for the sake of political points rather than conviction. If the hon. Member was really talking about conviction – and this is a matter of conviction – then he would have done it, but he did not. But now that the GSLP Liberals are in office, they should do it, and all of this should be criminal offences.

Mr Clinton, in again a rather extraordinary intervention, describes this as toothless and caged and asks what value this is adding to the public. That approach is totally inconsistent with the approach that Mr Feetham has taken, which is not that this does not add value, it is just that it is not valuable enough. In other words, there is value in this. That is the approach that has been taken by the official Opposition, and Mr Clinton has just got up and shot that to bits, saying this

does not add any value at all. Perhaps they could get their story right from one speaker to the other.

When he talks about this being toothless – and let us remember that the official line from the official Opposition is that this does not go far enough because there should be other *offences*, not just legislation, in terms of conduct in public life added to the list – what is it precisely …? I did not hear him say it and perhaps he could elucidate and tell us what he is thinking and what he is proposing. What is the tooth, given that this is toothless, that this is lacking, particularly in the context that cronyism etc., according to them, should all be criminal offences and added to the list?

Let's assume that Mr Feetham is right. We have a piece of legislation like this, which is good enough, but then it adds seven, eight, 10 pieces of additional offences. And this is toothless because it does not provide for sanctions by this administrative body. What is Mr Clinton suggesting? What is the Opposition suggesting? That in respect of criminal offences, which is what this deals with and what Mr Feetham has acknowledged, the list is not long enough. What is Mr Clinton suggesting that an Anti-Corruption Authority as a statutory body should do? Should it be setting out sanctions? Should it be now hearing criminal cases? Should it now be acting as judge and jury and everything else, and then issuing whatever criminal sanction? Is that what he is suggesting, an alternative form of criminal jurisprudence and criminal procedure being created in Gibraltar? He does not seem to have an answer to that. I am happy to give way for the hon. Member to say precisely what he is proposing in respect of all these criminal offences. How do you create a statutory body and give it the power?

What this is designed to do is for the statutory body to receive reports or make investigations of its own volition because it considers that it is necessary. It has the power to interview, it has the power to go to court to seek certain orders, it has the power to collect all the evidence that it needs, and then, having taken a view, it can pass it on to the Police, who will decide, after further investigation, if necessary, whether a criminal procedure should be adopted. I would suggest that that is the only way this can work, even with the long list that Mr Feetham has suggested should be added to the schedule. Again, we have a situation where hon. Members get up and make these statements but do not think them through, do not think of the consequences of making those particular statements, and they honestly have no answer to that.

Mr Speaker, this is something that has been in the offing for some time. It is a complex piece of legislation. It required work and it required thought. When I was Minister for Justice, this was a piece of work that I started dealing with, and then others have been involved. Not being a frontbench Member of the Government, as I see it the Government is to be commended for taking this brave step of setting up an Authority which will have the power to carry out investigations, which will have the authority to request evidence and seek orders if necessary, and then to refer, where appropriate, to the RGP, which is empowered, which does its job properly and which also ought to be commended, and certainly we do so from this side of the House.

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

Mr Speaker: The Hon. Damon Bossino.

Hon. D J Bossino: Mr Speaker, we have had our internal discussions and we have adopted a view on how to vote because of our misgivings. It is no secret that we exchanged statements in the press when this Bill was first announced and we have, in many respects, already argued some of the points that we have made and some of the points that no doubt the Hon. the Leader of the Opposition will be making on our behalf, certainly on the side of the Opposition, but one thing that we did comment is let's see if we can be persuaded by the hon. Gentlemen opposite. It is within the realms of possibility. *(Interjection)* The reality is this is a debating chamber, and unless you come here with a fixed and determined view for political reasons, as the Hon. Mr Isola is referring to, then you are not going to allow yourself to be persuaded. I must say, genuinely speaking, that I am disappointed. The contributions we have heard up until now from that side of

the House have not persuaded us, and – *(Interjection)* There is a possibility that we change our minds by the time the hon. Gentleman to my right speaks. There is a possibility. Maybe the speakers who are lined up to speak now will be more persuasive than the hon. Gentlemen who have just spoken. That is a possibility.

Let me say this, Mr Speaker: the reality is that this is a political issue and, as a result, we are approaching this labouring under a very strong dose of cynicism because of the track record of the hon. Gentlemen, so their arguments need to be even stronger to persuade and change our minds in relation to this issue, because actually … I think the Hon. Mr Isola mentioned, and I share that view, the message that Gibraltar could be sending out to the wider world as a jurisdiction … At the end of the day, this is going to be passed with a Government majority. It is inbuilt and we know it is going to pass – unless we are able to persuade some of them to vote with us, but I very much doubt it. The hon. the backbencher, who is not subject to collective responsibility, may vote in our favour, but even then we do not have the numbers. The reality is it would have been nice if it had had the unanimous support of the Parliament because this is an important piece of legislation, as the Hon. Mr Clinton said earlier, but unfortunately … It is not an entrenchment, it is as a result of the history of their behaviour. When the Hon. Mr Licudi talks about a new dawn, that new dawn should have ushered in the introduction of anti-corruption legislation. It did not. They flip-flopped. Not only did they delay and actually not do it during the lifetime of that Parliament, in 2015 when they went to the people it was not in their manifesto, it was not in their programme of government, and then it was in 2019 and they have left it, coincidentally – and with a dose of cynicism again – to the election year. Because of that, this just comes across as an exercise of window dressing and a box-ticking exercise.

I will tell the hon. Gentlemen who have spoken up until now why they have not persuaded us. I think the Hon. the Chief Minister, in the past, has said, when we have debated this issue in public, 'The offences are already there. If you have a complaint to make, make it. You can make it to the Police.' The Hon. Mr Licudi, in criticism of Ms Hassan Nahon … criticises her very aggressively and vigorously about casting a slur on the RGP. That suggests that the RGP is doing its job and there is no reason to doubt or question that. Then what is the point of this legislation, other than to do the box-ticking exercise in advance of a general election which will be called during the course of the next 12 months? This is why I ask the speakers who are going to come after Mr Licudi and Mr Isola to be more persuasive. They need to come up with more. The Hon. Mr Feetham has suggested specifics that can be done to perhaps make us say, 'Let's back this legislation. We want to do more, but let's back this legislation and then, as a society, as the political class currently in this Chamber, we can speak out in one voice, in unison, all united, that this is good for Gibraltar.' But we cannot bring ourselves to do so.

Mr Licudi talks about a commitment. I have already talked about the flip-flopping nature of their attitude. And then he says that we have been complaining 'When are they going to do it?' But what is 'it'? This nonsense … It is a damp squib legislation, based on the arguments, submissions and contributions put forward by Mr Licudi and Mr Isola, because they are both saying these are offences set out in the schedule that are already criminal offences which the RGP can investigate. Indeed, if the RGP investigates, the role of this commission is redundant by law. This is what this Bill says, *(Interjection by Hon. Chief Minister)* so how many …? And Mr Isola talks about … I have just heard the Hon. Chief Minister talk about the FSC. I do not know the exact point he was making. What is this, other than … what, a post box to receive reports and complaints, at expense? And manning it, having employees, having people investigating – for a post box?

Hon. A J Isola: It is a good idea.

Hon. D J Bossino: It is a nonsense. It is not a good idea as it currently stands. It is not enough. *(Interjections)*

Hon. D A Feetham: In fact, what I said was that.

Hon. D J Bossino: Mr Speaker, the Hon. Mr Feetham shows me his notes of his speech and he talks about an extra layer of bureaucracy, suggesting that he has not described it in positive terms. What is the point? An extra layer of bureaucracy, an extra expense – expense we can ill-afford because the hon. Gentlemen are having to use money from the Savings Bank because we have no money in the coffers.

What is the point of this, other than to tick the box? COVID and Brexit, no doubt – you forgot about that excuse. (**Hon. Chief Minister:** Excuse?) Yes, it is an excuse. It may be an excuse which he can rely on legitimately, but it is an excuse, Mr Speaker. *(Interjection by Hon. Chief Minister)* Maybe they do not want to listen to what I have to say. *(Interjections)* I am listening to what they have to say *(Interjections)* and I am telling them why we are not persuaded. In fact, the perennial thought I had whilst I was listening to these two gentlemen was that they are digging a bigger hole for themselves precisely because of that RGP point, precisely because we have a list there which is a nonsense because the list already lists criminal offences. So what is the point?

Hon. D A Feetham: How many reports have there been to the RGP in the last [inaudible] years? *(Interjections)*

Hon. D J Bossino: Mr Speaker, the Chief Minister's powers, in our view – and this is a bit more granular, but I think it still deals with the principle of this because there has been an attempt at slightly diluting those powers with this amendment, which quite frankly, yes, is a welcome step in the right direction, but it is a small amendment. It does not deal with the fundamental point *(Interjection by Hon. A J Isola)* because they have allowed themselves to include the Specified Appointments Commission to be the body which appoints the Chairman, and then they introduce – presumably as a sop to us, to try to get us to vote in favour … I do not know, but again, I am afraid to say, with a dose of cynicism, as far as we are concerned, about every action they take – the Leader of the Opposition participating in the appointment of the four other members. But nothing is done – and the Hon. Mr Feetham has addressed this – about the removal powers, which stay with the Chief Minister. No attempt has been made at amending that provision.

I am not going to repeat the point that my hon. Friend has made in relation to that, which I concur and agree with because he suggested that maybe we should have the Appointments Commission also removing, but I would go slightly further. There is a list offences there which quite frankly, if they are committed … It is absolutely and utterly bizarre that a person, for example, convicted of a criminal offence punishable by a term of imprisonment, is capable of continuing to be on the Authority, because as it currently stands the Chief Minister may, ergo can, exercise his discretion or her discretion – I am not personalising it to him; it is whichever Chief Minister we have in the future – and decide that that individual should remain or that that individual is guilty of misconduct. Yet the Chief Minister of the day decides, 'No, I think I am going to allow this individual to remain,' and that individual is actually going to be investigated for issues of misconduct. It is completely bizarre, and that shows that there has been an attempt at creating this sort of arm's-length situation, but the arm is *very* short, quite frankly. The arm is *very* short. The Hon. Chief Minister shakes his head and I look forward to hearing his contribution and seeing if he is able to convince and persuade us, but I very much doubt it.

One final point, Mr Speaker, talking about – *(Interjection)* Yes, of course.

Hon. G H Licudi: Before he makes his final point, I wanted to make a point on what he has said and give him a chance to respond to this before he sits down.

His main thrust in this contribution is what is the point of this legislation. That is essentially … He has mentioned it several times: what is the point of this, because you have a list of criminal offences that can be investigated by the RGP? The main thrust of Mr Feetham's contribution was this does not go far enough because the list is too short. In other words, there should be other criminal offences added to that list which are criminal offences that are necessarily investigable by the RGP. So if there are more criminal offences that can be investigated by the Police, then

there is a point, but with the list as it is, there is no point. With respect, Mr Speaker, this argument makes no sense whatsoever.

Hon. D J Bossino: Mr Speaker, the hon. Gentleman has misunderstood the bones … I know that he knows he is making a point on the basis of a misunderstanding. *(Interjection)* I know that he knows that. He is clever enough to know what point we are making.

I will explain, just for my final point, why we say that the Chief Minister still holds too much power. Under clause 39(2), reports are submitted in draft to the Chief Minister. *(Interjection)* They are submitted in draft to the Chief Minister, and there are elements of it where maybe … I might be persuaded … where he decides that material should be excluded because it would not be in the public interest. But then there is wording here which says where it would not be appropriate or it is necessary to exclude, and the individual who decides that is not the Authority and is not the Commission, which we have suggested maybe could be included in this decision-making process, it is the Chief Minister himself. I am not talking about Fabian Picardo, I am talking about any future Chief Minister. We hope that a future Chief Minister will be a different Chief Minister sooner rather than later – *(Interjections)* Well, I have made no secret about that. I am quite relaxed about that. I make no secret about that, that it will happen sooner rather than later.

Mr Speaker: The Hon. the Deputy Chief Minister.

Deputy Chief Minister (Hon. Dr J J Garcia): Mr Speaker, I welcome the opportunity to say a few words on this Bill, given the way things have evolved and the way the discussion has progressed, making the point also from the outset that I am not a lawyer, so I will be dealing with this perhaps slightly differently than my colleagues who have spoken before. But certainly I have to endorse every word that has come from my colleague Samantha Sacramento – and I congratulate her on her presentation of the Bill – and also from my colleagues, Minister Isola and Gilbert Licudi as well.

Let me say, first of all, that what we are doing in presenting this Bill is implementing our manifesto – that is to say our policy, the policy that we stood for election under, and what we are therefore obliged to do in government.

The House knows that in 2011 we had proposed the establishment of an Anti-Corruption Authority in our manifesto. At that time we were criticised and attacked by the hon. Members opposite for proposing it. Their view then was that they had full faith in the RGP and the Attorney General to administer the provision of the law and therefore the Authority was not, in their view, necessary. The PDP at the time also took the view that there was no need for an Anti-Corruption Authority at all. In fact, they went further and said it would serve only to create alarmist headlines which would undermine the attraction of inward investment into Gibraltar by creating the impression that there must be rampant corruption in Gibraltar if there is a need for a special Anti-Corruption Authority. We took the view at the time, on the advice of the RGP, that we were not going to proceed with that then. We then were as re-elected in 2015. The view was put at the time that, as I said, this was not something which was necessary. We then said in our 2019 manifesto that we would establish an Anti-Corruption Authority regardless. That, Mr Speaker, is what we are doing today: implementing the policy of the Government, implementing our manifesto and doing what we set out to do.

So this whole business and area topic of an Anti-Corruption Authority has an interesting history, and in my view the Opposition have pitched their arguments too high to have criticised us for a clause in the Bill which has already been changed and which the Government has proposed to change, as my colleagues have already pointed out, and that is the question of the appointment of the chairman under clause 3(3)(a) of the Bill. The appointment is changed from the Chief Minister to the Specified Appointments Commission. The Specified Appointments Commission itself – I should just make the point – has two members appointed by the Governor, acting after consulting the Chief Minister, and two appointed by the Governor in accordance with the advice

of the Chief Minister. So I think there is a point to be made that when boards, bodies and organisations of this kind are set up – and I remember previous Chief Ministers making the same point – somebody has to do the appointing. They cannot just appoint themselves. So one of their main points in relation to this, which seems to have been the manner of appointment, we think has been taken care of by the amendment of which they have received notice and which was also announced and put forward to the House by my colleague the Minister for Justice.

They have, in my view, been ungenerous and too party political in the way they have decided to approach this issue, because the reality is we need to start somewhere. We do not have an Anti-Corruption Authority. They did not set up an Anti-Corruption Authority in 16 years in office. They never deemed it was necessary. Even in opposition, when we came into government, they still did not deem that it was necessary.

So we need to start somewhere, and as my colleague Minister Isola said, this is a good start.

Legislation, I do not need to tell anybody in this House, is not set in stone. There is always scope for amendments, for changes, for improvements. Nobody, certainly not us on this side of the House, is claiming to be infallible. There is always room for improvement. If they felt so strongly about it, the Bill was published on 1st December and we tabled amendments to the Speaker on 17th and 20th January, they had those six weeks that follow publication of a Bill to contact my colleague the Minister for Justice, to put forward ideas and suggestions to try to persuade the Government to do something different. That could have happened before the Bill came to the House and there could have been scope for some constructive, positive opposition or constructive, positive co-operation between the Opposition and the Government.

I think the case in point here is the schedule we have on page 33 of the Bill and the listing of offences in the schedule. Hon. Members, as I have understood it, are saying that this does not go far enough and there is scope for adding or creating new offences. That is something the hon. Members could have put to my colleague in the six weeks that the Bill has been published, and there may have been an attempt to try to see whether we could find some common ground on that issue too. If that is the only concern in relation to the schedule, that too may have allayed some of the issues and concerns that they have raised here this evening.

So in persuading them to try to vote for the Bill on the basis that it is not set in stone, I sadly do not want to conclude that nothing will ever be enough and whatever we promise, pledge or do, it will not be enough, because I think they have come here with a mindset. The fact that they did nothing in the six weeks before the Bill was taken by this House to try to see whether we could accommodate some of their concerns suggests that. But there is still scope, I think, if they accept what we are saying, that this is not set in stone, it can be changed, it can be amended, there is room for improvement.

It is not perfect, we are not infallible, but this is an important and essential first step to get the ball rolling, and I think I would ask them to ponder those remarks and see whether they are prepared to do something different. Otherwise, Mr Speaker, sadly, it is simply opposition for the sake of it.

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

Hon. K Azopardi: Mr Speaker, I am not in politics for the sake of it, and I do not do opposition for the sake of it. I come to issues on a principled position and I hope that by the time I sit down, people will see that we have a principled position on these issues, which I will explain.

I will pick up the points that different speakers have made as I go along, but I want to start quite broadly because I want to explain, as my hon. and learned colleague Mr Feetham has already explained, our broad position, which is really twofold: that it does not go far enough and that there are flaws in the drafting. Let me explain that, so that people understand as they listen to this debate.

The issue of corruption controls does not get resolved by setting up an Anti-Corruption Authority alone – let's start there, it does not – although an Anti-Corruption Authority, an

authority of some form, should be set up, because that is our view. We call it the Commissioner for Standards. We are not wedded on the label. An Authority is an integral part, but it does not resolve it alone. If one is set up – and one should be set up – it needs to be effective, and so the controls need to be wider, its jurisdiction deeper and the powers stronger. When you analyse this Bill, it falls short at a number of hurdles, but it also falls short because it does not go far enough.

Our position is that of course we want comprehensive controls on corruption and abuse – we have said that, it is our policy position – but our view, because it falls short, is that there must be the creation of much wider jurisdiction, rules and standards under the same umbrella of corruption controls to give the Authority that wider jurisdiction. Again, our point broadly is that if they are serious, they should go further.

I hear the Deputy Chief Minister say he doubts our desire to co-operate or participate in that because we have not contacted them in the last six weeks, but the feeling of scepticism is mutual for some of the reasons the Hon. Mr Bossino has mentioned, because we have seen processes before where things we thought we shared common ground on do not progress. For example, the well-known examples of the establishment of Select Committees on important issues, which never meet, whether it is special needs, the environment or parliamentary reform. So we view each other – let me put it that way – with a degree of scepticism, well worn over so many years of politics. That does not mean that we cannot co-operate, but it does mean that that we view each other in that way.

It is also a matter of fact that when he talks about the period of six weeks, we can talk about the period of 12 years. Whether the Members opposite like it or not, it is a fact that this is being debated today, in January 2023, in the 12th year of their administration.

Mr Speaker, for me to explain the principled approach that we take in relation to corruption controls, we need to take a step back and I need to explain our position in the context of our international standards in relation to corruption controls and why we say this does not go far enough if we are really going to grasp the corruption controls agenda, the controls and abuse agenda. I want to explain that, and the starting point, if I may, is the UN Convention Against Corruption, which Members opposite will be familiar with, which has in its scope a much more widely defined set of principles than just a body to criminalise or to pursue an investigative action in relation to criminal offences.

The Anti-Corruption Authority is a body, under this draft that we are considering today, that will have jurisdiction to investigate certain criminal offences. That is one of the things the UN Convention Against Corruption says a country should do, but it is only one. There are many other things that need to be done and there are standards across the board that need to be dealt with, whether they refer to public sector supervision or interference of government officials with third parties who want things from the Government – ultimately, that is what it is about – the use of power, influence in the award and supervision of contracts or jobs or money, and regulatory accountability and standards.

In the foreword to the to the UN Convention Against Corruption, the Secretary General of the United Nations talks about corruption having corrosive effects on societies, undermining democracy and the rule of law, distorting markets and eroding the quality of life. We can discuss and disagree in this House whether these principles that are in the Convention are met, but they are certainly much wider than criminality.

I did think the hon. Lady's contribution opposite, the mover of the Bill, was helpful in giving us a guided tour of the Bill, so I am not going to criticise her. Her contribution was helpful in that way, but I was struck by the fact that she said the creation of the Anti-Corruption Authority was, I think she said, compliant with Article 6 of the UN Convention – and indeed it would be – which seeks the creation of an Anti-Corruption Authority. But of course the UN convention on corruption controls is not just about the creation of an Anti-Corruption Authority. I will give examples, so that people can understand the point I am making.

Under Article 7 of the UN Convention, you are supposed to adopt, maintain and strengthen systems which are aimed to control any degree of corruption in the recruitment, hiring, retention,

promotion or retirement of civil servants – in other words, the appointment of public sector officers.

Under Article 8, you are supposed to set up codes of conduct for public officials, to fight corruption.

Under Article 9, there are all sorts of controls that you are supposed to set up to deal with transparency, competition and objective criteria and decision making.

Under Article 10, states are asked to enhance transparency in public administration in relation to the organisation and function of decision-making processes.

Under Article 12, there are supposed to be controls involving the private sector, enhancing accounting and auditing standards in the private sector.

Mr Speaker, it is a long Convention, but the point I am making with these examples is that it is much deeper than just the establishment of an Anti-Corruption Authority to investigate offences that are already created. The Convention itself is much deeper and wider. It is about transparency, accountability, lack of opaqueness and public access to all this. So for us to seize that agenda of corruption controls, if we are really on the same page, it needs to be a deeper, wider and stronger Bill, legislation that is much wider in its jurisdiction, much more ambitious in its scope.

My learned and hon. Friend Mr Feetham makes the point that trading influence is not a criminal offence and it is not scheduled to the Bill, but again, the Convention itself asks states to make it a criminal offence, and precisely this is part of what people talk … maybe anecdotally, but this is the stuff that should be tackled if we are going to set up real controls that meet the issue that people are concerned about.

The United Nations Convention Against Corruption is not the only document that sets out international standards. The Commonwealth Secretariat published, in 2021, 25 benchmarks on good anti-corruption practice. It is a number of benchmarks to deal with corruption offences, investigation and prosecution, asset recovery, transparency of asset ownership, political lobbying, public sector organisations, public officials, issuing permits, procurement, contract management, financial management, concession management, asset management – many more things than simply establishing an authority to be responsible for corruption. Establishing an authority happens to be one of the benchmarks, one of the 25, but it is only one out of the 25, and that is why this Bill does not go far enough, because it is not ambitious enough. It does not deal with the issue. This is not decisive.

You have not dealt with the issue of corruption controls by setting up an Authority *(Interjection)* that, carbon-copy, has the same jurisdiction as the Police, but under section 18 of the Act needs to stop investigating if the Police are investigating, and therefore has nothing to do if the Police are already investigating. It does not deal with the issue. If you want to deal with the issue, deal with the other 24 benchmarks. Let's come up with legislation that is ambitious in its project, that actually deals with everything that we are supposed to, that is compliant with international standards.

The Commonwealth Secretariat document, in its introduction, says this:

> Corruption undermines the proper functioning of society. It corrupts government, parliament, the judiciary, law enforcement, public sector functions, private sector commerce, and dealings between private individuals. It results in poor public services and in over-priced and dangerous infrastructure. It damages organisations, resulting in reduced project opportunities and financial loss. It harms individuals, resulting in poor education and health, poverty, hunger, and loss of life. It prevents the proper rule of law so that the innocent and vulnerable bear the consequences while the guilty escape sanction.

It goes on to say:

> In all countries, to a greater or lesser degree, corruption continues to erode all areas of society. Public officials embezzle public funds. Government ministers award contracts to political donors. Lobbyists improperly influence members of parliament. Law enforcement officers are bribed to tamper with evidence or bring false charges. [Etc.]

Obviously, this is a document written for the entire Commonwealth, and I am not suggesting in any way that any of these examples arise in Gibraltar, but the point is that if we are going to establish corruption controls against some kind of internationally acceptable set of standards, we need to be aware of what they are, and those benchmarks that are recommended by the Commonwealth are recommended as good-practice anti-corruption measures precisely because they are intended, as it says in the document, to help governments and public sector organisations assess their laws, regulations and policies to achieve the right standards.

When you look at the benchmarks produced by the Commonwealth Secretariat for the Commonwealth countries – and at the end of the day there are 54 Commonwealth independent states, and we are part of the Commonwealth family and like to think that we have common values and so it is important to look at these standards – it is obvious that it is much wider than simply setting up an authority. Several of the benchmarks are to ensure that there is adequate anti-corruption regulation in relation to activities which impact on the public, which would harm or produce loss to the public, including public services, or the financial system, or asset ownership, or political lobbying, financing, spending and elections, independent monitoring and auditing of public sector contracts. So it is about transparency and breaking down the opaqueness that we are concerned about on this side of the House. We have made it obvious by many of our contributions.

When you look at the specific benchmarks, benchmark 2 of the 25 is about setting up an authority responsible for preventing corruption, but there are so many other benchmarks on corruption controls that are not even touched by this legislation. At the end of it, when you make the balance sheet analysis on this legislation, it is poor and unambitious if it really wanted to deal with the issue.

Benchmark 10 requires public sector organisations to take particular action on anti-corruption.

Benchmark 11 is about public officials.

Benchmark 12 is about issuing permits.

Benchmark 13 is about procurement, contract management, financial management, concession management – none of this is dealt with – independent auditing and breaking down the web of transactions.

If there is going to be real and effective adherence to the international standards, this Bill is not it. This Bill is a half measure – not even a half measure; it is a poor shadow of a half measure.

More recently still, in England there has been a report on propriety in governance that talks about the revolving doors on Ministers and the appropriateness of certain conduct being followed by Ministers in relation to appointments or business or lobbying. Again, these are lessons to be learned, but every time you look at these things and you then put next to them the Anti-Corruption Authority Bill that the hon. Members have produced – with great fanfare that they are ticking the box of compliance with their commitment to people in Gibraltar, as if to pretend that this therefore deals with the issue of corruption controls – the verdict is that actually it does nothing of the kind when you set it against the international standards, because in fact you realise that this is a pretty poor attempt. Yes, it establishes an Authority, which is one of the benchmarks, but it establishes an Authority that is ineffective, controlled to a very large extent in its powers, not strong enough, without wide enough jurisdiction, not dealing with offences that should be created and very limited in task because it is only about criminality. So the reality is that when you look at all those issues, that is why we are concerned, and we are right to be concerned.

The hon. Member Mr Licudi says they are carrying out … I think he said they are carrying out their policy. I am not sure if it was Dr Garcia. *(Interjection)* Both of you – yes, I thought I heard it from both of you. I accept we cannot force the Government to go down the route that we would like, but equally I do not think it is right for Members on that side to chastise us for taking the view that because we do not think it goes far enough, we do not agree with you, and therefore that is a legitimate point of view as well. I do not criticise the hon. Members for taking the view that they only want to do an Anti-Corruption Authority of this type – ineffective; if that is what they want, so be it – but I think we have a legitimate position in saying that if we do not think this goes far

enough, for the reasons I have explained and other colleagues on this side have explained, we are not going to vote for it. We are not going to vote against it, but we are abstaining because we do not think it goes far enough and the drafting in itself is flawed. I think it shows a terrible lack of understanding of the principles on corruption controls to think that this somehow does the trick, because it actually does not.

The same goes, with all due respect, to the contribution by the Hon. and learned Mr Isola. He does not understand, certainly, that this is a half measure and we do not support it on that basis, and it is a total caricature of the position of the Hon. and learned Mr Feetham to say that if we were to tinker with the schedule, somehow this was going to be enough. Of course it is not going to be enough, because the Bill needs to be much wider, deeper and stronger, and that is the point we keep making. The Bill is, to a very large extent, as my hon. colleague said, window dressing in that sense. If you believe that you are giving the signal to the public that somehow the corruption controls are being dealt with, it is, if that is what is intended, window dressing, because it does not deal with the issue. It does not regulate conflicts of interest or cronyism or trafficking of influence at all. It does not deal with any kind of tendering or contract issues or transparency in financial management. It is a half measure. The Government has been brought, in our view, kicking and screaming to this issue, and it does not go far enough.

The Hon. Dr Garcia made an allusion as to our position in 2011. It is correct that we were not in favour of the establishment of an Anti-Corruption Authority in 2011. We did not think it was necessary. But in the context of the current situation, yes, we do think there should be an effective Anti-Corruption Authority. Things have moved on, as well. The hon. Members can smile and smirk, but things have moved on. And things have moved on for them, by the way, because their party was in government in 1988 and they were elected in 2011 on the basis of doing things in a quite different way, so things have moved on in the same way things moved on for us as well.

Our firm view is that if Gibraltar is going to deal with the corruption agenda on a proper basis, it has to be against the backdrop of international standards, establishing controls that are at arm's length of the Government so that there is proper balance, so that there are real checks and balances in the controls in a small community – in any community, big or small – as the Commonwealth benchmarks illustrate. It is for those reasons that we abstain on the Bill and it is for those reasons it does not have our support.

This was an opportunity for a much deeper attempt at resolving the issue. After all, when Dr Garcia talks about the six weeks where we did not respond, if they have had almost 12 years to come up with this Bill he must understand that that is why we cannot see how they are serious about addressing the international benchmarks that exist in this area.

Mr Speaker: The Hon. the Chief Minister.

Hon. Chief Minister: Mr Speaker, it is late on a Friday, but I am afraid to tell Members that I wish to respond to a lot of what they have said and pursue the purpose of this Parliament. A parliament, as I have often had cause to remind hon. Members, is defined by the word 'parliament'. The word 'parliament' means to parley, which is to debate, and to debate to try to reach an accommodation or an understanding.

I am not one of those people who believe that we come to this House with our inbuilt majority simply to do that which we set out to do, and we have demonstrated that today in the moving of the amendment that the hon. Lady has put before the House already and which I will take a little further this evening, hoping that hon. Members will then feel that they are able to join us in supporting this Bill.

As I will demonstrate during the course of my address, what we are doing in this Bill is not failing to comply with the UN Convention because we do not do everything in the UN Convention, not failing to comply with the Commonwealth principles because we do not comply with all of the Commonwealth principles in this Bill; what we are doing is putting the last of the building blocks

necessary for Gibraltar to be in compliance with the UN Convention and with the Commonwealth principles.

So the position that has been set out by the Leader of the Opposition in summing up for the official Opposition is actually logically, legally and factually wrong, because what he has suggested, as I will demonstrate when I go through their speeches, is the complete opposite of what the Commonwealth principles are there for and what the UN Convention does. I will also demonstrate that they have said the same things in the past. I think what I will also be able to demonstrate to hon. Members is that their memories, even of what happened six weeks ago, is starting to fail.

Abstaining on something as important as this Bill, especially given the issues that the hon. Members have set out, I think is no more than a political tactic, so I hope to persuade them either to support the Bill as I will propose it should be amended, or to have the courage of their convictions and vote against the Bill, (**A Member:** Hear, hear.) *(Banging on desks)* but not simply to abstain, because that is clearly no more than a political device deployed in an election year.

Of course, what hon. Members cannot do is get up and say this is a widely drawn Bill – that is how Mr Feetham suggested to us that this Bill was drafted, widely – but just not deeply enough. Of course this Bill will not detract, and neither will any other Bill in this House, from the powers of the Royal Gibraltar Police to investigate and prosecute offences – of course not – but we see that, as Mr Clinton alluded, in other areas where the FSC is able to investigate matters but the Royal Gibraltar Police can take over those investigations and, in some instances, will be alerted by the FSC, or another regulator that we may have in our laws, to the investigations when there is a need to prosecute criminal offences.

The Bill that we have drawn is complementary to the powers of the Royal Gibraltar Police. What we are not going to do, neither would hon. Members want us to do, and indeed I will remind them that they told us we should not do, is create a parallel police force, a new jurisdiction, and – given where some of the arguments were taking us, after Mr Bossino in particular – a new kangaroo court where people would simply have allegations thrown at them and they would not have the guarantees of due process etc., that our well-tested and well-established legal system provide to them.

What we are doing, as the hon. Lady said in her intervention, is ensuring compliance, now full compliance, with the UN Convention on Anti-Corruption and Anti-Bribery. We already comply with the Convention on Anti-Bribery in particular, because, as Mr Feetham reminded us, our Crimes Act, drawn by him, and therefore, because it was drawn by him, a seminal piece of legislation which, in effect, brought together lots of other pieces of legislation in one book – it is that seminal … He defended it in 2011 as already ensuring compliance with the UN Convention.

This Bill is so widely drawn that we even go down the rabbit hole of providing anti-corruption measures in respect of corrupting the Anti-Corruption Authority. It is all there in section 33. That is how widely drawn the Bill is. If Mr Bossino has not seen it yet, he should have regard to it.

I will descend to particulars in dealing with the issues that hon. Members raised specifically, but there is a key point about the power of the Chief Minister, a power of the Chief Minister in this Bill, that I am not going to defend, because as hon. Members will see when I come to particulars, I will seek to persuade them through agreement with some of their points that we should change some of them. But this Bill, when it gives power to the Chief Minister, is drawing that power in exactly the same way as our laws already give almost exactly the same power to the Chief Minister, whoever the incumbent may be, to redact reports, make determinations as to the public interest, decide whether things should be stopped or things should be continued, and that is a power that has been the power of Chief Ministers – power with a small p; we are Gibraltar, we have no seat in the Permanent Council of the United Nations – power such as it may be for Chief Ministers from the times of the AACR.

We shall look at those powers, but that model is not exclusive to Gibraltar. It is even the model in the United Kingdom, where the words 'Chief Minister' become 'Prime Minister', where in some instances it is set out in legislation identical to ours, or where it is set out … not set out in conventions where the Prime Minister has that power. It is all right and a model for the rest of the

world for Boris Johnson to have the power to dismiss the person who finds that he has failed to act properly, and yet here, where it is very unlikely – and I shall not speak about myself, but hon. Members have, I am grateful, depersonalised it from me … where all of my predecessors would not deserve an allegation that any of them had acted in a way where they would be protecting themselves in respect of anti-corruption, yet here it is somehow unfair that it should be the Chief Minister. Well, the buck has to stop with someone. Or is it that we are still in the age where we have the chip that if the buck stops with Bwana in the Convent, it is fine, but if the buck stops with Fabian in Convent place, it is not fine?

Mr Speaker, I put it to the Hon. the Leader of the Opposition in particular that he has led thinking in Gibraltar to suggest that we should not simply think that putting in the hands of the United Kingdom appointed officials is better than putting in the hands of the Gibraltarian elected politician. If somebody has to make a determination as to what is in the public interest of Gibraltar, should it be the Governor appointed by the United Kingdom, or should it be the person …? I know they do not like that it was me, and that is what the political game is about, but should it be the person who has topped the poll of confidence of the people of Gibraltar, who enjoys the confidence of the majority of the people elected by the people of Gibraltar to this place, and who in this particular instance, by the way, got a majority of two to one votes to those who were not elected to government?

Why is that relevant? And this is not about the last election, but why is it relevant? Who should be making the determinations as to the public interest? I put it to hon. Members that there should only be two persons who should be making the determination as to the public interest in the final end game of decision making in Gibraltar. One should be the senior elected politician representative of the people of Gibraltar and the other should be a judge. In some instances, judges have to make determinations as to the public interest, and in some instances, in fact, the determination made by the senior elected politician of this community – that is to say the Chief Minister – as to the public interest is even subject to review by a judge, who also makes a determination as to the public interest and can judicially review a decision or can, in any event, sometimes review statutorily a decision in the inherent jurisdiction of the court. We do not need to discuss those issues. We know that is the case. Of course it should be that way. But I will descend to particulars and I will try to create consensus across the floor of the House, because I want to send a signal not just to this community, but beyond it, that we are able to act together and in consensus on these issues.

Certainly the result of the election that gives the power to a Chief Minister under our laws – our laws before 2011, our laws before 1996 and our laws before 1988 – should give power to a Chief Minister whatever the result of the election should be, surely. And so there cannot be a different barometer for the moment when the person sitting here is speaking from St Peter's chair – Sir Peter's chair, sorry – or when the person sitting here is speaking from Fabian's chair, because that would be almost to take the view that extreme right-wing republicans are taking now, that one president is good and can do and another is not and cannot do, and none of us in this House, neither Mr Azopardi or myself, or any of the people we represent, I am sure, or the hon. Lady, stand for that. Power to a Chief Minister is as good when one party wins an election as when another party wins an election, whether or not we like what the power does or who will do it. Of course we have different views, but given that we four in particular have been in politics together for 30 years, none of us would think that we would abuse that power.

Let us analyse, therefore, what it is we are going to be doing with this Act that has caused hon. Members to suggest that it would be so different. If they want to change it, of course, as the Hon. the Deputy Chief Minister has said, they could have proposed a change, but they did not propose any change when we published this Bill.

I want to talk generally about a small part of the political history of this issue because it is fundamental in understanding the speeches that hon. Members have made. The Deputy Chief Minister rightly said, 'We published the Bill in December; you did not get back to us.' I say more: we published the Bill in December and what we got from hon. Members was a press release saying

that this was too little, too late, it does not go far enough, it is flawed, they have no faith in us given that we tolerate opaque financial and governance practices, that we fail to clamp down on conflicts of interest, waste, abuse and corruption, and we had 11 years to act and we did nothing. At the next election they said they will have a comprehensive package of reforms and that will be it. So I am afraid that the Deputy Chief Minister failed to reflect that, short of engaging with us, they actually went out of their way to say they would not engage with us.

Indeed, Mr Speaker, if the hon. Member, from a sedentary position, asked me why I did not reach out to him, it is because he has also forgotten what he did in April. In April, the Hon. Mr Azopardi held a press conference. I have, from GSD social media, a document that says '6th April 2022 – Back on Track.' The GSD says, in this document, they will set out anti-corruption provisions, they will investigate and audit the spending of all the government-owned companies – all the government-owned companies are being audited, they all have auditors, so I do not know what it is that they are going to do that is not being done already – and how Government awards contracts, etc. And when I said then I welcome this because this is actually in keeping with our own position on anti-corruption etc., when I reached out, as the hon. Gentleman says – 'Picardo welcomes Azopardi support for Government's agenda on standards in public life and anti-corruption' – I was told that they were not willing to engage with me because what I was doing was box ticking, it was late in the day. I understand that: it was April and Mr Clinton thought that the election was going to be the March before, so of course they thought it was late; they thought it was in month minus one after the election.

So, automatically, when we reach out, what we get is rebuffed, not only in December when we publish the Bill and they do not engage, in April when we reach out and they turn us down. So frankly, if all they are going to do is say that we are not genuine, say that it has to be wider etc., then they are doing what they always do, they are saying we are doing and, as the Hon. the Leader of the Opposition says from a sedentary position, we are going to do what we always do. We are going to lead, we are going to be pioneers and we are going to ensure that we comply with our manifesto commitment.

The Hon. Deputy Chief Minister alluded to this, but Sir Joe actually zeroed in on it on television. Gibraltar is the only place where the Opposition criticises the Government because the Government does what it told the public it would do in a general election and the public elected us to do. We went, in 2019, with a commitment in our manifesto to do an Anti-Corruption Authority and we went with that commitment saying to the public, 'We went with this commitment in 2011. We did not do it because we were persuaded not to do it. In 2015 we had set it out also, and in 2019 we are going to do it.' So hon. Members' criticisms that we are going to do an Anti-Corruption Authority is criticism because we are going to do what we said to the public in a general election that we would do.

What I find absolutely remarkable is that they have not criticised us for not doing it within six months of being elected. Our manifesto of 2019, if they bother to look at it, gives them fodder for criticism. We actually said that we would do it within six months of being elected. How I wish that I had been here being criticised by them because our Anti-Corruption Authority was not good enough in March 2020. Instead, he and I were standing together in Convent Place dealing with a worldwide pandemic. Of course that has delayed us. Of course it has. I make no secret of the fact that we are just coming out of that very difficult period of having to deal with Brexit and the pandemic. Now we are just dealing with Brexit – bad enough already, but it is one crisis, and you can legitimately say, 'When you were elected in 2019, you knew that you had to deal with Brexit, so it would not be proper for you to say Brexit.' Mr Bossino would be entitled to say – he did not alight on this point either, which would have been a good one – 'Brexit you cannot use as an excuse because you knew about Brexit when you made the commitment in your 2019 manifesto to do this within six months.' But none of us knew about the pandemic. That is why we are delayed, and I am giving a reason to the public in Gibraltar of why we are delayed beyond the six months that we said we would comply with, a reason that even they have not taken me up on, which I could have glossed over because their speeches are over. But because we are honest with

the public, we stand up for the things that we do and when we say we are going to do them, and when we cannot do them, we explain it. That is why we were not able to do it.

But perhaps the strangest thing there is that in 2019 they started to agree with us. In 2011, both Mr Azopardi as leader of the PDP and Mr Feetham as putative leader of the GSD, in positioning, were telling us that we should not have an Anti-Corruption Authority. I will come to the things that Mr Azopardi has said about that later. *(Interjection)* But now we have done an exercise of giving the very widest powers to this Authority to obtain information, we have made Ministers specifically subject to the provisions of the Act and public servants. My view is that Ministers are subject to the Act, even without the clause on Ministers, but of course we have wanted to be explicit. No public official, no Member of Parliament can avoid the provisions – production orders, search warrants, all very widely drawn. Yes, in respect of those offences, which are the offences that are in the schedule, which I will come to. It is all very good for Members to say there should be other offences in the schedule and not say which. The Hon. Mr Feetham at least said we need to create new offences. Well, okay, I will come to that in a minute, Mr Speaker, but if they are new offences which are required, they cannot be in the schedule because they do not exist.

In respect of certificates, by the way, a certificate issued by a Chief Minister is final because there has to be finality, and certificates usually when they are referred to in a statute are referred to as being final when issued by the person who is responsible for issuing them. That does not mean that they are not reviewable. Hon. Members should at least have indicated to the public in the course of their speeches that in this Bill there is no clause seeking to exclude the jurisdiction of the court, which there could be, because hon. Members know that there are clauses in statutes that say, 'and this shall not be inquired into by any court'. We do not say that, so even the things that I do – the redaction of reports, the granting of certificates, all of those things – are obviously reviewable by the courts.

So there is no question of us seeking to draw a narrow Bill that is not deep enough, that does not create the right jurisdiction. Indeed, if it is the public sector where there is an issue to investigate, we created during our first term in office the protection of whistleblowers and in this Bill we further protect whistleblowers who will be whistleblowing against somebody in the infrastructure of the public sector, who could be a Minister, and yet we are creating the protection for it. That is wide. That also demonstrates a confidence by this Government that there are no issues affecting any of the individuals represented here that could be drawn, despite the many things that are said outside this place by hon. Members.

Gibraltar also has to be a jurisdiction where people come to the House not to say the things that they say outside the House, where things that might be considered potentially defamatory are said outside the House rather than inside the House. Here, when we come, it is not about us; we depersonalise the debate – I think that is absolutely right – but then outside they say, 'It is your problem, it is because of you, you are the one who is tolerating the corruption; you are the problem.' I will come to the exact words used. Incredible.

So we create the whistleblower legislation, we comply with our manifesto commitment now, and we extend the provisions on investigations of corruption and protection of whistleblowers, and we get criticised for it. I would have thought that anybody who is prepared to give a fair hearing to what the Government is doing would understand that this is a Government that is acting entirely properly.

If what we are doing, as Mr Feetham suggests, is creating an extra layer of bureaucracy, I do not understand how he can reconcile that by saying, 'but you do not go far enough'. Those were his two opening phrases: an extra layer of bureaucracy that does not go far enough. And then the Leader of the Opposition says it has to be deeper, wider, better. What? A deeper, wider, better layer of bureaucracy? You either believe in an Anti-Corruption Authority or you do not.

The average person will say they are concerned about corruption now and historically, about all governments – probably true. Not legal corruption, not as set out in the Bill – also probably true; people mix many things up. But what is it that they are talking about? Standards in public

life, conflicts of interest etc? Maybe that is what they are talking about. Do they not know in our law where conflicts of interest are prohibited, the many places where conflicts of interest are prohibited and have to be guarded against and where conflicts of interest are a criminal offence? Do they not know that? They are the places where they have said they are concerned about them. I refer hon. Members to section 25 of the Procurement Act. Are they not aware of that? They are talking as if they do not know that these things are in our law. I will come to the detail of it later.

A trafficking of influence, undeclared conflicts of interest: 'These things are not provided for in our law.' Yes, they are, Mr Speaker. They are explicitly and they are implicitly, and of course we also have common law rules which deal with those issues. We do not have an explicit crime of nepotism or cronyism, but we have a fraud by abuse offence. Does he remember where it is? He brought it to the House: section 419 of the Crimes Act, fraud by abuse of position. We have the common law offence of misconduct in public office, which extends to Ministers and does not require evidence of corruption. Those things are there already. We have the provisions of our procurement rules which specifically provide about conflicts of interest and the obligation to declare conflicts of interest: section 25. If those are the things that the public are concerned about, which the Hon. Mr Feetham told us are the things that the public are concerned about, then they are provided for in our laws already. They are in our Corpus Juris. That is to say they are in all the laws that apply to Gibraltar. The hon. Gentleman says there is no legislation that comprehensively deals with that. Well, common law offences are not dealt with in a statute, they are common law. Unless he has now had a conversion from being an established common lawyer to being a civil lawyer who wants everything codified and in a statute, he would not be making that point.

'Take the opportunity to look at other types of conduct' – well, Mr Speaker, the codes of conduct of Ministers and MPs, we did them. He was here. Does he remember that it was Peter Caruana who asked us not to make them binding? He asked us to look at them in select committee. I have been dying to make them applicable generally. Why? Because we have acted from the day we published them – even though not binding – in keeping with the ministerial code, and we have to extend that to hon. Members also, who have the publication of the code but have not said that they would act in keeping with it. Frankly, I do not think it is fair.

If they said these things in a press release in 2015 or we said that we had to do more in 2015, a few things have happened. Shortly after 2015 we had Brexit, and that consumed us for a while. And then hon. Members know everything else that happened, which Mr Bossino calls an excuse. That is why we have not made the codes binding, but what have they done since 2015? Have they brought a motion with the codes of conduct saying we now adopt them? No, they have not brought that motion. They have not been dealing with Brexit. They have not been dealing with the intricacies of COVID. If this was so important, as they say it is because it is now stopping them from supporting us because the codes are not applicable, why haven't they brought a motion? Any Member can bring a motion. It is what I would do, bring a motion and say, 'When the time comes, that is what I will do. As Leader of the House, I will bring such motion.' Could the Government have voted against a motion saying that the code the Government said should be binding should be binding? Of course not. We stopped it from being binding because they asked us to stop it from being binding. These are just excuses not to support this Bill.

In 2019, they were going to put a Commissioner for Standards, they said, Well, okay. They went to the general public with that, to the electorate, and they got one vote for every two votes we got. Actually, the Commissioner for Standards in the UK has not been a body that has performed particularly well. We just have to see the resignation of Lord Geidt, the toothless nature of it, in particular when the person being investigated is the Prime Minister, which is *highly* unusual but it could happen, and there was no provision for what happened when the person being investigated was the *primus inter pares*, the Prime Minister.

The fact that all of these offences can be dealt with by the Police, says Mr Feetham, is enough to justify his cry that this is just a further bureaucratic layer, but in the United Kingdom, the issues that the Commissioner for Standards investigates which lead to a report can also, and very often

do, lead to a criminal investigation. I do not need to remind hon. Members of Partygate and the fines that have been issued as a result of the views of the Commissioner for Standards etc.

'Why are the Police not already investigating these offences, if they are happening?' said Mr Feetham. Well, perhaps because they are not happening. Perhaps because we talk a lot about things in this community. We do not like it when others get a contract, even if they have got it fairly, just because we did not get it and perhaps there is nothing untoward about that person getting a contract. Indeed, I had an episode once, when they were in government. I thought, 'This is terrible, that person has got the contract as well.' I dug a little and there had been a tender. On that occasion they had issued a tender and the person who got it was the only person who had applied. The street was rife with gossip and I thought, 'Well, fair enough,' but there was enough rumourology there to go to the Police every day of the week and for the Police to say, he was the only one who applied.' So maybe that is why the Police are not investigating things that actually do not merit investigation and there is a lot of talking about but very little action on.

Mr Feetham has said very clearly what we need is an offence of nepotism and an offence of cronyism. I think those are hugely difficult to define. We have in our laws issues of conflicts of interest, which nepotism and cronyism are about. Conflicts of interest are inclusive in here, they are inchoate in these definitions and we should add them to the schedule. If hon. Members are serious, Mr Speaker – I have checked my diary – I offer them Thursday at 11 a.m. in my office. We should look together at the proposed definition that they might send me, before close of business on Wednesday, of an offence of nepotism and cronyism. If it was acceptable to the Government – on which we will take advice because we obviously do not want to make criminal offences that are not good – we would put a joint motion for the next Parliament, in February, to include that definition in our laws. We would bring a Bill to this House to make nepotism and cronyism as defined – if we can agree a definition – an offence, as he has said, and we will give hon. Members an undertaking that we will add that new offence to the Schedule of this Bill as soon as they have become offences after the six weeks have passed, and they will be passed with the Government majority before the Easter recess. There you go: the offence of nepotism and cronyism.

If you were serious about what you were saying, I challenge you to vote in favour of the Bill on that basis, and I challenge you to produce a draft of a law that makes nepotism or cronyism a further criminal offence, because we say it is already a criminal offence. And if you say it is not your job to do that from opposition, okay, it is not your job to do that from opposition, but then you are not serious about contributing to this. We have very senior silks on the other side, Mr Speaker. Of course they can turn their pen to drafting something, although we would have to ask ourselves why there is not, in the United Kingdom, in Canada, in Australia or in Hong Kong already an offence of nepotism or an offence of cronyism. The answer is very likely because those things are already inchoate in misconduct in public office, in the offences against conflicts of interest which are already in our law, and on the offences of fraud or abuse of position.

If they say that they can deal with that and bring a proposal, please let me know, so that I block out the 11 o'clock slot in my diary for two hours on Thursday. I will not hold my breath because when I offered them this in April, they said they would not meet with me on this issue – they turned me down – to bring about the changes that they might not want to bring about. Yes, they did, Mr Speaker, they turned me down, *(Interjection)* let's be very clear.

Under section 3 – *(Interjection)* Yes, I have the hon. Member's press release, if he wants me to share it.

Hon. K Azopardi: He probably has my letter, too, and my letter invites him to write to us with proposals, which he never wrote to us on.

Hon. Chief Minister: His letter says that what I am doing is creating a circus, and that is why they turned down the olive branch, because they are not interested. They are not interested today in doing what they said was necessary. They are not interested in crafting a law to make nepotism or cronyism on offence. I challenge Mr Feetham, if he says it is possible, to do it. And second, they

are not interested in engagement. They are interested only in party political posturing, whether or not Gibraltar, therefore, has an Anti-Corruption Authority or not, although it is one of the final building blocks for us to comply with the UN Convention. I know what I am saying is exactly true. *(Interjection)*

Mr Speaker, let me now deal with something else they have said. Section 3, which is the appointment provision: we proposed, given what they said publicly, that, okay, we should have the Specified Appointments Commission appoint the Chairman of the Anti-Corruption Authority, and then the Leader of the Opposition could appoint two and the Chief Minister would appoint two. That is as politically neutral as it comes. They said that is not enough. By the way, Mr Feetham should note it is not the Special Appointments Committee, it is the *Specified* Appointments *Commission*.

The Government is prepared to agree that all five members should be appointed by the Specified Appointments Commission. We have no issue with it. We are prepared to change the amendment so it is the five members appointed under the Specified Appointments Commission. We are prepared to agree that you produce a draft of the offences of cronyism and nepotism that stands up to scrutiny and is not more bureaucracy – in other words, not just what our law already provides on conflicts of interest, what our law already provides under section 418 and what is already provided for under misconduct in public office – and we are prepared to allow that the five members be appointed by the Specified Appointments Commission. That, at least, they could have written to us about.

Hon. G H Licudi: Or proposed an amendment today.

Hon. Chief Minister: Or proposed an amendment today, indeed. When the hon. Member got up, he could have said, 'I propose an amendment', which could have gone further than that of the hon. Lady. But I am open to the fact that they just thought that politics was about confrontation and not about trying to work together, and that now they will reflect and, given the offers I am making, they will support the Bill, they will help us with the drafting of those offences and they will support the amendment that I will put, so that all members are appointed by the Specified Appointments Commission outside of the hands of any Chief Minister, not just this one.

The hon. Lady got up to say that we had been postponing this Anti-Corruption Authority for over a decade. Well, the last time I checked my history, she had stood for election in 2015 with the political party that had told me in 2011 that an Anti-Corruption Authority was not necessary. Her policy in 2015 was not that I was postponing things by not doing it, but that I was doing the right thing by not doing it, so you can hardly suggest, Mr Speaker, that I was procrastinating or postponing this.

And of course this does not emerge in a vacuum, she says. I accept that. That is why we proposed it in 2011, that is why we talked about it in our manifesto of 2015 and that is why we recommitted to it in 2019. We are not saying, however, that the RGP is incapable of complying with its commitments. We are creating a dedicated body in great measure because the Commonwealth principles require it, because the UN Convention requires it, because it is one of the parts of the infrastructure of having effective anti-corruption provisions and complying with those conventions internationally.

And so, Mr Speaker, given what I have said about the Specified Appointments Commission, I hope she also is able to accept the points as to independence, because the points as to independence disappear. She appeared in her address, as Mr Isola said, to have ignored the amendment which the Hon. Minister moved in her first speech, but now that I have told her we are going to go even further than that and the Chief Minister is going to have no power to appoint anyone, it is all going to be in the Specified Appointments Commission, I hope she will be able to support it, because she said one of the key issues is that the chairman is appointed by the person he has to investigate or criticise. I am going to do away with that point for her, because the chairman will be appointed by the Specified Appointments Commission, but actually it would be

a very sad day indeed if the chairman of an Anti-Corruption Authority had to criticise the Chief Minister. In most instances, one would have thought he would be criticising people in the public sector, if necessary, if that was relevant, or elsewhere, but not the Chief Minister – in the United Kingdom it has happened once, although today the Prime Minister has once again been fined and has been subject to a criminal sanction – and I say that of all Chief Ministers in our history, all of them.

On the question of the redaction of reports in the public interest, I refer to what I said at the beginning of my speech. Who could be a better judge of whether a report needs to be redacted in the public interest than the Chief Minister? The Chief Minister is the person in the hierarchy of politics in Gibraltar who has the overview of everything. He has the overview of all the Departments, he has the overview of the public finances. There is no one with an office as privileged as the one I hold today – except maybe the Deputy Chief Minister, because he sits with me daily on all of these issues – that has the overview across Departments and across Ministries, and therefore all of the areas of public responsibility of Gibraltar. Who should redact, if not the Chief Minister?

It is very unusual that there should be a redaction. I have never redacted a report in the time I have been in office. A former Chief Minister decided not to publish a report, although it had been paid for by the public purse. Hon. Members might remember the GBC report. I said, 'The minute I am elected, I will publish it,' and the minute I was elected I published it. Reports sometimes have to go through the Maxwell process, where individuals are entitled to redact things about themselves if they are mentioned in it. That is not what we are talking about here. Those redactions are the legal process of redaction, where an individual is entitled to do that. But who better than the Chief Minister? Okay, on appointments it should be the Specified Appointments Commission, but on redactions how can it be anybody other than the Chief Minister? And even then you can appeal and go to a judge, and a judge can look at what a Chief Minister has proposed should be redacted and say it should not be redacted.

Then she said, 'Don't trust the wolf to guard the sheep.' That, I have to say to her, is a very unfair characterisation of this or any former Chief Minister of Gibraltar. The Chief Minister of Gibraltar is not a wolf. Far from it, Mr Speaker. The Chief Ministers of Gibraltar – and I think all of them – have shown commitment to the people of Gibraltar, who are the ones in whose interests we would redact a report if we ever had to redact one.

The reference she made to an iron curtain of government-owned companies on which we do not give information is one which I am afraid I just cannot accept. Yes, we might not give all of the information that hon. Members want. Hon. Members want almost all of the information they would have if they were in government, or more, because sometimes they ask us for things that Ministers are not involved in, that are being done by civil servants, and they want that level of detail. But, in fact, Mr Speaker, in your usual ability to assist in the debate, your booklet on Speakers' Rulings is extraordinarily useful because the hon. Lady says an iron curtain of government-owned companies where we do not give information, and in the second ruling contained in your booklet on Speakers' Rulings, Speaker Vasquez, one of our longest-standing Speakers, in 1980, when the GSLP was not in government, said this on 24th January:

> I think I have ruled on this once before. The Minister is answerable for his Ministerial responsibilities and not as chairman of any particular firm.

That is helpful. The next sentence of this ruling is even more important:

> I think I must rule on this one, that he

– the Minister –

is not entitled to part with information which he has exclusively as chairman of the company and not as part of his Ministerial responsibility.

So this iron curtain is one that comes from a ministerial position in 1980 and as ruled by the Chair.

Mr Clinton then moved on to say that we may be able to save some part of the Bill, and I thought he was going to be positive, although then he turned very negative and called it all toothless and caged. Well, I think Mr Licudi dealt with a lot of those issues. But he did make a point. He said we should have been more inventive. Well, he was the one who did the press conference in April that led to the non-meeting when I offered it.

The point he made about section 14 of the Ombudsman Act is one that we are prepared to take on board, so we shall also move an amendment – and I am sorry Mr Clinton is not here to hear me, but I assume he is hearing from the antechamber – to deal with the issue he raised there. We shall amend section 3(14) so that the last part of the section will read 'shall be a first charge on the Consolidated Fund', so that we are taking the reference to payments being made by way of vote to the first charge language that he referred us to.

He then also talked about the issue of nepotism and cronyism. I will be very taken by Mr Feetham if he is able to produce a draft of a law that deals with that; he may have more time to research these things than I do.

I am pleased to see Mr Clinton back, and I am sure he has heard about my amendment to 3(14). (**Hon. R M Clinton:** No.) Oh, sorry, Mr Clinton. I have suggested we will move an amendment to 3(14) to make it a first charge on the Consolidated Fund, as he has suggested, and I hope that, therefore, will, together with everything else I have said, persuade him to vote in favour of the Bill.

On nepotism and cronyism, it is also true, I am sure, that one man's cronyism, one man's nepotism, is another man's good government – surely, because let's be very clear: the things they say they are complaining about in their statements outside of this House, grant of tenders etc … At least there are tenders. What we inherited at Midtown was the direct allocation of the two naval grounds to one particular group of property developers by the party that they represent. (**Hon. K Azopardi:** Direct allocations.) I am sorry? (**A Member:** Direct allocations.) We have not done direct allocations. *(Interjection by Hon. K Azopardi)* No, we have not. Mr Speaker, the hon. Gentleman is saying from a sedentary position that we have done direct allocations. We have not done any direct allocations. We have not. (**Hon. K Azopardi:** Yes.) No. I am happy to give way to the hon. Gentleman if he wants to tell me about a direct allocation.

Hon. K Azopardi: Mr Speaker, there have been questions in this House that in the Bayside/St Anne's plot and in the Eastside plot the person adjudicated those plots had not submitted any expressions of interest in the processes that were run, and therefore they were direct allocations. What else were they?

Hon. Chief Minister: Mr Speaker, I think the hon. Gentleman has taken leave of his senses. We gave the football pitch to the GFA without going to tender because it was the GFA. We have given it to an institution in Gibraltar. *(Interjection)* And on the Eastside –

Hon. K Azopardi: Mr Speaker –

Hon. Chief Minister: Sorry, if he wants me to give away –

Hon. K Azopardi: Yes. I am not talking about the Victoria Stadium, I am talking about the Bayside/St Anne's plot –

Hon. Chief Minister: Oh, I see.

Hon. K Azopardi: – where there was not an interest expressed by that entity because it did not exist, you gave it to them, and the Eastside. Yes.

Hon. Chief Minister: Mr Speaker, there is a description that refers to the genitalia of the male cow that is the best way to describe what the hon. Gentleman has said. Let us be clear: tender processes were run in respect of the Bayside/St Anne's plot. They did not submit one, but they came with an offer of more, and what the Hon. the Leader of the Opposition is suggesting is that it is a direct allocation to give a plot of land that has gone to tender to a party that has bid more than the highest tenderer. We call that looking after the interests of the taxpayer, because that is what a tender is for. A tender is to ensure that we get the best value for the taxpayer, and when we saw that it was possible to get it, we did. Moreover, on the Eastside, exactly the same thing happened and what we got was more per square metre for the taxpayer in respect of those plots than had ever been offered in a tender.

Hon. R M Clinton: How do we know?

Hon. Chief Minister: We know because in the tenders they submitted less. That is why it is obvious.

Hon. R M Clinton: How do *we* know that?

Hon. Chief Minister: Well, look, if you distrust us, to lie to this House – because I have now put on the record of this House what this position is – if you ever win government, come and look. I am very happy to see the hon. Member on Wednesday morning and show him all of the bids that came in, so that he can see that I have not misled this House. We cannot publish them because we cannot publish the names of people who submit bids that are not successful. We have taken advice on that because people insist that they need … a lot of their covenants are based on that. I would never mislead this House. Mr Clinton, by saying, 'How do we know?' suggests that I might be thinking of misleading this House, something I would never do, even implicitly, but on something that I know empirically because numbers are numbers and this number is higher than that number, I can tell hon. Members there have never been direct allocations and we have always given to the highest bidder.

But what did they do? They gave Midtown, two naval grounds, on direct allocation with no previous tender – in other words, it is not that they gave it to one because they had run a tender process and this was more; they never ran a tender process. Indeed, to the same group they gave a contract with a value of £1 billion and did not run a tender process, and when I asked how does this comply with the procurement rules, I was told that the Government would not answer, and the Speaker at the time said to me, 'I am sorry, Mr Picardo, I cannot compel the Government to answer.' When I was elected, I exercised my right to check the file – I cannot see some things in the former Governments' files but I can see others – and I saw the advice that said they had acted in breach of the procurement rules. One man's cronyism and nepotism is another man's good government or another man's golden legacy.

That brings me, conveniently, to Mr Bossino, who is the one who talked about the golden legacy of the GSD when he was elected here before 2015, the first time he decided that now was not for him and it was all about the following election. He started by saying that they could be persuaded. Well, I have agreed to the provisions of the nepotism and cronyism Bill being proposed, if they propose it. I have agreed that all appointments should be under the Specified Appointments Commission. I have agreed to change that this should be a first charge on the Consolidated Fund under section 3(14). But when he says that one of the reasons they are not going to support us is because they look at this in the context of our track record, it grates a bit with the fact that they said they were going to depersonalise this, because why is our track record relevant?

We arrived in 2011 wanting to do an Anti-Corruption Authority. I still have the report in the *Chronicle* on 26th October 2011, where for the first time they were making common cause, Mr Feetham and Mr Azopardi, Mr Feetham saying we comply with the UK Bribery Act, we comply with the United Nations Convention, and Mr Azopardi saying creating an Anti-Corruption Authority is telling the world that we have a corruption problem and you should not do it, the Police have all these powers and we do not need to do these things. I have it here. 'Half-baked ideas' and 'checks and balances' – that is what they said. There is his press release: 26th October 2011. And now, because of our track record, it needs to be done and it needs to be done deeper and wider.

The fascinating thing is that the United Nations Convention is dated 2003. It was signed in 2003, it was accepted by all the parties in 2005, and in 2011, when I was saying that we had to do an anti-corruption convention to comply with the UN Convention, they said, 'No, we already comply.' And yet today they take the view that, actually, not only do we not comply but even with this Anti-Corruption Authority we will not comply because it is not wide enough, not deep enough – all the words that have lots of meaning and none.

In 2015, we set out our position. In 2019, the position that appertains now is the one that I have told them about already. So the delay that he talks about, the new dawn that should have ushered in the Anti-Corruption Authority he forgets was what they said should not happen, and what we said in 2015 was, 'Fair enough.' We were persuaded by what our opponents said and what the Police said at the time.

So it is not that we have left it to the end. In fact, we should have done it within six months, but I have explained why we did not. But as usual, the hon. Gentleman does not think through the points he makes. He does not even look at my 2019 manifesto so he is able to criticise me.

Mr Speaker –

Hon. Member: Will he give way?

Hon. Chief Minister: Well, I am now dealing with Mr Bossino. I dealt with you 15 minutes ago. Mr Speaker, we are never going to finish. It is Friday night. If I give way, he is going to have to buy 12 Heineken for us all later, because it is going to be that time, so he will allow me to continue, if he does not mind. I have given way to the Leader of the Opposition, Mr Speaker.

Mr Bossino said, 'What is this? Is this going to be a post box?' Well, their manifesto has two-thirds of the same thing in the context of an anti-corruption … 'Anti-corrupt practices', they talk about on page 85, and then they say they would:

> Establish an independent Public Offices Commission whose remit would be to ensure standards in public office, investigate and address any issues of conduct or misbehaviour of anyone in public office. […] The law will be able to deal with any allegations of corruption or offences involving, for example, the allocation of land, contracts or tenders …

– except we have those laws already. Our laws on the procurement of things already provide for issues relating to land, contracts or tenders. They do not seem to know it, because they are going with a manifesto promising to do that which is already in our laws.

I noted, by the way, Mr Speaker … it may be a glitch, but their manifesto is no longer on their website. I do not know whether they are just trying to do that to avoid us all going back and embarrassing them. Happily, I download these things and we have them for posterity. *(Interjections)* Probably, they want to block me. I am not surprised, they know the damage I can do when I get their material.

Hon. D A Feetham: As a hacker.

Hon. Chief Minister: No, not as a hacker, Mr Speaker. The damage I do to them, I do intellectually. It is intellectually, Mr Speaker.

This idea that removal of individuals from the board they might have been appointed to by the Specified Appointments Commission – in 3(9), I think it is, of the Bill – is still dealt with by the Chief Minister. That is before I told them that all appointments would be dealt with by the SAC. Well, I am prepared to think about removals being dealt with by the SAC, but the SAC does not deal with removals, it deals with appointments, so somebody has to deal with removals. Unless it is the very evil Chief Minister, who could then remove somebody who is investigating him – the wolf guarding the sheep – this rule about 'may remove', even if convicted, is not autochthonous to this Bill; it is what the power of removal is like anywhere. So you have in our statutes, elsewhere, references to people who might be convicted and, if they are convicted, may be removed from something by a Chief Minister or another. So what point is he making? It is another non-point: 'It looks bad, it is something I can potentially embarrass with; I do not think through that actually my own Government did that when it was in Convent Place.' The GSD did that as well.

I have dealt already with the reports redaction.

A theme that developed on the other side was this idea that we were window dressing, that we were box ticking by complying with our manifesto. We consider our manifesto to be an obligation, and if we fail to comply with it, we have failed our obligations. In some instances we may have to fail to comply with it because we have not had time because of COVID, what he calls an excuse. They have again demonstrated that, for them, complying with a manifesto, by criticising us for doing this, is window dressing and box ticking. I am reminded of the GSD mantra on this. In the leadership interview on radio in November 2011, the GSD leader said, 'For the GSD, a manifesto is a wish list.' We shall take their manifesto with the requisite pinch of wishes when they publish it when a general election is called.

Mr Speaker, for all of those reasons I have dealt with already, I challenge them, given that the only specifics they have come to are the ones that I have dealt with, to vote in favour of the Bill or to have the courage of their convictions and vote against the Bill. Otherwise, they will be seen simply to be playing a device. A device is what the Leader of the Opposition tells us he is not in politics to play with. He says, 'I am not here to do politics for the sake of it,' and yet, on these issues in April and December all he did was respond with what might be considered by somebody with a less thick skin to be insults – that I am the problem today. This is what Keith Azopardi has permanently been saying. Whether it is on direct democracy or whether it is anywhere else, he is not saying, 'I am going to abstain because I do not like this clause or that clause,' which is what they have come here to say to our faces. When we are not there to defend ourselves, it is completely different – 'an air of recklessness that pervades the handling of your public money, waste, abuse and sufficient controls to prevent corruption'. We bring an Anti-Corruption Bill and they say, 'This does nothing. It' is a layer of bureaucracy. The laws are already there on corruption.' I really could not make up the inconsistencies that hon. Members reflect in the arguments they put. It is just remarkable and it is frankly unfair on the people of Gibraltar.

So I put it to him that in fact this is just a device, a political attempt to avoid dealing with these issues, and that, given what I have read hon. Members, that their 2019 manifesto is a more radical version of our law than this is an utter nonsense. What they are going to put in is what has been shown not to work in the United Kingdom, unless they are going to appoint somebody with greater power than the Chief Minister, a Governor and a Speaker, who will then be the person that we will have to guard is not ever corrupt, because if that is the person who is going to hold all the power, somewhere there is going to have to be a control. The controls need to be wider, the jurisdiction needs to be deeper and the powers need to be stronger. When the time came to put some flesh on that, at least Mr Feetham talked about what offences were missing. What did he do? Nothing. It is not enough, he says, but he never says what more is needed. When he talks on any issue he says, 'We are going to have a big programme to deal with this. Then, when you go to the programme, it says, 'We are going to have a great law that will provide for this.' Do we ever see the law? No. It is like the law that never came, that was going to provide an alternative on

abortion, that was going to ensure that we were going to be able to have a law that … but then it never came. These laws never come, because they were never really thought of. The soundbite was good, it was a good way to react to Picardo, but there is never really anything behind it.

And so, Mr Speaker, when they say that the feeling of scepticism is mutual, I am pleased at least that we both feel the same way, because in April they did not want to work with us, in December they shot us down when we published our Bill, and it is frankly remarkable that he gets up in this House and says, 'We judge you by the fact that you have not called a meeting of the Select Committee on Disability, on the Environment, on Parliamentary Reform or the Constitution.' He did not mention the Constitution, but it is also an important one. We have not called a meeting, and he knows, because we are all political geeks in the same way, that the Deputy Chief Minister and I would love to have a meeting of the Select Committee on the Constitution and be able to pursue the reforms that he drafted for me when he was in private practice, when I asked him to practise and which will form the basis of what I bring here and therefore I hope will enjoy his support, given that he prepared them. But he knows what has happened since October 2019. He knows what has happened, so if he is going to judge me because I have not had Select Committee meetings in that time, and at the same time say that I have not brought a safe and secure and beneficial treaty and I should bring it sooner, he knows that what he is saying is for the birds.

It is not too late, and this is not a box-ticking exercise because, by the way, there are many months left to a general election, and not because there are many months left to a general election is this the last minute, because I think it is only he and his supporters who think that this is our last year in government, even though there is going to be a general election. We put ourselves in the hands of the electorate. The electorate will decide, but we are making this Anti-Corruption Authority Bill not thinking that these are our last potential six, seven, eight, nine, 10 months in power. We are making this Bill for the long term, expecting to be returned after the next general election, if people give us their confidence. It will be up to them. We humbly put our performance in the past four years before the electorate and ask them for their support and ask them to return us – not late in the day and not box ticking.

Mr Speaker, it is remarkable that the Hon. the Leader of the Opposition took the position he took on the Commonwealth principles and the UN Convention. All of them say that an Anti-Corruption Authority is one of the things that has to be provided for, but when you go through the rest of the list you find that much, if not absolutely all of the rest of it is already provided for in our laws, even the things the Hon. the Leader of the Opposition talked about. Let me take him through the list.

Benchmark 1, corruption offences, sanctions and remedies – already in our law. Mr Feetham has said so himself. It is why he says that this is an extra layer of bureaucracy.

Benchmark 2, an authority responsible for preventing corruption – we have not got it, so benchmark 2 we do not meet.

Benchmark 3, investigation, prosecution, asset recovery and policing – we have got it, of course we have got it, we do it all the time on many issues.

Benchmark 4, the court system – we have got it and it is one of the best in the world.

Benchmark 5, Parliament – I think, therefore I am; we have got it.

Benchmark 6, regulatory authorities – we have got them.

Benchmark 7, regulation of financial institutions and the financial system.

Benchmark 8, transparency of asset ownership – we do not just have it, we have an open Register of Beneficial Ownership, which even the United Kingdom does not have yet.

Benchmark 9, political lobbying, financing, spending and elections – we certainly have that.

Public sector organisations – we have that.

Public officials – we certainly have.

A provision for issuing of permits – we certainly have.

Procurement rules – we have some of the toughest procurement rules in the world. Every time they criticise the procurement rules, I assume they are criticising them on the basis that we are

practising the procurement rules in the same way they were, i.e. not, and giving £1 billion contracts and giving vast tracts of land on direct allocation.

Contract management – we have that; we have a Contract and Tort Ordinance.

Financial management – we have that, of course we have that; we have these processes etc. in our budgetary process.

Concession management – of course we have.

Asset management – we have that.

Independent monitoring – indeed, we have it, and now we even have an Independent Monitoring Authority for the things that relate to our obligations under the Withdrawal Agreement.

Independent auditing – we have an Act on the Principal Auditor and it is in our Constitution.

Anti-corruption training – we actually already have that in the Royal Gibraltar Police.

Reporting of corruption – of course we have that; we have been debating it today and this will make it stronger.

Standards and certification – we also have that throughout our institutions.

Professional and business associations – of course we have that.

A hugely important part of civil society: participation of society – you could not get more of that than you do in Gibraltar.

International co-operation.

The only one missing is benchmark 2, and he says he is not going to support this because it does not do all those things. Is he seriously telling the people of Gibraltar, in a way that he expects them to believe, that in order to comply with the Commonwealth principles and the UN Convention, you have to have one law that does all that? No, you have to have these things in our laws, and in our laws we have these things. The only one we do not have in our laws … The nervous laughter; every time I catch them out, the nervous laughter. The only thing we do not have is the Anti-Corruption Authority. As we say in the courts, Mr Speaker, res ipsa loquitur. We need this Act.

Hon. D A Feetham: I have never said that in my life, I have to say…

Hon. Chief Minister: I am afraid your Latin is not up to standard then.

And so all of the things that are in the Secretary General's forward are the things that we subscribe to, Mr Speaker, and are the reasons why we are acting. We would have acted in 2011, we should not have listened to them, and we are acting now as quickly as we are able to in compliance with our manifesto commitments.

In the circumstances, having dealt with all of those issues – including, by the way, trafficking of influence, which in my view is covered already by misconduct in public office and is covered by the rules on conflicts of interest, which we already have, but if it is not, I look forward to receiving, before the close of business, the draft that the hon. Member will provide, *(Interjection)* which I will, of course, get the law draftsman to provide for us – *(Interjection)* Oh, you are going to provide it, but you are not going to vote in favour of the Bill. *(Interjection)* Why am I not surprised? *(Interjection)* When I address all of the things that hon. Members tell me are their legitimate concerns, they are not going to vote … I am not surprised, Mr Speaker.

The things that people talk about anecdotally I have dealt with already. I am not going to, at this time, labour in the House, but the things that people talk about anecdotally we are all long in the tooth enough to know are very often utter codswallop.

The example I gave before, of a tender that everybody was saying was disgraceful and in fact there had only been one applicant and the applicant had got it, is like the joke about the guy who goes to pray because he wants to read the lottery. Christ appears to him and says, 'I am happy to help, but buy the lottery ticket!' Mr Speaker, frankly, I really do believe if the hon. Member does not even get the joke, then we really are on a hiding to nothing with this Opposition. *(Laughter and interjections)* His critics are right.

Wider, deeper, stronger. Never has a law on anti-corruption been proposed in this House that is wider, deeper or stronger than the one we are bringing, because it is the first one that has been proposed. But ours is not sound bites, ours is not about failing to provide the flesh on the bones; ours is about actually going ahead and doing.

As the Hon. the Deputy Chief Minister said, absolutely rightly, we do not believe we are perfect, we do not believe we are infallible. If the hon. Member comes up with something good, we will do it ourselves. We will bring the law to this House and we will add it to the schedule, no doubt without their support, because we certainly have not had to be dragged here kicking and screaming. Quite the opposite. We published a Bill, and the minute we published it we exposed ourselves to criticism. In fact, what we are doing is not just complying with a manifesto commitment, we are complying with a manifesto commitment, our obligation to the people of Gibraltar, and we knew that the minute we published our Bill we would hear the screaming and suffer the kicking, because immediately we issued the Bill I got the kicking and I was told that I was the problem with Gibraltar. Today I was told that the issue that had to be resolved was my tolerance of corruption etc. Utter nonsense, and if ever there was a time to demonstrate that, it is now, to vote in favour of the Bill, to support the Minister for Justice, who has taken an oath to support the rule of law and is moving this Bill on that basis, and to comply with our manifesto commitment.

So, Mr Speaker, for all of those reasons, before I commend the Bill to the House, I deprecate the points the hon. Members made. Some of them were wrong in law and wrong in fact, and indeed for all of those reasons I have laid down a challenge to hon. Members that I am sure they will not take up. They will not support the Bill. They will, despite those explanations, vote against it, but I certainly commend the Bill to the House.

Mr Speaker: Does the hon. the mover of the Bill wish to respond?

Hon. Miss S J Sacramento: Mr Speaker, I am grateful to my colleagues on this side of the House for their interventions, and given the late hour and what we have heard from this side of the House, I have nothing further to add.

Mr Speaker: I now put the question, which is that a Bill for an Act to make provision for the establishment of the Anti-Corruption Authority and to provide it with powers of investigation and other duties, powers and functions for the investigation of corrupt conduct and for connected purposes be read a second time. Those in favour? (**Members:** Aye.) Those against?

Hon. Chief Minister: Mr Speaker, this is a hugely important piece of legislation and seminal. I call a division.

Hon. D A Feetham: We are all abstaining. *(Interjection by Hon. Ms M D Hassan Nahon)*

Mr Speaker: A division is being requested, so we need to have produced the list of Members and then we will ask individually how they will vote.

Voting resulted as follows:

FOR	AGAINST	ABSTAIN	ABSENT
Hon. P J Balban	None	Hon. K Azopardi	Hon. Sir J J Bossano
Hon. Prof. J E Cortes		Hon. D J Bossino	Hon. E J Phillips
Hon. V Daryanani		Hon. R M Clinton	Hon. E J Reyes
Hon. Dr J J Garcia		Hon. D A Feetham	
Hon. A J Isola		Hon. Ms M D Hassan Nahon	
Hon. G H Licudi			
Hon. S E Linares			
Hon. F R Picardo			
Hon. Miss S J Sacramento			

Mr Speaker: The result of the voting is as follows: 9 were in favour, there were 5 abstentions and there are three Members who are absent, so the Second Reading of the Bill is carried.

Clerk: The Anti-Corruption Authority Act 2022.

Anti-Corruption Authority Bill 2022 – Committee Stage and Third Reading to be taken at this sitting

Minister for Justice, Equality and Public Standards and Regulations (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.

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

Members: Aye.

COMMITTEE STAGE AND THIRD READING

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

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: the Commonwealth Park (Amendment) Bill 2022, the Employment (Amendment) Bill 2022, the Personal Light Electric Transporters Bill 2022, the Adoption Bill 2022, the Crime (Disorderly Behaviour Penalty Notice) Bill 2022, the Domestic Abuse Bill 2022 and the Anti-Corruption Bill 2022.

In Committee of the whole House

Commonwealth Park (Amendment) Bill 2022 –
Clauses considered and approved

Clerk: A Bill for an Act to amend the Commonwealth Park Act 2014.
Clauses 1 to 4.

Mr Chairman: Clauses 1 to 4 stand part of the Bill.

Clerk: The long title.

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

Employment (Amendment) Bill 2022 –
Clauses considered and approved

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

Minister for Housing, Employment, Youth and Sport (Hon. S E Linares): Mr Chairman, I think there should be an amendment to all the Bills.

Mr Chairman: You are now moving an amendment to the Bill, replacing 2022 with 2023?

Hon. S E Linares: And I think that should be the case with all the others.

Mr Chairman: Well, you can speak about that – or is it automatic? (**Hon. S E Linares:** Okay.) Automatic, right, okay.

Hon. S E Linares: Thank you.

Clerk: The long title.

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

Personal Light Electric Transporters Bill 2022 –
Clauses considered and approved with amendments

Clerk: A Bill for an Act to regulate the operation of personal light electric transporters, to amend the Traffic Act 2005 and the Crimes Act 2011 and for related purposes.
Clauses 1 to 12.

Minister for Transport (Hon. P J Balban): Mr Chairman, there is an amendment.

Mr Chairman: Clauses 1 to 12 stand part of the Bill.
There is an insertion that the Member wishes to make.

Hon. P J Balban: Mr Chairman, I may take this as read, the letter?

Chief Minister (Hon. F R Picardo): They are very technical.

Mr Chairman: The Members of the Opposition would have received a circular letter containing amendments. Are the Opposition content?

Hon. K Azopardi: Yes.

Mr Chairman: The Minister needs to say that he is moving an amendment where he inserts after … He has given notice of an amendment, which inserts, after clause 12, a new clause 13. He needs to say that.

Hon. P J Balban: Mr Chairman, the amendment is that after clause 12, we insert the amendment of which I have given notice.

Clerk: Clauses 1 to 12 as amended.

Mr Chairman: Stand part of the Bill.

Clerk: The long title.

Mr Chairman: I think there is an amendment to the long title.

Hon. Chief Minister: It is just the date.

Hon. P J Balban: It is just the date.

Mr Chairman: It says here, 'In the long title, after "Traffic Act 2005", insert "the Insurance Motor Vehicles Third Party Risk …"'.

Hon. P J Balban: Mr Chairman, there is an amendment:

After the long title, after Traffic Act 2005, insert 'the Insurance Motor Vehicles Third Party Risk Act 1986'.

Mr Chairman: The long title as amended stands part of the Bill.
I also need to raise the fact that the Hon. Mr Feetham was abstaining on this Bill.

Hon. D A Feetham: Mr Chairman, yes, because I had written to the Minister in a professional capacity in relation to this.

Adoption Bill 2022 –
Clauses considered and approved

Clerk: A Bill for an Act to provide for the regulation of the law relating to adoption and for connected purposes.
Part 1, clauses 1 to 4.

Mr Chairman: I take it there are no amendments to …?

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Chairman, following some of the interventions from the Hon. Mr Bossino on some typos earlier, I will deal with those under the slip rule because, checking them all, they are pretty much caught by the slip rule. They are amendments such as changing 'they' to 'he' or 'she', and very minor, inconsequential typographical amendments, I would say.

Mr Chairman: I made a reference to this. I do not know whether it was clarified by the Hon. Minister. In clause 15(3)(a) you made reference to the word 'placement' and that there should be a reference … I do not know whether this is something that you are going to be discussing as a future amendment to the Bill or …

Hon. D J Bossino: I am not sure how the slip rule works, but would it assist the Minister if I wrote to her with the points I made in the course of my intervention, and then she can take a view?

Chief Minister (Hon. F R Picardo): Mr Speaker, my understanding is that the slip rule enables you to deal with the typos. The hon. Gentleman talked about typos etc. Anything which is more than that, we would want to consider if we have not agreed it in the debate. So the typos can go under the slip rule, and you can exchange letters just to make sure that they are agreed, but otherwise it should be a more substantive consideration for the future.

Hon. D J Bossino: I think, given the time, I will write to her with all the points, and then she can decide how best to approach it.

Mr Chairman: Please continue.

Clerk: Part 2, clauses 5 to 13.

Mr Chairman: Part 2, clauses 5 to 13 stand part of the Bill.

Clerk: Part 3, clauses 14 to 60.

Mr Chairman: Part 3, clauses 14 to 60 stand part of the Bill.

Clerk: Part 4, clauses 61 to 70.

Mr Chairman: Part 4, clauses 61 to 70 stand part of the Bill.

Clerk: Part 5, clauses 71 to 74.

Mr Chairman: Part 5, clauses 71 to 74 stand part of the Bill.

Clerk: Part 6, clauses 75 to 83.

Mr Chairman: Part 6, clauses 75 to 83 stand part of the Bill.

Clerk: Part 7, clauses 85 to 95.

Mr Chairman: Part 7, clauses 85 to 95 stand part of the Bill.

Clerk: Part 8, clauses 96 to 106.

Mr Chairman: Part 8, clauses 96 to 106 stand part of the Bill.

Clerk: Schedule 1.

Mr Chairman: Schedule 1 stands part of the Bill.

Clerk: Schedule 2.

Mr Chairman: Schedule 2 stands part of the Bill.

Clerk: The long title.

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

Crime (Disorderly Behaviour Penalty Notice) Bill 2022–
Clauses considered and approved

Clerk: A Bill for an Act to make new provision for on-the-spot penalties for disorderly behaviour.

Clauses 1 to 12.

Mr Chairman: Clauses 1 to 12 stand part of the Bill.

Clerk: The Schedule.

Mr Chairman: The Schedule stands part of the Bill.

Clerk: The long title.

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

Domestic Abuse Bill 2022–
Clauses considered and approved

Clerk: A Bill for an Act to make provision in relation to domestic abuse; to create an offence in relation to controlling or coercive behaviour in intimate or family relationships; to provide for an offence of threatening to disclose private sexual photographs and films; to provide for an offence of strangulation; to make provision for the granting of measures to assist individuals in certain circumstances to give evidence; and for connected purposes.

Clauses 1 and 2.

Mr Chairman: Clauses 1 and 2 stand part of the Bill.

Clerk: Part 1, clauses 3 to 5.

Mr Chairman: Part 1, clauses 3 to 5 stand part of the Bill.

Clerk: Part 2, clauses 6 to 36.

Mr Chairman: Part 2, clauses 6 to 36 stand part of the Bill.

Clerk: Part 3, clause 37.

Mr Chairman: Part 3, clause 37 stands part of the Bill.

Clerk: Part 4, clauses 38 to 40.

Mr Chairman: Part 4, clauses 38 to 40 stand part of the Bill.

Clerk: Part 5, clauses 41 to 43.

Mr Chairman: Part 5, clauses 41 to 43 stand part of the Bill.

Clerk: Part 6, clause 44.

Mr Chairman: Part 6, clause 44 stands part of the Bill.

Clerk: Part 7, clauses 45 to 49.

Mr Chairman: Part 7, clauses 45 to 49 stand part of the Bill.

Clerk: The Schedule.

Mr Chairman: The Schedule stands part of the Bill.

Clerk: The long title.

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

Anti-Corruption Authority Bill 2022–
Clauses considered and approved with amendments

Clerk: A Bill for an Act to make provision for the establishment of the Anti-Corruption Authority and to provide it with powers of investigation and other duties, powers and functions for the investigation of corrupt conduct, and for connected purposes. The Hon. the Minister for Justice, Equality and Public Standards and Regulations.
Part 1, clauses 1 and 2.

Mr Chairman: Part 1, clauses 1 and 2 stand part of the Bill.

Clerk: Part 2, clauses 3 to 14.

Mr Chairman: Part 2, clause 3 needs to be amended.

Chief Minister (Hon. F R Picardo): Mr Chairman, the hon. Lady has given a notice of amendment to clause 3(3)(a). During the course of the debate I said that the proposal from the Government would be to continue to amend clause 3(3)(a) as is proposed in the letter, but that in clause 3(3)(b) we would change matters a little more, and instead of saying, as set out in the Minister's letter, that it would be the Chief Minister and the Leader of the Opposition who would

appoint two each, we will in fact propose to change (b) by saying 'four persons appointed by the Specified Appointments Commission and who, in the opinion of the Commission' and then the rest should stay the same.

There was then also an amendment, which has been circulated in writing, to clause 3(12) by the Hon. Minister, and additionally, although we have not given notice in writing, in respect of clause 3(14) we are proposing to change the words 'payable out of' to 'a charge on'.

Mr Chairman: So the Chief Minister is suggesting that we remove 'be payable out' –

Hon. Chief Minister: Of.

Mr Chairman: 'shall be' –

Hon. Chief Minister: A charge on.

Mr Chairman: A first charge or a charge?

Hon. Chief Minister: No, a charge on. First charges, I think, are constitutional.

Mr Chairman: 'Shall be a charge on' –

Hon. Chief Minister: The Consolidated Fund.

Mr Chairman: So it should read 'shall be a charge on the Consolidated …' That is the amendment to –

Hon. Chief Minister: That is right, yes.
I think that is, apart from … Later, I think the hon. Lady was moving … in clause 21, anyway.

Clerk: Clauses 3 to 14 as amended.

Mr Chairman: Clauses 3 to 14 as amended stand part of the Bill.

Clerk: Part 3, clauses 15 to 28.

Mr Chairman: Part 3, clauses 15 to 28 stand part of the Bill. *(Interjection)* No. It should be clauses 15 to 20 stand part of the Bill, and there is an amendment to clause 21.

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Chair, I gave notice to proposed amendments to clause 21 and, in particular, subclauses (3) and (4)(b), in my letter of 17th January. May I respectfully suggest that we take those amendments as read, as contained in the letter?

Mr Chairman: Clause 21, as amended, stands part of the Bill.

Clerk: Clauses 22 to 28.

Mr Chairman: Clauses 22 to 28 stand part of the Bill.

Clerk: Part 4, clauses 29 to 32.

Mr Chairman: Part 4, clauses 29 to 32 stand part of the Bill.

Clerk: Part 5, clauses 33 to 38.

Mr Chairman: Part 5, clauses 33 to 38 stand part of the Bill.

Clerk: Part 6, clauses 39 to 40.

Mr Chairman: Part 6, clauses 39 to 40 stand part of the Bill.

Clerk: The Schedule.

Mr Chairman: The Schedule stands part of the Bill.

Clerk: The long title.

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

Commonwealth Park (Amendment) Bill 2022;
Employment (Amendment) Bill 2022;
Personal Light Electric Transporters Bill 2022;
Adoption Bill 2022;
Crime (Disorderly Behaviour Penalty Notice) Bill 2022;
Domestic Abuse Bill 2022;
Anti-Corruption Authority Bill 2022 –
Third Reading approved: Bills passed

Mr Speaker: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to report that the Commonwealth Park (Amendment) Bill, the Employment (Amendment) Bill, the Personal Light Electric Transporters Bill, the Adoption Bill, the Crime (Disorderly Behaviour Penalty Notice) Bill, the Domestic Abuse and the Anti-Corruption Authority Bill have been considered in Committee and agreed to, some with amendments, and I now move that they be read a third time and passed.

Mr Speaker: I now put the question, that the Commonwealth Park (Amendment) Bill 2022, the Employment (Amendment) Bill 2022, the Personal Light Electric Transporters Bill 2022 as amended, the Adoption Bill 2022, the Crime (Disorderly Behaviour Penalty Notice) Bill 2022, the Domestic Abuse Bill 2022 and the Anti-Corruption Authority Bill 2022 as amended be read a third time and passed.

Those in favour of the Commonwealth Park (Amendment) Bill 2022? (**Members:** Aye.) Those against? Carried.

Those in favour of the Employment (Amendment) Bill 2022? (**Members:** Aye.) Those against? Carried.

Those in favour of the Personal Light Electric Transporters Bill 2022?

Several Members: Aye.

Hon. D A Feetham: I abstain, Mr Speaker.

Mr Speaker: But the Opposition will be voting in favour.

Hon. D A Feetham: I am abstaining.

Mr Speaker: You are abstaining, right, but I did not quite catch the …

Those in favour of the Adoption Bill 2022? (**Members:** Aye.) Those against? Carried.

Those in favour of the Crime (Disorderly Behaviour Penalty Notice) Bill 2022? (**Members:** Aye.) Those against? Carried.

Those in favour of the Domestic Abuse Bill 2022? (**Members:** Aye.) Those against? Carried.

Those in favour of the Anti-Corruption Authority Bill 2022? (**Members:** Aye.) Those against? Abstentions? The Opposition is abstaining. The Bill is, therefore, carried.

Adjournment

Chief Minister (Hon. F R Picardo): Mr Speaker, it is late in the hour. The Government does not like to keep Members this late, but if we had not resolved these issues today, we would have had to come back next week and I know we all have other commitments – the Deputy Chief Minister and I will be travelling.

I am grateful to all Members for the debate this afternoon on all of the legislation that has passed. We have passed some seminal pieces of legislation, not least and in particular the Domestic Abuse Bill that is now law, a very short but important Bill on employment matters which will deal with trade union recognition, and a seminal Bill on the creation of Gibraltar's first Anti-Corruption Authority. On that basis, I thank all hon. Members for the debate and I move that the House should now adjourn *sine die*.

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

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

This House will now adjourn *sine die*.

The House adjourned at 10.13 p.m.