



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 9.24 a.m. – 11.11 a.m.

Gibraltar, Friday, 21st March 2014

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The House adjourned at 11.11 a.m.22

The Gibraltar Parliament

The Parliament met at 9.24 a.m.

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

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

PRAYER
Mr Speaker

GOVERNMENT MOTIONS

**Mayor of Gibraltar and Deputy –
Hon. Adolfo Canepa GMH OBE MP and Ms Kaiane Aldorino GMH appointed**

Acting Clerk: Number (viii), Order of the Day – Government Motion.
The Hon. the Chief Minister.

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

‘This House appoints the Hon. Adolfo Canepa GMH OBE MP to be Mayor of Gibraltar, and Ms Kaiane Aldorino GMH to be his Deputy.’

Mr Speaker, the appointment of a new Mayor is no doubt a joyous occasion for any city. Today, however, we must also reflect on the service of a Mayor who comes to the end of his tenure and that will always, of course, be tinged with a little sadness.

10 Tony Lima and of course with him Carmen Lima, his wife, have been in post for a year and eight months. His initial 12-month appointment was extended by this Government, so that Mayors can now be appointed as from the start of the financial year, on 1st April.

15 There is no doubt in the Government’s mind, Mr Speaker, that Mr Lima has done an excellent job as Mayor. He has really approached the post with the clear mission of bringing many into City Hall who might not have had the chance to visit it otherwise. He has hosted all manner of delegations and associations without any hint of protestation, and he has done so always with a smile, with courtesy and with his wife, Carmen beaming at his side. So we must convey grateful thanks from our community for the manner in which Tony and Carmen have so ably led the Mayoralty from City Hall. On behalf of the Government and the people of Gibraltar, a big thank you to them.

20 The motion I now move to appoint you as the next Mayor of our City is also to take effect therefore from 1st April. As we all know, Mr Speaker, you have political experience, having held the three highest political offices, including now the post of Speaker. That of course will equip you well to be Mayor, but perhaps most importantly and moreover, you have actually already been Mayor. You took the post from 1976 to 1978. You were the fourth Mayor of Gibraltar, after the Hon. Alfred Vasquez, who then became Sir Alfred Vasquez, the Hon. Col. Willie Thompson and of course the first Mayor of Gibraltar, Sir Joshua Hassan.

You will also be becoming the 16th incumbent of the post and on both occasions, you will have at the same time also been a Member of this House. Your qualification for the role is therefore not a matter on which this House needs to be addressed.

30 It is true, Mr Speaker, that we had previously indicated our intention to reappoint Mr Tony Lombard to the post of Mayor. When the House appointed Mr Alcantara as the 14th Mayor, I reflected then on Mr Lombard’s time in City Hall by saying the following:

‘I want to record the Oppositions gratitude’ –

– we were then in Opposition –

‘to Mr Anthony Lombard for the work that he has done in discharging the civic functions of the role of Mayor of our city. It has been a delight to attend functions over which he has presided and at which he has spoken on behalf of all of us. He has imbued the Mayoralty with a sense of history and purpose that we all knew he would bring to it. He has not let any of us down and he has certainly relished the role and enjoyed it with gusto. Like Momy Levy and Olga Zammit before him’

– the two who had been appointed as civic Mayors before him –

Mr Lombard has stepped up to the plate and done this House proud for the unanimous appointment of him as Mayor. I am sure that I speak for the whole community, Mr Speaker, when I say that we will be sad to see him go.’

35 We had openly, in fact Mr Speaker, referred to the ‘return to City Hall’ occurring now for Mr Lombard. However, Mr Speaker, the Government received a large number of representations from citizens of all walks of life, who were contrary to Mr Lombard’s reappointment. In many instances, Government must act, Mr Speaker, based on what Government thinks is right, even if our actions might sometimes prove unpopular.

40 In the appointment of a Mayor, however, Mr Speaker, the Government has wanted to make an appointment which is uncontroversial and which enjoys the support insofar as possible of the whole community. Despite our view that he did an excellent job when Mayor, there was a groundswell of opinion which included steps being taken to initiate a petition to be brought to Parliament that Government could not ignore, and all of these were against Mr Lombard’s proposed re-appointment. It is for that reason that
45 we have not pursued the appointment. I nonetheless want to express my own high regard for Mr Lombard as a person and as a professional.

More happily, Mr Speaker, I turn now to our proposed choice as Deputy Mayor, namely Kaiane Aldorino. Miss Aldorino needs no introduction to anyone in Gibraltar, or in this Chamber. She has already done Gibraltar very proud indeed in her work as Miss World 2009. She has become the face of Gibraltar to
50 a very great extent – and anybody who has seen the faces of the current, past and previous Chief Ministers, might think that is a very good thing too, that she should be the face of Gibraltar!

Indeed, Mr Speaker, I have said before that I think all of us will always remember where we were when Kaiane Aldorino was crowned Miss World in 2009. For Gibraltarians, her election has the tinge of perhaps the moon landings or the assassination of President Kennedy in that respect, and our community recognised
55 her achievements in bestowing upon her the Freedom of the City of Gibraltar and the Gibraltar Medallion of Honour. Having been a representative of our nation on the world stage, Mr Speaker, she is of course, ideally suited to assist you as your deputy.

You have many responsibilities and a Deputy Mayor in your case may be called upon more often than in previous instances, to take on functions in your absence. In our view, Mr Speaker, Kaiane can fulfil that
60 role and thereafter become an excellent Mayor also.

What we are not doing, Mr Speaker, is making your respective appointments definite in time, as had been the practice since August 2008. Your appointments are indefinite.

I trust that this motion will enjoy support from all sides of the House. (*Applause*)

65 **Mr Speaker:** I now propose a question in the terms of the motion moved by the Hon. Chief Minister. Would anyone like to contribute to the debate?

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

70 Mr Speaker, may I start by associating myself entirely with the words of the Hon. the Chief Minister and the Leader of the House. Warm words about Tony and his wife, he really has been... together with his wife, they have been a credit to Gibraltar and everything that they have done, they have done elegantly, with dignity and I have to say that they have brought something extra, in my view, to the role of – or certainly he has, to the role of Mayor.

75 But Mr Speaker, I am afraid that this motion does not have the unanimous support of the House. Out of respect, Mr Speaker, for Mr Speaker and also Kaiane Aldorino, who we believe will be excellent Mayors – and it is no reflection on your ability to be a Mayor, a role that you have exercised in the past, or indeed, the ability of Ms Aldorino to exercise that role in the future – but we do not believe it is right and therefore we are going to be abstaining. Out of respect, we are going to be abstaining, rather than voting against.

80 And essentially, there are three reasons why we are going to be abstaining in relation to this motion. One is quite frankly the very shabby way in which, in our view, Mr Lombard has been treated in relation to this matter. Secondly, because there has not been any consultation of the Opposition before this decision was taken to overturn Mr Lombard’s initial intention to be appointed. Thirdly, because it represents a

reversal, certainly as far as the appointment of Mr Speaker is concerned, of GSD policy and we certainly do not feel that there is any reason why there ought to be a reversal of that policy.

85 If I may develop the first reason, start with the first reason. Mr Speaker, Tony Lombard – the decision to appoint Tony Lombard as Mayor, was the decision that was taken by the Hon. the Chief Minister, the Leader of the House, after consultation with my predecessor as Leader of the Opposition, Sir Peter Caruana. It was a decision that was taken in 2012, it was announced publically in August of 2012 and the intention was for Mr Lombard to serve for a period, I think it was, of three years.

90 This month, because of course we knew that Mr Lima's tenure of office was about to expire, Mr Lombard was asked to produce an interview with the *Essential* magazine in order to further announce the fact that his appointment as Mayor was to become a reality imminently. Indeed he telephoned, quite properly, the Deputy Chief Minister, and cleared that interview with the Deputy Chief Minister, before it was to come out. It was only the day before the interview was due to be published with the *Essential* magazine, that he received a call from the Chief Minister to tell him that the Government had reversed the decision.

100 In other words, just barely two weeks ago – this was a decision that was taken in 2012 – two weeks ago, what happened was that Mr Lombard had to scurry to get hold of the editors of the *Essential* magazine in order to change the article because he was only told the day before that article was to be published, an article that he had cleared with the Deputy Chief Minister. Now, I have to say that on any reasonable and objective analysis, that is quite shabby treatment of an individual indeed, whatever the reasons that a government may have to change its view, and indeed so hastily was the story changed in the *Essential* magazine, that what could not be changed was the front page title which reads 'Tony Lombard's new office'.

105 Now Mr Speaker, I have to say that anybody who has been to the office of Tony Lombard, no doubt will describe his office as being excellently appointed, excellently – very well kept indeed, but I do not think that you can describe or the word 'new' is not quite an apposite description of his office. Indeed, if Charles Dickens were to walk in through the door, (*Laughter*) he would not think that he was out of place in Tony Lombard's office.

110 So Mr Speaker, I think in my view, one does place a premium on the consistency of decisions of governments and governments ought not to change their views like weather vanes in accordance with whether a particular decision is popular or not, taking into account really what we are talking about. Look, if I were to listen to people that thought that I was popular or unpopular, I would go from euphoria to absolute depression within the space of 24 hours. That is the reality of a small community like Gibraltar, everybody has an opinion and I just simply do not think that the Government really has provided cogent reasons to explain the quite extraordinary treatment of Mr Lombard.

Bearing in mind, and I was about to read exactly the same passage that the Hon. the Chief Minister, Leader of the House has read, bearing in mind the very glowing reference that he gave Mr Lombard in 2011, barely I think it was four months before the General Election in 2011.

120 Now, Mr Speaker, the second reason is of course – and it is related, is that the Opposition has not been consulted. I was notified about this in an e-mail from the Deputy Chief Minister and my e-mail in response was, what about Tony Lombard? The response to that was, well the Chief Minister will talk to you about it and will give you the reasons. Eventually it was the Deputy Chief Minister that actually spoke to me and I am very grateful to him for explaining Government policy in this regard.

125 But Mr Speaker, if this is a decision that was taken in 2012 and it was taken after the Leader of the House consulted the then Leader of the Opposition, Sir Peter Caruana, one would have expected that the Chief Minister would have picked up the telephone and said to me, 'This is the Government's current thinking in relation to the appointment of Mr Lombard, what do you think?' I would have told him, look, if he really feels that there are concerns, well, why do we not try and see whether there is a middle road? Perhaps the appointment of Mr Lombard for a year, not three years, and I think that is the way that politics ought to be conducted. There ought to be an open channel of communication between the Chief Minister and the Leader of the Opposition, and I think in this case, it was incumbent on the Chief Minister to pick up the telephone and talk to me before the change of policy, bearing in mind that the appointment of Mr Lombard or the initial decision to appoint him, had actually been taken by consulting the Leader of the Opposition.

135 Thirdly, of course, it represents a reversal of GSD policy. We took a decision that the Mayorship should go out to members of the public, people who were not politicians, who were not Members of the House so that this Parliament could recognise citizens who have contributed to this community by appointing them as Mayors. I have every respect for Mr Speaker and no doubt, I will repeat it again, he is going to be an excellent, excellent Mayor, but I think that it is a reversal of our policy, a policy that was well thought out and I do not see... and look, I could have been open to persuasion if he had phoned me and perhaps spoken to me about it, but he has not. At the moment, I really cannot see at the time that we are taking this vote,

why there ought to be that reversal of GSD policy in relation to the appointment of a Member of this House to the Mayorship.

145 Those in essence are the reasons why we cannot support this motion, but again I repeat with respect to Mr Speaker and Miss Aldorino, we are not going to be voting against, but we are going to be abstaining.

Mr Speaker: Does any other hon. Member wish to speak on the motion? I now call on the mover to reply.

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Hon. Chief Minister: Mr Speaker, it is not the first time that things that might traditionally have gone by on a unanimous vote have to go by on Government majority, either with them in Opposition or with us in Opposition. That is the beauty of Parliament: we come here to express freely what our views are on particular subject. But in doing so and in deciding that we are going to obviously have to proceed with this by way of exercise of the Government majority, let me deal with the three excuses that the hon. Gentleman has put forward, in trying to justify why it is that they are not going to be supporting this motion.

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Let me start at the end, Mr Speaker, with the idea that there is somehow here a reversal of GSD policy. Mr Speaker, the hon. Gentleman has talked at length about what he calls the shabby treatment of Mr Lombard and that is obviously why they are going to vote against, so I am surprised to see that he has tried to find other excuses to in some way decorate their abstention. Because of course there is no reversal here of GSD policy, the hon. Gentleman is saying that they had taken the decision to appoint people from outside the House but surely they had not taken the decision to appoint people exclusively from outside the House. Or is it that one of the Clerks or Ushers might be disqualified from being Mayor if they were Members of this House, or the Speaker is disqualified from being Mayor if they were Members of this House?

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What they decided to do was not to appoint a Minister as Mayor. That is what they spoke about. They did not actually address the issue of Speaker's appointment as Mayor and of course, unless they are commending to her a career in politics and you would have to be a fool to become engaged in politics in this community as the 17 of us obviously are, Kaiane Aldorino is not a Member of this Parliament so I wonder whether the Hon. the Leader of the Opposition bothered to read to the end of the motion before deciding that he was going to turn up in Parliament today on a white charger to try and ingratiate himself to somebody whose position he wanted to defend. So the GSD policy reversal excuse is really not worth the paper that his remarks have been spoken on.

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The issue of consultation, Mr Speaker, has always been a vexed one between Members opposite and with us. I mean, the level of consultation we used to get was a phone call saying the Chief Minister has decided that ... and that is in instances where statute requires consultation. There is no statutory requirement of consultation here. It is true that I spoke to Mr Caruana about these issues some time ago. It is also true that GSD policy was that we were wrong to go back to reappoint somebody who had already held the position, but they agreed that if it was the Government's view, they would support it or is it that that particular GSD policy is capable of reversal without comment.

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And then, Mr Speaker, the issue of shabby treatment and how important it is for governments to be consistent, well look, it is important for Government to be consistent, I addressed that in my speech and therefore I have explained why we have made a change in our choice in this nomination – one of the hardest things I have had to do since I have been Chief Minister – because as I have said I have a high regard for Mr Lombard professionally and personally, whatever his views may be about me after today, that will not change.

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This is not an issue of policy, it is not a policy to appoint Tony Lombard or appoint Adolfo Canepa or appoint Kaiane Aldorino. It is a choice. The hon. Gentleman should surely understand the difference between policy and choice. Not because he has been in politics for 13 years but because I thought he spoke English and the two things are completely different. This is not an issue of policy. It is an issue of having to make a *very difficult choice* in respect of somebody for whom I have the highest regard.

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And if having to explain that choice and deal with it is to treat somebody shabbily when one tries to be as sensitive as possible in doing so, then he and I have completely different definitions of what shabby treatment is. I could come up with a list for him of people that have been treated shabbily under his Administration, singled out for discrimination, singled out for attacks in the press, for simply having raised their voice against them when they were in Government.

195

But then when he talks about consistency, one is left wondering whether he reads his own tweets. I had to refer him yesterday to how his Party had proudly tweeted how they had transformed themselves in two years in Opposition, therefore decrying everything that they had done before. So where is the value, weight and merit in consistency when all that they are proclaiming is that they are no longer who they were.

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And the next item on the Order Paper, Mr Speaker, will demonstrate that to some degree or other because I never saw them move civil partnership legislation and yet now it appears that at least some of them are going to support it. What value consistency then?

205 Politics is about hard choices. Whether it is about a Victoria Stadium being moved to the Lighthouse or the GFA Stadium having to be at the Lighthouse, whether it is about Tony Lombard being Mayor or not being Mayor, it is about hard choices made in the best interests of our community.

210 If somebody wants to say that I have treated a man who I considered a friend and who I have the highest regard for shabbily, then it is because they want to try and use this for their own opportunistic political reasons, as usual. That is shabby. (*Banging on desks*)

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

GOVERNMENT BILLS

FIRST AND SECOND READING

Financial Services (Contingency Fund) Bill 2014 – First Reading approved

215

Acting Clerk: Bills, First and Second Reading. (1) A Bill for an Act to make provision for and in connection with the creation of a Contingency Fund to be available for use upon the happening of a major event connected to activities licensed under the supervisory Acts; to provide for the functions and powers of the authority; and for connected purposes be read a first time.

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The Hon. the Chief Minister.

225 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act to make provision for and in connection with the creation of a Contingency Fund to be available for use upon the happening of a major event connected to activities licensed under the supervisory Acts; to provide for the functions and powers of the authority; and for connected purposes, be read a first time.

230 **Mr Speaker:** I now put the question, which is that a Bill for an Act to make provision for and in connection with the creation of a Contingency Fund to be available for use upon the happening of a major event connected to activities licensed under the supervisory Acts; to provide for the functions and powers of the authority; and for connected purposes, be read a first time.

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

Acting Clerk: The Financial Services (Contingency Fund) Act 2014.

Financial Services (Contingency Fund) Bill 2014 – Second Reading approved

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

Mr Speaker, this Bill establishes a sinking fund from which regulatory action by the Financial Services Commission may be funded. It separates income received by the Commission for its operating expenses and capital expenditure from those to be held explicitly for funding regulatory action in the case of a major event.

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Mr Speaker, the Financial Services (Contingency Fund) Act will replace the method of funding regulatory action for major events, by the Commission. When the Financial Services (Temporary Administration of Companies) Act 2010 was introduced, it envisaged that funding for such action would be drawn exclusively from licensees under the Financial Services (Investment and Fiduciary Services) Act and used for regulatory action only under that Act.

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Trade Associations and in particular the Association of Trust and Company Managers made representations for a sinking fund to be established for future actions and that this should be funded from as wide a representative base as possible.

As the annual fee is paid by financial services across the supervisory Acts, and broadly representative of their size, it was put forward that a percentage of annual fees should form the basis of the levy to establish

250 and fund the Contingency Fund. The Contingency Fund will now also be available to fund regulatory action by the FSC under any of the supervisory Acts, as was also suggested by the industry.

This Government concurs with the views put forward by industry and this Bill formalises these arrangements. This Bill establishes a separate fund, exclusively for the purposes of future regulatory action which the Commission may not use for its own expenditure. In any case, any use of the Contingency Fund will require Ministerial consent before it can be drawn upon to fund an action and only then in the case of a major event.

Mr Speaker, clause 3 of the Bill defines what is meant by a major event, very narrowly, as essentially an action that would cause the Commission to remove an authorisation from a firm under any supervisory Act. It is clear that the Contingency Fund cannot be drawn upon for regular enforcement or regulatory actions and that the Commission will need to perform its statutory functions. Such expenses will need to be met out of its normal revenue. Ministerial approval is required in any event before an event can be considered a major one.

Clause 3(2) also imposes upon the Commission a requirement to inform the Finance Centre Council of every request that it submits to the Minister in this respect.

Mr Speaker, clause 4 provides for the establishment of the fund and the accounting thereof, as well as imposing restrictions on the investments and deposits that the fund may be invested in.

Clause 5 of the Bill makes contribution to the fund liable upon every holder of any type of authorisation under one of the supervisory Acts and defines the amount by way of a percentage of annual fees, due under the supervisory Acts.

The Commissioner is required to inform the Minister of the amounts it considers will be required to be made out of the fund in any year and I am obliged to consult the Finance Centre Council before setting the percentage applicable during any year, subject to a cap of 10%.

Mr Speaker, it is anticipated that the Contingency Fund will have a healthy but not burdensome balance in order to fund regulatory actions in time of need.

Clause 6, Mr Speaker, imposes conditions upon which expenditure out of the Contingency Fund may be incurred. Transparency of the operation of the Contingency Fund is essential and clause 7 imposes upon the Authority to make the appropriate disclosures in the notes to its accounts, as well as reserving the right of Government to conduct a value for money audit in relation to its operation.

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?

Hon. S M Figueras: Mr Speaker yes, I rise very briefly to associate myself with those remarks that the Hon. the Chief Minister has made in relation to the need for such a Contingency Fund, certainly recent experience in the industry has shown that this is a worthy measure.

Having spoken briefly to the Hon. Minister for Financial Services yesterday, we discussed the consultation that had been ongoing with ATCOM and I, as are the rest of my hon. colleagues on this side of the House, am perfectly happy to support the Bill and will be doing so.

Mr Speaker: I now put the question, which is that a Bill for an Act to make provision for and in connection with the creation of a Contingency Fund –

Hon. Chief Minister: Sorry Mr Speaker, I am grateful. Thank you for the opportunity to reply.

I am grateful to the hon. Gentleman for indicating that this Bill will enjoy support. Of course this represents a change of policy from the position taken by them when in Government, given representations from the industry and I realise that they do not put such value on consistency that they would stick with something that the industry would not want, and I therefore welcome the fact that they are going to support us.

Mr Speaker: I now put the question, which is that a Bill for an Act to make provision for and in connection with the creation of a Contingency Fund to be available for use upon the happening of a major event connected to activities licensed under the supervisory Acts; to provide for the functions and powers of the authority; and for connected purposes, be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Acting Clerk: The Financial Services (Contingency Fund) Act 2014.

**Financial Services (Contingency Fund) Bill 2014 –
Committee Stage and Third Reading to be taken at this sitting**

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

310

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

**Civil Partnership Bill 2014 –
First Reading approved**

Acting Clerk: (2) A Bill for an Act to make provisions for and in connection with civil partnerships. The Hon. the Minister for Equality, Social Services and the Elderly.

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Minister for Equality, Social Services and the Elderly (Hon. S J Sacramento): Mr Speaker, I have the honour to move that a Bill for an Act to make provision for and in connection with civil partnership, be read a first time.

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Mr Speaker: I now put the question, which is that a Bill for an Act to make provision for and in connection with civil partnerships, be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Acting Clerk: The Civil Partnership Act 2014.

**Civil Partnership Bill 2014 –
Second Reading approved**

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Minister for Equality, Social Services and the Elderly (Hon. S J Sacramento): Mr Speaker, I have the honour to move that the Bill for the Civil Partnership Act 2014 be read a second time.

This is the first time that I move a Bill in this House and I am very proud that it will be such a landmark piece of legislation, one that will enable the formal recognition of relationships between couples of the same sex. Same sex couples currently have no route of legal recognition and this Bill addresses that.

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In creating this legislative framework for same sex couples alongside opposite sex couples, Government is demonstrating our commitment to equality. This Government's commitment to equality is clear and as Gibraltar's first Minister for Equality, I am tasked with matters of great importance.

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Already in this term of office, this Government has outlawed homophobic hate crime and hate speech and made these aggravated offences, and done a lot of work in raising awareness of equality issues generally, particularly in organising or funding various training events.

I am told that the first time that the word 'gay' was mentioned in Parliament was during the course of my Budget speech in 2012. I promised that it would not be the last.

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Mr Speaker, as Minister with responsibility for equality, I have enormous satisfaction in being able to bring this Bill to the House. As the House is aware, in our manifesto we pledged that a GSLP Liberal Government would legislate for the recognition of civil partnerships between two people, regardless of gender or sexual orientation, ratified by a binding contract through the signing of an official register. This would entitle them to benefits related to tax, pension and property rights and this Bill is in fulfilment of that promise.

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Mr Speaker, gay men and women are a fact of life in Gibraltar. Gay couples live together in committed relationships but that love and commitment counts for nothing in the eyes of the law. This Bill represents a historic step on what has been a long journey for same sex couples, for respect and dignity and above all, recognition in Gibraltar of their right to enter into a relationship and that it be recognised in the eyes of the law.

Her Majesty's Government sees this as a natural progression towards an inclusive society and it is
350 recognition of modern Gibraltar which marks a major step in gay couples gaining recognition and social
acceptance.

Many people have decided to share their lives, their homes, their finances and it is not right that these
relationships be invisible in the eyes of the law. The concept of a civil partnership is not new. For example
355 in the United Kingdom the statute is celebrating its tenth anniversary this year. Although our Bill is
modelled on the UK Civil Partnership Act 2004, a key point of departure and which goes to the core of our
Act is the parties who may enter into a civil partnership.

In the United Kingdom, only same sex couples are entitled to enter into a civil partnership. This
limitation has had its share of controversy from heterosexual couples who feel that this is a form of
discrimination against them. Mr Speaker, as our manifesto commitment pointed out, in this Bill two people,
360 regardless of their gender, may enter into a civil partnership and that is equality.

Members of the House will be familiar with the trajectory of this Bill. A draft of the Bill was presented
to GGR, now the Equality Rights Group, in February 2013 and the consultation process with them as a
representative group began. We have since had many in-depth and meaningful discussions on the Bill, well
before it was published as a command paper in December of last year. During the draft stage, Unite the
365 Union called for Government to consider extending the legislation to opposite sex couples.

There was only one response during the consultation period once the command paper was issued – one
that was not in favour of the proposed legislation – but other than that, the Bill has commanded widespread
support, not only by organisations such as the Equality Rights Group and Unite, but also by many
individuals who have approached me and other Members of Government, expressing their support for the
370 Bill and in some cases, their personal desire to register their own relationships.

I would like at this stage, to express for the record, my thanks to the Equality Rights Group Committee
and in particular to Felix Alvarez who has worked so closely with me on this matter. I would also like to
thank the legal team who have been involved in drafting the legislation and for their guidance.

Mr Speaker, I have this morning circulated a letter containing one minor amendment to the Bill to
375 reflect the change in the legal position in the UK and some minor typographical amendments that we will
raise at Committee Stage.

Mr Speaker, I now turn to the details of the Bill.

Part 1 – other than the usual formalities in clauses 1 and 2, this part provides for the appointment of a
Civil Partnership Registrar and Deputies in clause 3. A Registrar will discharge the functions of ensuring
380 that formalities are complied with.

Clause 4 is the key provision in this Bill and sets out exactly what a civil partnership is and it can be
summarised as follows:

- 'A civil partnership is a relationship between two people ("civil partners")–
(a) which is formed when they register as civil partners of each other in Gibraltar; or
(b) when they are treated [...] as having formed [...] by virtue of having registered an overseas relationship.
[...]
(3) A civil partnership ends only on death, dissolution or annulment.

Part 2 of the Bill contains the bulk of the legislative provision spread out over seven chapters.

Chapter 1 is headed 'Registration' and, under clause 5, provides the formalities to be entered.

385 Subclause (1) requires that two persons sign a civil partnership schedule at the invitation of and in the
presence of two witnesses and each other; and subclause (3) sign it in each other's presence before the
Registrar and two witnesses.

Mr Speaker, at this juncture, I would also highlight the provision in subclause (5) that no religious
service is to be used while the Registrar is officiating the signing of the civil partnership schedule.

390 The eligibility criteria for those wishing to enter a civil partnership are set out in clause 6 where the
circumstances of persons who are not eligible are set out. These are: (a) either of them is already a civil
partner or lawfully married; (b) either of them is under 16; or (c) they are within prohibited degrees of
relationship.

Mr Speaker, it may be helpful to explain that the legal term 'prohibited degrees of relationship' roughly
395 translates into whether you are too closely related to the person whom you wish to enter a civil partnership
with.

Clause 7 makes it a requirement that where one of the parties to the civil partnership is under 18, the
consent of an appropriate person, such as a parent or the court is required.

400 The places where a civil partnership may be entered into are contained in clause 8. This includes the
Registrar's Office or with an appropriate licence in a person's residence, aboard a passenger ship, or at a
place which is authorised by licence.

Evidence of the civil partnership takes the form of the Registrar's certificate.

Clause 13 of the Bill provides for caveats to be entered in appropriate circumstances. In non-legal language, that means an objection. A caveat may be entered by a person who knows of a just cause why the civil partnership may not take place, for instance where the people may be too closely related and where a caveat is entered, the Registrar may refer the matter to the court.

Clauses 14 to 16 create a number of offences in relation to civil partnerships, such as providing false information.

Mr Speaker, it is inevitable, as in all relationships, that not all civil partnerships will last for ever. Chapter 2 therefore makes the necessary provision to ensure that where a relationship breaks down, there is a mechanism to resolve the issues and allow the parties to move on. The provisions are broadly those that are available in the cases of marital breakdowns.

The chapter also makes provision for separation, nullity and presumption of death orders. It also permits applications to the court for certain declarations, for example that a legal separation be obtained outside Gibraltar is also recognised.

Chapters 3 and 4 deal with the financial and property issues that follow, and includes provision designed to cater for the needs of children, where relevant.

Chapter 5 concerns civil partnership agreements. This is an agreement between two people to register as civil partners of each other and under this Bill, such an agreement is not recognised as giving rise to legal rights.

Chapter 6 relates to children and contains a single clause that takes you to schedule 7. That clause contains a number of amendments to enactments that relate to children.

Chapter 7 contains a number of miscellaneous provisions. Clause 90 takes you to schedule 8 which again makes a series of amendments to other legislation, this time on housing and tenancies.

Clause 91 takes you to schedule 9, which again makes a series of amendments to other legislation, this time on domestic violence and family homes.

Part 3 of the Bill concerns civil partnerships which have been entered into which have been dissolved abroad and provides the basis for when these are to be recognised in Gibraltar.

Part 4 of the Bill concerns relationships. Under clause 106, the definitions of step-child, step-brother, step-parent, etc are to be construed in the light of a civil partner, so that by way of example, A's step-child includes a person who is the child of A's civil partner but is not A's child.

Part 5 of the Bill contains a number of miscellaneous amendments, either directly or by reference to schedules so as to provide for the recognition of civil partnership in other areas of law, such as immigration – clause 107; discrimination in employment – clause 108; life insurance – clause 109; social security taxation – clause 110; and pensions – clauses 110 to 121.

Mr Speaker, this Bill sends a clear and unequivocal message that same sex couples deserve recognition and respect. This is a crucial step on the road to a fair and inclusive society.

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

Mr Speaker: Order! Order! Members of the public are welcome here. We are delighted to see you here today, but there must be no demonstration, and clapping amounts to demonstration, so please desist.

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

Hon. D A Feetham: Yes, Mr Speaker, thank you very much for the opportunity of speaking on the Second Reading of this Bill.

Mr Speaker, the GSD has a very long tradition of allowing Members to vote with their conscience on issues that impact on the individual conscience of Members of our side of the House. It is a tradition that goes back to the early 1990s when the Father of the House, the Hon. Minister Bossano brought a Bill to this House in order to decriminalise homosexuality in Gibraltar and indeed, on that occasion every single Member of the GSD, bar one who abstained, voted in favour of that particular measure.

It was a tradition that we carried over when I brought a Private Member's Bill to this House in 2010 in order to change the then law in order to bring down the age of consent for homosexuals from 18 to 16, an age where it had been for heterosexuals for over 100 years. On that occasion, Mr Speaker, I stood alone in this Parliament together with my friends Mr Netto, Mr Reyes and indeed Mr Montiel – a minority of four – when we presented that Private Member's Bill in this House, voting in favour of that measure to reduce the age of consent for homosexuals to 16, thus equalising it to where it had been for heterosexuals for over 100 years.

Unfortunately Mr Speaker, on that occasion, the hon. Members opposite when they were on this side of the House, voted against that Private Member's Bill on the grounds that it ought to have been a Government measure – in other words, that it was not appropriate to bring an Act of Parliament to this House to change something as fundamental as the age of consent by way of a Private Member's Bill and that the

Government of the day had to have the courage of its convictions to bring the Bill to Parliament, which at that stage they indicated that they would have supported.

465 Alas, Mr Speaker, when the matter then was referred by the previous Government to the Supreme Court for a determination as to whether the unequal ages of consent was constitutional or unconstitutional, and the judgement of the Court came back saying that it was unconstitutional and indeed, not only unconstitutional but that the age of consent for homosexuals should be reduced from 18 to 16 – not equalised, not equalised but reduced from 18 to 16 to where it had been, I emphasise, for heterosexuals for over 100 years and the
470 Government then brought a Government Bill to this House in order to reflect the judgement of the Supreme Court, equalising the age of consent at 16.

The hon. Gentlemen opposite abstained from that Bill, on the grounds that they wanted to consult in order to see whether the heterosexual age of consent ought to be increased from where it had been for over 100 years to 18 or *vice versa*, despite the fact that as a matter of fact – and this is very important – as a
475 matter of fact, the age of consent had already been reduced for homosexuals by the Supreme Court from 18 to 16.

Well, Mr Speaker, to talk about consistency, I suppose they were consistent in their own wonderful inconsistency on those occasions. Perhaps it is not surprising, Mr Speaker – it is not surprising, Mr Speaker, given the fact that they went from no, to yes, to maybe, to vote their conscience on the new Constitution.

480 And I mention the new Constitution because of course the new Constitution which was supported by the then GSD Government, introduced important revamping of the rights and freedoms of individuals, including the right not to be discriminated which has a very direct impact on the lives of homosexuals here in Gibraltar, as indeed across Europe.

Mr Speaker, I will be consistent. I speak for myself at the moment. I will be consistent, unlike hon. Members opposite. I will be consistent and I will support this Bill because as a matter of conviction, I believe that it is the right thing to do.

I can also indicate that for a variety of reasons, because this is a difficult issue, but for a variety of reasons, every single Member of the front bench of the Opposition will also be voting in favour of this particular Bill.

490 Thank you very much, Mr Speaker.

Mr Speaker: Does any other hon. Member wish to contribute to the debate?

The Hon. the Chief Minister.

495 **Chief Minister (Hon. F R Picardo):** Mr Speaker, it is the second time I rise to say that I hope that a particular debate might be seen as a joyous occasion, and in most modern parliaments one would have thought that legislating to remove discriminations from the statute book would be a joyous occasion for parliament to unite, but obviously, with the present Leader of the Opposition, even the most apparently joyous occasions are turned into low down and dirty partisan opportunities for political profit, with the odd
500 side-swipe at what someone might have done five years ago, totally misrepresented to suit the purpose of the speaker and completely ignoring the issues that are before the Parliament in the Bill today.

So I applaud the hon. Gentleman for his consistency: his consistency in not addressing issues, his consistency in misrepresenting what has happened before and why.

Mr Speaker, of course there can be issues where party colleagues take different views on some subjects. Yesterday, the hon. Gentleman made that, because he apparently thought there was a divergence of opinion on the Government benches, a mortal sin of Cabinet division. ‘The Cabinet is divided!’ over a particular issue to do with the Dover sole and sardines. He thought it was hugely important and yet today he explains their own sad division on something as important, as crucial as eliminating discrimination from our statute book as part of their tradition.

510 Well, it is not a tradition that he would know much of because most of the time that he is referring to, he used to support the people now on these benches, rather than them. At the time of the decriminalisation of homosexuality, he was a town crier for the party on this side, not for the party on that side. But so be it – consistency in inconsistency.

Mr Speaker, we will not take the view that this is an issue of conscience and I as Leader of the House am not saying that this is a free vote on an issue of conscience. Of course the hon. Gentleman is free to do with his team such as he will, but in this Parliament today, this Bill comes not as a matter of conscience. It comes as a matter of law, of the removal of discriminations from our *corpus juris*, from our statute book. The Government Mr Speaker, deeply respects the fact that there are – in my view, unfortunately, but there are – divergent views in our community in respect of the consequences of someone’s sexual orientation.

520 Well look, there are divergent views as we know on many things. There are divergent views on where we should site a stadium, so it is not unusual and it is part of our culture that we have 30,000 different opinions on most things.

525 But at the core, Mr Speaker, we are a multi-cultural community which is built not on tolerance as we might have said in the 1970s or 1980s; we are built on the basis of multi-cultural mutual respect. And the issues that we are touching upon today in this Bill... and I know the Hon. the Leader of the Opposition did not want to talk about this Bill; he wanted to talk about his own Private Member's Bill. In those days, Mr Speaker, it was one of the few occasions he got to speak in the House because there were not many questions put to him, so he had to resort to the device of a Private Member's Bill to get up on his hind feet and say something. He did not want to talk about *this*.

530 But this Bill stirs emotions in people of different views, and it is an issue, Mr Speaker, on which different religions take different positions and we should not pretend that this is not happening. We should confront it and those issues are not lost on the Government and that is why, Mr Speaker, what we are doing today in this Bill does not force anything on anyone, does not impose anything on anyone. We are not imposing anything on any sector of our community.

535 What we are doing today is the opposite, Mr Speaker. What this Bill will do is it will take the State – and it is important that we concentrate on that, *the State, only the State* – out of the structure of discrimination that same sex couples have suffered for many years. Because Mr Speaker, on this side of the House, we think as a matter of law – not just as a matter of conscience, as a matter of law – that the State should never be used as an instrument of discrimination, deployed against people simply because of who they love or how they love.

540 So this is not, Mr Speaker, a Bill that is designed to change anybody's attitude or to force anybody to accept anything. It is only the Government, it is only the State that is being forced to change as a result of this Bill. What we are saying is that after today, the Government, the State, nobody else, will not treat a couple of the same sex in a manner that is less advantageous than a couple of the opposite sex. It is in fact the Government that is taking on obligations today when this Bill becomes law.

545 When you look, Mr Speaker, at the history of equality – and how proud I am that at last we have a Minister for Equality in this Parliament and that I appointed her – but when you look at the history of equality, it comes in dribs and drabs. It is not that long ago, Mr Speaker, when men and women were not considered to be equal in the eyes of the law. And this Bill is not the final step in the road towards equality. 550 Neither was the Bill that the Hon. Mr Bossano brought when we decriminalised homosexuality. All of these are steps on the road towards full inclusion and equality.

555 Attitudes change, Mr Speaker, and they have changed in Gibraltar towards people of same sex orientation. They change in respect of whether women and men were equal, but the fact that attitudes have changed is not enough. The law has changed too in relation to discrimination against women, because they had to and in some instances, those discriminations had been written into our laws and had to be written out. Everybody now would say that men and women are of course entitled to equal treatment and of course our law recognises that – and the sky did not fall in when women got the vote, or were treated as equal to men.

560 And, Mr Speaker, in Gibraltar, I think it is true to say that whether people are gay or lesbian has long been an issue that has not necessarily affected their ability to have interpersonal relationships with others in our community, on the basis that they are equal. Attitudes have changed and to a great extent the representative groups of gay and lesbian people have driven those changes, sometimes in a high profile way, sometimes in a low profile way. But the attitude change is not enough, Mr Speaker. In the same way as had to happen in relation to the discrimination between men and women, laws must change too so that 565 laws which discriminate against homosexual or lesbian couples, stopping them from enjoying State-sponsored rights and benefits, have to be eliminated.

570 I gave a lot of thought, Mr Speaker, to how I might present my own intervention this morning. I did not want it to be partisan and I have had to go down that road because of the way that the Hon. the Leader of the Opposition has behaved, but I wanted to leave people with a clear understanding of why this is happening, because I know that the conscience of some may be challenged by what it is that we are going to do. I do not know why but I understand that it will happen.

575 So if there is anybody in this Chamber who is left with any doubt as to why we should be passing this Bill unanimously, I would ask them to challenge their thinking in this way and reverse the logic of what we are going to do today.

580 What if our laws did not already contain discrimination against the same sex couples? Imagine there was equality in the law. If you are going to vote against this Bill, would you vote in favour of a law that discriminated against same sex couples, because that is in effect what you are doing by saying that you do not support this Bill?

585 Ask yourself should something as deeply emotional, something as central to who we are as human beings, which is who we love – probably one of the reasons why we exist, much more than being in a wood panelled room on a Friday morning to talk about laws – should that affect how many points you get on the housing waiting list or what tax treatment the State gives you? And if you are going to vote against this Bill, would you vote in favour of a law that discriminates against same sex couples and taxes them in a different

585 way and gives them less points? Assume that the equality is there: would you vote in favour of that discrimination? Essentially, Mr Speaker, at the end of the day, if you vote against this Bill, do you really think that women who love women and men who love men are worth any less than men who love women and women who love men? Is that really what you think?

Those are the difficult questions that you have to ask yourself. I have seen some sniggering on the other benches because I am talking about love and issues such as that. Maybe they do not want to talk about issues such as that in this place, but these things are central –

Hon. D A Feetham: Will he give way?

595 **Hon. Chief Minister:** No. These things are central to what makes us as individuals. These things are central to who we are as human beings. So if you would not vote in favour of a law to positively introduce a discrimination against same sex couples, why would you not vote in favour of a Bill that eliminates that discrimination? And that is what we are going to do today.

Mr Speaker, this is an issues that was in our manifesto. The hon. Lady has referred to the paragraph. It is an issue of clear Government policy. IPads are wonderful things, they allow you to search documents in a moment. The word ‘equality’ does not appear in the 2011 GSD manifesto. So much for the consistency that the hon. Member was talking about.

600 I actually took great pleasure in writing the paragraph that the hon. Lady has referred us to in our manifesto, and in tweaking it with her when she was part of our team, relying on the experience that she had had working for the Equal Opportunities Commission in the United Kingdom. I am frankly, Mr Speaker, deeply proud of the fact that our community allowed me the privilege of appointing the hon. Member our nation’s first Minister for Equality and that she now brings this landmark piece of legislation to deliver equality as the first Bill that she ushers through the Parliament. She has commended the Bill to the House, Mr Speaker, and I have heard no reason and see no reason why this House should not *unanimously* support her commendation. (*Applause and banging on desks*)

610

Mr Speaker: Does any other hon. Member wish to contribute to the debate?
The Hon. Mr Damon Bossino.

615 **Hon. D J Bossino:** Mr Speaker, the Hon. the Chief Minister in his intervention has said that there was laughter on this side of the House, or that we were smiling – (**Mr Speaker:** Sniggering.) Sniggering, I think yes, that it absolutely correct, Mr Speaker. There was not any such thing and if there was, Mr Speaker, it was not as any reaction to anything he said in relation to the loving relationship between two gay couples or, indeed, heterosexual couples because on cannot lose sight of the fact Mr Speaker, that this particular Bill – there has been an overemphasis I think in relation to the homosexual nature of those individuals who are entering into a civil partnership. That is indeed open to them when we pass this Bill in this House, because in fact he will find, as the Hon. the Leader of the Opposition has already indicated, that there will be unanimity in respect of those persons here present in this Chamber at the present moment.

620 Mr Speaker, so the fact that there is... the mention he has made about love between two homosexual couples and indeed two heterosexual couples who now wish to not take the choice of entering into a civil marriage which is currently available to them in Gibraltar, they can now enter into a civil partnership under the Civil Partnership Bill, two heterosexual couples, is not a matter of laughter quite the contrary, and we support the hon.... Just to make it absolutely clear, we associate ourselves with the comments that the Hon. Chief Minister has said in relation to that particular point.

That is the only point I wish to make.

630

Mr Speaker: If no other hon. Member wishes to contribute –?
Yes, the Hon. the Minister for Justice.

635 **Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, the hon. Lady in presenting this Bill to the House, she has described herself as the first Minister for Equality, the Chief Minister has mentioned that and that is in fact the position, a position which we as a Government are very proud of, of having had the courage to install a first Minister for Equality.

640 And the hon. Lady in presenting this Bill has described this Bill on this occasion as historic and it is not an understatement, because this is truly a momentous occasion. It is a momentous occasion not just in the history of Parliamentary democracy and what we do in this Parliament, it is a momentous occasion for the community as a whole. Because this Bill... and the hon. Member is right, it is not just about opposite sex couples, but that is certainly something that we have considered for a long time, the issue of equality, as the Hon. the Chief Minister has mentioned, but this Bill allows a civil partnership to be created.

645 But what is important is that this is not about simply a piece of paper. This is not about labelling people
in a particular way, man and wife, civil partner, just because I have got a piece of paper. As the Hon. the
Chief Minister has emphasised during the course of his speech, this is about recognition of rights. This is
about the recognition of the right, the *absolute* right to equality. This is about the right to be treated free of
discrimination. This is about the right to be treated, as again has been said, equally in the eyes of the law.

650 And there has been much jurisprudence developed in this area over a number of years, particularly
through the European Court of Human Rights. The right to be free from discrimination, the right to family
life. But it is not correct and it cannot be correct that every time that somebody wants to exercise a
particular right, that person has to have recourse to the courts for the courts to recognise those rights. And
we have seen cases in court where those rights have been recognise – in relation to housing all the way to
the Privy Council, much court time being expended, much cost being expended; in relation to adoption and
655 many other areas in the European Court of Human Rights, and what this is about is about the Government
who now has the courage to recognise that those legal entitlements are in fact legal entitlements which have
to be enshrined in law.

There is a need to recognise that and it is important for the whole of the Parliament to be united –
unfortunately that will not be the case and there are very cogent arguments, the Chief Minister has alluded
660 to them, why it is right that everybody should support this Bill because this is about the need to recognise
and to act on what is right, what is proper and what is sensible in a modern society and that is precisely
what this Government is about.

There has been some mention by the Chief Minister about the evolution of struggles that have taken
place and the right to rid ourselves as society from any form of discrimination and it is true that great strides
665 have been made. But this Bill, this in fact is a milestone in our legislative process and it marks what this
Government is all about.

It is indeed an honour for me, as Minister for Justice, to be associated and be part of this Government
that has made this Bill possible and this momentous occasion for the whole of the community. (*Banging on
desks*)

670

A Member: Hear, hear.

Mr Speaker: Is there any other contributor before I ask the mover to reply? Does the hon. Lady wish to
reply?

675

So I now put the question, which is that a Bill for an Act to make provision for and in connection with
civil partnership be read a second time. Those in favour –

Hon. Chief Minister: Mr Speaker, before you take the vote, may I call a division, especially given the
indication we have had that all persons here present, to take the language I think of the Marriage Act, will
680 be voting in favour? (*Laughter*)

Mr Speaker: Very well.

A division was called for and voting resulted as follows:

685

FOR	AGAINST	ABSENT
The Hon. P J Balban	None	The Hon. Sir P R Caruana
The Hon. J J Bossano		
The Hon. Dr J E Cortes		
The Hon. N F Costa		
The Hon. Dr J J Garcia		
The Hon. A J Isola		
The Hon. G H Licudi		
The Hon. S E Linares		
The Hon. F R Picardo		
The Hon. Miss S J Sacramento		
The Hon. D J Bossino		
The Hon. Mrs I M Ellul-Hammond		
The Hon. D A Feetham		
The Hon. S M Figueras		
The Hon. J J Netto		
The Hon. E J Reyes		

Acting Clerk: 16 Members for.

Mr Speaker: There are 16 votes in favour, one Member is absent. The ayes have it.

690

A Member: Hear, hear. (*Banging on desks*)

Acting Clerk: The Civil Partnership Act 2014.

**Civil Partnership Bill 2014 –
Committee Stage and Third Reading to be taken at this sitting**

695 **Minister for Equality, Social Services and the Elderly (Hon. 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.)

**Gibraltar Culture and Heritage Agency (Repeal) Act 2014 –
First Reading approved**

700 **Acting Clerk:** Number (3), a Bill for an Act to repeal the Gibraltar Culture and Heritage Agency Act 2011 and to make provisions consequent upon the repeal.

The Hon. the Minister for Sports, Culture, Heritage and Youth.

705 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, I have the honour to move –

(*A pause in proceedings*)

Mr Speaker: The Hon. Mr Linares.

710 **Hon. S E Linares:** Thank you Mr Speaker.

I have the honour to move a Bill for an Act to repeal the Gibraltar Culture and Heritage Agency Act 2011 and to make provision subsequent upon the repeal to be read a first time.

715 **Mr Speaker:** I now put the question, which is that a Bill for an Act to repeal the Gibraltar Culture and Heritage Agency Act 2011 and to make provisions consequent upon the repeal to be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Acting Clerk: The Gibraltar Culture and Heritage Agency (Repeal) Act 2014.

**Gibraltar Culture and Heritage Agency (Repeal) Act 2014 –
Second Reading approved**

720 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, I have the honour to move the Bill be now read a second time.

Mr Speaker, this Bill has come to this House after two long years of negotiations with all employees of the Gibraltar Culture and Heritage Agency. The new Government discovered on coming into office, that there was something wrong in the manner that the Agency had been constituted, particularly how staff had been appointed, given grades and awarded salaries without due process.

725 So the first thing the Government did was to commission a report from the Principal Auditor. This report, from which I will be quoting all the anomalies that were found in the Agency, was completed on 23rd January 2012, just over a month after we were elected into Government. Apart from other things which I will refer to later, one of the most curious findings were the dates on which most of the staff were offered appointments.

730 These dates ranged from 16th October 2011 to 2nd November 2011 and they had been signed off by the then Minister for Culture and formally approved on 15th November. The House will know that the elections were called on 4th November 2011, 11 days before the approval.

Staff were given, on those dates, grades commensurate to the GDC officers ranging from Grades 1 to 6, with a 12% over and above increase in salaries. No interviews or selection process took place.

735 Letters of appointment which were supposed to be signed by the CEO were signed by the Minister for Culture instead, since the CEO of the Agency had not yet been appointed, nor the Board constituted. The Board and the CEO were ratified on 15th November 2011. The first Board meeting took place on 18th November – well into the election campaign.

740 What was also significant was the fact that the Minister signed the appointments on 16th October 2011, well before the Board was constituted. These appointments were ratified by the Board on 18th November. One would have thought that it would have been the Board or at least the CEO of the Agency who should have made these offers of appointment to the staff.

745 When one analyses the composition of the staff at the Agency, it is clear that offers were made to all without consideration as to whether they were eligible to be equivalent to the grades commensurate to the GDC and to boot, with a 12% increase. In fact, the employees came from different entities, such as some from the Civil Service, most from private companies, authorities and one was previously only a volunteer.

750 In his report, the Principal Auditor stated that he could not know the basis for the salaries that had been agreed by the Chairman, meaning the then Minister and the Government. We have a civil servant who, an EO grade, was given the equivalent of a HEO grade and to boot, a 12% increase. The CEO's salary was calculated on a hypothetical differential, with the newly appointed heads of the Heritage Division and was personally determined and decreed by the then Chief Minister. A Spanish cleaner was given a Grade 1 plus 12% without an assessment or an interview.

755 The volunteer I mentioned was given the job by the previous Chief Minister, when he happened to visit the Garrison Library. The grading was decided by him and that employee, he decreed, was placed at the Grade 5 level. Again, the Auditor cannot identify the reasoning behind this decision. One officer came from the King's Bastion Leisure Centre and no basis for the grading was found.

760 The other exercise that was done by the Auditor was to ascertain the percentage increase that was awarded to the employees when compared to their previous salaries. A charge hand, TG3 got a 10.5% increase; a TG1, 48.3% increase; a cleaner, which I mentioned before, a 100% increase, since she came from the supply list of a private company. Five Grade 1s got 29.3% increases; two got 49.4% increases. An administrator from a private company was granted a Grade 4, which meant a 16.2% increase. Others also received increases, but the most glaring single one was that of 62.5% increase, in which the salary was increased from £46,164 to £75,000.

765 One thing that was also omitted was the fact that the collective agreement was never signed, the draft copy contained the names of those who were to be signatories, two union reps and the Minister for Culture and the then Chief Minister. When the question was asked to Members as to whether they had been involved in the collective agreement, only a small handful was even *aware* that it existed.

In view of these facts, I now move to how the Agency's role will be filled, when coming into force of this Act.

770 There are two companies which have been set up. These will be contracted to do the same service that the Agency performs at present. The contracts for these two companies are similar to the successful formula that currently exists in Land Property Services and the Environmental Agency Limited. The contracts are modelled on these two entities.

775 The conditions of the employees of the Agencies will be respected. The new structure will also allow employees more freedom to look at events and run them on a more commercial line, should this be necessary. Further employment of additional staff, should the need arise, will be subject to negotiations with the Government. The existing staff have been fully consulted and have had a direct input into how the Heritage Company and the Culture Company will develop.

780 Therefore, the purpose of this Bill is to repeal the Gibraltar Culture and Heritage Agency Act 2011 and deal with ancillary matters relating to the dissolution of the Gibraltar Culture and Heritage Agency.

Mr Speaker, at this stage, I will say that I have given notice of just one small amendment, which hon. Members already have.

785 Pursuant to clause 4 the Bill makes provisions for references to the Agency in the Heritage Trust Act 1989 to be construed as meaning a reference to a person appointed under subsection 2 of clause 4 to discharge any of the functions and duties conferred on the Agency upon that Act.

Clause 5 makes consequential modifications and amendments to the schedule to the Public Service Ombudsman Act 1998 so as to remove the Agency from the list of authorities to which Part 3 on investigation of complaints under the Act applies.

790 Clause 6 of the Bill provides for the necessary savings and transitional provisions, including provision for the transfer of any assets or liability from the Agency to the Government and the exclusion of personal liability attaching the members of the Agency in respect of anything done or omitted to be done in good faith, prior to the coming into operation of this Act.

795 Mr Speaker, I am honoured to be asked to move this Bill for an Act, as Minister for Culture and Heritage, since it is I who is responsible for these areas. I commend this Bill to the House. (*Banging on desks*)

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

800 The Hon. Mr Edwin Reyes.

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

I feel I should contribute to today's presentation of this Bill by clarifying and stating for the record that the Gibraltar Culture and Heritage Agency was set up in 2011 as part of the GSD then in Government's plans for the future running of areas of responsibility that fell upon that particular Ministry.

805 It was also necessary at that time to review the now expired contract that had existed with a company like Knightsfield who were at the time running the John Mackintosh Hall and the Museum and that contract was expired. So therefore a lot of time was spent in discussions with Knightsfield and with existing public servants, some of whom were civil servants, some of whom were GDC employees and so on, who at the time were already working with responsibilities under the area of that Ministry.

810 There was, I can assure, Mr Speaker and all Members of this House, very, very close consultations with the trade unions – and unions in plural, because the employees, some were members of Unite and others were members of the GGCA. It was together with these trade unions that we were at an extremely, extremely advanced stage. In fact, I dare to say the draft was completely ready in order to sign a collective agreement.

815 The reason why it did not take place was because the unions needed time to go back to meet their own individual members, something that, given my trade union background I supported fully, so therefore the Minister, in presenting this Bill today, could have been informed by others that those individuals who perhaps had not heard about the collective agreement and so on, I can assure the Minister that nothing was imposed on them, hence why it was still not fully signed because I wanted to ensure that before any signatories signed up to that agreement, that each and every member that was being represented by the union had had an opportunity to see that in detail.

820 Mr Speaker, by the time of the elections in late 2011, some initial staffing exercise had taken place. What in fact had happened was, we had absolved and gave the right to existing employees of the private companies who were providing services to the Ministry, such as the employees from King's Bastion Leisure Centre and from Knightsfield, we gave them the right to be the first ones to come across and become employees of the Culture and Heritage Agency, as were all civil servants or GDC employees who were at the time working for the Ministry given the right to transfer as well into this company. Some chose to and others did not. There was certainly an equal opportunity offered to all and I believe each particular employee chose what he or she thought was best for them.

830 Mr Speaker, the Bill as such, for which due notice was given, just simply said that the Gibraltar Culture and Heritage Agency Act 2011 is repealed and it is not until today that I have got sight that the Minister has intentions of passing on these duties to other companies that he is explaining now and so on.

835 All I can say, Mr Speaker, is that given that they are now in Government, it is their right to take the duties and responsibilities that hereto have been covered under the Agency in whichever way they feel is best. Had we been in Government, we would have completed the staffing exercise, the re-structure exercise would have continued, all our negotiations with the trade unions representing each and every employee, but if the Government now wishes instead to do away with the Culture and Heritage Agency and instead replace it in some other manner, that is their prerogative of which we will not be a hindrance to that and therefore this side of the House, Mr Speaker, will abstain on the Bill and let Government get on with their duty of governing. (*Banging on desks*)

840 **Mr Speaker:** Does any other hon. Member wish to contribute?
I call then upon the mover to reply.

845 **Hon. S E Linares:** Mr Speaker, just to put the record straight from the hon. Member's intervention, the company, Knightsfield, that he alluded to where the contract had just expired, the fact is the contract had expired in 2002 and we are talking about 2011. So the contract had expired nine years before the thinking of the Agency – (*Interjection*) well okay.

850 The fact that he says that they were going to be consulted, one cannot understand how they could be consulted when they already had signed into the.. and I must state at this stage, is that I would have signed the piece of paper that was offered to me. If I am given a 62.5% increase, I would not even hesitate – in fact I will ask, 'Where is it that I have to sign on?!' So the fact is of course you do not have to impose anything on them if you are giving them a 62.5% increase.

855 And the third fact is that there were only two civil servants, one of which got a hike not only in post but salary and another one. Knightsfield which is a private company, no officer came from the GDC like the hon. Member said, there were 16 people who came from Knightsfield, one was self-employed and one from King's Bastion. Those are the facts that I have in front of me.

860 So therefore, and I am glad the hon. Member is giving us space. We did the same when the Bill came to this House – the Agency Bill came to this House. We did abstain because we allowed them as Government the decision and the policy to put the Agency. I am glad that now at least they are just abstaining in order for us to get on with the business of trying to organise and re-organise what was the Culture and Heritage Agency.

Thank you, Mr Speaker.

865 **Mr Speaker:** I now put the question, which is that a Bill for an Act to repeal the Gibraltar Culture and Heritage Agency Act 2011 and to make provisions consequent upon the repeal, be read a second time. Those in favour? (**Government Members:** Aye.) Those against? Carried.

870 **Hon. E J Reyes:** We abstain, Mr Speaker.

Acting Clerk: The Gibraltar Culture and Heritage Agency (Repeal) Act 2014.

**Gibraltar Culture and Heritage Agency (Repeal) Act 2014 –
Committee Stage and Third Reading to be taken at this sitting**

875 **Minister for Sports, Culture, Heritage and Youth (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 this Bill be taken today? (**Government Members:** Aye.)

COMMITTEE STAGE

**Financial Services (Contingency Fund) Bill 2014; Civil Partnership Bill 2014;
Gibraltar Culture and Heritage Agency (Repeal) Bill 2014**

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

885 **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 Financial Services (Contingency Fund) Bill 2014; the Civil Partnership Bill 2014; and the Gibraltar Culture and Heritage Agency (Repeal) Bill 2014.

In Committee of the whole House.

**Financial Services (Contingency Fund) Bill 2014 –
Clauses considered and approved**

890 **Acting Clerk:** A Bill for an Act to make provisions for and in connection with the creation of a Contingency Fund to be available for use upon the happening of a major event connected to activities licensed under the supervisory Acts; to provide for the functions and powers of the authority; and for connected purposes.

895 **Chief Minister (Hon. F R Picardo):** Mr Chairman, a minor amendment in respect of this Bill, of which I have not given written notice but you will see how minor it is: it is simply to change the language from the traditional language in the first clause 'shall come into operation on the date of publication' to the other sort of traditional language which is 'shall come into operation on the date appointed by notice in the *Gazette*'.

900 You will know that we use either of those types of notices for coming into operation or a specific date and because of the financial year and when it runs, etc we need to use the language of notice in the *Gazette* here.

Mr Chairman: That is a proposed amendment to clause 1. Is that agreed to?

905 **Hon. D J Bossino:** Yes, Mr Chairman.

Mr Chairman: Clause 1 as amended stand part of the Bill.

Acting Clerk: Clauses 2 to 7.

910 **Mr Chairman:** Clauses 2 to 7 stand part of the Bill.

Acting Clerk: The long title.

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

**Civil Partnership Bill 2014 –
Clauses considered and approved**

Acting Clerk: A Bill for an Act to make provisions for and in connection with civil partnership.
Clauses 1 to 4.

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

Acting Clerk: Clauses 5 to 17.

Mr Chairman: Stand part of the Bill.

925 **Acting Clerk:** Clauses 18 to 43.

Mr Chairman: Stand part of the Bill.

Acting Clerk: Clauses 44 to 55.

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

Acting Clerk: Clauses 56 to 85.

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

Acting Clerk: Clauses 86 to 92.

940 **Mr Chairman:** Clause 96, did you call?

Acting Clerk: Clauses 86 to 92.

Mr Chairman: Clauses 86 to 92 stand part of the Bill.

945 **Acting Clerk:** Clauses 93 to 95.

Mr Chairman: Stand part of the Bill.

Acting Clerk: Clause 96.

950 **Hon. D A Feetham:** Mr Chairman, I am quite happy – certainly on this side of the House, we are quite happy for the hon. Lady's letter to stand as her formally moving those amendments, so she does not have to go through them verbally during the course of these proceedings.

955 **Mr Chairman:** Very well, if all hon. Members agree, those amendments will be incorporated into the Bill. Those in favour? (**Members:** Aye.) Carried.

Acting Clerk: Clause 96.

960 **Mr Chairman:** Clause 96 as amended stand part of the Bill.

Acting Clerk: Clauses 97 to 124.

Mr Chairman: Stand part of the Bill.

965

Acting Clerk: Schedules 1 to 9.

Mr Chairman: Schedules 1 to 9 stand part of the Bill.

970

Acting Clerk: Schedule 10 as amended.

Mr Chairman: Call that again, please.

Acting Clerk: Schedule 10 as amended.

975

Mr Chairman: Schedule 10 as amended stand part of the Bill.

Acting Clerk: Schedules 11 to 14.

980

Mr Chairman: Schedules 11 to 14 stand part of the Bill.

Acting Clerk: The long title.

Mr Chairman: Stand part of the Bill.

**Gibraltar Culture and Heritage Agency (Repeal) Bill 2014 –
Clauses considered and approved**

985 **Acting Clerk:** Number 3. A Bill for an Act to repeal the Gibraltar Culture and Heritage Agency Act 2011 and to make provisions consequent upon the repeal.
Clause 1 as amended.

Mr Chairman: Clause 1, notice has been given substituting the date of publication by 1st April 2014.

990

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Chairman, we want to make... it is another amendment rather than 1st April, which I will leave to the Hon. Mr Gilbert Licudi to do.

995

Minister for Education, Telecommunications and Justice (Hon. G H Licudi): Sorry, Mr Chairman, the amendment is the same as the previous one: that it should say 'on a date appointed by notice in the *Gazette*' rather than a specific date. We expect that this will happen on 1st April but we just need to make sure that everything is in order and it will happen and it can happen on 1st April. That is certainly the intention, but we would rather have it by notice to be appointed in the *Gazette*.

1000

Mr Chairman: Very well. Is there agreement on the amendment proposed by the Minister for Justice? Aye? Carried.

Acting Clerk: Clause 1 as amended.

1005

Mr Chairman: Clause 1 as amended stand part of the Bill.

Acting Clerk: Clauses 2 to 6.

1010 **Mr Chairman:** Clauses 2 to 6 stand part of the Bill.

Acting Clerk: The long title.

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

THIRD READING

**Financial Services (Contingency Fund) Bill 2014; Civil Partnerships Bill 2014;
Gibraltar Culture and Heritage Agency (Repeal) Bill 2014 –
Third Reading approved: Bills passed**

1015 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Financial Services (Contingency Fund) Bill 2014, the Civil Partnerships Bill 2014 and the Gibraltar Culture and Heritage Agency (Repeal) Bill 2014 have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

1020 **Mr Speaker:** I now put the question, which is that the Financial Services (Contingency Fund) Bill 2014, the Civil Partnership Bill 2014 and the Gibraltar Culture and Heritage Agency (Repeal) Bill 2014 be read a third time and passed.

Those in favour of the Financial Services Contingency Bill 2014? (**Members:** Aye.) Those against? Carried.

1025 Those in favour of the Civil Partnership Bill 2014? (**Members:** Aye.) Those against? Carried. (**Hon. D A Feetham:** I beg your pardon. Aye.)

Those in favour of the Gibraltar, Culture and Heritage Agency – (*Interjections*)

The Opposition are voting in favour of the Third Reading of the Civil Partnership Bill 2014.

1030 Those in favour of the Gibraltar, Culture and Heritage Agency (Repeal) Bill 2014. (**Government Members:** Aye.) Those against?

Hon. D A Feetham: This one we are abstaining.

Mr Speaker: The Opposition are abstaining. The ayes have it. Carried.

ADJOURNMENT

1035 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House do now adjourn *sine die*.

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

1040 I now put the question which is that the House do now adjourn *sine die*. Those in favour (**Members:** Aye.) Those against? Passed.

The House will now adjourn *sine die*.

The House adjourned at 11.11 a.m.