



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.00 p.m. – 6.35 p.m.

Gibraltar, Friday, 22nd March 2024

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The Gibraltar Parliament

The Parliament met at 3.00 p.m.

MADAM SPEAKER: Hon. Judge K Ramagge GMH *in the Chair*

CLERK TO THE PARLIAMENT: J B Reyes Esq *in attendance*

PRAYER

Madam Speaker

Order of the Day

BILLS

FIRST AND SECOND READING

Inquiries Act 2024 – First Reading approved

Clerk: Meeting of Parliament Friday, 22nd March 2024.

Order of Proceedings: Bills – First and Second Reading.

5 A Bill for an Act to make provision about the convening and conduct of inquiries.
The Hon. the Chief Minister.

10 **Hon. Dr K Azopardi:** Madam Speaker, if I may, on a point of order, we have not received notice of certification of urgency of this Bill. The normal practice, as far as I have been in this Chair, is I would receive a copy of a letter certifying urgency. We have not received that.

15 **Madam Speaker:** I can confirm that I have received a notice pursuant to Section 35(3) of the Constitution certifying that the Bill is too urgent to permit the expiry of six weeks after the date on which the Bill was published, before proceeding with the same that is dated 21st March 2024.

Hon. Dr K Azopardi: Madam Speaker, I would be grateful if a copy could be made available to me in the normal way. That would be useful.

20 **Madam Speaker:** All right. I will make sure you have a copy.

Clerk: The Hon. the Chief Minister.

25 **Chief Minister (Hon. F R Picardo):** Madam Speaker, I have the honour to move that a Bill for an Act to make provision for the convening and conduct of Inquiries be read a first time.

Madam Speaker: I now put the question, which is that a Bill for an Act to make provision about the convening and conduct of inquiries be read a first time.

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

30 **Clerk:** The Inquiries Act 2024.

**Inquiries Act 2024 –
Second Reading approved**

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

Madam Speaker, this Bill updates and modernises the Laws of Gibraltar in relation to the convening and conduct of public inquiries, Madam Speaker, and that is, ironically, all it does. 35 Yet, Madam Speaker, this Bill has become a topic of increased debate in recent days, both in Gibraltar and indeed abroad. It is not often that Gibraltar Law has become the subject of discussion abroad.

So before I start the process of discussing the substance of this Bill's clauses and the amendments offered by Members of the House, let me first restate that through this Bill, as with 40 every action that we take in our executive offices, the only thing the Government is trying to achieve is to protect our country and our people. Going to the most recent aspect of controversy raised by others outside this House, I want to be clear that this Bill will, in effect, ensure that in future the final decision of what information is made public from inquiries rests with Gibraltar's Supreme Court Judges, the Judges of our Court of Appeal and the Supreme Court in London sitting 45 as the Privy Council for Gibraltar.

That is the reality of what this Bill will do in respect of information put before inquiries, the issue that the Hon. the Leader of the Opposition has recently been commenting on, and I will explain that in more detail in my speech on the relevant parts of this Bill as I go through it.

Government here, Madam Speaker, as it does in the UK, the gold standard laws of whom we 50 are incorporating into our *corpus* series through this Bill, will have the power to protect the public interest – not *our* interest, our partisan interest, or our personal interest, but the public interest – by ensuring that any sensitive information that could damage Gibraltar is not put into the public domain.

But the final decision on whether the Government has acted properly or not will rightly be of 55 our Supreme Court Judges who rule on any application through the judicial process, which is completely independent from all and any politics. In the end, therefore, the ultimate and final power of decision will rest with the Supreme Court and not with Convent Place. That is right for all of us.

Not just the Government of today, Madam Speaker, but Governments in the future, and not 60 just citizens today, but future citizens of Gibraltar for another 150 years, if this Act stays on the statute book as long as our current Commissions of Inquiry Act has stayed on our statute book to date. It should give our people the confidence to know that inquiries can investigate whatever they need to in order to make satisfactory conclusions in the public interest

While in that same very public interest, Governments chosen freely and fairly by direct 65 universal suffrage of the people of Gibraltar, whether by a wide or narrower margin returned to office, will be able in good faith to act to make sure that those hostile to Gibraltar cannot access sensitive information that may threaten our people; and even then, always with the guarantee that our independent Supreme Court Judges will be able to assess the probity and actions of any Government that purports to act in this way free of politics.

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Of course, the Judges of the Supreme Court will potentially be able to allow whatever *they* believe to be publicly known, should be publicly known, to be made known. That is, in effect, our system of Government, not just in relation to these matters and this Bill and this Act if it becomes a law today, but generally in relation to executive power.

Like everyone in this House, Madam Speaker, I am a politician and I can therefore understand why the Leader of the Opposition is trying to make controversy around the substance, the form and the timing of this Bill and even my certification of it, which I did yesterday as you kindly indicated to the House.

Well, Madam Speaker, I am also a lawyer and I can understand why lawyers representing Mr McGrail – who is the subject of the Inquiry currently on foot – are vilifying me and trying to prejudice public opinion against me, against the Government and even against this Bill. I am surprised by how it is being done and the network internationally being deployed in doing so but that, Madam Speaker, is clearly just another tactic designed to put pressure on the Inquiry to find in the way that they would wish it to find, and indeed even to characterise the current Inquiry on foot as something other than an inquiry into an early retirement.

But in light of my opening remarks, I think it is incumbent on this House to consider this Bill calmly and with the interests of our people as our guide. I urge the Leader of the Opposition, in particular, to put his party political interests to one side and to think with a ‘Gibraltar first’ hat on and not just a GSD hat on.

I remind the Leader of the Opposition of his words: ‘I have always said’, he said, ‘that we would co-operate with the Government on issues of public interest.’ He said that on GBC on 8th December 2022. As I discussed, Madam Speaker, with other Members of this House in the course of this debate, the reality underlying our reasons for moving this Bill at this time and in this fashion, I urge him to consider whether he really opposes a Law which will, in effect, allow our independent judiciary the final say to rule on what information it is right to disclose to the public from inquiries when it involves public interest considerations.

Because, Madam Speaker, that is the effect of our changing the law today on the convening and conduct of public inquiries, to modernise the law and to ensure that the Government can act to protect the public interest; but always with the underlying, indeed I would say copper-bottom guarantee, of allowing a review of that decision by our independent judiciary. This, therefore, will make the final decision on public disclosures totally independent of politics and put it in the hands of independent judges. In doing this, therefore, Madam Speaker, we are making Gibraltar’s Laws entirely in keeping, in every material respect and in every point of substance, with the law in England and Wales, something that should be uncontroversial and welcomed by all.

Gibraltar, Madam Speaker, I am sure the House will agree, has been well-served historically by being guided by English law as the model for our common law system. I trust that everyone, Madam Speaker, therefore, on all sides of the House, will continue to believe that it will be well served for Gibraltar to continue to follow English law models in the future. Exactly what we are doing by bringing this Bill and exactly what we have done and have had with the current Act that we have had for 150 years which is, in effect, a carbon copy of the 150-year-old equivalent under the 1888 Act.

So, Madam Speaker, our modernisation of this Bill will be achieved by repealing the current Commissions of Inquiries Act 1888 and replacing it with the proposed new Act in this Bill which replicates, in every material respect, the substantive provisions of the UK legislation relating to public inquiries and which are contained in the UK Inquiries Act of 2005.

There are, nonetheless, a number of necessary differences between the UK Act and the Act which this Bill will make, which relates to the usual adaptation for specific characteristics of Gibraltar as is always the case when transposing a piece of UK legislation into our Law. I will take the House through the main differences and through the clauses of the Bill.

125 The Bill, Madam Speaker, for example, excludes all of the UK Acts' provisions which exist only to accommodate the existence of the devolved administrations in the United Kingdom and which allocate powers and competences between central Government Ministers in Whitehall and those devolved administrations, depending on which has the power in a particular area of activity. Those provisions obviously have no application in or relevance to Gibraltar.

130 Under the UK Act, Madam Speaker, the regime is that each Minister has the power to convene, suspend or terminate inquiries and to exercise the various other powers set out in the 2005 Act in relation to their area of Ministerial responsibility. The Government has opted in Gibraltar for the Bill to retain the existing position whereby those things are done by the Government collectively, rather than by a single Minister acting alone. Again, in the context of the Gibraltar model, it makes more sense to stick to Government rather than including a reference to a specific Minister, but this is not an issue of any divergence of substance from the UK Act.

135 The power for the chairman to appoint assessors, which hon. Members will see in this Bill, is there to assist an inquiry after an inquiry has been established by the Government, and this is a power that vests in the chairman under the proposed Act in Gibraltar as it does in the UK. However, given the potential additional financial costs to the public coffers, the Bill makes the exercise of that power subject to the consent of the Government. And this is already, however, 140 Madam Speaker, a new power that adds to the arsenal of powers available to an inquiry chairman.

Under the United Kingdom Act, Madam Speaker, *some* offences, those which Madam Speaker will see proposed under clause 29(1) – for example, the failure to comply with a notice by the chairman under clause 23 to give evidence or produce documents – may, under the UK Act, lead to offences and prosecutions instituted by the chairman of the inquiry.

145 Madam Speaker, the advice the Government has is that that would be unconstitutional in Gibraltar because section 69 of our Constitution requires the Attorney General to have the power to institute proceedings.

Other offences, and the other offences proposed by the actor in clause 29(2) and 29(3) of the Act, may under the UK Act be instituted only with the consent of the DPP if the chairman of an inquiry seeks to start those proceedings. So what we are proposing here, Madam Speaker, and you will see that in clause 29(6) of the Bill, is that in Gibraltar the institution of proceedings for *all* offences should require the consent of the Attorney General because the Government is advised and believes that this better reflects the Attorney General's primacy in respect of prosecutions under our Constitution, and in that way ensures the constitutionality of the Bill.

155 Madam Speaker, the Government is advised by the draftsman of the Bill as published that there is a drafting error in the Bill in this respect and clause 29(6), as drafted, has the effect of giving the chairman the power, albeit with the consent of the Attorney General, to institute criminal proceedings for an offence in respect of all offences. So as I have just explained, that is not even the case in the United Kingdom. I have given notice of a number of amendments, Madam Speaker, 160 and one of them is *this* and I shall take the House through the detail of that amendment when we get to the Committee Stage.

Madam Speaker, importantly, some of the transitional and saving provisions in clause 37 of the Bill also do not replicate the substantive provisions of the UK Act and are not in the UK Act. Proposed clause 37, subclauses (1), (2) and (3) are in the UK Act. Proposed subclauses (4) to (8) are *not* in the UK Act. The effect of subclauses (4) to (8) is that, when operative, the new Bill will apply to the ongoing McGrail Inquiry. It will do so without affecting the validity and continuity of everything done previously by the Commissioner and others in that Inquiry and it will do so, Madam Speaker, without affecting criminal liability of any person for anything done or not done previously that may constitute an offence. It is a 'saving provision', so to speak.

170 So to be clear, Madam Speaker, everything done to date in respect of the Inquiry currently on foot will be saved and any liabilities incurred to criminal prosecution or sanction will remain. There is no wiping the slate clean.

175 Madam Speaker, obviously the timing of this Bill is so that the new Act *will* apply to the McGrail
Inquiry; and to be entirely clear, as I mentioned at the start of my remarks, that means that the
ruling on what is made public from the McGrail Inquiry will not, in the end, have to be a
Government decision. Whatever decisions a Government may make about disclosures from this
or any other inquiry in the future will be reviewable in Court; and our Judges, independent from
the Government, will be able to make the final decision if called upon, on what is to be put in the
180 public domain and based only upon their independent view of Gibraltar's common good and our
national interest.

This should make clear, Madam Speaker, that no one should have an issue with the fact that
Government considers that it is both desirable and appropriate that the main hearing, report stage
and post-report stage of the McGrail Inquiry should proceed under this much more modern British
185 legislative framework. Because, first of all, it places procedures, rights and powers in a more
modern, proper, well-tried-and-tested statutory footing and provides a legal clarity as to the
availability of certain powers to the Commissioner.

This includes, for example, Madam Speaker, the power to require evidence to be provided in
the form of written statements, which is in section 23(2)(a) of the Bill and to require production
190 of documents, etc. without the need for a summons or appearance before the Commissioner, and
all that, Madam Speaker, is set out in section 23.(2) in subparagraphs (b) and (c).

The Bill will also enable the exercise of powers by the Chairman and the Government in the
discharge of their respective public responsibilities, to be undertaken by each of them in
accordance with the proper balance in that respect identified and established in the UK Act and
195 tested in UK Case Law.

As I have already said outside of this House, Madam Speaker, that includes the power to
protect the public interest by means of a Government Restriction Notice under proposed section
21.(2)(a) of the Bill or of the Act. Madam Speaker, this is a power which is held by United Kingdom
Ministers and which it is right that the Gibraltar Government should also have in a manner that
200 does not oust, or even try to oust review by a court of the manner of the exercise of that power
in the usual way.

In other words, like every other power exercisable under our laws, by Ministers or by the
Government, and given the division of powers which guarantees the sacrosanct rule of Law
Principles by which Gibraltar and the United Kingdom are governed, the right to exercise this
205 power will be subject to potential judicial review by a judge of the Supreme Court of Gibraltar.

This is, Madam Speaker, I would have thought, what everyone in this House would agree is the
best way to ensure that decisions of this nature can be properly taken and then scrutinised, and
considered independently of politics or political agenda of any party or individual; and therefore,
Madam Speaker, I am at a loss to explain why the Leader of the Opposition would not want this
210 to be the case.

Perhaps there is a reason, Madam Speaker, why the GSD would not want rulings about public
disclosures being made by Ministers in Gibraltar as they are in the United Kingdom and subjected
to review by independent judges backed by the force of our law, as is the case in the United
Kingdom. I dare not speculate about the motives of hon. Members opposite. I will leave it to them
215 to explain to our people why they do not want a law that allows our Judges, backed by the law, to
be able to decide whether to support or rule against a Government's decision on disclosing
information from an inquiry.

It should by now, Madam Speaker, I hope to all those in the House, be abundantly clear that
this Bill secures the rights, liberties and security of Gibraltar and its people. It would be a strange
220 Member of this House who thought that any Government could use a Bill which gives legal backing
to the independent judgment of the Supreme Court of Gibraltar with regard to public disclosures
from inquiries, for its advantage.

225 Additionally, I also want to make it clear, Madam Speaker, that this is not an untrammelled power and is certainly not a power exercisable by a Minister or by a Government to in any way protect the Government, in a party political sense, or a Minister in any personal sense. That is obviously well known to the Leader of the Opposition and to anyone with a legal training.

230 But I want to be explicit in explaining also to our citizens that this is the power that the Government that I lead – and I dare say *any* Government – would never use for the purposes of achieving any personal or partisan advantage to oust any investigations or inquiry into any matter that created any liability, or was designed to avoid any such liability. Indeed, Madam Speaker, as I have said outside of this place, the exercise of this power to issue a restriction notice would be available *only* in order to protect the *general* public interest.

235 That power exists in every democracy and is used by governments across the EU and the developed world, not least in the United Kingdom, in this exact form. Given what I have said already it should be clear to the House, as I have said outside of here, that this would be a power, when exercised, that would be exercised for the benefit of every Gibraltarian and resident of Gibraltar. The powers of the Government would be exercised *only* if it were of the same benefit to a person calling for an inquiry as if it were for the person the subject, or part of the subject, of the work of an inquiry.

240 As much, therefore, Madam Speaker, talking about the current Inquiry and talking about the House in which we sit, as much for the benefit of Ian McGrail and his children as for Keith Azopardi and his children and any other Gibraltarian in equal measure. That is to say, the interest or benefit of every Gibraltarian and resident of Gibraltar in equal measure. Because, Madam Speaker, this Law in this respect and in this clause is designed to ensure that *all* interests are protected, should the need arise to use the power to protect them. But also with the legal safeguard that I have referred to already and guarantee of independence of the potential always for judicial review of by our independent Supreme Court, if invoked, by any party with the necessary legal interest.

250 I want to be clear, also, about the fact that in the event of this power having to be exercised in the context of any inquiry or, indeed, the current Inquiry that the use of the power would only prevent reporting and not inquiry into the issues subject to such a notice. To that extent, Madam Speaker, there is no difference when there is an application, for example, for matters to be heard in camera, which could happen in any case in any matter before the Supreme Court.

255 In this context, the United Kingdom government determined that the nature of the public interest that could arise in an inquiry setting, should permit for a government to make the relevant notice in the public interest and for a judge to be able to review that, rather than having to apply to a judge and await the judicial determination of whether or not the public interest was there.

260 But to restate, this Bill will not prevent anything from being investigated by an inquiry, including the current Inquiry, and if a Government feels it is in the interests of our people not to make certain details public the final decision over whether this happens rests with the independent courts of our country, not our politicians.

265 I also want to make this important point, Madam Speaker. I have heard everything that the Leader of the Opposition has said already about this Bill outside of this place and about this section in particular. I want to put something on the record of *Hansard* for political posterity. Every Gibraltarian and every resident of Gibraltar should know this.

270 If we had lost the election, as we almost did; if the GSD had won the election, as they almost did; if I had not become Chief Minister on this occasion, as I almost did not; if the Hon. Mr Azopardi had become Chief Minister, as he almost did, he and the GSD would be moving this Bill today in identical terms and for identical purposes, he would have received the same trusted advice we have received. He would understand the issues as we understand them and he would be legislating as we are legislating. *That* is the reality.

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So I urge the Leader of the Opposition, by all means, to make the points he needs to make to raise the issues he wants to raise and to make the arguments he wants to make. He does not need my permission to do so. However, I am pleased to invite him to do so when he makes his contribution safe in the knowledge that whatever he wants to say to whip-up people against me or my Government, he need have no real concerns of any substance about this Bill.

This Act, when it is passed and assented to, and the effect of it on this or any future inquiry, will be no cause for concern to him or anybody else who is genuinely concerned about the rule of law. The only thing he does need to concern himself about, is explaining to the people of Gibraltar what he so dislikes about the Government having a power in this area, as we have in others, to act in the public interest; but having that power, subject to our judges being able to independently rule on the exercise of the power being given to the Government in this Bill.

And this is not the only Act in which we will have powers to act in the public interest, Madam Speaker. We have many powers to act in the public interest, in many Acts, many of them which we inherited from laws made by the GSD.

The Gibraltarian people, Madam Speaker, will have heard today how this Government is putting their rights on a stable and secure footing. How we are legislating to protect the public interest, both today and in future, with the legal protection of our independent Supreme Court's ability to rule on these matters in the very best traditions of English law and our established principles of the division of powers between the legislature, this place here; the executive, us here on this side, when we sit in cabinet and act as an executive; and the judiciary and the well-established and entrenched rules of judicial review.

Those listening will therefore, I am sure, be wondering why the Leader of the Opposition would seem to object to all of this. They will wonder why someone who has repeatedly tried and failed to gain their confidence to lead Gibraltar, could oppose measures that ensure decisions about inquiries like this will be made by a freely and fairly elected Government, subject to the review of independent judges who have the right to rule against the government of the day, if they consider that appropriate.

I hope, therefore, Madam Speaker, that that makes the Government's intentions sufficiently clear in respect of that particular power, whether or not the Opposition will want to continue to hyperbolise here in this debate, as the Leader of the Opposition has done outside of here and despite everything I have already said.

Nevertheless, Madam Speaker, let me conclude this introductory part of my address by saying that I hope, having heard my remarks, the Leader of the Opposition will now signal his intent to support the Law that we propose to give effect to; and which will, in effect, give our Supreme Court Judges the final say in law on matters discussed in relation to what should be published by an inquiry.

I would hope the Leader of the Opposition will confirm the Opposition's agreement with this Government stance, that once we have exercised a power to act in the public interest it should be independent judges – not politicians – who should be the ones who ultimately decide if we have exercised our powers properly, independent of politics, backed by our laws. And I should remind everyone in this House, Madam Speaker, that when I am referring to judges, I am not referring to a chairman of inquiry or commissioners in an inquiry, I am referring to Judges of the Supreme Court, I am referring to Judges of the Court of Appeal and Judges of the United Kingdom Supreme Court, sitting as the Judicial Committee of the Privy Council.

Therefore, Madam Speaker, I certainly hope – although I will not hold my breath – that the Leader of the Opposition's alleged moderation, that he often reminds us of, which he says characterises him, although we do not often see that in this House, will actually be reflected in what he says today about this Bill.

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330 Finally, Madam Speaker, before I go through the Bill clause by clause and to add further assurance to the House and the nation in the context of the exercise of these particular powers, I want to give the House an undertaking. Hon. Members will know that I hesitate to give undertakings to the House. I do not like even to tell them that I am going to reply to their letters in case I forget, so when I say I am giving the House an undertaking, I want the House to understand that the Government, through me, is going to make a promise, in effect, to the House which it will ensure that it keeps.

335 In the event, Madam Speaker, that the powers ascribed to the Government under this Bill, when it becomes an Act, were to have to be used in the context of the inquiry currently on foot into the early retirement of Ian McGrail, then the Government will not act without a resolution of the whole Cabinet. We will act then, after that resolution, through the Minister for Justice who as the House will know: does not just take an oath as a Minister, as all of us on this side of the House
340 have done; he does not just take an oath as a Member of this House, as all of us in this House have done; but additionally also takes an oath to protect and defend the rule of Law.

Madam Speaker, now, I consider that each of us on this side of the House, in the exercise of our executive capacities, has an inchoate obligation as part of our functions as Ministers of the Crown to respect and defend the rule of Law. But given the things that have been said by others
345 about my involvement as a core participant in respect of the inquiry into Mr McGrail's early retirement, I hope that this will also show the good faith in which the Government is approaching this.

Madam Speaker, as I have already said, the substantive provisions of the Bill replicate the UK provisions almost entirely, save as I have already indicated. Hon. Members will have read the
350 Bill and it may therefore be that they consider its substantive provisions to be self-explanatory, a desirable improvement, in fact, on our current very old inquiries legislation and non-controversial.

355 Clauses 3 to 14 deal with the Government's powers in relation to the establishment of inquiries, the appointment of an individual or a panel of individuals to conduct them, and setting out the terms of reference of the inquiry.

360 Clause 8, Madam Speaker, actually imposes on the Government a new obligation to engage with Parliament in relation to inquiries that it may be proposing to establish, or may have been established. I cannot imagine that anyone would even try to make a credible argument that this is a bad thing, but I may yet be surprised, even in respect of this clause, by the ability of hon. Members opposite to reverse alchemise the good into bad and to seek to turn every social and legal advance proposed by a GSLP Liberal Government into a political kryptonite, which might explain the colour of the Bills, Madam Speaker.

365 Clause 11 requires that appointees to panels must be impartial and sets out the criteria for that; and in fact that is the criteria that is now objectively used in the United Kingdom for appointments and can surely only be welcome. But I refer the House to the point I made a few moments ago about hon. Members so often appearing to take the attitude of the witches in *Macbeth*, who remind us of the hypocrisy of those who cry that '*fair is foul and foul is fair*', as we continue to hover through the fog that surrounds this debate.

370 Clause 13, Madam Speaker, introduces the new power to appoint assessors to assist the inquiry, to which I referred earlier, again this adds a new power to an inquiry chairman and can only be a good thing.

375 Clause 15 gives to the Government the power to suspend an inquiry for such period of time, as appears to the Government, to be necessary for one of only two specified reasons. First, the completion of related investigations; or, second, the determination of related civil or criminal proceedings. It is important to note, Madam Speaker, that this power to suspend is therefore not available for any other purpose or reason. Madam Speaker, there was rife speculation about the potential for the Government wanting to legislate to use *this* power. I suppose speculation rife by those who read the title of the clause and then go on to read the substance of the clause and proposed section.

380 Madam Speaker, this is a new power, in fact, which does not exist in the 1888 Act but is in the
2005 UK Act, which is very specific in its ambit and would not appear to be capable of being made
controversial in any material respect once read and understood.

Clause 16, Madam Speaker, is the power to end an inquiry; and an inquiry therefore, Madam
Speaker, ends when the report is delivered to the Government and the Chairman notifies the
385 Government that he has fulfilled his terms of reference under section 16(1)(a) and under proposed
section 16(1)(b) gives the power to the Government to end an inquiry earlier than that at any time
by giving notice to the chairman. But before doing so, the Government must consult with the
chairman of an inquiry.

Madam Speaker, in this respect, the Government is aware of obviously ill-intentioned or ill-
390 informed comments suggesting that the Government might have been intending to exercise the
powers in these sections in some way in respect of the current McGrail Inquiry. Indeed, there has
been negative international comment prompted by such ill-intentioned or ill-informed
speculation on the part of some, including by some legal advisers involved in that Inquiry.

Nothing could be further from the truth, Madam Speaker. I formally put on the record of
395 *Hansard* that it has not been, it is not and it is impossible for the Government to envisage
circumstances in which it would wish, or would be persuaded to end the Inquiry into the timely
early retirement of Ian McGrail as Commissioner of Police.

In fact, as I have confirmed before, from here and outside of this place, the Government is very
much looking forward to the commencement of hearings in that Inquiry, and in particular to the
400 release of all relevant evidence adduced before that Inquiry. I said here, Madam Speaker, when
I agreed to convene the inquiry that I looked forward to that inquiry identifying the truth, the
whole truth and nothing but the truth in respect of the matters which are being inquired into and
which are the subject of the terms of reference of the Inquiry. Having seen the evidence filed to
date, I am even more looking forward to all of it being made public.

I, therefore, want to confirm to the House that neither I nor any of my colleagues in
405 Government would wish to see any delay, suspension or cancellation of the current Inquiry into
the early retirement of the former Commissioner of Police; which, let us remind ourselves,
Madam Speaker, is what this Inquiry is about and is entitled to be about, despite the very
pejorative, untrue references that others make about what the Inquiry is about in order to do
410 maximum damage to Gibraltar. As they do so without regard to the collateral consequences of
the effect of their misnomer.

As a result, Madam Speaker, I will be moving an amendment at Committee Stage to specifically
exclude the potential application of the power to end the current Inquiry on foot. This will provide
415 legal force to the Government's explicit position that we were never intending to exercise the
power in this way in respect of the inquiry currently on foot. I should also clarify, Madam Speaker,
that we will not be accepting the amendments proposed by the Leader of the Opposition and he
may, given what I have said, decide he does not want to move his own proposed amendment, he
may have seen my much-more extensive proposed amendments.

Clause 17, Madam Speaker, empowers the Government to convert an inquiry started under
420 some other Act, that is to say *not* an inquiry convened under the Commissions of Inquiry Act into
an inquiry under *this* new Act. But, Madam Speaker, it is important to note that this applies to
inquiries started under other subject-specific legislation that may contain a power to conduct
inquiries. It is not a reference to inquiries started under the Commissions of Inquiry Act 1888,
which is the Act that we are going to repeal if we pass this Bill.

This is evident from two UK provisions in the Bill, namely clause 17(1) that provides section 17
425 applies whether the original inquiry was caused to be held before or after the commencement of
that section; and clause 37(3), which provides that extant inquiries under the Inquiries Act being
repealed by this Act will continue as if the former had not been repealed, so there would be
nothing to convert.

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But Madam Speaker, although this comes from the UK Act, given that there are no such inquiries in Gibraltar and there is, in fact, no other such power to convene such inquiries elsewhere in our Law, these UK sections are actually entirely superfluous to our Law. In fact, despite that, they have caused interpretative confusion even in those who have wanted to interpret the clauses in good faith. So for that reason, Madam Speaker, I will be moving an amendment to delete these two otherwise irrelevant clauses at Committee Stage.

Madam Speaker, clause 19 deals with the procedures of and the taking of evidence by an inquiry; and clauses 20 to 23 deal with public access to inquiry proceedings and information.

Clause 20 ensures that, subject to clause 21, the public shall have access to inquiry proceedings and information by either: (a) being able to attend the inquiry or to see and hear simultaneous transmission of inquiry proceedings; and, (b) being able to obtain and view a record of evidence and documents given, produced or provided to the inquiry.

From memory, Madam Speaker, I think during the course of some of the inquiries' public hearings, some of the lawyers in the inquiry, not the Government's lawyers, have referred to wanting to see a clause like this in our Law and being disappointed that there was not such a clause in our Laws.

Clause 21 empowers both the Government and the chairman to impose restrictions on access to certain kinds of identified information that should *not* be disclosed or made available to the world at large through a publication. That is the clause that we have been talking most about. It also empowers both the Government and the chairman to restrict public access to the hearing when it is dealing with such restricted information. Continuing matters in camera, so to speak, is a power that was always available to the chairperson of an inquiry and this power simply extends the determination of that also to include the Government's views, Madam Speaker.

This power relates *only*, however – I restate this, I made the point before but it is important that I make it again – to information, documents or other evidence, which needs to be restricted on one of three grounds. It is legally required to be restricted; or as may be conducive to the inquiry fulfilling its terms of reference it should be restricted; or it should be restricted because it is necessary in the public interest. Having regard, even then, when invoking the public interest to certain statutorily specified matters and these specified matters, Madam Speaker, are set out in clauses 21(4) to 21(5) and include avoiding harm or damage, which includes death or injury, and damage caused by disclosure of commercially sensitive information and damage to Gibraltar's national security, international relations or economic interests.

Again, Madam Speaker, this is not the personal interest of any individual saving someone's embarrassment, any Minister, the party political interest of the political Government, or any part of that whatsoever. It is, in fact, Madam Speaker, a narrowly drafted power which is very conditional in setting out how and when it can be operated; and, Madam Speaker, indeed, given the controversy that has raged, I think it would be useful to actually read the whole clause.

It reads as follows: Restrictions on public access etc.

Clause 21.(1) says this:

Restrictions may, in accordance with this section, be imposed on—

- (a) attendance at an inquiry, or at any particular part of an inquiry;
- (b) disclosure or publication of any evidence or documents given, produced or provided to an inquiry.

Subsection (2) says this:

Restrictions may be imposed in either or both of the following ways—

- (a) by being specified in a notice [*defined as*] (a "restriction notice") given by the Government to the chairman at any time before the end of the inquiry;
- (b) by being specified in an order [*which is defined as*] (a "restriction order") made by the chairman during the course of the inquiry.

Subsection (3) says that:

A restriction notice or restriction order –

– both of them, that is to say either the notice made by the Government or the order made by the chairman:

– must specify only such restrictions –

- (a) as are required by any statutory provision or rule of law; or
- (b) as the Government or chairman considers to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest, having regard in particular to the matters mentioned in subsection (4).

And subsection (4) says this:

Those matters are—

- (a) the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;
- (b) any risk of harm or damage that could be avoided or reduced by any such restriction;
- (c) any conditions as to confidentiality subject to which a person acquired information that he is to give, or has given, to the inquiry;
- (d) the extent to which not imposing any particular restriction would be likely—
 - (i) to cause delay or to impair the efficiency or effectiveness of the inquiry; or
 - (ii) otherwise to result in additional cost (whether to public funds or to witnesses or others).

Then subclause (5) descends even further to particulars of what it is that the public interest that one might pray in aid when making a restriction order or restriction notice requires, and it says this:

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In subsection (4)(b) 'harm or damage' includes in particular—

- (a) death or injury;
- (b) damage to national security or international relations;
- (c) damage to the economic interests of Gibraltar;
- (d) damage caused by disclosure of commercially sensitive information.

Clearly, Madam Speaker, it is therefore fanciful in the extreme to think that this can be a clause and can cause anyone any serious issue.

It is so tightly drafted that the idea that it can be abused in the personal or political self-interest is, in my submission, Madam Speaker, entirely nonsensical. Anyone who makes that point is making the point, either for party political purposes or for the purposes of prejudicing parties against the Government in the context of the inquiry. In other words, the mote in their own eye.

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The Government is making a Law which it cannot use for its party political interests; it cannot use in the personal interests of a Minister in any way. But the points being made are being made exactly for party political interest or in the personal interest of others.

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And of course, Madam Speaker, in any event, despite how tightly drafted that clause *is*, the exercise of the power to impose a restriction notice, or indeed we are here concentrating on the Government – because that is where the attack from the Opposition has lain outside of here, and no doubt will lay here – but even a restriction order made by the chairman of an inquiry, who is not a judge of the Supreme Court of Gibraltar, the Court of Appeal or the Supreme Court of the United Kingdom, he is the chairman of an inquiry – if he were to make such an order would be subject to judicial review as well.

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Then it would be the Judges of our Supreme Court, the Court of Appeal or the Supreme Court depending on whether those appeals were to be taken, who would be making the decision.

And, Madam Speaker, I will just pause for a second, people who are watching might hear that I am talking about the Supreme Court of Gibraltar, then the Court of Appeal and then the Supreme Court of the United Kingdom and there is a clash of nomenclature there because the United Kingdom now calls, what it used to call the Judicial Committee of the House of Lords – which we

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refer to still as the Judicial Committee of the Privy Council – the Supreme Court. It is for that reason that it may appear that there was an appeal from a Supreme Court to another Supreme Court.

500 Anyway, Madam Speaker, all of that having taken the Parliament through the whole of the clause and the effect of it and the potential for review of it and the potential for appeal of the review of it demonstrates, Madam Speaker, that this is a belt-and-braces piece of legislation which is not open to any of the abuse to which the Government has had to hear.

505 It would potentially be subjecting the current inquiry in the abuse alleged of its powers, which we do not yet have until this Parliament passes it; and I hope, Madam Speaker, that calmer heads will prevail once hon. Members have heard what I have had to say and have looked again at the legislation, and that we will not have to hear in this House some of the things that we have had to hear outside of it.

510 Madam Speaker, clause 23 provides that the chairman of the inquiry will have power to require persons to give evidence and to produce and provide documents and other things.

And clause 24 ensures the application of modern principles of protection of privileged documents, as would apply in civil proceedings.

515 Clauses 26 and 27 make provision for the submissions of reports to the Government and for their publication by the Government or by the chairman, if the Government authorises him to do so. The report, Madam Speaker, must be published in full, except in respect of any matter that could be the subject of a restriction against publication, either an order or a notice provided for under clause 21.

520 Clause 29, Madam Speaker, makes offences. I have given notice of an amendment to clause 29 that I will be moving at the Committee Stage of the Bill. It is what I referred the House to earlier in my reference to the powers of the chairman versus the powers of the Attorney General and the provisions of the Constitution.

525 Clause 30, Madam Speaker, enables the chairman or, after the inquiry has ended, the Government, to certify any failure to comply with Acts in breach of any restriction under clause 21; or an order issued by him under clause 23 for a person to give evidence or produce documents. The court can then make such an enforcement order as it could if the inquiry were proceeding before the court.

Clause 31 provides the inquiry team with immunity from suit; and clause 32 curtails to 14 days the time limits for challenging decisions by judicial review, unless the court grants an extension.

530 Clauses 33 and 34 make provision in relation to costs, expenses of conducting an inquiry and the payment by the Government from public funds.

Clause 35 provides the Government with the power to make rules relating to specified matters relating to inquiries, namely matters relating to evidence and procedure, and the expenses of witnesses under clause 34.

535 Madam Speaker, clause 37 contains the transitory, transitional and saving provisions, to which I have already referred, and which I have confirmed I will be moving an amendment on in order to ensure that the Inquiry into the timely early retirement of Ian McGrail – for that is what it is an inquiry into – should not be subject to the Government’s powers under sections 15 and 16 to suspend or end the inquiry by notice to the chairman.

540 Additionally, Madam Speaker, there is one additional small amendment that should be made to the Bill in section 37, in subsection 3 after the word ‘held’ in line 2, we will move an amendment to add the words: ‘including for the avoidance of doubt, the Commissions of Inquiry Act’. This is to make entirely clear that the reference in subsection 37(4) to existing inquiry extends to inquiries under the current Act and that the McGrail Inquiry is covered by section 37(4).

545 Madam Speaker, given the national and international comment there has been, and there will no doubt be in relation to this Bill, I felt it necessary to provide more detail in my exposition than I would usually have done on any other Bill. I hope that in doing so, I will have provided comfort to those listening that this is a step forward for our jurisdiction and a modernisation of our Law that cannot be impeached, whatever partisan interests others are defending.

550 So, Madam Speaker, for all the reasons I have already set out in my address, I unhesitatingly and wholeheartedly commend the general principles and merits of the Bill to the House.

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

555 **Hon. Dr K Azopardi:** Madam Speaker, well, I will address the issue of the very late amendments that we received just, I think it was, 19 minutes before we turned up in the House today. I will address it as I go along in my contribution.

560 Madam Speaker, anyone watching this spectacle of a Government squirming its way to legislate in this way, of a wounded Chief Minister taking huge flak and criticism locally and internationally but refusing to turn back, will be left with one clear impression.

If Mr Picardo is prepared to take such deep, widespread local and international criticism for the sake of passing this Bill and acquiring these powers over the McGrail Inquiry, then whatever he fears in that Inquiry must be so much worse. So what is there to hide? Why is he running scared? And if he is not running scared, why does he need the powers?

565 Let the judge, the Chairman of the Inquiry, just get on with it. (*Interjection*) If he does not, the jury of the people of Gibraltar may think, rightly, that he is cowering from that process and that this is the only way he thinks he can avoid the worst. But he plays with fire, because he is affecting public confidence in the process, and worse still gambling with our constitutional safeguards and putting all his chips in that spin of the roulette on Number Six.

570 Madam Speaker, he said and acknowledged that they almost lost the election; and that, had they lost it, we would be moving the same legislation.

575 I can tell him that if we had won the election and we had been over there and might have received the same advice – I am not sure if we would have – we would certainly *not* be moving this Bill because it would be seen to affect the Inquiry which is the fundamental criticism that we make on and on again.

580 So we disagree, of course, we note the late amendments that we received, barely 19 minutes before we turned up in this House. Those amendments were desperate afterthoughts after weeks, a couple of criticism, desperate afterthoughts to try to redress a balance and ensure that people think something else of what they already think of this Bill. But they are wholly insufficient, and of course what he does not resile from, Madam Speaker, is the comments that he has made outside of this House that he would contemplate using powers to restrict evidence in the context of the McGrail Inquiry.

585 Indeed, one of the amendments that he makes is to emphasise the application of this Bill to the McGrail Inquiry. If he was so concerned about being seen not to be interfering in that Inquiry, he would simply announce that he would support our amendment and not apply this Bill to the McGrail Inquiry. But he does not do that, he emphasises the reverse.

590 Because, Madam Speaker, we are 17 days away from the start of the McGrail Inquiry, an inquiry that was commenced two years ago under the current law and has been proceeding under it since then. An Inquiry within which the Chairman – the Judge in question – has already so far decided the procedure, the evidence that will be used, what issues are before him, what is admissible or not, what is relevant or not.

595 A judge that has decided that there should be public access to the hearing of the Inquiry via livestream, and a judge who has ruled against the Government's submissions that certain material is not be put before the Inquiry; and repeatedly during his contribution he makes the point that in this Bill there is a power that people can challenge the decisions of the Chairman and go to the Supreme Court on a judicial review.

That power exists already. But the difference is that in this Bill you have got two weeks to do it. Currently you have got three months. So that is the reality.

600 The Judge in question, the Chairman of the Inquiry, has already decided against the Government on certain submissions that sought to exclude material before the inquiry. So how better to load the dice than to change the rules? How better to sidestep the judge than to create powers that do *not* require the Government to ask the Judge for permission when the Government wants to prevent disclosure of information, or ban the public getting to know certain
605 facts. How better to acquire a nuclear weapon in case everything is going really wrong and it is best to suspend or end the Inquiry or provoke it being derailed.

Of course, today, he says in one of these afterthought amendments, they are not going to apply the power of suspension or ending the Inquiry. But as I will explain it is possible to provoke the Inquiry being derailed. So how better to acquire all these eject buttons to political survival?

610 Madam Speaker, the timing of this Bill is a manifestation of abuse of power, layered arrogantly over previous excesses. A Chief Minister who is a core participant in an Inquiry and who faces serious allegations of misconduct thinks it is perfectly fine to change the ground rules of the process he is involved in and acquire new powers that the Government did not have and can deploy in the Inquiry.

615 This whole situation is nothing short of a scandal and an attack on what good governance is all about. It is done behind a thinly veiled mirage that this is good for people, and a bid for modernisation. It is Orwellian in the extreme and it is trail blazed by a campaign of misinformation on motivation which seeks to bury the truth and hide the reality that everyone, or most people, see.

620 All this is unacceptable, but people are piercing through this transparent attempt to garner a tactical or strategic advantage in an inquiry that raises the most serious reputational issues that threaten the Chief Minister. There is such a desperate fight for political survival that he has sunk to new lows promoting this Bill, which will inevitably benefit him – on self-confessed legal advice by his defence team – under the guise that it is for the public good.

625 All of that is clear, Madam Speaker, when you analyse the chronology, unpick the doublespeak and look behind the curtain of the pantomime in which the Chief Minister has cast himself in a leading role.

But we start this story, as we should, with how it all emerged barely 15 days ago. Because he continues to surprise and disappoint in equal measure. And, Madam Speaker, I probably should
630 know better. Because when this Bill was gazetted, just two weeks ago, my first reaction was, 'Surely not. Surely the Government, the Chief Minister will not have the gall to try to ram through this Bill ahead of the start of the McGrail Inquiry.'

Speculation was rife when it was published about their intentions – about the intentions of the Chief Minister who is, after all, a core participant in the McGrail Inquiry – that he would seek to
635 pass this new Law and benefit from new powers before the start of the Inquiry within which his very conduct is being attacked.

But surely not. After all, section 35(3) of the Constitution says very clearly that a Bill must be published for six weeks before this can be discussed in Parliament; and this can only be overcome if the Chief Minister certifies urgency that, in the words of the Constitution:

... consideration of the Bill is too urgent to permit such a delay.

640 So what could possibly be the urgency? After all, the current legislation, the Commissions of Inquiry Act, has been around for 150 years and it has been used in all recent inquiries. And there has been no notice that this was even being considered by the Government. There has been no public clamour for it, no society or association or lobby group was canvassing for a change in our Inquiries Law.

645 There was not even a mention in the manifesto of the GSLP Liberals, not last time in 2023, not the one before that or the one before that in 2015, or the one before that in 2011; and it was not asked for by the chairman of the McGrail Inquiry – we know that because he was not even aware of the Bill until it was published.

650 So if there was not a public call for it, this was not a matter of stated Government policy, and
the chairman of the McGrail Inquiry did not ask for it, what was possibly the urgency which could
justify the Chief Minister certifying that the Government, that *he* could not possibly wait and had
to pass this Bill in the public interest? So that is why, when I first looked at it, it was so clear there
was no urgency, that I thought, 'Surely, this will not happen now.'

655 Madam Speaker, the Bill was published on Thursday, 7th March. Under the Constitution it
cannot be taken in this House before 19th April unless the Chief Minister certifies it is too urgent
to wait. And as the House does not sit in April, the first ordinary opportunity to take this Bill would
have been in late May.

660 But the very next day, in answer to press questions, the Chief Minister answered all
speculation. He made clear that he did indeed intend to rush this through Parliament. Well, he
could only do so if he certified urgency. In other words, that it could not possibly wait. And given
the question that I asked, Madam Speaker, at the outset of this session, we were unaware that he
had certified urgency until we turned up in this Parliament.

665 The power to certify urgency, Madam Speaker, is a constitutional power that has to be used in
a constitutional way, having regard to the role that the Chief Minister has as the elected leader of
this community. It has to be used for a public purpose and not a narrow political self-interest.

670 The six-week period is there for a good reason, so there can be notice to lawmakers and the
public of new potential legislation; because, after all, prospective legislation is sometimes clearly
signposted or flagged months or years ahead in party political manifestos. But sometimes it is not,
as is the case here, and it is important for Members and the public to get the fullest possible notice
of intended Laws.

675 That is as basic as being about good governance. It is a period that gives public notice so
everyone is aware and so there can be proper scrutiny of Governmental intention. It also allows
proper consideration of the implications of new laws so that you get the best law-making
underpinned by the most informed debate coming after mature consideration by and awareness
of the people.

680 The power to certify urgency is there for exceptional cases because sometimes in public
administration there is a need, in the public interest, to consider a law quickly because there is an
urgent policy matter that has developed in the national interest, or a public emergency. But that
power is a power that is curtailed in the interests of good governance and should be exercised,
mindful of the need that it is a rare power to be exercised in the public interest.

685 It is an abuse of the Constitution and of this House to use that power in your own private
interest, in your own political interest or in your own pecuniary interest; and what we are seeing
today is an abuse of good governance. Because, first, the power to certify urgency has been
abused; and secondly, taking this Bill through Parliament and applying it to the McGrail Inquiry,
as planned, would be a further abuse of this place, as I will explain.

This rush for the line, *gasping*, has been forestalled by a smokescreen of misinformation.

On Friday 8th March, the Chief Minister confirmed to the press that this Bill would be taken in
Parliament in the meeting held the following week, in the interests of so-called *modernisation*.

A spokesman for Number Six said:

The Government did not consider it appropriate to seek to communicate with the McGrail Inquiry Commissioner as
this modernisation of the law is not specific to this Inquiry, although it will be the first to benefit from it.

690 This modernisation is not specific to this Inquiry; but it will be the first to benefit from it.
How kind and thoughtful of the Chief Minister and how kind of him, because it had not occurred
to Sir Peter Openshaw, a distinguished English High Court Judge who has lots of experience, to
have asked for it. And, anyway, why bother to even consult the Judge because it is such an
obviously great idea. As the Chief Minister has said in another context: 'What a whizz, what a great
idea'.

How lucky we are, Madam Speaker, to have a Chief Minister who is so thoughtful of making sure he benefits the McGrail Inquiry, even though he is accused of misconduct by some.

But, Madam Speaker, the attempt at making it look as if this was not about the McGrail Inquiry was very short lived. The wheels quickly fell off that wagon; because the reality is very different. Any pretence at maintaining the façade that this Bill was not about, or motivated by the McGrail Inquiry, dissipated just days later.

When he spoke to GBC the following Wednesday, the Chief Minister made what was a damning admission. It turns out that enacting this Bill that contains major new powers, that he would acquire, was suggested to him by his lawyers in the McGrail Inquiry two or three months ago. This amounted to a confession that it was, what he had originally said it was not. Initially, the Government had said that this was not specific to this Inquiry. Quote:

Not specific to this Inquiry.

And now we know, given his admission, that it specifically came about because of this Inquiry, as a result of this Inquiry, and apparently suggested by his own lawyers. The lawyers representing *him*. Those paid to defend *him* and defend *his* interests, want him to pass this Bill. And so does he, clearly. Because, let's be clear: there is no point hiding behind his lawyers. He can reject their suggestion; he is the client. But he has embraced it with open arms for a reason.

His lawyers are there to represent and defend *him* in the Inquiry, to represent and defend Nick Pyle, the former Deputy Governor; and to represent and defend the Attorney General in the Inquiry. So if his legal team came up with the idea and drafted the Bill, at public expense, with his agreement they were looking after *his* interests, his political interests. But, ultimately, he decides he cannot use his lawyers as a shield. He had the choice of whether to do something which was so obviously in his own interest. Because why otherwise would it be suggested?

He could turn around and say, 'Well, you've suggested this but it is going to make me look bad, I might get criticism, people might misunderstand despite the laudable intentions, so I am not going to change the law because it is really not going to look very good two weeks before the Inquiry.'

But he has not; he has embraced it with both hands and here we are. Because, Madam Speaker, that brainwave was not from the altruistic premise that it would be wonderful if Gibraltar modernised its legislation on inquiries and no-one in his defence team said, 'Oh, we are here to defend you, Chief Minister, but why do we not seek to draft something for free and put it to the Government?'

This was not an idea that had occurred to someone in a civil service legal drafting team or Department, in considering an unrelated project to revise our Laws with no obvious other agenda. No, this was a proposal made by his legal team in the Inquiry to help him.

Madam Speaker, there is not even a hidden agenda, it is an open agenda to better further his defence in the Inquiry. Because if it was politically altruistic the answer is simple: do not pass the Bill now, or do not apply it to the McGrail Inquiry.

If it was politically altruistic, they would have asked the Chairman: 'Look, we've just noticed, after 150 years, that it might be a great idea, a whizz, to change our Law three weeks before the Inquiry. What do you think, Sir Peter, do you agree?'

After all, he is the Judge running the Inquiry, the Chairman, and it is *the only Inquiry running in Gibraltar*. It is not as if you have to consult 60 chairmen on 60 inquiries. The *only* inquiry. So he consults the Governor, but not the Chairman. He would not take very long to consult the Chairman of the only current inquiry and they would not need to consult anyone else.

Or does the Chief Minister really have such disregard of the process he is involved in that he no longer cares what the Chairman or the public think about all this? Because the fact that the Chief Minister insists on railroading this through Parliament this week, when we are scarcely 17 days away from the start of the McGrail Inquiry, is for a reason.

745 It is for a reason, and no one has stood up to say, 'You've got to pass this piece of legislation because the inquiry is a farce'. It is chaos, procedurally.

The Chairman has not written to the Chief Minister to say, 'I really need this legislation, because otherwise I cannot do my job.' He has been doing his job for two years, he did not even know this Bill was coming. The reason is: he wants these new powers to be in place when it starts. The Chief Minister wants these powers so he can use them. The mask has unceremoniously fallen away.

750 And when was it that this brainwave occurred? We know, from his television interview, that this was suggested a few months ago – two or three months, he said – because the Chief Minister has said so. But what was the trigger? Was it when the Government did not get some favourable rulings from the Chairman, because we now know, only last week or two weeks ago, that happened three months ago. Was that the moment of realisation that they needed to have a route to get their own way in the Inquiry?

755 Because why bother to ask the Judge for permission to withhold documents when you can tell the Judge that you have decided that you will not disclose, and that you will simply direct the suspension of public access to the live-streaming of the Inquiry, for example, so that the public cannot see the evidence of key witnesses; or, even worse, exercise other powers.

760 As he said to GBC in his first interview on the subject, Madam Speaker, he had acted as quickly as he could to turn around this Bill so that it could be presented at the earliest opportunity. But what an irony, Madam Speaker, because only three weeks ago when we said that they had deliberately delayed the taking of Supplementary Appropriation Bills for years, which had the knock-on effect of delaying the publication of the latest deeply critical Principal Auditor's Report for six years, the Chief Minister gave us a long explanation as to why it was so hard to move quickly and take legislation, because they were so preoccupied on other matters of national importance.

765 Well, Madam Speaker, that analysis did not age very well. As soon as something crops up, which was not even in their manifesto, but appears to be convenient for his defence team in the Inquiry, it is drafted quickly, presented without notice and *hey presto*, certified as urgent so it can be rushed through Parliament. Because we must *modernise, modernise, modernise!*

770 Madam Speaker, this Bill gives the Government powers it does not currently have. Under the current law, the Commissions of Inquiry Act, the Government may issue a Commission appointing an inquiry. That statute does not give the Government powers to suspend an inquiry, or end it, or amend its terms of reference, or constrain disclosure, or redact evidence, or stop things being made public. It does not give the Government those powers.

775 This new Bill does all that, and does so in a way that the Chief Minister, through his legal team – or directly, as Government – will be able to use these powers in defending himself in the Inquiry or sidestepping the chairman of the Inquiry, the independent judge called to decide these questions. Because, under the current law, it is only the chairman, the Judge in question, who currently decides what evidence would be before the Inquiry, or whether the public will have access to information or to witness the proceedings.

780 All of this will change if the Bill is passed. It is unprecedented in Gibraltar; and unacceptable. That is because of the way that this is being done: in a way that changes the rules of the game just before the players are taking the field and loading the match in your favour.

785 And to the key question: *Why now?* That so many people ask themselves, there is only one answer, because of the McGrail Inquiry, because otherwise we would not be here. The suggestion would not have been made and the 150-year Law would have been 151 next year.

790 Madam Speaker, clause 15 of the Bill allows the Government, by notice to the Chairman, to suspend inquiries and it was, before the amendment, that the Chief Minister will move at Committee Stage, 19 minutes before we arrived in this House. It was easily conceivable that the Government could use these powers to the advantage of the Chief Minister.

795 Before exercising those powers, the Government has to consult the chairman, but of course does not have to follow his view. The suspension can be for as long as the Government thinks it necessary, and of course it was obvious that this could kick matters into the further long grass and avoid things coming out.

After all, it had taken the Government 18 months after promising to deliver the Inquiry, in July 2020, to even issue the Commission for the Inquiry. Because from the outset that had the effect that it was unlikely that the hearing of the McGrail Inquiry could be held before the last general election. And that was politically convenient to the Chief Minister.

800 Clause 16 of the Bill allows the Government to end the Inquiry by notice to the chairman. Again, before issuing such a notice, the Government must consult the chairman but is not bound by his advice. Again, a power that was there until we get to Committee Stage because they have given notice of that.

805 Clause 17 allows the Government to convert an existing inquiry, in other words, that one that is already ongoing under a different law or process to one under this Act. To do so, the Government would have needed to consult the chairman of the inquiry that is a similar provision to one that existed in England under the Inquiries Act 2005; and we note the effect of the amendment.

810 Madam Speaker, much has been made that this Bill is a carbon copy of the English legislation. However, in at least one significant aspect it is quite different because if clause 37 of the Bill did not exist, then under clause 17 the McGrail Inquiry would not automatically proceed, as an inquiry, under the provisions of the new Law. It would first have had to have been converted under clause 17.

815 However, the current clause 37 provides that this new Act would apply to the McGrail Inquiry without further debate and without consulting its Chairman. Automatic. So, no wonder that they did not consult the Chairman.

820 If this *had* been a carbon copy of the English legislation, the chairman would have *had* to have been consulted before the new law applied to the Inquiry he was presiding. Instead, in their indecent haste and scramble, the Government have decided to bypass all that. Why bother? And instead create a provision directly and automatically applying the new law to the McGrail Inquiry without even letting the Chairman know that a new law was coming his way that could affect his procedures 17 days before his inquiry started.

825 Of course, all of that is perfectly normal. The English experience under the 2005 Inquiries Act is very different. There, the power to convert a pre-existing inquiry to one to which the new powers applied was used in respect of only *two* pre-existing inquiries. In both cases it was not automatic and in both cases it was some time after the passage of the legislation so that proper consideration could be given to the question.

830 The *Billy Wright Inquiry* was converted in November 2005, six months after Royal Assent of the Inquiries Act. The *Robert Hamill Inquiry* was converted in March 2006, 11 months after the Inquiries Act 2005 was commenced. In both cases there had to be due consideration and consultation with the chairman of those inquiries about what to do. Here, there is a disgraceful rush for the line, without consultation, presenting a *fait accompli* to the Chairman in what people perceive to be utter self-interest.

835 Under this new Act, by virtue of clause 35, the Government may make rules of procedure for the inquiry. Will they also be rushing through some rules that will impact on the McGrail Inquiry?

In England, it took 16 months after the passage of the Inquiries Act to introduce rules. Those rules have been criticised, as well, and need reform. But is it the case here that the Government will introduce rules within less than two weeks? Or will it be enough for them to wield blunt power to influence the inquiry through the main sections?

840 Under clause 21, the Government can issue a restriction notice which may restrict attendance at an inquiry or disclosure or publication of any evidence or documents given, produced or provided to an inquiry. The Government can decide what restrictions it imposes in the public interest, having regard to various matters such as that of *allaying public concern*, or *risk of harm or damage* – which includes damage to national security or international relations, the economic interests of Gibraltar, or commercially sensitive information.

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Of course, it will not be overlooked that in the McGrail Inquiry, Mr Picardo has already said – through his lawyers – that he is concerned about disclosure and has sought to prevent some on public interest grounds and that this was rejected by the chairman. Under this new Bill, restrictions imposed under clause 21 could continue in force indefinitely under clause 22(5).
850

Under clause 25 of the Bill if the Government makes submissions to the inquiry that information would risk damage to the economy, then that information shall not be revealed unless the chairman decides it is in the public interest.

Under clause 27, the Government may – after receiving the inquiry report from the chairman – withhold publication of material which it considers necessary in the public interest. Of course, the public interest does not mean the political self-interests of the Government.
855

Will the Government censor what the public sees or hears when the chairman reports? All those deep powers vested in the Government are not present under the current law.

So the first question is whether the Government intends to exercise any of those powers in the McGrail Inquiry, restrict material or prevent disclosure of material, or prevent the attendance of the public, or the ability of the public to follow it on livestream. If the answer is that the Government would *not* use those powers then why rush through this Bill, or apply it to the McGrail Inquiry? The Chief Minister, in reply to me, can stand up and say, ‘If those are the concerns, we will make sure that this Act does not apply to the McGrail Inquiry.’
860

But far from being reassuring on that question, what has emerged slowly, Madam Speaker, is confirmation that they would use such powers. Initially, there was the very careful use of language and choice phrases that ruled out ending the Inquiry, but not that the Chief Minister would use some of these powers. But as days have gone by it has become clear, not least after the Chief Minister’s intervention on television on Tuesday, that it is his precise intention to use some of those powers or contemplate its use. We do not know *how*, yet; we do not know *when*, yet. But we do know they are setting it up so as to use them.
865
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That was the crowning moment when, after a few days of a gradual shift, Mr Picardo, the Chief Minister finally admitted that he was contemplating the use of these newly acquired powers and that it could take the form of restricting evidence or restricting access to the Inquiry by the public. That moment confirmed that this is *nothing more*, 17 days ahead of the Inquiry, than an ugly and unsophisticated power grab to influence the Inquiry and to influence how the public consume any criticism of the Government and of him. He has the gall to seek to convince people that it will be for *their* benefit and in the public interest.
875

He said, during the same interview, that he did not have political interests anymore, because he was not going to seek re-election. But that what he cared about was his personal reputation.
880

Well, Madam Speaker, if that is the case, I invite him to back our amendment at Committee Stage to ensure these provisions do not apply to the McGrail Inquiry. Because it simply does not look good for him to be perceived to be legislating for himself. If he is concerned about his reputation, then proceeding with this Bill now is one sure way of trashing it.
885

The use by the Government, by the Chief Minister of these intrusive new powers, which will affect or control the direction or manner of the McGrail Inquiry – when they have skin in the game, because the Chief Minister’s reputation is on the line – is a massive conflict of interest. And who exactly will exercise those powers on behalf of the Government because the key personalities are all mired in conflicts. (*Interjection.*)
890

The Chief Minister is a core participant. The Attorney General is also before the Inquiry. And so is the office of the Governor that was, through the former acting Governor, Nick Pyle, involved in the original discussions with the Chief Minister that led to Mr McGrail’s departure.

Of course, Madam Speaker, none of this begins to address other granular issues in relation to this legislation which is not the panacea that the Chief Minister has described on television as: ‘The most modern and progressive piece of legislation.’
895

Indeed, the English Inquiries Act 2005 was severely criticised by human rights organisations when it was passed and UK parliamentarians, as well as senior eminent judges, who repeated
900 concerns that the independence of inquiries would be affected by such provisions. A parliamentary Select Committee, at the time, criticising the new framework, put it like this: ‘That it strengthened the executive’s position by enabling Ministers not just to decide on the form and personnel of an inquiry before it has begun, but also influence its operation.’

The very senior Law Lord, Lord Saville of Newdigate, who had chaired the *Bloody Sunday*
905 *Inquiry* and had been consulted on the draft Bill in 2005, wrote to the UK Government in critical terms in relation to the powers to impose restrictions on attendance at the Inquiry, or on the disclosure or publication of any evidence or documents given to the Inquiry. The things that we criticise here today could be abused.

Lord Saville said, and I quote:

I take the view that this provision makes a very serious inroad into the independence of any inquiry and is likely to damage or destroy public confidence in the inquiry and its findings, especially in any case where the conduct of the authorities may be in question.

I take the view that it is for the inquiry panel to determine these matters subject of course to the rights of those concerned, to challenge in court any ruling that it may make or refuse to make.

To allow a Minister to impose restrictions on the conduct of an inquiry is to my mind to interfere unjustifiably with the ability of a judge conducting the inquiry to act impartially and independently of Government as his judicial oath requires him to do.

910 End quote.

And, Madam Speaker, this was a very telling concern expressed in 2005 that it is pertinent to where we are in Gibraltar today. Lord Saville warned that ‘especially in any case where the conduct of the authorities may be in question’, steps taken can destroy public confidence in that process.

915 That is the deep danger the Chief Minister is playing with because he looks as if he is trying to stack the deck. Does he not see the analogy? In the McGrail Inquiry, the conduct of the Government – *his* conduct – is in question. He should step away from legislating now in this area until the McGrail Inquiry is over, because what is there to hide that they need to take such desperate steps?

920 More recently, there has also been well-documented criticism of the English Inquiries Act and calls for reform, especially because of the armoury of powers held by English Ministers. This is clear from reports issued by Select Committees in both the House of Commons as well as the House of Lords. Instead, the Chief Minister’s presentation of the English Inquiries Act is one dimensional, and deliberately so, because that is a self-serving portrayal which glosses over the
925 gross interference into the McGrail Inquiry and the legal status quo that he threatens through the use of this new Law.

So just because it is a carbon copy, it does not mean it is the best we can do, having regard to the experience of defects that may have been noticed over the last 20 years, and the illustrious criticism of people like Lord Saville. There are things that require better scrutiny. This delicate Bill
930 should not be rushed through in this way, or now, without real notice or scrutiny. Still less should it be rushed through so as to influence this ongoing inquiry because it is convenient to the Chief Minister’s defence strategy.

There are Bills, Madam Speaker, that are published and await months; and they wait so long that an election comes and they have to be republished because they are there on the programme
935 for years. But this is a rush job with the only, but arrogant, thought of taking better control of the conduct of the McGrail Inquiry.

I wonder, Madam Speaker, how many people out there looking at this think this is a good idea for Gibraltar and that this is not about naked self-interest? How many people think it is a good idea for us to be in the international press, derided? How many people think it would not be better
940 for the Government to step back and not apply it to the McGrail Inquiry and allow that inquiry to go on and conclude its work?

So we simply do not accept that this Bill has the innocuous explanation that the Government is seeking to give it because of things that the Government itself has said. And we will not legitimise this desperate scramble.

945 To avoid all that, the Government should pause and consider all the implications and not just adopt the slavish draft produced by the Chief Minister's defence team in the Inquiry, to further his fight for political survival. Because, whether he likes it or not, the Chief Minister's conduct is under scrutiny and investigation in the McGrail Inquiry.

950 Of course, it is an inquiry into the circumstances that led to the retirement of the former Commissioner of Police. And the chairman of the Inquiry will, in due course, have to decide what those circumstances were, and reach findings. But in that Inquiry, Mr McGrail has made allegations of: 'misconduct and corruption at the highest levels of the Government'. Which he says were part and parcel of the circumstances.

955 The Chief Minister denies that and called Mr McGrail a liar last week on television. Those issues are for the Inquiry. But those allegations are there and they are in the public domain, and therefore demonstrate that his conduct is under scrutiny. And so the conflicts, Madam Speaker, are huge.

960 In a television interview, the Chief Minister said he was not conflicted in moving the Bill because he was a lawmaker. But he and others involved in this process, this entire process, *are* conflicted, because this Bill does not get here unless it is certified 'Urgent'. It does not pass this House unless they vote for it. It does not get enacted unless there is assent by the Governor. And it does not get abused unless the Government apply it to the McGrail Inquiry and use it to their political self-interest in the McGrail Inquiry.

965 And on all those stages – certification; passage through Parliament; assent; application to the Inquiry; and use in the Inquiry – there are conflicts left, right and centre. Let me explain why there is a mire of conflicts. When I speak about the Inquiry, I am not talking about the evidence. I am very careful not to talk about the evidence because I have not seen it. And assessing all of that is for the Chairman of the Inquiry.

970 I will not say that Mr McGrail is a liar, even though the Chief Minister did last week on television. And I will not say that the Chief Minister is a liar, although others have made allegations of misconduct or corruption against him. All of that is for the Inquiry. So I reduce my comments simply to explain why there is a mire of conflicts that affect this Bill. A deep, festering swamp of conflicts that is affecting all this and that should make it impossible for this Bill to be considered, **(A Member: Hear, hear.)** still less passed. **(A Member: Yes.)**

975 His legal team in the McGrail Inquiry have made clear that they act for him, the Attorney General and the former Governor. All of that is in the public domain. The Office of the Chief Minister, the Office of the Governor and the Attorney General are all conflicted. So are the Government.

980 So much so, Madam Speaker, that when they decided to commission the Inquiry in February 2022, they explained in a press release that the reason they asked the Governor to formally convene the Inquiry is so that it could not be said that the Chief Minister or the Government were involved in any act relevant to the Inquiry. They made clear in their press release that this was to: 'guarantee independence and the perception of independence'.

985 Fast forward to 24 months after some adverse rulings from the Inquiry Chairman and presumably realising greater pressure of the proverbial noose around their neck – or his neck – all those qualms have gone out of the window. Now it is essential to acquire new powers, and if need be to take centre stage in doing so. But all those personalities involved at different stages of the process are deeply conflicted as can be seen by just a cursory view of the participants and basic facts in the public domain.

990 Madam Speaker, Mr McGrail retired on 9th June 2020, in what seemed the most unexpected way, at least for those who were not involved. Speculation about the circumstances spread quickly. On 11th June 2020, two days later, in this House on the ceremonial session greeting the

arrival of the new Governor, Admiral Sir David Steel, I invited the new Governor to look into the matter in the following terms, quote:

... scarcely 24 hours before your arrival, the Commissioner of Police stood down from his role at least two years ahead of his time. This was a man who ostensibly had all the hallmarks of someone who had energy and zest for his role. His departure was sudden and not signposted by anything he had said or done publicly. There has been, before his departure and thereafter, in some quarters of the press and on social media, speculation as to the discharge of his functions and the circumstances of his departure. In a small community like Gibraltar there is much chatter. Your Excellency, there is a Spanish saying that when the river sounds, it carries water. We have had occasion already to observe that the circumstances were curious and at the very least raise questions that deserve answers. In a small country like ours, the need to ensure that the institutions and authorities are beyond question and that the constitutional checks and balances are strong is crucial. It is also not helpful for anyone, or for democracy, for the speculation that already exists to be left to lie festering. If there is no foundation to the speculation, let it be said. To that extent, Your Excellency, when the Convent issued a bland press release noting the Commissioner's request to retire rather than decisively clarifying matters, it did the opposite. It will, in our view, not do, and that is why we think there need to be clear answers one way or the other.

I am not someone, Your Excellency, who encourages or desires the Governor to have anything but a ceremonial role in our affairs, but the Constitution and the present checks and balances or limited responsibilities being what they are, we hope that you will reflect on this matter in accordance with the provisions that bestow duties upon you in the Police Act. Beyond that, as we have already said, we will pursue questions in this Parliament ...

995 End quote.

On 27th July 2020, in answer to my questions, the Chief Minister told this House that he and the Governor, Mr Nick Pyle, had asked Mr McGrail to retire. He said, quote:

I am sure that this community will want to reflect on the fact that they have heard that the Police Authority, the Governor and the Chief Minister thought it was appropriate to ask the Commissioner to retire under the provisions of section 34 of the Police Act and that, absent that acceptance of the invitation to retire, the thing escalated to section 13 of the Police Act, where the power is in the Governor alone and we move from retirement to resignation with a potential use of the power to suspend.

End quote.

1000

Subsequently, Mr McGrail, through his lawyers, issued a statement that without an independent judicial assessment into the circumstances, there was a real risk to the reputation of Gibraltar as an advanced parliamentary democracy under the rule of law.

1005 On 31st July 2020, Madam Speaker, the Government promised to convene the McGrail Inquiry and did so – with some obvious delay – in February 2022. That Inquiry, to examine the circumstances that led to the retirement of Mr McGrail, is examining such issues that the Inquiry Chairman thinks appropriate.

1010 On 24th March 2021, in this House, in answer to separate questions on the Bland Group security contract and the 36 North Limited – a company that at the time had employees facing allegations of conspiracy to defraud in respect of the Bland security contract – the Chief Minister confirmed that, at that point, the partners of Hassans had a 33% interest in 36 North through a holding company called Astelon Limited. He explained that he was a partner of Hassans, on sabbatical.

1015 In late January 2022, the 36 North case defendants, facing conspiracy to defraud charges in respect of the Bland contract, had a *nolle prosequi* entered into against them by the Attorney General on public interest grounds. At the time, we said that it looked like facts politically uncomfortable to the Chief Minister had been buried.

1020 On 1st March 2023, the Chairman of the McGrail Inquiry granted core participant status to all those three former 36 North case defendants in respect of certain matters before the Inquiry – the so-called *Operation Delhi* issue – the investigation in respect of the alleged hacking and conspiracy to defraud, relating to the Bland security contract and the stated intention to execute search warrants as part of that investigation.

1025 The Chairman of the Inquiry had previously, among others, decided that a number of other parties were core participants, namely Mr McGrail; the Chief Minister, personally; Mr Nick Pyle, then interim Governor; the Attorney General; and the Police Authority. All those were given core participant status in September 2022. Subsequently, the Chairman also made the Government of Gibraltar a core participant at its own request.

1030 And so, Madam Speaker, that quick survey of the chronology displays how interwoven the Government, the Chief Minister and his political interests are in all this. How there is a real conflict between his personal and political interests and the public interest; and how legislating today in a way that will be seen as affecting the McGrail Inquiry – or, worse still, exercising newly created powers – will just be perceived as a self-serving act. Because the matters which the Inquiry will need to examine include the discussions related to the Police’s intention to execute search warrants in respect of the conspiracy to defraud investigation on 12th May 2020, which led to the 36 North case.

1035 On 8th March 2024, *one day* after this Bill had been published, it became clear that the Chairman of the Inquiry had made a ruling in the McGrail Inquiry on 15th December 2023, three months ago, which had refused the Chief Minister’s application to redact documents. In other words, withhold information from documents that were before the Inquiry in respect of the *Operation Delhi* issue.

1040 He rejected the argument that the Chief Minister had made in the Inquiry that this was a national security risk, using the public interest argument, and he and the Chairman refused to make the restriction order sought. So, is this the issue that arose two-to-three months ago that made them draft and bring this Bill? Or what else was it that led to the two-or-three-month-ago brainwave?

1045 Is he now going to use the restriction notice procedure to sidestep this ruling? Has he appointed himself as the Court of Appeal from the rulings of the Chairman? The Chairman of the Inquiry has also decided to examine whether there were incentives given to former police officers to procure evidence in a number of cases in which the Chief Minister personally signed letters of assurance to officers. Will the Chief Minister seek to intervene in any way in relation to that aspect? Is he going to limit evidence? If he does so, he is deeply conflicted having signed those letters of assurance.

1050 The fact is that the powers the Government will acquire – and the Chief Minister will control and drive from a virtual remote control from Number Six – can affect the McGrail Inquiry process, which is also examining his conduct. Or, is it that there is a hope for a judicial review of any future decision, hence the repeated assertions about judicial review? Is there a hope for a judicial review of any future decision to restrict evidence or withhold access to the Inquiry? Or to introduce rules that undermine the independence or change the course of the inquiry?

1055 Are they hoping that a judicial review will be provoked so that pending a judicial review of those decisions – the decisions that he could make in a few weeks’ time, the McGrail Inquiry – cannot proceed for another two years so that he buys himself time to exit the political stage?

1060 As a core participant in his personal capacity, the Chief Minister is deeply conflicted and should not vote on this Bill. The Government itself is also a core participant, in a separate capacity, and that affects the voting capacities of all Members opposite who should similarly not be seen as if they are interfering with the process of the Inquiry.

1065 For those reasons, they should also not support the Bill because it is a grotesque and late attempt to alter the balance in an inquiry that was working in a perfectly normal way. **(A Member: Hear, hear)** So all lawmakers on the Government side are conflicted in one way or the other – the Chief Minister more extremely than the others – but other Ministers also, because the Government is a core participant and this Bill can only become law if it passes this House and receives assent by the Governor.

1070 The Chief Minister’s interests are aligned with those of Mr Pyle and the Attorney General because they share the same legal representation. So does the Government. The Office of the

1075 Governor is conflicted because of Mr Pyle's involvement in decision-making and needs to understand how this Bill will be perceived.

The Government has, as is well known, since given an £80-an-hour job to Mr Pyle without even thinking how bad that looks, something that compounds the conflict of interests and the sense of that conflict. So, anything that this Bill achieves, by way of new powers, to weaponise the Chief Minister directly, or through his legal team, or potentially doing so, is an affront to the independence of this Inquiry; an affront to justice; an affront to democracy; and an affront to the good governance of Gibraltar. **(A Member: Hear, hear.)** And it would only happen if the Members opposite ignore the terrible conflicts that arise.

1085 In our view, this Bill should not be considered until after the McGrail Inquiry hearings and its report has been delivered and published. At that stage, it could truly be said to be about an untainted agenda and it could be improved and considering without raising the dark shadows it does today. **(A Member: Hear, hear)** To pass it now and apply it to the McGrail Inquiry now will only be seen as a blunt instrument, a savage attempt to hijack the Inquiry in mid-flight.

1090 So the Chief Minister should declare his interest and acknowledging his role as a personal core participant not vote on this Bill – unless it clearly does not apply to the McGrail Inquiry. And other Members opposite also have a choice to make.

1095 Soon enough, they will be immersed in the succession battle to take over from the Chief Minister. So do future leadership aspirants want to be remembered as going along with this? Do they want to adopt this legacy? Because this is a crossroads, let us be very clear, at which people will be remembered if they blindly endorse this assault on good governance. **(A Member: Hear, hear.)**

1100 Let it not be said in the future that Mr Picardo's successor was the coming of the second *Glorious New Dawn* if he or she supports him now. They are still in time not to go down with the ship. So do they want to be seen as backing this decision to change the rules of the McGrail Inquiry in what will look like a thoroughly self-serving act? Is this really how much their jobs are worth, that they are prepared to go down in history as the Government that voted to bring in a Bill, in the face of public outcry and in a way that can only be seen to be self-serving, to try to save the Chief Minister? That they changed the rules of a case they were involved in, where the conduct of the Chief Minister was under scrutiny. Is this how they want to be remembered?

1105 The Minister for the Environment who, for decades, has built a reputation as someone dedicated to Gibraltar's interests in the field of the environment and heritage, does he really want to put all his stock on the card of this Bill?

1110 The Deputy Chief Minister, who silently works behind the scenes: does he want to go down in history as the sidekick to what will be seen as a heinous, self-serving act? Or the former Chief Minister, for eight years, who I have always had respect for and as a young university student voted for in 1988: the Father of the House and longest-serving Member of this House. Is this what he wants to go along with, the perception of changing the rules in their own or Mr Picardo's interest?

1115 Or the Minister for Health, spoken openly as his chosen successor and favourite. Does she wish to own this decision that erodes our democracy now and forever in the future?

1120 What about the Minister for Justice, a man who I always have considered a man of honour. Does he really want to go down in history as the Justice Minister who, in the first 12 months of office, may be said to have breached his solemn and separate oath taken in this House to uphold the independence of the judiciary? **(A Member: Hear, hear)** Is that what he wants said?

1125 And all the other Members opposite: can they really leave this House today, happy that this was the right decision? Or are they not condemning themselves to be remembered in the dusk of their term of office in a very different way to how they had hoped? Because *this* decision will splash each and every one of them.

1125 And the Chief Minister who, despite our differences, he knows I respect, because having been in politics so long and having been the most senior elected Member of this community for 13 years and has, he said on television the other day, concerned as he is about his reputation, does he

really want to trash it all now? Because this is how he will be remembered and this decision will not be remembered favourably. We are still in time, Madam Speaker, we are still in time.

1130 So for all those reasons, Madam Speaker, we are not going to vote for this Bill. We are going to vote against this Bill for the same reasons when it comes to the Committee Stage of this Bill, I will move an amendment to this Bill to ensure that this new Law, if passed, does not apply to the McGrail Inquiry.

1135 If we cannot persuade them to back the amendment or abstain on the Bill, or even one of them to do so, then the Bill will pass with a majority of one. But let it be clear, that majority of one will be based on the central protagonist today and one of the core participants in the McGrail Inquiry, the Chief Minister. Because of that conflict, the majority will be based on one solitary polluted vote.

1140 It will reach a new low for the Government. They will have crossed old boundaries and established new lower standards for them. They will have assaulted our institutions and the independence of these quasi-judicial processes in *this* Inquiry, where the Chief Minister's conduct is under scrutiny. It will be seen to be one of the worst acts of this Government without real precedent for Gibraltar. **(A Member: Hear, hear)**

The reputation of Gibraltar will be worsened. It was already affected because of their actions and things can only get worse, because this is a self-created wound. They did not have to publish this Bill on 7th March.

1145 In the week after publication of this Bill, *Transparency International UK* posted articles on a number of corruption and governance threats in certain countries. Stories about issues in Venezuela, Bangladesh, Saudi Arabia or Russia were uploaded in the very same week, as condemnation of this Bill in Gibraltar. Do we really want to attract that kind of press comment or criticism by an international body and be in the same comparison bag as those countries? Is that really what we want?

1150 Madam Speaker, people are rightly angered and concerned at this turn of events over the last few days. The Government under estimates public concerns or, worse still, disregards them at their peril. People feel their intelligence is insulted, that they are being taken for a ride when the Government says this Bill is for their benefit. They are the servants of the people, the Constitution is the product of the people's wishes. Listen to the people and listen well.

Justice and democracy require that, institutionally, the Government does nothing that actually, potentially or by perception looks as if it is an interference with the work of the McGrail Inquiry; or that could give the Government or the Chief Minister a tactical or strategic advantage in the forthcoming hearing.

1160 This Bill simply looks like a brazen attempt by the Chief Minister to change the rules of the very Inquiry that will investigate his own conduct. What exactly would have happened if Mr Picardo had said he wanted to do this at election time?

1165 So, Madam Speaker, steps should not be taken to pass or commence this Law now or to apply it to the McGrail Inquiry. **(A Member: Hear, hear.)** All this just weaponises Mr Picardo. Weaponises the Chief Minister, potentially affecting the independence of this process and sidesteps the Judge. It creates a change in dynamic where, before, the Judge decided questions and in future procedural issues may be decided by the Government on disclosure of material or more fundamental issues.

1170 To apply this Bill now to an ongoing case where there are serious allegations of conduct against the Chief Minister is plain wrong, unacceptable and a constitutional outrage. **(Several Members: Hear, hear.) (Banging on desks.)**

Madam Speaker: Any other hon. Member wish to speak? Yes.

1175 **Hon. R M Clinton:** Thank you, Madam Speaker.

This is probably one of the most important debates we are going to have in this House, and as my colleague the Leader of the Opposition has said, is almost unheard of for this sort of scenario to arise in this place.

1180 Madam Speaker, I have heard the Chief Minister say in his contribution, he said this is about 'Gibraltar first' but, Madam Speaker, that sounds *Trumpian*. In fact it *is Trumpian*. It is not Gibraltar first, it is America first, this is Trump. So the Chief Minister is borrowing Trump's way of speaking and probably thinking.

Madam Speaker, this is not about Gibraltar first this is about the Chief Minister first, always the Chief Minister first.

1185 Madam Speaker, the Leader of the Opposition has clearly outlined how the Chief Minister is conflicted. I am not going to repeat it, but the Ministerial Code includes the expectation that Ministers should protect the integrity of public life; and in particular to observe the ethical standards set out in the seven principles, otherwise known as the Nolan Principles of Public Life. And these are: selflessness, integrity, objectivity, accountability, openness, honesty and
1190 leadership.

Madam Speaker, in seeking to introduce this Bill, Ministers really need to consider whether they are truly observing these standards. Especially where the Chairman of the McGrail Inquiry, in his communication of 1st March of this year has highlighted the need to, and I quote:

... maintain the integrity of the Inquiry and retain public confidence

1195 Retain public confidence. Madam Speaker, I cannot see how this Bill will retain public confidence. The public have a very real interest in the conduct of the McGrail Inquiry and any attempt by this Government to obstruct or obscure, which obviously seems to be the main intent, any form of public scrutiny may, indeed, raise more serious questions than the original inquiry itself.

1200 That is why the Opposition have proposed an amendment at the Committee Stage, so as to ensure there are no changes to the way the McGrail Inquiry is conducted.

Madam Speaker, that there is linkage between this Bill before the House and the Inquiry, there can be no doubt because the Chief Minister, himself, has stated it publicly that this Bill was suggested three months ago by the Government's legal counsel.

1205 Now, what were the concerns of his legal counsel such that this Law be changed? No concerns were expressed by other participants in the Inquiry nor, indeed, the Inquiry Chairman himself and yet, Madam Speaker, none of them have even been consulted by the Government. So it is perhaps no coincidence that the Government's legal counsel suddenly thought it would be a good idea to update the 1888 Commissions of Inquiry Act at that time, three months ago.

1210 It all seems to make sense and in a publication dated 15th December 2023, three months ago, the Chairman of the Inquiry gave an adverse ruling to a restriction application by the Chief Minister himself to redact certain documents and not to make them public.

He sets out the summary of his rulings, and I quote: 'To serve the principles of open justice'. End quote. The principles of open justice, not a closed shop. Open justice. And these rulings, Madam Speaker, are publicly available on the Inquiry website for all to see.

1215 So the motivation, as was alleged, to suddenly modernise this Act and declare it urgent comes at a time when the Government finds itself unable to prevent the publication of information, which it obviously wants hidden, but this Bill will now allow it the power to hide it, Madam Speaker.

So let us return to the Nolan Principles. The principle of selflessness is defined as:

Holders of public office should act solely in terms of the public interest.

1220 Public interest, not self-interest. Public interest.

Madam Speaker, the Chief Minister it would appear is acting to protect his own interests and those of his associates, and not in the public interest who rightly wish maximum disclosure in the McGrail Inquiry.

One of the other principles, the principle of accountability is defined as:

Holders of public office are accountable for their decisions and actions and must submit themselves to whatever scrutiny necessary to ensure this.

1225 Whatever scrutiny necessary, they should not be hiding from scrutiny, they should not be trying to avoid it, they should not be trying to bury anything. They should welcome it openly, transparently, in the open.

Is the Chief Minister in this Bill submitting himself to whatever scrutiny is necessary, I ask myself? It does not appear so, if he is acting on the advice of the Government's counsel who obviously failed to obtain the restrictions to publication the Chief Minister himself applied for.

1230 Madam Speaker, in the same vein as Leader of the Opposition, I appeal to Members opposite to consider what they are being asked to do by their Chief Minister and whether they truly wish to be a part of it and I specifically entreat the Minister for Justice to remember his oath under the Judicial Service Act 2007:

To respect the rule of law.

1235 Madam Speaker, this must not just mean the letter of the law, but the spirit of the law. We in this place pass laws to protect citizens and ensure peace, order and good governance. So I ask him, as Minister for Justice, who is this proposed law seeking to protect? Who is it that will benefit from this law? Is it the general public? Who is it?

1240 Madam Speaker, if he is ever going to offer his resignation to anyone, this would be the Bill to do it on because this is fundamental to our democracy. I know, as Minister for Justice and in fact Minister for Financial Services he takes his job very seriously. This is bigger than any party politics in this place. This is about the pure core democracy of this Parliament and as he will know we have just come out of a very painful FATF grey list removal process, one which a lot of people put a lot of effort into; and there are lots of stakeholders and now, Madam Speaker, we find ourselves as a jurisdiction being criticised of political corruption by *Transparency International* and UK national newspapers such as *The Guardian*. I would invite him to reflect on that.

1245 Is he willing to flush this all down the drain just for the self-interest of one individual? This is about Gibraltar, truly about Gibraltar.

1250 So, Madam Speaker, the Minister for Justice and Financial Services needs to weigh this up in his legal mind, and of course the solution is to vote in favour of our amendment at the Committee Stage; and therefore ensure that any suggestion of political corruption or wrongdoing in this jurisdiction which will, as he will know, invariably damage our finance centre's good name, is immediately addressed and put paid to. (**A Member:** Hear, hear)

1255 Madam Speaker, we are our own worst enemies if we pass this Bill, and he will know that.

The same, Madam Speaker, applies to all the other Members opposite who may be struggling with their consciences and if they feel intimidated, if they vote with us or do not vote in favour of the Bill, they need only remind the Chief Minister that he has a majority of one, only one, and if they cross the floor his Government and his hubris comes to an end. They have that power, each one of them individually. So they have nothing to fear. They can vote with their consciences and the people of Gibraltar will thank them.

1260 Madam Speaker, the Opposition have proposed a very sensible amendment to this Bill, which addresses the very real public concerns as to what the Government is trying to do.

1265 Madam Speaker, if the Members opposite do not exercise their individual unfettered judgement as they have been elected to do by the people, then history and the people will judge them accordingly. This is not just being watched by the people of Gibraltar, the world is watching us and we need to do the right thing.

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

1270 **Madam Speaker:** Does any other hon. Member wish to speak? No.
If no other hon. Member wishes to speak, I will call on the mover to reply.

Hon. Chief Minister: Thank you, Madam Speaker. (*Interjection*)

1275 **Madam Speaker:** Yes.

Hon. Chief Minister: I thought I was called upon to reply, but I am delighted to hear the same speech again.

1280 **Hon. D J Bossino:** Well, he says that. I must say that we were quite looking forward to listening to quite a few of them, but they seem rather muted this evening (**A Member:** Coy.) and he himself looks rather coy, I must say, not his usual bombastic and confident self. (*Interjection*) I sense something is going on in his mind, as somebody that I have known for many years.

1285 I am afraid to say, Madam Speaker, that one needs to use, what they would probably consider hyperbolic language. But the reality is that what we are witnessing today with the passage of this Bill, should the hon. Members opposite support it, is nothing other than banana republic manoeuvres. This is what we are witnessing here today; and the Hon. Leader of the Opposition talks about, on two occasions, a new low. This is nothing other than a vertiginous drop by the hon. Member opposite and I would, therefore, encourage him not to take this step, not to do so.

1290 The reality is, and the point of objection that we on this side of the House have, is not so much on the detail of the Bill before this House – although there are issues which are controversial – but the fact that they are railroading this *now* and applying it to an inquiry which has been going on by way of preliminary stages for the last two years, and is basically oven ready. It is ready to go!

1295 The Chairman in that Inquiry has ruled on a whole manner of issues. As the Hon. Mr Clinton says, it is all there on the website. So why do it now at the 11th hour? There can only be one answer for it, as my hon. friends have already alluded to.

1300 It is incredibly sad, quite frankly, Madam Speaker, incredibly sad and shameful that Gibraltar should be subjected to this reputational damage once again when the hon. Members are sitting on the side opposite and governing this place. Not just in the context of articles that we have seen issued by *The Guardian*, but also in relation to what we have seen with *International Transparency UK*. That is an embarrassment and an indictment on the hon. Members opposite.

1305 The hon. Member describes this Bill as a carbon copy of the Inquiries Act 2005, the English and Welsh Inquiries Act 2005. Our view is that that in itself does not give us comfort, but in fact it is not true. The hon. Member when he says that, and has made that point outside of this House, is not reflecting reality because there is one particular clause ... and he knows it, and it is a clause which he has made the subject of the amendment, but the substantive effect of that clause is exactly the same which is that this Act, if passed, will apply to the McGrail Inquiry.

1310 That is not a carbon copy of the English legislation and that clause is left substantively intact, and the disapplication of the clauses in relation to suspension and of the ending of the inquiries is meant to do what? What is the purpose of that? Is it meant to give us solace? Is it meant to give comfort to the people out there? That, again, is nothing but window-dressing by the Hon. Chief Minister. That is what he is doing when introducing those amendments 20 minutes before we came to this House, when we received it in our emails. I mean, come on!

1315 The reality is that he then also deletes, with his amendments, clause 17, which deals with the power of conversion. Well of course he does not need it any more. He never needed it in the first place, because he has clause 37(4). What he wants to achieve with this Bill is to make it apply to this Inquiry which, as I said, is ready to go – as the Hon. Leader of Opposition said – in 17 days' time. My goodness, what a joke and what shameful behaviour by this Government.

And he says, in his best altar boy voice, that the people of Gibraltar will benefit from:

[a] more modern piece of legislation.

1320 Which he describes as more progressive. He says that it would ensure greater agility and ability to inquire. How will this Bill ensure these things? How is it more modern? How indeed is it progressive? Even the term, how does that apply to an Inquiries Bill, for goodness sakes? And how is it that the current legislation, which is described as 150 years old – it is in fact 136, but in any event it has been the subject of later amendments – he describes as ‘more restrictive’. Why is it more restrictive?

1325 We do not recognise any of these things. And again as another sop to try and allay concerns he consistently talks about the ability to judicially review decisions. As my learned friend, the Leader of the Opposition has rightly pointed out, that point falls away. You can already judicially review. In fact what this Bill does is it makes it more restrictive, at least in time, because currently the standard law is judicial review, a decision you have got three months from when the decision was taken. This now only gives you two weeks, 14 days. So in fact it is a step backwards.

1330 So what he tries to pray in aid to support this Bill that you can go to the Gibraltar Court and then he gives that explanation and that distinction about the Supreme Courts in England, the nomenclature, all the rest of it. (**A Member:** Hear, hear) That is all just rubbish. That is rubbish with the greatest of respect to him.

1335 So why bring this rushed-through legislation at this late stage when the inquiry chairman has already ruled on all the preliminary points, in particular, as the Hon. Mr Clinton said, in relation to public access. There can only be one reason for that and that is to protect himself and his Government, both of which are core participants in this Inquiry. There can be no other explanation for it and it is clear what he will be using.

1340 Look, if it does not happen, I am sure we would all be very happy. But the reality is he is giving – well I was just about to say ‘himself’. He is giving the Government. It is a term which you see in legislation in Gibraltar, it can either be the Government or the Minister or the Chief Minister. On this occasion the draftsman, I think, quite cleverly uses the Government, I suppose, to distance it from the Hon. the Chief Minister personally.

1345 But look, again, that is wording and window dressing. But the powers that he wants to use are clearly going to be, at least two of them and I am sure there are others that are available to him now – not now, but should it be passed – restrictions on public access, and the publication of reports which he can press the button on because it is going to have an impact on public interest in Gibraltar, which he himself said in the latest rather bizarre interview that he gave to GBC.

1350 When the hon. Gentleman rambles on and does not allow the interviewer – as he does in this House – to ask questions, is because he is nervous. Because the hon. Gentleman is hiding something and that is what we all witnessed in the two interviews, and particularly the last one, when he spent nine minutes to answer two questions from the GBC journalist. And he talks about, basically, that he will be the guardian of Gibraltar’s public interest. *He* will decide.

1355 Now he is telling us again, another sop, that that decision is going to be taken unanimously with all the cabinets. Look, we are trying to persuade at least some of them, we only need one of them to vote with us on this occasion so that this will be toppled but I very much doubt any of them are going to do that, despite their muted response. Nobody banged on the table when he sat down; nobody seems to be wanting to make a contribution in support of this fantastic modern and progressive Bill. None of them are. So I do not hold much store (*Interjection*) that the hon. Member, any hon. Member, will not support the decision of the Hon. the Chief Minister unanimously in Cabinet.

1360 So another sop and something which will have very little effect, and quite frankly will not concern the fears and concerns and the public outcry that there is out there in relation to this. But if this is such good legislation, if this is such good law, which we for other granular issues do not agree, irrespective of the controversial manner in which this is being passed, they have been in office now since 2011! Which bit of that do they not understand?

1370 This Act was introduced in England in 2005. We have even had a public inquiry commissioned by the hon. Members opposite in relation to the Dr Giraldi Home. We had a lengthy debate – and I can tell the new Members on this side of the House who were here on the last occasion, until 11.30 p.m. – in relation to that debate we were here until 2 o'clock in the morning, listening. I think the last contributor was the Hon. Minister Bossano.

1375 No mention was there made of the difficulties that that inquiry had met because it did not have modern and progressive law. It was not mentioned at all. It was perfectly fine. We all know why this is being done. And that was not described as, and I quote, I think it was the Chief Minister in an interview: 'As a Third World dictatorial law' in the past. And he has stooped so low, that is how he is describing this piece of legislation, the current one.

1380 Now, the hon. Member says that presumably in his defence – and I can imagine why he is saying it – that he is doing this on legal advice. I think that was in the first interview in GBC when he talks about, he mentions, *my* theory is, that the reason why the hon. Gentleman mentioned that is to mention the name of the former leader of this party, Sir Peter Caruana, to try somehow and conjure up a sense among at least GSD voters out there, that all is fine because Sir Peter Caruana advised him to do so.

1385 That is why he did it. But that does not assist him at all, because in fact what it does is confirm that he is doing it as a result of legal advice. Why? Because he is a core participant, as Chief Minister of Gibraltar, in this Inquiry. (*Interjection by the Chief Minister*)

1390 No, but listen, the Hon. the Chief Minister mentioned that, and actually has dug a bigger hole for himself because it brings into sharp focus how fundamentally and crucially conflicted he is, and why he should have second thoughts and not introduce this Bill to this House, quite apart from the other web-like facts which the Hon. the Leader of the Opposition has quite expertly taken this House through in his contribution.

1395 Why do we say that the supposedly carbon-copy Gibraltar legislation does not give us any solace? Because actually, if we had had more time and if this was a genuine attempt at modernising Gibraltar legislation – which we say it is not – but if it were, we would be looking at things like the House of Lords' reports in relation to this, where they recommend ...

1400 In other words, England has moved on from 2005, the House of Lords reported I think it was in 2014 and is poised to report again, because they are going to be making further recommendations; and one of the recommendations they are making, I think it was a relation to the equivalent (*Interjection*) exactly, the powers of restriction and then public access and all the rest of it, is that the Minister there – the powers that the Minister currently has, which we suspect he is going to be using if he passes this Bill – should be abrogated, should be no more.

1405 Those are the things that we will be looking at. Why? It makes sense because, I think the Hon. Mr Clinton mentioned it: the reality is, by behaving in this way, the reason why Government set up inquiries – should this Bill be passed and forms part of our statute book – is because there are issues of public concern.

1410 What is actually now causing concern to the public is the behaviour of the hon. Gentleman opposite. So why is he tarnishing the whole process? He started the Inquiry, he professes that he wants all the truth to come out, presumably he is confident – and we do not make a comment about that – he will be totally and the Government will be totally and utterly exonerated, but why tarnish it with this? Why change the goalposts?

Madam Speaker, he talks about trying to give us comfort that there is no intention of ending or suspending the inquiry and now sets this out in law should that be part of the Committee Stage, but that really does not give us any confidence whatsoever. I suspect, as I have just said, that the public shares our views in relation to that.

1415 Because the Hon. the Leader of the Opposition is absolutely correct and right when he says that there has been no public clamour for a change, certainly no request for a change by the chairman of the inquiry; and I have already dealt with the fact that the judicial review ability that there is ingrained in the Bill, it does not assist the hon. Member opposite.

1420 Just to show that he is doing this for his and his Government's own self-interests, is this basic fact. We have known the Hon. the Chief Minister, as I said, the Leader of Opposition now for many years – in fact, I think we started off in politics, and we did start off in politics together – and one of the things that he has by way of political skill and attributes, is that the hon. Member is an artful political chess player.

1425 So he must have weighed in the balance that, in his mind, he knew that this would attract a lot of political flak out there because that is the reality on the ground. That is what people think of him. People are shocked and aghast (**A Member:** Hear, hear) by what he and his Government are going to be doing this evening. They are shocked and aghast by what is happening here and they are not believing anything that he is saying.

1430 And he knows, because as he rightly pointed out in a rare burst of political humility when he started off saying, and acknowledging, and it is a fact that he nearly lost that election, the last general election. But actually I was told only yesterday – it did not dawn on me – that he is the only sitting Chief Minister who did not top the poll, and that is a reflection of what people are thinking of his Government and he himself, personally. (*Interjection*)

1435 No, I am going to say sitting Chief Minister. That is why it is not relevant to the point I am making. So he needs to get his history right and maybe consult the Hon. the Deputy Chief Minister (*Interjection*) because the reality is that what happened in October 2023 is without precedent and I know that that bothers him.

1440 But irrespective of that, he does not really care anymore other than to, as he said in his interview, 'maintain and keep his own personal reputation intact' because if not, we have absolutely no explanation as to why he is doing what he is doing, and we get the sense that he really, deep down – not he, but his friends – he does not have their support. That is a sense that we get.

1445 Now, let me just end by saying this. Obviously, he does not like to hear what he is being subjected to on this side of the House but the reality is the hon. Member gets into Bayside School mode. He did it in GBC and he is doing it now and that is because he is nervous. We know him very well and I have known him for many years, he and I were in school together. (*Interjection*)

Sorry?

1450 **Hon. Chief Minister:** That is were I started to beat you.

Hon. D J Bossino: Well, I am not so sure that is accurate ...

Hon. Chief Minister: Isn't it?

1455 **Hon. D J Bossino:** No, no, no. I was much more popular than he was, that is for sure. (*Interjection*)

1460 Madam Speaker, I ask the hon. Members to consider this. Please be not shackled by any considerations of collective responsibility. You do not need to be, for two reasons. One, in our view, this is a matter of conscience. Quite frankly, it is a matter of conscience and this is a matter of core political integrity.

If you believe the rumours, I know one Minister who was not particularly happy with this. But be that as it may, I suspect that he will not be voting with us on this occasion. But the second reason is that the Hon. Chief Minister is on record, in this House in the past, for having said (*Interjection*) precisely, well yes, exactly, that he does not, oddly, quite frankly, subject his colleagues to the Party Whip; or indeed in this case, because all frontbenchers and Members of the Government, to collective responsibility, that they can vote as they like.

1470 Bear that in mind and form those, that we identify on this side of the House, as being potential leadership contenders. I ask the Minister for Health, who is the anointed one, to not be shackled by that and show leadership and gumption and vote with us. (*Interjection*) I identify the Hon. the Minister for Justice as well, who we think, as political observers, probably has a fair chance at

being Leader of the GSLP, and he should consider showing leadership qualities on this occasion and voting with us, and certainly not supporting this Bill which will hang like a sword of Damocles over him for the rest of his political career.

1475 Or indeed the Minister for the Environment who, I am sure, also may be harbouring ambitions in that regard. Or, indeed, the former the Chief Minister who – one is not ageist – *has* the ability and the intelligence to take over as Leader of the GSLP and the Chief Minister. So I ask them, individually (*Interjections*) to consider their options, or indeed the Deputy Chief Minister.

1480 Why should they all toe the line? They should not toe the line and they should stop this nonsense and stop it now and vote in favour of the Opposition. (*Banging on desks.*)

Madam Speaker: Does any other hon. Member wish to speak? Any other hon. Member, no? I call on the mover to reply.

1485 **Hon. Chief Minister:** Madam Speaker, thank you very much for inviting me to reply on the second occasion because I thought you had invited me earlier but, in fact, I am very pleased that we had the opportunity to hear the very lively contribution from Mr Bossino which, as ever, was full of character and devoid of substance as we are so used to.

1490 Perhaps, Madam Speaker, I should start at the end because the Hon. Mr Bossino, I think, has very helpfully demonstrated exactly what the GSD's contributions are all about in the context of this debate. They are all about misunderstanding the most basic concepts that affect Government.

1495 The Hon. Mr Bossino said that I do not subject the Members of the Government to collective responsibility. That is what he said, it is in the *Hansard*. Well, Madam Speaker, of course Members of the Government are subjected to the principle of collective responsibility because when we are in Cabinet together and we make a decision together, even if one of us were to vote against that decision, we are collectively responsible for it. That is what the principle of collective responsibility is.

1500 The principle that I do not subject my fellow Ministers to is the principle that they have to vote the Government line on any issue, and that is a completely different principle. It is the principle that every matter that comes before this Parliament is, as far as I am concerned, a matter that we bring here in the context of wanting to make Gibraltar a better place; and if anybody thinks that on this Bill, or on any Bill I am asking them, or the Minister moving a particular Bill is asking them to vote for something that would not make Gibraltar a better place. I ask them to vote their conscience on everything.

1505 Not just on whether we should have equal marriage, not just on whether we should have the right of women to seek terminations in defined circumstances – which are the things that are traditionally referred to as matters of conscience – not matters of collective responsibility. He needs to get his terminology right to express these different principles.

1510 Even if it is a matter relating to how an inquiry is conducted, it is always going to be about the betterment and improvement of Gibraltar. And so if there is anybody on these benches who does not believe that this Bill is to pursue the public interest of Gibraltar and the Gibraltarians, whatever vilification we may be subject to, by them, or outside of Gibraltar, then they should vote for the Opposition amendment, or indeed not vote for the Bill.

1515 That is how I have run it. Not today on this Bill, Madam Speaker, that is how I have run it for 12 very successful years with a lot of legislation under our belt; and it is not to do with the principle of collective responsibility. It is exactly to do with Bayside and WestSide and St Bernard's and St Joseph's and Bishop Fitzgerald and Governor's Meadow and all of the schools that hold the future generations of Gibraltarians that we all, in our different ways, love and cherish and for whom we act in everything that we do. Not just my children, *our* children and our children's children when they come, the future generations of Gibraltarians for whom we act in everything
1520 that we do.

So if he wants to tell me that I am in Bayside mode, I can tell him I am in the mode of caring about *all* of the children in Gibraltar, in *all* of our schools and every soul who is a resident here. That is my job.

1525 And the points I have made about my reputation, which he does not appear to have understood, is that although my reputation matters to me, if I have to put my reputation there for Gibraltar and my reputation is trammelled because I am defending Gibraltar, trammel it they can. Because what matters most to me is Gibraltar.

1530 Whatever scorched-earth policy others may be pursuing in respect of Gibraltar, in Gibraltar and outside of Gibraltar, not caring about the consequences and effect on Gibraltar of the things that they or their lawyers may be saying about Gibraltar, it matters to me; and I will act to ensure the protection of Gibraltar and all of the current and future generations of Gibraltar, even if I am vilified because of that.

1535 That is what we will do. That is how we will take the sacred obligation that we took on the day that we formed Government again on 13th October last year, to ensure that everything we do, we do for Gibraltar. Gibraltar first, every time. And that is not Trump's mantra. Trump's mantra is to make America great again.

1540 So we are not being Trumpian by talking about putting Gibraltar first instead of putting our parties first. We are being careful in ensuring that we act in keeping with what we must do in order to protect the people who we are elected by and the people who we are not elected by, the people who cannot vote, the people who come to Gibraltar every day to work, the people who live in Gibraltar every day and the people who will live in Gibraltar in the future.

1545 So, looking at Mr Bossino's contribution and realising that he cannot even understand what the principle that he is saying that we are failing is, he talks about the principle of collective responsibility and then he laughs from a sedentary position. He laughs, obviously realising how ridiculous the rest of his contribution looks if he cannot get a political term of art right when he is making his address, well we have to see everything that they have said through that filter. The filter of trying, the three of them, to get up here to advance their leadership ambitions in front of most of their executive, who they have entreated to come and watch them today, and not the filter of what really matters to Gibraltar.

1550 But let us apply that filter and let us look at the things that they have said and let us dismantle how they have approached this debate. First of all, complaints about the very late amendment. Well, Madam Speaker, it may be that the Hon. the former Deputy Chief Minister of Gibraltar, Mr Azopardi, now the Leader of the Opposition, has forgotten that the Rules of the House say that you move an amendment at the Committee Stage.

1555 You have no obligation to give notice of the amendment before the Committee Stage. (*Interjection*) The only obligation that one has is to put the amendment in writing when you move it. That is to say, in the Committee Stage. And in fact *his* practice and *their* practice, when they were in Government, was to give notice of the amendment in the Committee Stage. So if I gave him 19 minutes before the beginning of the First Reading – although he pretends that that is something somehow to be deprecated – I am very grateful that he has recognised, for the purposes of *Hansard*, that I gave it to him even before the debate had begun. When my obligation under the old Constitution, under the new Constitution, is simply to put the changes I want to make in writing at the time that I move them, first point.

1565 Second, there is no one squirming on this side. What there are, are responsible Ministers acting in keeping with the obligation that we have to protect Gibraltar. If that makes us the subject to attack then it is also our obligation to take those attacks. The hon. Gentleman has led the charge for the Opposition because they have allowed him to, not because the others have not tried. But in doing so, Madam Speaker, he has resorted, as usual, to the type of language that he likes to resort to, to make everything that he says pejorative. That is to say, negative.

1570 In what way, you might say? Well, Madam Speaker, when he talks about 'squirming' you have got to see everything else that he said and put it in context. When he talked about squirming, Madam Speaker, he did not mean I was squirming. Why? Well, Madam Speaker, because when

1575 he called me a highwayman and I referred to him the definition of highwayman and said I thought it was not fair that he should have called me that, he said, ‘Well, I was only making a renaissance illusion and I did not for one moment think that I was suggesting that you were somehow taking things from people or being a thief.’ Exactly what you would mean when you use the word ‘highwayman’:

1580 When he called me a cheat, a month ago, he then came back and said – when I said, ‘Look, I think it is really quite unfair, in the context of this debate, that you should call me a cheat. I have not put my hand in anyone’s pocket.’ He said I know that, of course. I do not mean that. We have known each other for too long. I did not for one moment mean that you were taking anyone’s money, I just thought that the Taxpayer was being short-changed because they did not get value for money. (*Interjection*)

1585 So, Madam Speaker, when he said during the course of his New Year’s address that we had been sentenced to a suspended sentence of eviction, he was mixing his *criminal* pronouns and adjectives with his *civil* ideas. We were sentenced to something because we had a suspended sentence. That only happens when you are convicted of something. You are only convicted of something when you commit a criminal act.

1590 But, of course, then the criminal act of which we are alleged to have been convicted is eviction which is, of course, nothing criminal, it is civil. And therefore in the same way as we are not sentenced to anything when he says that we are sentenced, we are not highwaymen taking anything when he says that we are highwaymen; we are not cheats cheating anything when he says that we are cheats, and he accepts all that.

1595 It is clear that when he says that we are squirming, he does not mean that we are squirming; we are perfectly properly bringing a Bill to this House in keeping with the Constitution – we could not bring it if it was not certified as constitutional – that we believe the Parliament should pass by unanimity; and that even if the Parliament were to pass by unanimity, would not receive Royal Assent if it were not constitutional. In other words, they are not the filter of propriety of legislation, they are the filter of what the ideas behind the legislation may be for and whether they have a better idea.

1600 That is why we talk about the general principles and merits of the Bill, the Second Reading is about debating the general principles and merits of a Bill. It is not about the legality of a Bill. Madam Speaker has much better experience than all of us of considering legalities of laws. That is not done here, that is done somewhere else.

1605 So, Madam Speaker, the hon. Gentleman said that I was obviously prepared to take the criticism that I knew would fall on me when I moved this Bill in this time and in respect of the inquiry that is on foot, because I obviously fear that what is in the McGrail Inquiry is so much worse. Then the Hon. Mr Bossino makes the same point. He says, ‘Picardo is such a good chess player that if he has decided to deal with all of this flack, it is because what is coming is worse.’

1610 *Or not.* Because the other thing that they say, Madam Speaker, is that I am doing this – I think it was the Leader of the Opposition and Mr Bossino who, in effect, delivered the same speech – that said that I was doing this to protect my political position. Madam Speaker, I have *said* what my political position is. I am *going*. I am not going to have my name on the ballot next time to be Chief Minister. *They* are the ones who are saying that they want their names on the ballot to be Chief Minister next time, not me.

1615 So I am not acting out of any self-interest, whatsoever. I have given that away. I am acting for the only thing I have left to care for or act for: our people, our nation, our obligation when we take that oath, when we come here at the ceremonial opening, when I took the oath in the Convent, an oath that Mr Bossino, in particular, has never taken but has long wished to take.

1620 To demean myself in the exercise of my office as Chief Minister – and if demean myself means act properly for Gibraltar, whatever international opprobrium may fall, because it is in the best interests of Gibraltar – then demean myself I will. But not because of my desire to protect my political decision.

1625 So, Madam Speaker, I cannot agree with the Hon. the Leader of the Opposition that in presenting a Bill for this House to make for Gibraltar the same Act that the United Kingdom has, I am somehow playing with fire. There may be some who are playing with fire with their scorched-earth approach to the McGrail Inquiry. It is not the Government, Madam Speaker. It is not the Government.

1630 'Gambling with constitutional safeguards', Mr Azopardi said we were. With what constitutional safeguards? What? That the Bill cannot move for six weeks unless I certify it as urgent? And I have certified it as urgent. Well, Madam Speaker, every Act that he was responsible for passing in the time that he was Deputy Chief Minister, did not have to comply with a six-week requirement because it was not in the Constitution.

1635 Neither did the Gibraltar side that went to negotiate the Constitution, that he claims authorship for, seek that there should be a six-week requirement of publication of legislation. It was the UK that required it. (**A Member:** Yes.) And provided the caveat that it could be certified as urgent.

1640 So there is no gambling with constitutional safeguards because you act in keeping with the Constitution to provide the letter that is required to certify; and there is no gambling with constitutional safeguards if the Bill is moved, approved by the Parliament in keeping with the constitutional requirements and receives Royal Assent. And there is no gambling with constitutional safeguards if a Judge, to whom this is taken, says, 'I do not like this Bill, I do not like the application of this Bill, I am going to take the thing I call my blue pencil to a section or to another section.'

1645 The constitutional safeguards are there and they end in London in the Judicial Committee of the Privy Council. Not here from this chair. They end in a court where we have this important division of the legislature where we are now, the executive where we act together as Ministers *and* the judiciary.

1650 So when he gets up and says these things they must clearly be either designed to inflame, or designed to advance his cause against the cause of the guy sitting next to him, or badly designed, like the words 'highwayman', 'cheat', 'sentenced' and 'squirming' which, when pressed, he says do not mean the things that they mean in the ordinary English language version of those words, and which he resiles from the minute he is put under a little bit of pressure.

1655 So I guess, on reflection, the Keith Azopardi I know is thinking: 'Well, no, perhaps my pen went a bit too far with playing with fire and gambling with constitutional safeguards'. Because when this vote is finished we are all going to go back there and have a cup of tea, or we are going to go home to dinner and the Constitution of Gibraltar will be as protected as it always has been, and everybody's life and personal security will continue to be as protected. Because, Madam Speaker, the idea that I am taking these powers for myself, especially after the interviews I have given outside of this place, and the address I have given this House is remarkable.

1660 But the Hon. Leader of the Opposition and his two sidekicks have got up and once again made the point that I am taking power to do, the Chief Minister is taking power to do, when I have expressly said, first of all that the Bill talks in terms of Government, not Minister. Second, that in the context of the McGrail Inquiry I have given an undertaking to the Parliament that we are not going to act other than with a resolution of the Cabinet – that is to say all of us together – and that the Minister for Justice is going to act. So what powers am I ascribing to myself when I am specifically diluting my ability to act?

1670 And I must say, Madam Speaker, I do not think Nigel Feetham needs to be reminded of his oath by hon. Members opposite. I think it is very clear in what his responsibilities are and he would not countenance to act outside of those responsibilities. Neither would I, by the way, but I realise that I am cannon fodder for them.

1675 But in their entreaty to each of the Members here, they say to him that he has sworn his other oath and to be very careful how he votes; and they say to her that because she is the great white hope, as they described her, she should be careful not to be landed with this. And they say to him that he has spent 52 years here, he does not want to now tarnish his reputation with this, although

most of the time they are degrading him; and the Hon. the Leader of the Opposition in 1996 was part of the character assassination of him.

1680 But today it is worth saying, 'Yes, those two'; and to the Deputy Chief Minister they say, 'Well, don't do it!' And that suggests that they have a regard for all of the Ministers sitting here, which they might pretend not to have for me in the context of this debate. Okay. And they entreat them in that way to vote with them. Okay – (*Interjection*) Because they just want one vote, of course.

Like everything that used to happen here until 2007, the majority of one. Nothing particular or peculiar about that. (*Interjection*) Right. Okay.

1685 But what happens, Madam Speaker, if actually all of the people that they have sought to entreat to vote with *them* and not with *me*, calling on them and asking them to take care to ensure that they act in keeping with those principles that they prayed in aid? What happens if they all pray in aid those principles are true to their oaths and vote with me? (*Interjection*)

1690 They are wrong, says Mr Bossino. Just like the people of Gibraltar have been wrong to return us to Government and not them, on four occasions. Everyone who does not vote like them is wrong. Well, look, Madam Speaker, that is a very interesting approach to democracy. It is to suggest that democracy gets it wrong when it does not deliver the result that you want.

1695 So they have sought to attract eight Members of the Government to the light that they put up as if the Members of the Government were moths, and the moths cannot see the light if they do not go to them. Well, Madam Speaker, that shows you the approach to politics that we are seeing from Members opposite. This is not serious, this is not 'Members of the Government, examine your consciences.' And if you believe that the Chief Minister is telling you that he is acting in the public interest of Gibraltar, support him. And if you do not, do not support him.

1700 But I am going to do something which the hon. Members do not appear to have the gumption to do. I am going to say to every Member of my Government, to every Minister sitting here today that they should only vote to support this Bill if they believe that it is in the public interest of Gibraltar to do so; to give the Government, of which they are Members, the power to do things to protect the public interest of Gibraltar. And if anyone does not believe that, they should vote with the Opposition.

1705 Of course, on this and on everything else *that* is to believe that people actually care about the work that they do. That when people make the sacrifice of going into Government, which is a bigger sacrifice than just going into politics and getting extra pocket money. Right? That is to demonstrate that actually you care about your nation.

1710 Madam Speaker, I have been surprised that hon. Members have thought it is reasonable to suggest that the conspiracy that they allege is actually not just of me – and indeed the Attorney General and indeed the former Governor – but I think also the current incumbent of the post of Governor. Because the Hon. Mr Azopardi has said that there is a conflict everywhere now, even in the grant of Royal Assent. I mean, it is absolutely remarkable. This is *Alice in Wonderland* stuff, Madam Speaker. We are going down the rabbit hole of what the Hon. the Leader of the Opposition believes it is reasonable to pretend can be described as a conflict of interest.

1715 This is not serious and frankly, Madam Speaker, to think that simply because in this Bill you changed the time in which a judicial review can be brought from three months to two weeks, and to think that is a bad thing and to vilify it is not to realise that the purpose of that is to ensure that if somebody is going to take a judicial review, whilst an inquiry is ongoing, it does not delay the inquiry. And it seems to me – and this is not a courtroom and we should not turn it into one – that
1720 it is a point made by somebody who has forgotten that the rules on judicial review today, just like they did under the old Order 53, do not say that judicial reviews have to be brought within three months. They do not say that.

1725 They say that judicial reviews have to be *promptly* brought and in any event within three months. And if you bring a judicial review, sometimes six weeks after a particular Act or eight weeks after a particular Act, or 12 weeks after a particular Act, you may still be too late because the court may decide that there are other triggers which require that it be brought promptly and perhaps even in less than two weeks. So I commend to hon. Members that if they are going to

make points like that they should go back and look at their Order 53, or whatever it is now under the new White Book, but the word 'promptly' has not changed.

1730 So this is not an attack on good governance, Madam Speaker, this is good governance at its best. And the point I made, which Mr Bossino just did not appear to understand, was not that we were making a law which was a third-world law, Madam Speaker, what I said was this: 'I will end my answer to you, just as I started by saying, "Look, we are not bringing the Russian Vladimir Putin restrictive inquiries legislation to Gibraltar.'" I was not comparing the 1888 Act to a third-world dictatorial regime. I was saying that the new Bill we were bringing was not a Vladimir Putin third-world country dictatorial regime. That is what I said. But he has got up in this House and pretended I said the opposite and gave us 15 minutes of that.

1735 What I said was if there is such a thing, they may not even have such a law in Vladimir Putin's Russia. We are bringing the most modern United Kingdom piece of legislation which gives even more ability to an inquiry to inquire into the things that it has been asked to inquire into and report to the Government on.

1740 So again, he gets the basics wrong, Madam Speaker, and then builds an edifice on it which is built on quicksand. That is why they are demolished so quickly. Perhaps that is why they never selected him as leader, Madam Speaker, because they like the charisma but they see the absence of substance, Madam Speaker, just like all of the points that he makes. Although the Hon. the Leader of the Opposition is not too far, I mean, he seems to have discovered the word Orwellian in 2024 and we seem to be subjected to it now in every meeting of the Parliament. Well, once today, twice in the last one, everything is now Orwellian, Madam Speaker.

1745 This is therefore not, as hon. Members have said opposite, a Bill that will benefit *me* under the guise that it is good for the public. It is not obviously a Bill that is benefiting me. I have been in politics for 30 years, I have been in Government for 12 years and I have never had such horrible things said about me.

1750 How is this Bill benefiting me? I am being called names outside of Gibraltar, not just in Gibraltar; and outside of Gibraltar because of the scorched-earth policy that people are taking to this Inquiry and some of their lawyers not caring about what they say about Gibraltar. So how on earth can it be suggested that this is a Bill that is benefiting me?

1755 Madam Speaker, my life would have been a lot better if I had not moved this Bill, but because I am advised I should do it for Gibraltar, I do it for Gibraltar despite the consequences to me. The serious reputational issues that hon. Members say that will arise cannot be worse than the reputational issues that I have am having to go through in the past 14 days.

1760 Madam Speaker, let's be very clear, in the Inquiry in the time that they were in office – remember that one, the inquiry in the time that they were in office, into the former Chief Justice – I was acting with Doughty Street lawyers looking after issues of human rights and representing people in criminal tribunals when they had been charged.

1765 So, Madam Speaker, anyone who thinks that I have moved this Bill for an advantage to myself, to have my name dragged through the mud by Doughty Street lawyers, by *Transparency International* and by *The Guardian* might want to think again about making that point to try and persuade Ministers who sit with me that, somehow, this is something I am doing in my interest and not in Gibraltar's interest.

1770 So I do not see, Madam Speaker, that we have deployed any smokescreen in the press. I really do not see it. This is a Bill that will modernise the law on inquiries in Gibraltar. Frankly, I do not see that just because we have said more, as we have been asked for more information, that we are deploying a smokescreen. In fact, the Hon. the Leader of the Opposition says he has been able to reach conclusions as a result of my *second* interview and my *third* interview.

1775 So frankly, it does not seem to me like we are doing much more than telling the public exactly what we believe is the case, and being very honest and open about things. I am very grateful to see Mr Bossino nodding his head.

It does not seem to me to fit the definition of smokescreen. But then again, Madam Speaker, it may just be that smokescreen, like highwayman, does not mean smokescreen; and like cheat,

1780 does not mean cheat; and like squirm does not mean squirm. So by smokescreen, I take it that what the Hon. the Leader of the Opposition meant was that we were being very frank, very open and very honest about the reasoning that we were deploying as to why we were doing this. *(Interjection)*

1785 So, Madam Speaker, there is no hidden agenda. In particular, given that the Hon. the Leader of the Opposition says he has worked out what we are doing and why, I would have thought that he would find it difficult to maintain his argument that there is a hidden agenda. *(Interjection)* But when he repeatedly says that I want these powers so that I can use them, I almost wonder whether I had failed to read the part of my speech where I said the opposite.

1790 But, Madam Speaker, I guess that what happened was that he wanted to read the part of his speech that he had written, even though the point he had to answer was the opposite one. Well, Madam Speaker, I am used to that, I see him do it in every budget, he cannot get up and answer on the spot.

1795 Then he said, Madam Speaker, and this is important, because it is about testing the quality of what the public in Gibraltar is being told by hon. Members, because they ask the people of Gibraltar who change the Government, or have a low regard for the Government based on the things that they say. In the last meeting of the Parliament, the hon. Gentleman said that I was the only person who was happy that there had been a glorious new dawn on 9th December 2011. And I reminded him that that was utter hyperbole, that he was completely wrong and that, in fact, I could think of at least nine others.

1800 That is to say, the people who became Ministers and our spouses, or then spouses, who might have been very happy indeed, and all our friends and all our Members. So also when he says ‘only’, it does not mean only; when he says, and it might have been a slip, but he said that we did not even mention the McGrail Inquiry in our manifesto, *(Interjection)* I have to refer him, Madam Speaker, he may have misspoken but he said it. *(Interjection)*

1805 The new Bill? Right, well, he said that on one occasion.

On another occasion, Madam Speaker, he said that we had not mentioned the McGrail Inquiry in our manifesto. He may have misspoken, Madam Speaker – well he says he did not say that, but when he checks the *Hansard* he will no doubt accept that he said it, even if he said it by misspeaking. On page 150 of our manifesto under ‘Justice’, there is a whole paragraph on the McGrail Inquiry, Madam Speaker. So he cannot sustain that, and in the same way as he cannot sustain that he cannot sustain much more of what he says.

1815 The current Act is not going to be 151 years old next year if we do not pass this Bill, it might be 137 years old next year if we do not pass this Bill. If we cannot trust him to know what is in our manifesto, to say what he means when he uses words which he then says mean something else, or to count? *(Laughter)* Well then, how can we trust him to reach conclusions as dramatic as the fact that somehow there is something wrong with this Bill and that we are playing with fire and playing with constitutional safeguards, Madam Speaker?

1820 Moreover, the things which he identifies are different about the Gibraltar Act and the UK Act, which he pretends to say I have not dealt with, I had already dealt with in my speech. What we are saying is the same as the UK Act is all of the substance of this Bill, not the transitional provisions. I specifically said that the transitional provisions are different. Of *course* they are different. Of Course they are different.

1825 I am not going to go through the points of his speech with which I agree, but I agree with many of them. The Government’s political self-interest is not the public interest. Of course I agree. It is the point I was making, it is exactly the point I was making. It would not cross my mind to do something in *my* interest whilst invoking the public interest.

1830 And do you know what, Madam Speaker, when all of this is said and done, when the heat goes out of this debate, maybe when the Inquiry is over, he will tell me that he knew that I would never invoke the public interest to try and save my own personal interest. Because we do know each other from many years, and he knows that I would never abuse a power given to the Government in my own pecuniary, self or political interest whatsoever.

1835 Anyone who knows me – perhaps not those who do not know me – knows that that is the case. And if they do not think that of me, they think that of him; and they think it of him, and of him, and of her, and of her, and of him, and of him, and of him. And this is a Government acting to protect the public interest. That is the reality.

1840 So, Madam Speaker, we do not think this is an ugly power grab, we think this is a proper use of the Government's power to bring legislation to this House, to act properly and in order to ensure that Gibraltar is able to protect its public interest as we need. And look, I get that there are criticisms of the 2005 Act, I get that Mr Bossino is able to look at House of Lords Committees that are reporting on the operation of the 2005 Act, and I get that the 2005 Act might be amended one day. But the current state of the 2005 Act is the one that we are bringing into Gibraltar today.

1845 And, by the way, in case he does not know, he is right that the current Act is not only 136 years old, there are some changes that were made to it, he rightly points to one in 2007. Does he know what it was? It was the amendment made by the general amendment brought under the Interpretation and General Clauses Act to change the word 'Governor' to 'Government' in every Act which was listed. That is the amendment that there was to the 1888 Act. So hardly a modernisation beyond the constitutional modernisation that that brought. So I am not fighting for my political survival, Madam Speaker, far from it.

1850 Madam Speaker, the hon. Gentleman then went through a selective set of the facts in the McGrail Inquiry as seen by others. I am not going to go through the facts of the McGrail Inquiry as seen by me, but I thought that that had no place in this debate. It is a matter for him what he says in the context of his contribution. But frankly, as I have said before, I very much look forward to that Inquiry reporting and all of the evidence before the Inquiry being put out there.

1855 Of course, I have seen the evidence because I am a core participant. Of course, there are conflicts of evidence. I am very confident that no one will ever be able to say that there is an allegation of corruption against Fabian Picardo when they see all of that evidence.

1860 It is very easy to speak *in vacuo*; it is very easy to speak on the basis of innuendos; it is very easy to speak against a politician. Politicians are probably less popular than bankers and lawyers and real-estate agents. It is very easy, it rolls off the tongue, to talk about politicians being corrupt. Yes, rolls off the tongue.

But when the evidence is looked at all of that vilification, I think, will be demonstrated to be something that others will regret having pursued as the hon. the Lidl, the Leader of the Opposition, has pursued today. I am sorry I said Lidl instead of Leader of the Opposition, but he is sometimes so cheap in his approach that it does remind me of that cut-price supermarket.

1865 Madam Speaker, we are not going to pollute our political histories by voting in this way, we are going to be honest and true to what we believe and are advised are the best interests of Gibraltar as a whole. I already demonstrated before what I thought Gibraltar was, not just us but our children, our children's children, even the children of those who vilify us; and so, therefore, we will not be put off by an article from *Transparency International*.

1870 But I have to say, Madam Speaker, that I consider *Transparency International* to be a respected body and I believe that they have not had the benefit of all of the information they should have the benefit of in order to be able to make the judgements that they are making from a distance about Gibraltar and about this Bill.

1875 But, look, given the things that the Hon. the Leader of the Opposition has said, which he has said in his own personal self-interest for the purposes of his own political survival, because he is the one being challenged ... I am not; I am going. Perhaps they will take succour from what he has said and take the view that even in Gibraltar there are some people who share the view of *Transparency International*.

1880 As for *The Guardian*, Madam Speaker, one of the most prolific contributors to *The Guardian* in legal terms, if not the most prolific, is Adam Wagner who is one of the legal team on the other side. So I am not going to be surprised any more to see lawyers for Mr McGrail vilifying the Government in public, on social media or see that reflected in the newspapers to which they are contributors.

1885 Madam Speaker, I did not think that the contribution of the Hon. Mr Clinton contained any legal substance whatsoever and we are here debating a law and we are looking at the issues in this Law, which are important. The reference to the seven principles of public life, the Nolan Principles, is one that is relevant to *everything* that we do in Government, it is in our Ministerial Code. We are the first Government to have brought that Code into Gibraltar, to abide by it in the way that we acted, the approach that we take. So if he will forgive me, we are going to take no lessons from him in that respect.

1890 We are not taking a power to hide anything by making this Bill, Madam Speaker, we are taking a power for the whole Government to be able to act. And in the context of the McGrail Inquiry, as I have said with a Resolution of the Cabinet and through the Minister for Justice, to protect the public interest.

1895 If the hon. Gentleman thinks that it is possible to conduct the affairs of a modern democracy with everything being public, always, all of the time – the United Kingdom, the United States, France, Spain, Germany, the most modern states. Of course, they have rules on openness. Some of them have less good rules on historic openness than we do, Madam Speaker, but all of them have caveats about keeping information in the public interest. That is not to hide, Madam Speaker, all of these countries have more sophisticated intelligence mechanisms than we have.

1900 They have Committees that sit in private and hear information that is not shared with other parliamentarians! They have money that they can spend – the hon. Gentleman likes to follow the money – without accounting for that money.

1905 In Spain, they are famously called *fondos reservados*, in the United Kingdom and in the United States they have other ways of using money. So of course there are things which it is in the public interest should not be public. That is not to hide something, Madam Speaker, in the pejorative sense, it is to ensure that those who are hostile to you do not get that information; or in the context of some other instances, even those who are friendly to you, not getting information where you might not be so friendly to them.

1910 Is he not aware of that, really? Has the hon. Gentleman stood for election now on three occasions on the basis that he will put a camera in his office so that everyone could hear every word that he utters? Madam Speaker, transparency is fundamental, but Government is not like Formula One, it is not like the VAR now in football where in some matches you can hear what the referee is being told, or rugby where you hear every word.

1915 Of course, Government involves confidentiality. Of course some files, not in Gibraltar, are stamped 'Top Secret' and some are marked confidential. That is not hiding: that is looking after your interests, the public interest, and keeping some things confidential.

1920 So, frankly, Madam Speaker, I have not really heard anything that the hon. Gentleman has said which is serious. It can be mediatically attractive, hon. Members, of course if I was there on that side perhaps I might have done the same thing. What they have done is to be mediatically attractive, attractive to the media, say things that will be attractive to lay people and to the media and try and rouse things.

1925 When they go to bed tonight they need to ask themselves, however big the lights that carry their headlines may be, whether they did the right thing for our country. I know that moving this Bill, despite all of the personal opprobrium and vilification that has come my way already and will no doubt come in coming days, weeks and perhaps months, I have done the right thing for my people. I have done the right thing for my country and I will be able to look my children in the eye and say, when I had to, I did, and I did the right thing. And if they want to continue trying to beat me by doing the wrong thing I will continue, if necessary, losing to them by doing the right thing.

1930 That is what caring for your country is all about and for all of those reasons, Madam Speaker, heartily and unconvinced by a word that hon. Members have said, I commend the Bill to the House. (*Banging on desks.*)

Madam Speaker: I now put the question, which is that a Bill for an Act to make provision about the convening and conduct of Inquiries be read a second time.

1935

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

A division was called for and voting resulted as follows:

FOR	AGAINST	ABSENT
Hon. G Arias-Vasquez	Hon. Dr K Azopardi	None
Hon. Sir J J Bossano	Hon. D J Bossino	
Hon. L M Bruzon	Hon. R M Clinton	
Hon. Prof. J E Cortes	Hon. J Ladislaus	
Hon. N Feetham	Hon. G Origo	
Hon. Dr J J Garcia	Hon. E J Reyes	
Hon. P A Orfila	Hon. C A Sacarello	
Hon. F R Picardo	Hon. A Sanchez:	
Hon. C P Santos		

Madam Speaker: The result of the Division is as follows: nine Members in favour, nine Members against. Carried. (*Banging on desks and laughter*)

Nine! I was just testing!

1940

I will repeat that for the sake of *Hansard*. It has been a long afternoon. The result of the Division is as follows, nine Members in favour, eight Members against. Carried.

Clerk: The Inquiries Act 2024.

The Transport (Amendment) Bill 2024 – First Reading Approved

Clerk: A Bill for an Act to amend the Transport Act 1998.

1945

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

Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes): Madam Speaker, I have the honour to move that a Bill for an Act to amend the Transport Act 1998 be read a first time.

1950

Madam Speaker: I now put the question, which is that a Bill for an Act to amend the Transport Act 1998 be read a first time.

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

1955

Clerk: The Transport (Amendment) Act 2024.

The Transport (Amendment) Bill 2024 – Second Reading Approved

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

Madam Speaker, section 17 of the Transport Act sets out the special conditions that are to be included in all Road Service Licences for taxis.

1960

Subsections 10, 11 and 12 all dealt with a restriction that had been placed on these licences preventing anyone, other than the registered owner or the first-named driver, from using the Road Service Licence for hire or reward during the months of January, February and March. This

Bill aims to remove this restriction. The removal of this restriction will allow for a more efficient taxi service from which the public will benefit; and I would like to thank the Taxi Association, its President Mr Luis Debono and his team for their positive engagement in this measure.

1965

Madam Speaker, I commend the Bill to the House.

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

1970

Hon D J Bossino: If I may, Madam Speaker, this is something which, I put it in these terms, the Opposition has no fundamental objection to. I would simply invite the Hon. the Minister to comment as to what the rationalisation is behind this. He talks about greater efficiency but I would ask him, please, to state on what basis it makes the service more efficient. I imagine it simply means that by the removal of the restriction, it means that the second drivers can more freely use the taxi licence without the restrictions which are currently in play.

1975

Secondly, if I may, may I also ask the Hon. Minister to also comment as to whether this legislative initiative is as a result of representations which have been made to him or his Department; and if I may, by whom? I imagine, given that it is receiving, he tells us, the wholehearted support of the Gibraltar Taxi Association, was this prompted by them or was it an initiative which the Government thought it was wise to take?

1980

Madam Speaker: Any other hon. Member wish to speak? I call on the mover to reply.

1985

Hon. Prof. J E Cortes: Madam Speaker, I am grateful to the hon. Member for indicating the Opposition's support for this. I can explain this is, colloquially, called 'the second driver'. If there is only one driver able to use a taxi then when that driver is not available that taxi will not be used. Whereas now, with the possibility of having two drivers, they can take it in turn so there will be more availability and this, essentially, will improve the city service, which is the one that I think sometimes we feel is falling short of what we would expect.

1990

This has come about as a result of discussions with the Taxi Association. They did raise it with me very soon after I took over the transport portfolio and we have worked together, with their support, in order to bring this to the House. (*Interjection*).

1995

Hon D J Bossino: The hon. Member has kindly provided an explanation as to why this is being introduced and he refers to an improvement in the city service. Is he also confident that as a result of this change there will be an improved service to the Airport, in particular, which has been the subject of heavy criticism, rather embarrassingly, not just by the local population but obviously those who visit us?

2000

Hon. Prof. J E Cortes: Madam Speaker, yes, indeed, this will be positively reflected.

We also, Madam Speaker, just for way of additional information, have reached agreement with the Taxi Association that the city service will, in fact, be initiated a week before it normally is on 1st April. This time it is going to be on 8th April and we are working with them and it is likely that next year there will be a city service throughout the 12 months of the year.

2005

So, Madam Speaker, with that, I once again commend the Bill to the House.

Madam Speaker: I now put the question, which is that a Bill for an Act to amend the Transport Act 1998 be read a second time.

2010

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

Clerk: The Transport (Amendment) Act 2024.

**The Transport (Amendment) Bill 2024 –
Committee Stage and Third Reading adjourned**

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

2015

Chief Minister (Hon. F R Picardo): Madam Speaker, just in procedural terms, the House will know that there are a number of Bills that passed last week their Second Reading, and are now able to go into the Committee Stage and Third Reading. I have not moved the Committee Stage of the Inquiries Bill and the Hon. the Transport Minister has not moved the Committee Stage of the Transport Bill, which means that we are not able to take those Bills in Committee today, although we can take the others.

2020

Adjournment

Chief Minister (Hon. F R Picardo): So my intention now, Madam Speaker, given the hour and the day of the week, and another commitment that I have with the Minister for Sport, is to adjourn the House now that we are moving into Committee and to take all of the Committee Stages and Third Readings on Monday at 3 o'clock.

2025

So I would formally move that we move to the Committee Stage and move that we adjourn until Monday at 3 p.m.

Madam Speaker: I now propose the question, which is that this House do now adjourn to Monday at 3 p.m. I now put the question, which is that this House do now adjourn to Monday at 3 p.m.

2030

Those in favour? (**Members:** Aye.) Those against? Passed.
This House will now adjourn until Monday at 3 p.m.

The House adjourned at 6.35 p.m.