

OPENING OF THE LEGAL YEAR 2019

May it please your Lordship.

I would like to welcome our guests, His Excellency the Governor, the Chief Minister and other distinguished guests.

My Lord this past year has seen a comparatively high number of appointments and departures of people who play, and have played, an important role in upholding the administration of justice in our jurisdiction. With your Lord's indulgence, I would like to say a quick word about them.

Firstly, a special word of congratulations to the Chief Minister who, on 31 October 2018, was appointed an Honorary Bencher of the Middle Temple.

Also to Mr John Restano QC and Mr Liam Yeats who have been appointed as Puisne Judges. This means that there are now, once again, four judges available in the Supreme Court. Both are excellent choices and I wish them all the best in their new careers.

For his part, Mr Justice Butler stepped down on 11 August 2019 after over nine years at the Gibraltar bench. I would like to express our gratitude to him for his years of service to Gibraltar and, in particular, for the important contribution he has made to our jurisdiction as a family judge.

Mr Yeats' appointment meant he vacated the office of Registrar of the Supreme Court. Only yesterday, Mr Karl Tonna was sworn in to that office. Karl has had an excellent career at the Government Law Offices. I have no doubt he will be a success as Registrar.

I would also like to express a word of welcome to the Inner Bar to our two new Silks appointed last June, Mr Nigel Feetham QC and Mr Christian Rocca QC. Mr Feetham was appointed under the exceptional route and in recognition for his truly exceptional expertise in the area of insurance law. I congratulate him for that. Mr Rocca was appointed for his outstanding career in litigation, particularly criminal litigation. On 7 January 2019 he became Gibraltar's first Director of Public Prosecutions. The

creation of that post was important for the reforms of the Government Law Offices that we are carrying out. We were very fortunate to have someone of his calibre applying.

His appointment coincided with the retirement of Mr Reginald Rhoda QC. Ricky, as we all know him, has been a veritable bastion of our legal establishment for over 20 years. He was Attorney General for 18 of those years, from 1997 to 2015. I would like to thank him for all the years of service he has provided to our jurisdiction.

Earlier this year Sir Peter Caruana QC was appointed as the Legal Services Regulatory Authority's first Chairman and this week Mr David Dumas QC has been appointed as its Chief Executive. We could not have wished for a better start to the Authority's existence than by having Sir Peter and David at its helm.

My Lord, whatever may be the result of the forthcoming elections in Gibraltar, Mr Neil Costa will no longer be Minister for Justice. As we know, Mr Costa has retired from political life. I would like to thank him for all the energy and expertise he has given to his 4 years at the Ministry. I wish him all the best as he resumes his practice at the Bar.

My Lord, this is also the last time that HE the Governor joins us for the Opening of the Legal Year in his capacity as Governor of Gibraltar. It would be a gross understatement to say that he will be sorely missed. We will be doing well if his successor is half as good to Gibraltar as he has been.

Last, and by no means least, I know that your Lord will be paying tribute to Mr Clive Mendez who passed away on 5 September 2019. May I just record, on behalf of the Bar, our deep regret on his passing away. May he rest in peace.

GRACE 1.

My Lord, when I sat down to prepare this speech, and I looked back at the last year, one thought that occurred to me was that something actually happened that took our minds off Brexit, at least temporarily, at least for one summer month.

The Grace 1 sailed into British Gibraltar Territorial Waters in the early hours of 4 July 2019. It was designated as a specified ship by the Chief Minister acting pursuant to his powers under the Sanctions Act 2019 and on the basis that he had reasonable grounds to suspect that the Vessel was engaged in an activity that was in breach of the EU sanctions regime against Syria. The Grace 1 was then detained by the Gibraltar Port Authority, acting with the assistance of the Royal Gibraltar Police and a contingent of the Royal Marines.

In the ensuing month our jurisdiction came under the international spotlight like few times before. It was a truly intense month. We upheld the rule of law in difficult circumstances. I would like to thank the numerous lawyers, both in private practice and in the Government Law Offices, who were involved in assisting the various Government bodies that had jurisdiction over different aspects of the case.

I would also like to thank Mr John Ghio, Deputy Captain of the Port, who, all throughout this period, relentlessly provided to both the Chief Minister and the legal teams his very considerable knowledge of all things maritime connected to the detention.

And indeed to the RGP and the Royal Marines for the outstanding efficacy with which they performed their respective functions. In the last year we had been preparing a framework for what is known as “MACA”: military assistance to civilian authorities. Although we had worked on different scenarios, never could we have imagined that MACA would be deployed in respect of the Royal Marines in such an acute scenario as the Grace 1 presented to us. I would like to give a special word of thanks to Mrs Yvette Sanguinetti of the GLO and to Mr Richard Johnson Command Secretary, British Forces Gibraltar for all their work on MACA.

SECURITY.

The Grace 1 served as a further reminder of the importance of our geographical location and the exposure it gives us to world affairs of the highest order. It is one of the reasons why the Government has continued to pursue its programme for the enactment of legislation in the area of security.

In the last Legal Year, we have enacted the Armed Forces (Gibraltar) Act 2018 (10 December 2018), the Terrorism Act 2018 (22 February 2019) and the Sanctions Act 2019 (28 March 2019).

And work is ongoing on the extension of the Armed Forces Act to the Gibraltar Regiment, on an Aviation Security and Piracy Act and on an Investigatory Powers Act. All that legislative work has been supplemented by the regular meetings of the Gibraltar Contingency Council, co-chaired by HE the Governor and the Chief Minister. The Council does excellent work in preparing Gibraltar's agencies for any crisis or emergency that may occur.

BREXIT

My Lord, alas, His Lordship the Bishop was right when he referred to the "B" Word in the Red Mass this morning. Brexit has indeed continued to be the dominant feature of the last year.

On 25 November 2018, the EU and the UK agreed the text of a Withdrawal Agreement and a Political Declaration setting out a framework for the Future Relationship.

I have had the privilege of forming part of the Chief Minister's Brexit team that secured Gibraltar's inclusion in the Withdrawal Agreement. Achieving that inclusion was not easy. But it was absolutely vital in order to ensure that Gibraltar would benefit from the transitional arrangements set out in the WA. That meant being involved in a great number of meetings with the UK and Spanish Governments and in the drafting of the Gibraltar Protocol to the WA, the accompanying MoUs, tax treaty with Spain and Concordat with the UK on the Implementation of the Protocol and the MoUs.

All of that is now dependent on a Deal being reached. As we know, the WA was rejected three times by the House of Commons. Deadlines for withdrawal have come and gone and we are now staring at the imminent new deadline of 31 October 2019. Let us hope that the compromise, or a variation of it, put forward last Wednesday by the Prime Minister to the European Commission for a new Protocol on the Irish

Border, leads us to a Deal, perhaps by the time of this month's European Council. It is high time we were given some legal certainty on how we are moving forward.

In the meantime, the European Union (Withdrawal) Act 2019 came into force in Gibraltar on 31 January 2019. It is the principal piece of legislation in our statute book that will take us out from the EU, Deal or No Deal. A whole series of other Legislative Texts, Technical Notices and Contingency Measures have also been enacted and published. These are all set out in the GLO's website.

As for the future, on 15 May 2019, the Chief Minister and Deputy Chief Minister led a large Government delegation to London for the start of the so-called Future Partnership Workshops. These Workshops are the forum for discussions between the UK and Gibraltar Governments that will decide Gibraltar's place in the future relationship the UK seeks to have with the EU. The Workshops on 15 and 16 May 2019 covered a vast range of sectors and, since then, we have had numerous visits to Gibraltar by different Whitehall teams. The work continues.

GOVERNMENT LAW OFFICES.

My Lord, I would like to conclude with a quick word on the GLO. Last year we launched a website for the Offices (www.gibraltarlawoffices.gov.gi) and we are very grateful for all the positive feedback we have received. My second Annual Report for the Legal Year just transpired will be published on the website at the end of this month. As for the first Report, I would like to thank my colleague, Mr Lloyd DeVincenzi, for the preparation of that Report.

In the last year the three Law Offices have continued to perform to a very high standard. As the complexity of our work grows the professionalism of our team grows too. The great work that the Offices do is documented in my Report.

CONCLUSION.

My Lord, it remains for me to formally move for the Opening of the Legal Year.

**Michael Llamas QC
HM Attorney General for Gibraltar
4 October 2019**