

OPENING OF THE LEGAL YEAR 2023

Introduction.

May it please your Lordship.

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

I welcome our guests to a ceremony which this year takes place during a general election campaign. This election is once again one in which our profession is generously represented with 4 King's Counsel and a further 4 lawyers having put their names forward. Many years ago the then editor of the Gibraltar Chronicle, Dominique Searle, coined the amusing term of "barristocracy" to describe Gibraltarian political life. Clearly the trend continues, unabated and unabashed.

By the same token we see the departure from political life of 2 King's Counsel, Mr Gilbert Licudi KC and Mr Daniel Feetham KC, and four other lawyers, Mr Albert Isola, Mr Steven Linares and Ms Samantha Sacramento from the GSLP/Liberal team and Mr Elliot Philips from the GSD team. I would like to thank them all for their public service and, in particular, Mr Feetham KC (2007-2011), Mr Licudi KC (2011-2017) and Ms Sacramento (2019-2023), all of whom have served as Ministers for Justice. In their respective times in office they have been of immense support to the advancement of the administration of justice in our jurisdiction. I wish them all the very best as they return to full time practice.

My Lord, as we now get used to using the term King's Counsel, during the course of this last year the Coronation of King Charles III took place at Westminster Abbey on 6 May 2023 when we were regaled to a ceremony immersed in the best of British tradition and pomp. And on 2 February 2023 we appointed our first King's Counsel since 1951. There could not have been a worthier candidate for that distinction than **Mr Jamie Trinidad** who, from his base at Cambridge University, continues to provide

precious legal advice to the Government on all matters concerning the United Nations and public international law more generally.

On the issue of recognitions, I would also like to congratulate **Mr Daniel D'Amato**, a Crown Counsel of the Government Law Offices and currently and Director of the Government Office in Brussels. Daniel was awarded an MBE in the King's New Year's Honours List 2023 for the sterling work he is doing on behalf of the people of Gibraltar in Brussels and works very closely with me in the ongoing treaty negotiations.

LOUIS TRIAY KC.

My Lord, I would like to pay a very special tribute to our illustrious doyen, the late **Mr Louis Triay KC**, who we lost during the course of the last Legal Year, on 27 February 2023. On 29 March 2023 this Court held a tribute in his memory, when addresses were made by your good-self, Mrs Justice Ramage Prescott and his life long professional colleague Mr James Neish KC.

In the words of Mr Neish KC, Louis was "*charming, charismatic, intuitive, intelligent, astute and highly competitive. He had a winning mentality and a restless mind*".

I am stating the obvious when I say that Louis was a larger than life character, truly one of a kind the likes of whom, with his 73 years of practice (a world record), we are unlikely to see again.

May this legend of the Gibraltar Bar rest in eternal peace.

EU TREATY NEGOTIATIONS.

My Lord, since the Opening of the last Legal Year there have been 6 further formal rounds of negotiations with the European Union for a treaty setting out Gibraltar's future relationship with the EU. These took place in Brussels and London during the period November 2022 to May 2023. Shortly after that last round in May, general elections were called in Spain. That had the effect of postponing all further rounds of formal negotiations. The uncertain result of the Spanish elections of 23 July 2023 has meant that a new government has still not been formed there and that, in turn, has meant that the hiatus in the negotiations continues. It is a great shame since

tremendous progress was being made. We, of course, stand ready to resume those negotiations as soon as circumstances allow us to do so.

In the meantime, we continue to hold numerous technical meetings with our colleagues at the FCDO and other Whitehall Departments as we continue to refine positions on a multitude of issues.

GOVERNMENT LAW OFFICES.

Office of Parliamentary Counsel.

I am happy to report that the OPC has had another extremely busy year drafting legislation.

I would like to highlight, in particular, the publication on 16 March 2023 of the **Civil Contingencies Emergency (Coronavirus) (Revocation) Regulations 2023** which closed the chapter on COVID-19 restrictions.

It is worth pausing, simply to reflect on what has transpired on the legislative front since the declaration of a pandemic by the WHO on 11 March 2020.

COVID has generated the largest volume of legislation ever carried out in Gibraltar on any single issue. In the early days, as we were reacting to the evolution of the virus, legislation was drafted to create travel restrictions and control regimes for persons travelling to Gibraltar. The need for legislation on the elderly population was then identified as of particular importance and they were locked down, followed by legislation on a community-wide lockdown. At the same time, matters such as the importation of test kits were controlled, business activities were regulated and the temporary registration of medical practitioners was legislated for.

Some measures required regular revisiting, for example the Civil Contingencies Emergency (Coronavirus Infection Risks Mitigation and Control Measures (**No.36**) Regulations 2023 and the Civil Contingencies Emergency (Coronavirus) (Requirements on Entry into Gibraltar and Testing) (**No.14**) Regulations 2023.

Some of the drafting was done with great urgency, sometimes late at night and sometimes working from home in suboptimal conditions.

We are glad to have contributed our bit and even more pleased to have now, hopefully, drawn a line under it.

Aside from this, the OPC has continued to draft legislation on a wide variety of subject areas. These include the **Domestic Abuse Act 2023**, the **Crimes and Communications (Online Safety) Act 2023** and the **Anti-Corruption Authority Act 2023** that have been enacted by the Gibraltar Parliament.

At an international level, the OPC drafted the **Mutual Legal Assistance (Merida Convention) Act 2023** which has furthered the implementation of the United Nations Convention against Corruption, the **Extradition (Amendment) Act 2022** which made provisions for extraditions with the Kingdom of Morocco, and the **Carbon Offsetting and Reduction Scheme for International Aviation Regulations 2022** which provide part of the framework for participation in international climate change actions.

Regarding our relationship with the UK, the enactment of the **Admiralty Waters and Naval Base (Gibraltar) Act 2023** by the Parliament provides the basis for the formal transfer to civilian control of significant parts of port waters. This has been the fruit of extensive liaison by OPC and MOD lawyers over a number of years.

Office of Criminal Prosecutions and Litigation.

The OCPL has, for its part, continued its high level involvement in the **Moneyval** evaluation process. One of its Crown Counsel, Carl Ramagge, having been seconded on a long term basis to the Gibraltar Financial Intelligence Unit.

The prosecution service has seen a continued steady rise in **sexual offences cases** and it is expected that there will be a rise in **domestic abuse** reporting and prosecution as a result of the new legislation I have just referred to and the public awareness campaign conducted by HMGoG notably through the **National Domestic Abuse Strategy** launched by Minister Sacramento on 12 September 2023. The OCPL is

represented in the Domestic Abuse Strategic Partnership and in the Child Protection Committee.

The Office has also been closely involved in amendments to POCA as a result of the recent court judgment in **R v Serra** and in amendments to Crimes Act as a result of the judgment in **AA v His Excellency the Governor** on extra-territorial effect.

Office of Advisory Counsel.

Over the past year, the Office of Advisory Counsel has continued to provide legal advice on complex and sensitive matters to Ministers, Government departments, Agencies, Authorities and statutory bodies.

The Office's work stream has also seen a significant expansion over the last year with the growing imposition of **international sanctions** against Russia. The Office has seen a surge in the requests for advice and support on the effective implementation of sanctions from Government and its various departments and the Gibraltar Financial Intelligence Unit and has also been involved in the drafting of Specific and General Licences to allow acts that would otherwise breach prohibitions imposed by international sanctions.

The Office has also continued to work closely and intensely with colleagues in the UK's Department of Business and Trade and the FCDO to provide for Gibraltar's participation and inclusion in the UK's Free Trade Agreements it is negotiating with third countries.

SIR DAVID STEEL

My Lord, I started this speech referring to political departures. And I will conclude it with one further departure which will occur during the Legal Year that we open today. In March 2024, His Excellency the Governor, Vice Admiral Sir David Steel, will conclude his term in office in Gibraltar.

Sir David came to us with a rich legal background born from his illustrious legal career at the Royal Navy where he served, among many other things, as Second Sea Lord,

Chief of Naval Personnel, the Royal Navy's senior lawyer, legal adviser to the Navy Board and Admiralty Board, Fleet Legal and Personnel Officer, and Judge Advocate.

His Excellency arrived in Gibraltar in June 2020 at the height of the pandemic a fact that greatly affected his introduction to, and work in, Gibraltar. But he has certainly made up for it since then. He has played a vital role in ensuring policy and legal agreement between the UK and Gibraltar Governments on the treaty negotiations with the EU. At first, I thought that the principal motivation for his interest in the EU was that it gave him an excuse to coerce me into bringing him a box of Belgian chocolates each time I had to go to Brussels. But as his demands for even bigger chocolate boxes increased so did his interest in the substance of the negotiations. His input has been invaluable and he has been a great source of legal advice to the Gibraltar Government on a very wide range of issues being discussed.

Separately, he has taken a very close interest in the development of the laws of Gibraltar in general but, most particularly, in the sensitive areas of asylum and investigatory powers.

Your Excellency, thank you very much for being such an extraordinary Governor and professional colleague. The community at large will miss you very much.

CONCLUSION.

My Lord, in conclusion, it has been yet another full year and undoubtedly challenges lie ahead for the forthcoming one. Nothing new there. As always, the GLO are ready to face those challenges.

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

Michael Llamas CMG KC
HM Attorney General for Gibraltar
29 September 2023