



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.00 p.m. – 5.07 p.m.

Gibraltar, Thursday, 18th October 2012

The Gibraltar Parliament

The Parliament met at 3.00 p.m.

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

[CLERK TO THE PARLIAMENT: M L Farrell Esq RD *in attendance*]

Questions for Oral Answer

CHIEF MINISTER

Civil Service AA vacancies Details and status of applicants

Clerk: Answers to Questions continue.
Question 852/2012, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, can the Government state (a) how many AA vacancies have been

5 created within the Civil Service; (b) how many people applied for those vacancies; (c) how many have been employed in that grade; (d) of those employed in the grade how many were on the unemployment list and for how long and/or employed by ETCL under the Future Job Strategy scheme?

10 **Clerk:** Answer the Hon. the Chief Minister

Chief Minister (Hon. F R Picardo): Mr Speaker, forty vacancies have been advertised. One new AA vacancy has been created within the Civil Service. 603 applications were received. None have yet been selected.

15

Redevelopment of Ragged Staff car park

20 **Clerk:** Question No. 915 of 2012.

Hon S M Figueras: Can the Hon. the Chief Minister confirm whether the Government has any plans for the redevelopment of the Ragged Staff car park?

25 **Clerk:** Answer the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the Government has no such plans at present.

30

Development of East Side reclamation

35 **Clerk:** Question 916, the Hon. S M Figueras.

Hon. S M Figueras: Can the Chief Minister provide this House with his Government's plans and policy in respect of the development of the East Side reclamation?

40 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker the position remains as set out in answer to Written Question 142/2012.

45 **Hon. S M Figueras:** And am I to take it, Mr Speaker, that there has been no change in that position whatsoever and no further development since he gave that answer?

50 **Hon. Chief Minister:** Well, Mr Speaker, if I have said the position remains the same as set out in the answer to that Written Question then, unless I have been misleading him, it must be that there has been no change.

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Official car 'G1' Use of intended replacement

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Clerk: Question 917, the Hon. S M Figueras.

Hon. S M Figueras: Mr Speaker, can the Chief Minister state whether the intended replacement for the Chief Minister's official car 'G1' is anticipated to be used for both daily duties and ceremonial occasions or

60 whether the Government intends to separate the two activities.

Clerk: Answer, the Hon. the Chief Minister.

65 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Question 918.

**Official car 'G1'
Hybrid/alternative energy replacement**

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Clerk: Question 918.

75 **Hon. S M Figueras:** Can the Chief Minister state whether he has now identified a hybrid/alternative energy replacement for the Chief Minister's official car 'G1' and, if so, what it is and when he expects it will enter service.

Clerk: Answer, the Hon. the Chief Minister.

80 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the Government is pursuing various options for the replacement, not just of the Chief Minister's official car but also for the replacement of much of the staff car fleet.

85 This involves the analysis of the specifications of various vehicle types, including hybrids and fully electric vehicles. No final decision has yet been taken in respect of the model or type, given that it is anticipated that new vehicle types will very shortly become available for testing. That will be followed, where relevant, by a procurement process.

90 The Government is aiming to start the roll out of a more environmentally friendly vehicle fleet during the course of the next financial year. Whether or not the replacement of the Chief Minister's official car will be for both daily duties, ceremonial occasions or both, will depend on the type and model of the replacement vehicle.

**Government advisory councils
Membership and details of meetings**

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Clerk: Question 919, the Hon. D J Bossino.

100 **Hon. D J Bossino:** Further to Question 315/2012, can the Government advise whether the membership of the tourism, ports, business, e-commerce and e-government advisory councils have been reconstituted and provide details as to who comprises their respective memberships and how often they have met, if at all?

Clerk: Answer, the Hon. the Chief Minister.

105 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I hand the hon. Member a schedule with the information requested in respect of the advisory councils on tourism, ports and small businesses. The e-commerce and e-government advisory councils have not yet been constituted.

ANSWER TO QUESTION 919

Tourism Advisory Council

1. The Minister for Tourism
2. Chief Executive of the GTB
3. Franco Ostuni
4. Mrs. Lyana Armstrong-Emery
5. Mr. John Perez
6. Representatives of Gibraltar Taxi Association
7. Mr. Albert Garcia
8. Prof. Clive Finlayson
9. Mr. Albert Parody
10. Mr. George Gaggero
11. Mr. Richard Desoiza
12. Mr. Ernest Francis
13. A representative of the GFSB
14. A representative of the Chamber of Commerce

The Tourism Advisory Council met on 11 April, 31 May, 18 July & 3 October 2012.

Port Advisory Council

1. The Minister with responsibility for the Port
2. Chief Executive/Captain of the Port
3. Mr. John Bassadone
4. Captain Maltezos
5. Mr. George Dyke
6. Capt Chris Dodds
7. Mr. J. Corvelli
8. Capt Vassillios Terzis
9. Mr. Tommy Penalver
10. Mr. John Gaggero
11. Mr. William Jeffries
12. Mr. Tyrone Payas
13. Mr. Forti Azopardi

The Port Advisory Council met on 22 March & 1 June 2012.

Small Business Board

1. Minister with responsibility for Small Business - Chairman
2. Mrs. Cynthia Eagle
3. Mr. Ian Torilla - GFSB
4. Mr. Christian Hernandez - Representative of the Chamber of Commerce
5. Mr. Steven Marin
6. Mr. Vijay Daryanani
7. Marie Lou Guerrero
8. Mr. Peter Cabezutto
9. Mr. John Isola
10. Miss. Gemma Arias
11. Mr. Daniel Linares
12. Mr. Suresh Mahtani
13. Mr. Craig Fortunato
14. Mr. Felix Alvarez

The Small Business Board met on 11 April, 31 May, 18 July & 3 October 2012.

110 **Hon. D J Bossino:** Mr Speaker, whilst I receive the schedule in relation to the e-commerce and e-government advisory councils, if I could just refer the Chief Minister to the reply he gave to me in relation to a supplementary I asked in connection with Question 315 on the last occasion in March. He did say that these – I think if I could paraphrase or summarise – councils would not be available until the infrastructural work – and I am quoting him –

115 'to put the government in a position to be ready to do e-government and e-commerce'

had not at that stage been done and that is an aspect of the work that he said had to be given priority. Is the position, therefore, that the infrastructure work has not yet been completed and therefore, the Chief Minister has not yet had an opportunity to constitute a membership of these boards?

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Hon. Chief Minister: Mr Speaker, the infrastructural work is ongoing and, therefore, I have not yet considered it appropriate to constitute these boards because there is no substantive issue to consider with them in respect of where we go thereafter.

125 So we are still at that stage. I expect to be in a position to constitute the boards sooner rather than later, when we really start to roll out the e-government programme.

130 **Monument to the women of Gibraltar
Plans to honour previous administration's pledge**

Clerk: Question 920, the Hon. Mrs I M Ellul-Hammond.

135 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Government say what plans, if any, it has to continue the previous administration's pledge to erect a monument to the women of Gibraltar on the sundial roundabout?

Clerk: Answer, the Hon. the Chief Minister.

140 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the Government is already in advanced discussions with the individuals who gave life to this idea at the time that Members opposite were in Government.

It is my wish that this should advance as soon as possible to recognise the immense contribution of the women of Gibraltar to the community in which we are so privileged to live.

145

**Health-related charities discouraged by GSD
Government claims**

150 **Clerk:** Question 921, the Hon. Mrs I M Ellul-Hammond.

155 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Chief Minister provide this House with the list he promised me of health related charities that the Government claims the GSD discouraged the work and contributions of, and the circumstances under which this happened?

Clerk: Answer, the Hon. the Chief Minister.

160 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I refer the hon. Lady to my last answer to her in this House and my last e-mail to her of 29th September 2012. The position, despite her many press releases on the subject, remains the same.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, will the Chief Minister be providing me with a list? He did state, at the last meeting of the House, that he was delighted to give particular examples and then,

165 in an e-mail to me, he did say 'I do have a list but will cross-check it with the Minister for Health'. So has the Chief Minister cross-checked it with the Minister for Health and can he provide me with a list?

Hon. Chief Minister: Mr Speaker, exactly as I said... the position remains exactly as I said in answer to the last question in the House and in my last e-mail to her. I am not yet in a position to give it to her for the reasons I set out in my last e-mail to her.

170 Since then, of course, she has issued a number of press releases. The position that I put to her in this House was that I would share the information with her confidentially. That remains the position.

I have just, as she will know, landed yesterday, from the month I told her I was going to be travelling extensively and not concentrating on that subject because I had other more pressing things to do. Now that I am back, I will do as I said I would in answer to her question.

175

Hon. Mrs I M Ellul-Hammond: Mr Speaker, the Chief Minister is willing to share that information confidentially later on?

180 **Hon. Chief Minister:** Mr Speaker, as I told her in the answer to her question and in my last e-mail once I have had the opportunity of checking that list with the hon. Member, I will be writing to her on the basis set out in the answer, in other words, confidentially to share that information with her.

185

**British Gibraltar territorial waters
Incursions by Guardia Civil**

Clerk: Question 922, the Hon. D A Feetham.

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Hon. D A Feetham: Can the Chief Minister please state how many incursions have occurred into British Gibraltar territorial waters by the Guardia Civil, excluding innocent passage, since 1st January 2012.

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this Question together with Questions 923 and 924.

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**British Gibraltar territorial waters
Number of arrest warrants against Spanish fishermen**

Clerk: Question 923.

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Hon. D A Feetham: Can the Chief Minister state how many arrest warrants have been issued against Spanish fishermen for illegally fishing in British Gibraltar territorial waters this year?

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**British Gibraltar territorial waters
Number of incidents involving Spanish fishermen logged by RGP**

Clerk: Question 924.

215

Hon. D A Feetham: Can the Chief Minister please state how many warnings, reports for process and arrests have been made or issued by the RGP this year in relation to Spanish fishermen's activities in British Gibraltar territorial waters?

220 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, there have been 208 incursions by the Guardia Civil into British Gibraltar territorial waters since 1st January 2012.

225 This year 24 Spanish nationals were reported for process, however. Twenty-one of these persons were reported for process for fishing from the No warrants or arrests have been issued against Spanish fishermen for illegal fishing in British Gibraltar territorial waters. beach and all were cautioned for the offences. Three fishermen were reported for process for using illegal nets: they are currently being judicially processed, with one of the fishermen already having been summoned to appear in court.

230 **Mr Speaker:** Next question.

Question Withdrawn

235 **Clerk:** Question 925, the Hon. D A Feetham.

240 **Hon. D A Feetham:** Mr Speaker, I am withdrawing this question. This is a question that I asked in a different format. I was asked by the former Speaker to cut it down because I referred to a preamble and, in fact, over the telephone, we discussed a new formulation of the question. Unfortunately, it does not actually reflect what I believed had actually been agreed between himself and myself and therefore rather than ask this on this basis, which is not the question that I wish to ask, I am withdrawing it and I am going to ask it of the Chief Minister next time round.

245

Flexible working hours for the Civil Service

250 **Clerk:** Question No. 926 of 2012, the Hon. D A Feetham.

Hon D A Feetham: Can the Minister with responsibility for the Civil Service please state whether the Government has made a decision on the detail of flexible working hours for the Civil Service and in particular (a) how these hours will be monitored; (b) the hours themselves; and (c) whether these hours will be rolled out across the entire public service including the GDC?

255 **Clerk:** Answer the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, no such decision has been made.

260 **Clerk:** With the Chief Minister's leave, may we proceed to Questions which are going to be answered by the Minister for Traffic, Health & Safety and Technical Services or... The Deputy Chief Minister.

265

DEPUTY CHIEF MINISTER

Aerial Farm Proposed residential development

270 **Clerk:** Question 909, the Hon. S M Figueras.

Hon. S M Figueras: Mr Speaker, can the Deputy Chief Minister tell this House whether the Government is proceeding with the proposed residential development at the Aerial Farm?

275 **Clerk:** Answer, the Hon. the Deputy Chief Minister.

Deputy Chief Minister (Hon. Dr. J J Garcia): Mr Speaker, I will answer this Question together with Question 910.

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**Elliott's Battery/Europa Point
Proposed residential development**

285 **Clerk:** Question 910.

Hon. S M Figueras: Can the Deputy Chief Minister confirm whether the Government will be proceeding with the proposed residential development in the area of Elliott's Battery/Europa Point?

290 **Clerk:** Answer, the Hon. the Deputy Chief Minister.

Deputy Chief Minister (Hon. Dr. J J Garcia): Mr Speaker, the Government has not yet taken a final decision on this matter.

295 **Hon. S M Figueras:** For the avoidance of doubt, Mr Speaker, in light of the answer that the decision has not yet been taken, is it safe to assume, or would the Hon. Deputy Minister agree that it is safe to assume, that there is a possibility however remote and I do not know the extent to which they are in negotiations in relation to the project, that the project may not go ahead.

300 **Hon. Deputy Chief Minister:** The position is that the project may go ahead or it may not. That is why we have not come to a decision so either thing could happen.

305 **Hon. S M Figueras:** And just one question further, Mr Speaker: is the Deputy Chief Minister able to enlighten us as to the reasons why this determination has not yet been made. Is it perhaps in relation to, or is it perhaps as a result of, pending consultations being completed and the like?

Hon. Deputy Chief Minister: I think that the answer is yes.
Part of it is that it is pending consultations which need to take place and part of it is the overall strategy of the Government to provide so many houses in four years.

310

**Trainees on placement
Details and nature of work being undertaken**

315 **Clerk:** Question 912, the Hon. S M Figueras. (*Interjection by Hon. S M Figueras.*)
...It is going to be answered by another Minister.

320 **Hon. S M Figueras:** Can the Deputy Chief Minister provide details, providing a breakdown by age, gender and nationality of all trainees on placements within the Ministry for which he has responsibility indicating the Department, Agency or Authority where they are placed, as well as showing the type of work that they are engaged in.

Clerk: Answer, the Hon. the Deputy Chief Minister.

325 **Deputy Chief Minister (Hon. Dr. J J Garcia):** Mr Speaker, there are none.

TRAFFIC, HEALTH & SAFETY AND TECHNICAL SERVICES

330

Sewage infrastructure

Necessary improvement works identified by Government

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Clerk: Question 887, the Hon. S M Figueras.

Hon. S M Figueras: Mr Speaker, can the Minister for Technical Services provide details to this House of the works identified by the Government as required to modernise and strengthen sewage infrastructure as well as its policy in this regard, with specific reference to the level of investment it plans to make into this initiative?

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Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

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Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, the Technical Services Department have produced a six year strategic plan for the rehabilitation of the main trunk sewer and associated infrastructure.

The exact details of the extent of the works required and the programme will be determined once a first stage of the project involving the silting and subsequent structural inspections using man entries and CCTV equipment is completed.

350

The Government is committed to investing in our sewage networks in line with our manifesto. There is £100,000 allocated in this financial year's Improvement and Development Fund to allow a start to be made on this first stage.

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Hon. S M Figueras: I am very grateful to the Minister for his very helpful answer, particularly reference to the allocation made.

**Residents only parking
Implementation by Government**

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Clerk: Question 888, the Hon. S M Figueras.

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Hon. S M Figueras: Can the Government explain how it intends to administer the 'residents only' parking as referred to in its manifesto, whether it is already doing this in respect of the new car parks in Queensway and, if not, why not?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

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Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, the Government has still not made a policy decision regarding how parking will be managed, be it continuing down the route of providing parking for residents of specific areas, as had been done by the previous Administration, or by adopting a totally different approach.

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The decision on this will be made taking into account the recommendations arising from the sustainable traffic, transport and parking plan. The new Queensway car park has, therefore, not been allocated on any basis. It will, at present, continue to be available for free public use as an alternative to the Commonwealth Car Park now that works to convert that into a magnificent green park have started.

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Hon. S M Figueras: Mr Speaker, I am grateful for the answer certainly but isn't the provision of the – well, I will preface this in this manner – the Commonwealth Park was originally, according to your manifesto, going to have an underground car park which was illustrated in that manifesto very clearly as being for residents only. Is it not the policy of this Government that, in respect of the parking it is providing in place of the underground car park, it will not be offering it 'for residents only'?

385 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I am going to clarify that even though it relates to the manifesto and despite our discussion this morning. *(Interjection by Hon. S M Figueras)*

'Residents Only' in that context – I think it is further explained in the manifesto – means residents of Gibraltar, not residents of the area. I think we have had this exchange before in answer to questions from Mr Bossino – I may be wrong – or whether it has been outside of this House, that in order to implement such a policy we first have to get over the hurdle of the implementation of the policy in relation to the identity card.

390 The identity card with a chip will then enable residents to use that card to access the car park so, therefore, it is a process of having both the development, the ID card reaching its next stage, and then being able to implement that particular policy in that way so that the car park can then be used by people who are not residents but on a paying basis and those who are residents will be able to access it on a non fee-paying basis.

395 **Hon. S M Figueras:** Just by way of additional clarification, if any were needed, is it – and this is an open question, I just wonder whether perhaps the Government is seeking to draw any correlation in respect of what it does in relation to the parking, as it has done in relation to the buses. Is that where the Chief Minister is saying they are going with this, as well?

400 **Hon. Chief Minister:** Well, Mr Speaker, that is not presently on the cards but it may be that, in discussions, that becomes relevant or something that we are considering doing. It is not presently on the cards. At the moment, the issue is, or rather the idea of the Government is, to have those types of car parks only for residents, in other words for local vehicles. But it may be, in the future, that there is a development of that idea, either before or after we implement.

405

Clerk: Question...

410 **Hon. S M Figueras:** I just cannot help but rise to my feet and ask the Minister responsible for Traffic, given that, in his prepared response to my hon. and learned Friend, he made a reference to – and I do not recall the full title of the plan but I will summarise it as 'the traffic plan'... Is he in a position now to advise this House when he, the Hon. Minister, thinks that the process will be complete and we will have the benefits of reading the Government's traffic plan?

415 **Hon. P J Balban:** Mr Speaker, I am not in a position to actually know, as yet, when that process will be complete. We are actually arriving at the stage whereby a consultant will be appointed and, once that is done, then the whole process will begin in earnest with the traffic plan – so it is going to be quite a while.

420

**Reclamation Road multi-storey car park
Government plans for continuing use**

Clerk: Question 889, the Hon. D J Bossino.

425 **Hon. D J Bossino:** Can the Minister for Traffic, Health & Safety and Technical Services advise this House what plans the Government has in relation to the continuing use of the multi-storey car park at Reclamation Road?

430 **Clerk:** Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, the Government intends to continue to use it as a car park for the time being. No future use has been determined.

435 **Hon. D J Bossino:** Mr Speaker, is the Minister aware that – and I say this without necessarily any authority – whether there are health and safety issues which impact on the continuing use of the multi-storey car park and, if so, will that determine its continuing use? That is really where the question was coming from.

Chief Minister (Hon. F R Picardo): Mr Speaker, I happen to have the information for a simple reason,

440 namely, of course, that the car park is in the place of a development, the progress of which is a matter that is being negotiated with my office, not with the hon. Gentleman. I can tell him that I checked as recently as last week whether there are any issues with that car park.

445 He may recall that car park used to have a roof of sorts, which was removed. My understanding, from the technical advice I have at No. 6, is that the roof had health and safety issues with high winds – that was removed – but that the rest of the structure is perfectly safe.

Queensway Quay Car Park
Details and running costs of solar-powered street lamps

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Clerk: Question 890, the Hon. D J Bossino.

455 **Hon. D J Bossino:** Can the Minister for Traffic, Health & Safety and Technical Services provide details of the setup and running costs of the solar-powered street lamps which have been installed at the new Queensway Quay Car Park alongside Kings Wharf?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

460 **Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban):** Mr Speaker, the cost of the solar powered lamps in the first phase of the Queensway Car Park amounts to £41,242.44, inclusive of installation.

465 This is for a total of twelve lamps. These units are self contained and therefore do not incur any daily running costs as such. There will, however, be a need to carry out scheduled maintenance in accordance with the manufacturer's recommendations. The total cost of this will be accurately determined once the car park has been completed and all fittings are in place.

Hon. D J Bossino: May I ask which company or individual was the beneficiary of the installation of these street lamps?

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Chief Minister (Hon. F R Picardo): Mr Speaker, again because it was an issue that was negotiated with my office and not the office of the Minister for Traffic, the people who own that plot of land – and I say 'people' because I cannot remember the name of the company – those individuals have a number of different companies for their own purposes – one of them may be King's Wharf Limited, from memory. They are the people who developed the car park so, therefore, we do not have that information.

475

The information the hon. Gentleman is asking for, we do not have. From plain sight he will know that there were AMCO vehicles there during the second half and there were AMCO vehicles there during the first half. I think, therefore, it is likely that it may have been AMCO that did some of the works, but I am talking to him as a layman in that respect because it was not the Government that did those works.

480

Hon. D J Bossino: Mr Speaker, I am asking specifically in relation, as the Chief Minister and the Hon. Minister for Traffic knows, to the installation of the solar powered lamps, so just for clarification, is the Chief Minister telling this House that was contracted with the company which owns the site and not directly with the Government because that is certainly not the impression that I had from reading the press reports on the subject when, it seemed... In fact, it was a Government's spokesman that in fact spoke to the press on that occasion in relation to the wonderful street lamps.

485

Hon. Chief Minister: Yes. It is, Mr Speaker, a project that has been made available to the Government and the Government required that there should be solar powered lighting in any new such facilities that are open, but it was not the Government that carried out the works or did the works.

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It was to the Government's requirement, as part of what I told him, where the negotiations were with the individuals – actually a company – that owned the site.

Hon. D J Bossino: Mr Speaker, the cost of £41,000 odd is a cost to the Government, clearly, and, in that

495 context, if we are going to scrutinise the Government in relation to this particular item of public expenditure, I would want to know which company or individual was the beneficiary of those particular public funds.

500 **Hon. Chief Minister:** No, Mr Speaker, actually, I think I have told him on a number of occasions in earlier meetings of this House that how that cost is going to be borne is still the subject of negotiation with the company but we have been able to give you the cost of it, I think... I assume by asking what the cost of it was. But it was not the Government doing that redevelopment of the car park.

505 **Hon. P R Caruana:** Mr Speaker, if this was a private... if this was something that the owner of the site did on his own site, simply as a matter of planning or other direction by the Government, using solar lamps, in what circumstances could it conceivably fall – the cost of it – upon the Government? Why is it for discussion?

510 **Hon. Chief Minister:** Mr Speaker, this is why I am saying to the hon. Gentleman, I have said, on a number of occasions in this House, when the hon. Gentleman has asked about this, that that plot remains in the ownership of a group of individuals who signed an agreement with the hon. Gentleman, when he was Chief Minister, about it. I have said also in this House, I believe in *Hansard*, that they wanted a longer period to be able to develop that site and they were shortly going to be, if not already, in breach of the period which they had for development.

515 I think that, before the Election, they may also have made representations to the hon. Gentleman about wanting an extension of that period. What I have said before is, in the context of those negotiations for an extension, the Government is in the process of finalising an agreement with these individuals for an extension and part of those negotiations, included in the part that is agreed, is that they would develop a car park there for public use – which is what the Government required.

520 Who will pay for that, and for what period it will be available for public use etc, is the issue that is not yet resolved but we know what the cost of part of that redevelopment has been and we demanded, as part of the negotiation, that any lighting put there should be solar powered lighting.

Hon. P R Caruana: So the cost of... who would bear the cost of all of that, or part of that, including the lamps, is a matter yet to be negotiated with the owner. So, at the moment, the Government has *not* incurred that cost?

525 **Hon Chief Minister:** I believe that is the correct position, but we know what the cost *is* –

Hon. P R Caruana: Yes, I know you know what the cost is.

530 **Hon. Chief Minister:** – because in the negotiation the issue is who should bear the cost of the preparation of it and therefore knowing the cost I think has become relevant.

Hon. P R Caruana: Yes, well, we now know that you know what the cost is, but we appear also to be finding out that you do not know whether the Government has borne it yet or not.

535 **Hon. Chief Minister:** What I can tell the hon. Gentleman is that those who are providing the land, if you want to call it that, expect the Government to pay but that they want – and you can read all of this into what I have already said – the longer the period of the extension, the less the Government will be inclined to be paying for the cost of the redevelopment of the car park.

540 **Hon. P R Caruana:** Mr Speaker, I understand that and I hope that the negotiation goes very well and that they end up paying for it all and you end up paying for none of it.

All I am trying to find out at the moment is whether, in fact, it is the case that, as we speak today, the Government has not paid for it.

545 **Hon. Chief Minister:** And I am telling him that I believe that to be the case. If that is not the case, I will tell the House tomorrow, but I believe that is not the case.

Hon. P R Caruana: And even though you do not know... although you think it is them who have paid it

550 – and you are going to check just to be cautious, whether the Government may have paid it or not – although you think not, does the hon. Member happen to know, or any of his colleagues sitting around him happen to know, who provided these lamps to whoever fitted them, regardless of who is going to pay for them?

Hon. Chief Minister: That is where we started, Mr Speaker.

555 **Hon. P R Caruana:** Yes, and I was rather hoping to get to the point!

Hon. Chief Minister: No, Mr Speaker, if he had listened to all of the debate rather than just the bits he found interesting he would have heard me say to the hon. Gentleman, because we have not done the works, we do not have that information.

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Hon. D J Bossino: Mr Speaker, can I take it from that reply that Government's only intervention in relation to this particular discrete issue is only in relation to the insistence by the Government that there ought to be solar powered lamps and that there has been no Governmental intervention, insofar as who should secure that particular sub-contract, for want of a better word?

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Hon. Chief Minister: Well, certainly, I have not been involved, Mr Speaker. Whether officials have been involved, on the part of the Government, in discussion with the company that has done the redevelopment, I cannot say because they have not had the conversation about it. I have not been consulted. I do not know if the hon. Gentleman has, because the Minister for Utilities, who was responsible for electricity, is not here. He may have been involved – I doubt it – or some of his officials may have been involved because of technicalities of which type of solar lighting may or not be best.

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The hon. Gentleman will know that, during their time in office, there were one or two types of solar lighting being tested in different areas and some may be better and some may be less good but I cannot tell him that nobody has been involved in the Government, either at a political level or an official level, in discussing that with the contractor. My Office certainly has not been involved.

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Hon. D J Bossino: Mr Speaker, if there has been any Governmental decision in the context of *choosing* the particular successful contractor, could I ask the Chief Minister to also make a statement in relation to that tomorrow morning because, really, what I want to get to the bottom of is who the beneficiary was. If there was Governmental intervention in relation to that particular point then, perhaps, the Chief Minister or the Minister for Traffic could divulge that information and provide that information to me.

580

Hon. Chief Minister: Yes, Mr Speaker, except that it is not a question of *divulging* information as to a beneficiary. From what I have told him, I think it is just a question of trying to find out whether there has been any involvement in determining who got the contract, which is not a Government contract. I will look into that for him and will give him the information that he seeks. I don't think I have to make a *statement* about it but I will give him the information that he seeks.

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**Government street cleaning campaign
Cost of derelict car removal**

595 **Clerk:** Question 891, the Hon. D J Bossino.

Hon. D J Bossino: Further to Question 782/2012 is the Minister for Traffic, Health & Safety and Technical Services now in a position to advise this House what the costs of the removal of derelict cars in the context of the Government street cleaning campaign is?

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Clerk: Answer, the Hon. the Minister for Traffic, Health and Safety and Technical Services.

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, since commencement of the Government's street cleaning campaign, which started at the beginning of September, a

605 total of 63 abandoned vehicles have been removed at a cost of approximately £3,800.

**Trainees on placement
Details and nature of work being undertaken**

610 **Clerk:** Question 892, the Hon. D J Bossino.

615 **Hon. D J Bossino:** Can the Minister for Traffic, Health & Safety and Technical Services provide details, giving a breakdown by age, gender and nationality, of all trainees on placements within the Ministries for which he has responsibility, indicating the Department, Agency or Authority where they are placed and the nature of the work they are undertaking.

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

620 **Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban):** Mr Speaker, the information requested by the hon. Member is contained in the Schedule which I now hand over to him.

Answer to Questions 892

Trainees – October 2012

Age	Gender	Nationality	Placement	Nature of work
23	Male	British Citizen	Technical Services Department	Civil Engineering
22	Male	British Citizen	Technical Services Department	Civil Engineering
22	Male	British Citizen	Technical Services Department	Civil Engineering
24	Male	British Citizen	Technical Services Department	Civil Engineering
28	Male	British Citizen	Technical Services Department	Civil Engineering

625 **Mr Speaker:** May I ask whether the hon. Member has any supplementary.

Hon. J J Netto: Mr Speaker, may I ask a supplementary?

630 **Mr Speaker:** Yes, certainly.

Hon. J J Netto: I note in the last column that the nature of the work is 'civil engineering'. Could the Hon. Minister perhaps expand as to the type of work that they are doing?

635 **Hon. P J Balban:** As in? Is the hon. Member asking whether the nature, whether I can expand on the nature of the work of a civil engineer?

Hon. J J Netto: No, the civil engineering *works*.

640 **Hon. P J Balban:** What it entails, what it involves, you mean?

Hon. J J Netto: Mr Speaker, for the sake of clarity, I am not saying that the trainee is going to do civil engineering work because, obviously, as a trainee, he is not qualified. What I am asking is, given that the placement is in the Technical Services Department and the nature of the placement is something to do with

645 civil engineering, what I am asking is what aspect of the work –

Mr Speaker: If the hon. Member looks at the actual Question, the last few words in that Question are ‘and the nature of the work they are undertaking’. I take it that civil engineering is the answer to that last part.

650 The nature of the work is civil engineering and whether they have further information is another matter but that, I would imagine, is the nature of the work: it is civil engineering. Whether they can go any further than that...

Hon. P J Balban: Mr Speaker, as part of what the hon. Gentleman is getting at, I presume, because civil engineering is quite a big field, these gentlemen will actually be rotated throughout different departments so they will gain an experience in the highways engineering, infrastructure engineering, which is sewers etc, so they can gain experience within all the relevant areas of that profession.

660 **Hon. E J Reyes:** May I, Mr Speaker. Can the Hon. Minister provide information looking at the age, it could well be that these individuals are already graduates or are they sort of undergraduates or school leavers. Do we have any information in that respect?

Hon. P J Balban: Mr Speaker, yes. These gentlemen are actually graduates; they have finished their degrees and have come as graduates.

665

**Inspections, Site meetings and Advice
Details for May and June 2012**

670 **Clerk:** Question 893, the Hon. J J Netto.

Hon. J J Netto: Mr Speaker, can the Minister for Health & Safety now provide me with a breakdown of figures for the month of May and June 2012 in relation to Inspection/Site Meetings/Advice which he so kindly promised me in reply to Question 555/2012 and 790/2012 but has not yet done so, and again for the breakdown of information as asked for in Question Nos. 788 and 789/2012?

675

Clerk: Answer, the Hon. the Minister for Traffic, Health and Safety and Technical Services.

680 **Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban):** Mr Speaker, the information requested by the hon. Member to Questions 788, 789 and 790/2012 is contained in the Government website.

Hon. J J Netto: Mr Speaker, I am afraid not so because – and I would not want to regurgitate all the previous questions and supplementary questions and answers.

685 It is not the case, as the Hon. Minister has just said, that if you go to the Government website – you can go straightaway now – you can desegregate inspections from site meetings and advice. We have discussed this before and, when I raised it before, even the hon. Gentleman has acknowledged that is the case. So, basically, I am entitled to ask the question and he is entitled to put the answers in the format that he wishes to do so but I think I am entitled to be able to deduce, in the manner that he provides the answer, what were apples and what were pears.

690

But if the hon. Member provides the answer in a manner which I cannot know how many numbers were apples and how many numbers were of pears, even though he acknowledges that I am right, and even the fact that, as he just said, looking at the Government website – which he can do it now – cannot provide me with the answer, I think it is quite reasonable for me to expect that, given what I am seeking, in terms of information, is so low in figures – because normally it does not go beyond the number of 20, 30 or 40, or even 50 – it is something that can be reasonably provided for.

695

I would not want to ask the same supplementary which I have asked now for three months, because he already answered that it is reasonable for me to get information – but he is not providing information.

700 **Hon. P J Balban:** Mr Speaker, in fact we have been discussing this for more than three sessions. This is something which has been going on for much longer than that.

As I have explained in other meetings of Parliament to the hon. Gentleman, is that at the moment site inspections, site meetings and advice are classified under one. So, at the moment, the Health & Safety Inspectorate claim that they cannot split them up. This is why what you get in the Government website is one figure which encompasses the three things.

705 Obviously, this will, hopefully, make the hon. Member happy because we have spoken about the computer programme and how it is being progressed for a long time now. As from 1st October 2012, things will change, as the Health & Safety Inspectorate have now successfully managed to acquire this very much needed software which has become the subject, as I have said, of many debates in this Parliament. Various different suppliers have been contacted in order to acquire this software.

710 This very software has not existed within the Department ever since the licence agreement was discontinued by the previous administration and yet the hon. Member has 'hounded', if you like, this side of the House to provide him with statistics which only, I am told, a programme of this type could provide. So it gives me great pleasure to actually inform the hon. Member that this Government has, as promised in Parliament, put right the deficit which his Party, when in Government, created, by irresponsibly discontinuing the said licence agreement.

715 **Hon. J J Netto:** The hon. Gentleman has tried to score what, basically, is a cheap political point, without realising that the answers to my question has got nothing whatsoever to do with having a software programme.

720 The fact of the matter is that, when I asked the question in February, for January, he gave me the answer in a manner in which I wanted the information and there was no software programme. When I asked the question in March, for February, he gave me the answer in the manner that I wanted and there was no software programme. You do not need a software programme to extract the information I have been wanting!

725 All you need to get – and I am repeating myself – is the log book of the factory inspector and say, in a simple spreadsheet, how many inspections have been done, given that there is not more than three inspections in a month, and how many site meetings and advice have been given, which is not more than even ten on location. You do not need any software programme. There is no 'deficit'. It is just nonsense, the hon. Member saying that there is a 'deficit' when there is no deficit.

730 All you need is a bit of imagination in doing a spreadsheet programme. It can be done and has been done for the months of January and February by the Government. So the question is, given that he has done it at the beginning, he was not doing it later on, he now says that, from 1st October, he is going to provide it... I have looked this morning at the Government website and he still does not provide the information in the manner I have wanted him to. So the question is, when is he going to do it, given that he recognises that it is entirely legitimate to ask the question?

735 **Hon. P J Balban:** Mr Speaker, as from 1st October means for the complete month of October so, by the next meeting of Parliament, he is more than welcome to ask that question and these three items should be divided into the sections that he requests.

740 I have had numerous meetings, as you can imagine, because obviously having had the same question over and over again it does make me want to know exactly what is going on. I have had meetings with the Inspectors and they say to me, they have categorically stated, that it is impossible to provide the information, as the hon. Member requested. This is why we have been pushing with the acquisition of this computer programme, which the Inspectors' guarantee that, from now on, from the end of the month, we will be able to provide the statistics as you request them.

745 So, obviously, at the end of the month we will see.

Hon. J J Netto: Well, Mr Speaker, as any person with a bit of common sense will tell you, it can be done without a new software programme.

750 But let that be the case, Mr Speaker, given that he says that, with this new software programme, he will be able to extract the information in the manner that I have been asking the question, will this new programme be able to go on the months that he has not been providing me the information in the manner with which I have been asking the questions, retrospectively.

755 **Hon. P J Balban:** Mr Speaker, I sincerely doubt that we will be able to go backwards. This is something which, as from now on, the information requested by the hon. Member will be presented in this format. That is to say, it will be split up into site visits, advice given and inspections but to actually correct what has happened will be impossible, otherwise it would have been done by now.

760 **Hon J J Netto:** With respect to the Hon. Minister, the only thing he needs to do to get the information for the months he has not been providing the answer, is to get the log book of the Factory Inspector and simply say, in those days of the month in question, to be able to simply jot down how many inspections have been done and how many site visits have been done and how many advice have been done. You do not need a Houston space station software programme because, if you do, you really have got a problem.

765 The question is it can be done: it can be done within probably half an hour for all those months and you do not need a software programme. I just do not see why the Hon. Minister seems to have taken for granted what *he* alleges that the Factory Inspector is telling us, that they cannot go backwards. It is a very simple thing that I am sure students from Bayside can do it.

770 **Hon. P J Balban:** Mr Speaker, I will ask the Inspectors – who have now been compared to students from Bayside – to please read the *Hansard* because you have very clearly been given instructions on how this can be done in the future.

775 So just by reading *Hansard*, next time I am going to ask them specifically to read *Hansard*, follow the instructions and come back with the statistics that the hon. Gentleman is asking for. Let us see if that will help them in that respect because I have been asking for this information and they say to me that it is impossible. So, once again, I will ask them to read *Hansard* and follow the instructions and come back next month with all the impossible...

780 **Hon D A Feetham:** Can I just ask the hon. Gentleman – it may be that he has already answered it, I do not know, in a previous session – why was the information provided, according to my hon. Friend, on two occasions, the information which he requested in the format that he requested, and then it was ‘impossible’ to provide it on subsequent occasions? That is something that I personally do not understand.

785 **Hon. P J Balban:** The questions, as asked, have been asked continuously and these are the questions posed to the officials that reply. Why they were answered correctly, so the Gentleman says, the first couple of times and why they were answered so incorrectly subsequently, to that I have no idea.

790 **Hon D A Feetham:** Yes, but surely, if the issue is – and this is why my Friend is vexed by this – that it is not *possible* for them to actually provide the information in that format, surely it was not possible at the beginning.

What we have here is a situation where it *was* possible on two occasions but subsequently became *impossible*. Can the hon. Gentleman perhaps go back to his Ministry and ask his officials why that was the case – why they provided the information on two occasions and now they cannot?

795 **Hon. P J Balban:** Mr Speaker, I recall the hon. Gentleman saying that it had been given correctly *once*, not twice.

Hon. J J Netto: Twice

800 **Hon. P J Balban:** Twice.

The only thing I can, I will go back to the relevant, to the officials and ask them why exactly that has been the case. The only thing I am wondering what could be a possible reason is that, prior to the inclusion of the other two factory inspectorates, the relief – (*Interjection by Hon. J J Netto*) No, prior there was only two. What we inherited was a staff complement of two.

805 If you look at the statistics for monitoring activities, there were a lot less in that month, unless it was – because it was possible that it was less monitoring activities done in that month than had been done subsequently. Again, I am shooting in the dark. I will find out and I will let the hon. Gentleman know at the next meeting of Parliament.

810 **Site meetings and advice**
Details for January and February 2012

Clerk: Question 894, the Hon. J J Netto.

815 **Hon. J J Netto:** Can the Minister for Health & Safety now provide Parliament with an answer to Question 793/2012?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

820 **Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban):** Mr Speaker, the question that the hon. Member is referring to appears to date back to March, in fact Question 311/2012. The hon. Member, in said Question, asked

825 'How many site meetings and advice were given during the months of January and February 2012, broken down by month and by industry group?'

The table that I now hand over to the hon. Member was provided as an answer.

Answer to Question 894 of 2012

Month	Site Meetings/Advice	Industry
January	1	Sea Transport and related activities
Total	1	
February	2	Retail
	1	Manufacturer
	2	Sea Transport and related activities
	1	Public Administration
Total	6	

In September the hon. Member asked the following question at 793/2012:

830 'Can the Minister for Health and Safety provide an explanation as to why the figures recorded in *Hansard* for the month of February 2012 in relation to the number of Inspections/Site Meetings/Advice, vary with the figures in the Government website for the same month as updated on 1st September 2012 or, indeed, with other subsequent figures recorded in *Hansard*.'

835 The total figure for the monitoring activities of the Factories Inspectorate during the months of January and February were as follows: in January there were 15 and in February there were 35.

In his March question (311/2012) the hon. Member asked for statistics pertaining *only* to site meetings and advice and not the whole of the monitoring activities of the Factories Inspectors – that is, he did not ask to include inspections.

840 The table, as posted on the Government website, reflects *all* monitoring activities of the Factories Inspectorate and not only site meetings and advice, as the hon. Member requested in his March question. Therefore, if we subtract the figures that the hon. Member asked for in March, site meetings and advice, from the total figures, as posted on the website, the rest of the figures reflect other monitoring activities carried out during the month of February by the Factories Inspectorate, not just site meetings and advice, as requested by the hon. Member. Hence there was no discrepancy with the figures on the Government website.

845 **Hon. J J Netto:** To be honest, Mr Speaker, I am a bit lost by the answer given but I will try to bring it down to my original Question.

When I asked him Question 308, which was the March session of Parliament, I said – and I quote –

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‘Mr Speaker, can the Minister for Health & Safety state how many *inspections* during February 2012 did the Factory Inspector conduct?’

and we know, by the answer given, that it was two.

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I then asked, in Question 311, how many site meetings and advice were given in January and February and the answer given was six. Now six and two is eight. The Government website said 35 and I asked ‘Can the Minister provide an explanation?’ So can he clarify the statement he has made?

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Hon. P J Balban: Mr Speaker, I have explained in much detail the reason why these figures did not seem to tally previously.

Hon D A Feetham: Could you please repeat the answer? We did not hear it.

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Hon. P J Balban: Because it is a lengthy one, if the hon. Member requests I will give him a copy of the answer.

Hon D A Feetham: No, the answer he has just given.

Mr Speaker: The answer to the supplementary?

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Hon. P R Caruana: Yes, the very last remark.

Hon. P J Balban: Mr Speaker, the only thing I mentioned, as a reply to the supplementary, was that the answer the hon. Member is requesting I have already given in the reply I gave. The original reply.

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Hon. J J Netto: Mr Speaker, with respect to the Hon. Minister, I do not think that the reply or the answer given actually answered the question.

My question is a very simple question. *He* said 8 and the Government website said 35.

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I am asking can he provide an explanation for the difference. Is it 8, is it 35...? Is it anything between 8 and 35? What is the answer, or which one is correct of the two?

Hon. P J Balban: Mr Speaker, if the hon. Gentleman had understood the reply to the answer originally, then he would not be asking the same question again.

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Hon. J J Netto: I don’t think [*inaudible*] has understood what you said.

Hon. P J Balban: Okay, what we are saying is, what the hon. Gentleman asked for in the original question, back in 2012/311, was how many site meetings and advice were given.

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Hon. J J Netto: No.

Hon. P J Balban: He did not ask how many site meetings, advice and ...

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Hon. J J Netto: No, no, no. Mr Speaker, with respect... My answer... I mean read from the *Hansard*. My Question 308 says:

‘Mr Speaker, can the Minister for Health & Safety state how many inspections during February...’

and Question 311 says:

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‘Can the Minister for Health & Safety state how many site meetings and advice...’

Both put together equals 8, the Government website says 35: so he is not even quoting *Hansard* correctly.

905 **Hon. P J Balban:** Mr Speaker, I still stand that the question has been adequately replied but, once again, Question 793 specifically asks in relation to the number of inspections, site meetings and advice, whereas Question 311 asks specifically for site meetings and advice but not inspections, so the discrepancy there must be the inspections.

910 Inspections are something which are carried out very frequently so it could be from 8 to 35 is due to the inspections.

**Inspection of Hospital kitchens
Report of findings**

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Clerk: Question 895, the Hon. Mrs I M Ellul-Hammond.

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Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health & Safety provide this House with the report of the findings from the inspection of the hospital kitchens?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

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Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, the Health & Safety inspection of the hospital kitchen was carried out on 11th April 2012 as a result of the joint request from my colleague, the Hon. Dr. John Cortes and myself, following a visit to the site.

The report confirmed the sorry and unacceptable state to which the kitchen had been allowed to deteriorate. Of the twenty-five recommendations made, all of which had been outstanding for years, nineteen have already been completed, three are in process, two have been re-assessed due to plans to relocate the kitchen and one is pending as it requires actions from a neighbouring business.

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These are as follows: fixing of water leak on main dish washer – this was considered high priority and it was completed; corridor, false ceiling fixing – high priority, completed now; male toilets, false ceiling fixing – high priority, completed; cables hanging from the ceiling frame needed tidying – high priority, completed; insulation fibres needed evaluation and fixing – high priority; emergency fire exit, east facade, needs to be unobstructed – high priority and has now been completed; replenishing of First Aid boxes was of high priority and has now been completed; ‘push bar to open’ notice to be removed – medium priority, completed; wastage products, instruct not to park signage outside the emergency exit was of high priority and is still in process; emergency fire exit hinges require fixing – high priority, completed; scaffold blocking access to the exit – high priority, now completed; evacuation plan of high priority and in process; health and safety training – medium priority, in process; electrical switchboard room cleaning – high priority, completed; health and safety signage – high priority, completed; the commissioning of old generator – high priority, completed; cleaning warning signs to be used as per purpose – high priority, completed; cleaning adjacent to the new generator – high priority, and has been completed; warning signage to new generator area – high priority, completed; removal of highly corrosive SF 210 oven cleaner from inside the generator cage – high priority, completed; wooden pallets were obstructing traffic – high priority, this has been completed; speak to one of the neighbours for outside traffic arrangements – medium priority, still pending; manual handling training – high priority, completed; maintenance plan – high priority, has been suspended due to relocation plan.

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So, Mr Speaker, it is clear that what we inherited on 9th December was a hospital kitchen which was in a very bad state and was of a severe health and safety concern. As the hon. Lady has requested whether a copy of the Health and Safety Inspection Report can be handed over, I will do so – there is one copy for her – and it is graphical with pictures of all the things that were found as part of the inspection.

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960 **EDUCATION, FINANCIAL SERVICES, GAMING, TELECOMMUNICATIONS & JUSTICE**

**Free optional nursery education
Details of scheme**

965 **Clerk:** Question 896, the Hon. Mrs I M Ellul-Hammond.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, is the Minister for Education now in a position to explain how the policy for free optional nursery education, where private nurseries are to play a role, will work as per their manifesto commitment?

970 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

975 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, the policy for free optional nursery education has been implemented through the Department of Education, which was able to offer all applicants either a morning or afternoon placement in a Government nursery. There was, therefore, no need to involve private nurseries this year.

The Department of Education will monitor and will consult, as appropriate, with private nurseries should there be any equal involvement by private nurseries next year.

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**Gibraltar College of Further Education and Sacred Heart School
Details of possible relocation**

985 **Clerk:** Question 897, the Hon. Mrs I M Ellul-Hammond.

990 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Education inform this House if there is any veracity that the Gibraltar College of Further Education will be moving to the old St. Christopher's School site and Sacred Heart School will be moving into the vacated College site and, if so, when will these moves take place?

Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

995 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker no firm decision has yet been taken as to the possible relocation of either Sacred Heart School or the Gibraltar College. A number of options are presently being studied.

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**South District catchment area
Planning for increased numbers of children**

1005 **Clerk:** Question 898, the Hon. Mrs I M Ellul-Hammond.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Education inform this House how he will cater for the increased number of children in the South District catchment area, given the new family residences at Bayview, Cumberland Terraces and Nelson's View?

1010 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

1015 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, an evaluation exercise of the existing catchment areas will commence shortly. It is envisaged that this will help the Department of Education to redefine the districts and neighbourhoods feeding particular schools.

1020 The feasibility of extending the capacity of both St. Joseph's Middle and First Schools is also being studied. I would add, Mr Speaker, that the increase in the number of children in the South District catchment area, given the new family residences at Bayview, Cumberland Terraces and Nelson's View has been known for some time.

It is unfortunate that the previous administration appears to have given no thought to this and certainly took no steps at all to deal with this issue.

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**Westside catchment area
Planning for increased numbers of children**

1030 **Clerk:** Question 899, the Hon. Mrs I M Ellul-Hammond.

1035 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Education inform this House whether it will cater for the increased number of children in the Westside catchment area, given the new family residences at Mid Harbours Estate, in addition to the already densely populated Westside area?

Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

1040 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker the Mid Harbours Estate has been assigned to St. Mary's First School and to Sacred Heart Middle School, given that the area of the Mid Harbours Estate was already heavily populated and the First and Middle Schools traditionally serving this area could not cope with the increase in numbers.

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**Adult learning programme
Implementation details**

1050 **Clerk:** Question 900, the Hon. Mrs I M Ellul-Hammond

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Education commit himself to inform this House when the adult learning programme, as per the Government's manifesto commitment, will roll out and how it will work?

1055 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

1060 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I presume that the adult learning programme the hon. Member opposite refers to is the 'National Institute of Adult Continuing Learning' mentioned in the Government's manifesto. The Gibraltar College already has a clear involvement in the provision of programmes aimed at enhancing employment and academic opportunities. The Institute would develop these programmes further.

1065 The establishment of the Institute is currently being worked on. The Government is not yet in a position to give further details on this.

**GCSE results
Disparity of announcements**

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Clerk: Question 901, the Hon. Mrs I M Ellul-Hammond.

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Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Education explain why Year 10 Bayside Students get their GCSE results, for some of their subject modules, on the same day *all* Year 11 Students get their GCSE results and the Year 10 Westside Students receive their GCSC results for *some* of their subject modules two weeks later, at the beginning of their new academic year?

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Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

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Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, until now each school has released modular examination results independently, given that these do not represent a terminal grade at the end of an examination. However, I can confirm that from now on both schools will be issuing the full GCSE and modular results on the same day.

I would add, Mr Speaker, that this is in line with the policy adopted by this Government which appeared not to exist previously that, where you have discrepancies as to how each school operates, then those discrepancies should be eliminated so that no-one can say that, because you go to one school or the other, you have a particular benefit or another.

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The hon. Lady will recall that she asked a question recently in relation to repeats provisions in Westside and I gave exactly the same commitment that Bayside would do that. This, again, is in line with that policy, to make sure that both schools offer the same services to both sets of children, which was not *their* position.

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Hon. Mrs I M Ellul-Hammond: Then Mr Speaker, will the Hon. Minister also be committed to equalising the offer of the same subjects to both schools because, at the moment, there is a discrepancy in terms of Sociology, Economics, ICT and Technical, Woodwork, Metalwork and so on.

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Hon. G H Licudi: Mr Speaker, the subjects are a different proposition because that depends on the interests of the particular children that go to these schools.

There has been a difference in the subject offering. What we try to do, particularly at the higher levels, because of the way the consortium works, not just with Westside but also with the College, is that, where children want to study a particular subject that is not offered in their school but is offered in one of the others, then the children will be able to make use of that and attend the other school for those particular subjects.

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Hon. Mrs I M Ellul-Hammond: Mr Speaker, that is at AS and A2 level. What about for GCSE's?

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Hon. G H Licudi: Well, for GCSE that is a different proposition, because the timetabling is different. There has to be a certain element of flexibility given to the Headmasters so that they set the curriculum in accordance with the needs of the children that the school teaches and there will be some discrepancies. What I have explained previously, in terms of policy, is that where it is seen that a particular *benefit* is given to one, because of either release of results or the availability of re-sit programme, where it is seen that a particular benefit is given to one because you are a boy or you are a girl, then that we are intending to remove. But Headmasters, in conjunction with their staff, will need to consider which subjects are offered in that particular school for the students in that particular school and which subjects best cater for the curriculum requirements of the particular school.

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There will be an element of difference in *that* regard but not in regard to any particular benefit that is perceived.

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1125 **Legal Aid (Fees and Expenses) Rules 2012**
Possible extension to non fraud cases

Clerk: Question 902, the Hon. D A Feetham.

1130 **Hon. D A Feetham:** Can the Minister for Justice please state whether he has any intention of extending the Legal Aid (Fees and Expenses) Rules 2012, or similar rules, to complex or exceptionally difficult cases other than fraud cases?

Clerk: Answer, the Hon. the Minister for Justice.

1135 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, the Government is looking at reforming the rules for Legal Aid and Legal Assistance generally and will make an announcement when a decision has been made.

1140 **Hon. D A Feetham:** Yes, I quite understand the Government is looking into a reform of the Legal Aid Rules and, indeed, the Government has a benefit of a draft doing precisely that. It was prepared when I was holding his office. That is really not the question. The question is in relation specifically to complex or exceptionally difficult cases.

1145 The Hon. the Minister may recall that, in answer to a question earlier on this year, he actually conceded that you can have complex or exceptionally difficult cases that were non-fraud cases. Can the Hon. Minister justify the differentiation in treatment between complex and exceptionally difficult fraud cases and complex and exceptionally difficult non-fraud cases?

1150 **Hon. G H Licudi:** Mr Speaker, I am not sure that the supplementary arises from the answer that I have given but I will respond.

What the Government will not do is make reform on a piecemeal basis. Every time the hon. Member asks questions he says 'Why don't you add this or why don't you add that, then we make a decision and make a reform on that basis.' That is not is the way this Government conducts business.

1155 We are looking at the whole area. We made a decision earlier this year to provide a new rule in relation to these provisions – Rule 8 in particular – which covers a particular category of cases because we felt, at that time, that it was appropriate in the circumstances to make that change. But there will be no piecemeal changes to the rules, going forward on a case by case basis or an *ad hoc* basis. We are reforming the whole thing generally and, once we take a view as to what the makeup should be of the entire rules for Legal Aid and Legal Assistance, we will make that announcement and the hon. Member will have his answer.

1160 **Hon. D A Feetham:** With respect, does he not recognise that, actually, that is precisely what he has done? He has reformed the Legal Aid system piecemeal, favouring just simply complex and exceptionally difficult fraud cases. In fact, that was the entire basis of my criticism when we exchanged press releases earlier on this year, when I criticised him for doing precisely that – but he has not really, with respect, answered the question.

1165 Can he justify to this House the differentiation in treatment between the complex and exceptional fraud cases and the non-fraud cases? Is there a particular policy reason or any other cogent reason why there is this differentiation in treatment between these two types of cases?

1170 **Hon. G H Licudi:** Mr Speaker, I am extremely surprised and, in fact, very, very disappointed, that the hon. Member should ask this question because I have had conversations with him and he knows exactly what the answer is. Even today we have had a private conversation out there and I have given him the answer to the question. I have explained to him why that was a private conversation and I was not going to reveal that in the context of this House. Therefore, I am very disappointed and very surprised that he should ask this question on the floor of this House.

1175 **Hon. D A Feetham:** I am equally surprised that you should give me that answer.

I do not recognise anything that he says – that he has just said – appertaining to the question that I have just asked him. If the answer is that the Government somehow has felt compelled to make the change, for

1180 whatever reason, and there are legal reasons for the Government being compelled, the reality is that if you are going to have a situation where you change the law because, for example, one feels that, in relation to...

Hon. G H Licudi: Point of Order.

1185 **Mr Speaker:** What Standing Order are you referring to?

Hon G H Licudi: I am referring in particular to Standing Order 45(4): it says references shall not be made to any matter on which a judicial decision is pending in such a way as may prejudice the interest of parties thereto.

1190 **Mr Speaker:** There is a judicial decision pending on the matter, then?

1195 **Hon. G H Licudi:** There are judicial... there are ongoing cases. In fact, there are other questions which will make clear what the position is but, in relation to the aspect that the hon. Member talks about, about the changes in the rules, the case that he is referring to, that is an ongoing case, that is a judicial decision that is pending. It is not in the interest of the parties, or for the public interest, that this matter should be aired.

That is why I answered before in the manner that I had, to say that I have provided the information publicly. Therefore, I would ask you to rule that this question is out of order.

1200 **Hon. P R Caruana:** Mr Speaker, on the Point of Order, it is true that there are prosecutions before the courts of a fraud nature which now enjoy the benefit of this Legal Aid Rule. But that is not what is being asked about. We are not asking about those cases. We are saying, given that the Government has *done* this for complex fraud trials – we are not asking the reason *why* the Government has done this –

1205 **Hon. G H Licudi:** That is exactly what he did.

Hon. P R Caruana: Well, he clarified and he said if the Government has felt *compelled* to do it, given that, for whatever reason, the Government has done it in *that* category of cases, does the Government not feel compelled, or does the Government not feel it is appropriate, to *extend* the same Rule to complex and exceptional cases in *other* areas of the Law, other than the one in which you have done it. That is the question.

1210 This is not a question about the cases that are *sub judice*, it is not even a question that asks you why you did it in the case of fraud. It is a question that says, having done it in the case of exceptional fraud and exceptional cases, is the Government comfortable with doing it *only* in exceptional fraud and not also in other cases, not fraud, which are also exceptional and complex? That is the essence of the question. Is there a *policy* reason, can the Government explain whether its policy is to do it *just* for that and is content that there are other complex and exceptional subject matter trials in which the defendants *do not* have the same facility that the defendants have now? I think I know the reason. I can guess it. I think I remember enough of –

1215 **Hon. G H Licudi:** *He* knows.

1220 **Hon. P R Caruana:** Alright, but that is not what has been asked. That is not what has been asked.

I am speaking to the Point of Order, not to the original question. The Point of Order is do not let the question be asked because it is out of order because the subject matter of the question is *sub judice*. I am not defending the question or the answer, I am defending the Point of Order.

1225 The question, whatever the Hon. Minister might think of it, is not objectionable on the grounds that it is *sub judice* because this is not a question about a matter which is before the courts for resolution or determination by the courts. It may be the case that these Rules were introduced in the context of a particular situation, which is the subject matter of a case before the trial, and it may well be that the Government did it of its own motion, or did it under advice, or did it for whatever reason. I suspect it was done on advisement. Right?

1230 That is not the issue. The issue is, having done it, for whatever reason, motivated by whatever, the propriety of which I am not questioning, does the Government feel that it is right that defendants in complex fraud trials should now have this Legal Aid benefit but that defendants in *other* trials, complex and exceptional but non-fraud, *do not* have that benefit. I do not think that question, with respect, is objectionable

1235 because it is *sub judice* because it is not about anything that is before the courts.

Hon. G H Licudi: Mr Speaker, just responding on the Point of Order, the question that was posed by the hon. Member was not what the Leader of the Opposition has just asked.

1240 The question that the hon. Member has just asked was answered by me already in response specifically to the first supplementary. In other words, 'Are you going to extend it to these other cases?' I said 'No, we will do it, because we are considering Legal Aid and Legal Assistance reform generally and we will do it at that time'. So that is the answer for that.

The hon. Member has then delved into why the Government felt –

1245 **Hon. P R Caruana:** If the hon. Member will give way for five seconds... I understand that. I heard the exchanges between them and he may well *have* that point available to him in his ongoing exchanges with my hon. Colleague after the Point of Order has been adjudicated.

1250 I am not speaking to the merits of the question or the answer. I am simply speaking to the hon. Member's invitation to the Speaker to rule the question in breach of Standing Orders on the ground that it raises an issue which is *sub judice* because all I am saying is that the issue is *not sub judice* and, in my view, would be an inappropriate curtailment, which does not then oblige the hon. Member to say anything about it that he does not want to say. He might then still want to give the same answer that he has just begun to give me when I have interrupted him, for. I am grateful for the opportunity.

I am not speaking to the merits of the exchange, simply to whether it is genuinely *sub judice*.

1255 **Hon. G H Licudi:** Yes, I understand the point.

In a nutshell, the question relates to certain changes which affect a case which is ongoing before the courts. There are pending decisions – judicial decisions – in respect of that case, and we consider that, in those circumstances, that matter *generally* is *sub judice* and should not be the subject of discussion in this House.

1260 **Mr Speaker:** Well, let me say this, that –

Hon. D A Feetham: May I say also –

1265 **Mr Speaker:** Yes, I will allow you one further supplementary.

1270 **Hon. D A Feetham:** No, no, not a supplementary, may I also say this that it cannot *possibly* be the case that this is somehow confidential information that the hon. Gentleman has passed to me in the corridor outside, because it has actually been reported in the *Chronicle*. I have an article here, 'New Rules Expand Legal Aid for Complex Fraud' by Brian Reyes and it actually states the reason for the changes to the Legal Aid Rules.

1275 Then there were exchanges between myself and the hon. Gentleman in the context of my criticisms of the Rules precisely because it was piecemeal. Again, the reasons why it was done was actually ventilated by my hon. Friend and myself. This is a matter of public record so I just cannot see how on earth there could possibly be any question, on my part, of breaching any confidence that he may have imparted to me in the corridor outside – when it is already a matter of public knowledge.

1280 **Hon. G H Licudi:** Mr Speaker, if I could just deal with that last point. I have not suggested that he has breached a confidence: what I have said is that because he knows the answer I am surprised that he has asked. I am not saying that, in his question, he has breached any confidence, he has been given the answer to what he was asking, privately, and because he has been given the answer – which he has not divulged and therefore not breached any confidence – that is why I was surprised by the question.

Mr Speaker: Let me say that, in the legal world –

1285 **Hon. P R Caruana:** Too many lawyers!

Mr Speaker: – legal practitioners know a great deal about what is going on which the rest of us do not know about. Therefore, my inclination would always be, in such an instance, to be cautious.

1290 I have to be cautious and, if the hon. Member is not satisfied, there is always a mechanism which the House – the Rules – provide. He can raise the matter on the adjournment and, in fact, they can even then debate the matter without a vote being taken.

1295 But as to questions and answers I think I have to rule in favour of the Hon. Minister, that he seems to think that this is a case that is *sub judice* and I therefore think that, in this House, nothing should be said which could prejudice a case.

1300 **Hon. P R Caruana:** Yes, Mr Speaker, and of course we accept your Ruling and that is fine but it really cannot be the case that Ministers can just get out of answering questions by alleging that it is *sub judice*, so it does call for a judgement by the Chair as to whether the *sub judice* ground that he considers it established in this case – an assessment to which I submit –

1305 **Mr Speaker:** But the Chair is not privy to the private conversations which have taken place behind the Speaker's Chair and the hon. Member will appreciate that. I do not know what has gone on, what the Hon. Minister and the hon. Member have discussed in private. I am not in a position, therefore, to rule otherwise.

1310 **Hon. P R Caruana:** Fine and, therefore, the Chair may be saying, Mr Speaker, that you just lack the information to make an objective assessment yourself ...

Mr Speaker: And therefore, I have to be cautious.

1315 **Hon. P R Caruana:** That is one approach. Another approach –

Hon. G H Licudi: That is a Ruling.

1320 **Hon. P R Caruana:** – Another approach to a Ruling. (*Interjection*) Yes, but this could happen again...

1325 **Mr Speaker,** it is the Speaker's role to adjudicate on whether Standing Orders have been breached. It cannot simply be asserted by an MP and the Speaker says, because I am not informed, as a matter of caution I go with the objection. On the other hand, I fully understand that the Chair may feel it has insufficient information to make the assessment, in which case an alternative approach – the approach that Mr Speaker chooses to take is a matter entirely for his decision and his selection – but another approach is to simply sort of adjourn, not adjourn, defer, Mr Speaker's consideration of the Ruling on the Point of Order, ask the matter not to be debated further and make a decision in slower order, when he has had an opportunity to obtain the facts in confidence if they cannot be aired in public.

1330 I am not on my feet because I have any objection to the Ruling that Mr Speaker has made on this occasion, simply to the suggestion that, in cases where the Speaker lacks the information to make his own assessment, he goes with the Minister's assertion because that is a very powerful weapon in the hands of a Minister because a Speaker will very often be unsighted.

Chief Minister (Hon. F R Picardo): Mr Speaker, if I may just try and be of assistance.

1335 It is important that the House not become a court room and assessing whether a matter is *sub judice* or not could turn, Mr Speaker, into a judge of issues of fact and law. What I think we have an obligation to do, on both sides of the House, is to try and ensure that we do not raise matters which are *sub judice* and if somebody raises a matter which, on the Government's side, there is a belief that the issue is *sub judice* or, indeed, on the Opposition side, an issue is raised by the Government which the Opposition considers to be *sub judice* and Mr Speaker is not able to be given the information *in the Chamber* because to disclose that information in the Chamber would in effect be to breach the Rule on *sub judice*, I would agree that the best answer is to recess so that Mr Speaker can have the information and make a more informed Ruling.

1340 But I think the main issue is this, absent bad faith, and I think that, apart from saying, as we sometimes do and should to each other, you are only saying that for your own political purpose – this is a political Chamber – absent bad faith, a Minister is not going to get up and say that something is *sub judice*, knowing that it is not, neither is a Member of the Opposition going to allege *sub judice* in relation to an issue. I say this because I raised the *sub judice* concern when I was in Opposition about something that the then Chief Minister was saying, so I think, Mr Speaker, it is an area where we have to tread very, very carefully –

1345 **Mr Speaker:** Let me add –

Hon. Chief Minister: – otherwise it may lead to problems.

1350 **Mr Speaker:** Let me add that, in my meetings with my predecessor, I made it the point of asking him for advice on questions of, matters being, whether they might be *sub judice* and how he dealt with them. I took advice from him. Of course, being himself a legal practitioner, he said ‘I sometimes knew, had heard talk in legal circles which may have placed me in a position where I knew a little bit about a particular case’. I am not in that position. I do not move in such circles and therefore I would know nothing about what is going on in the courts and, therefore, my tendency, therefore by nature, would be to be cautious.

1355 I am quite happy, outside the House, to meet with the Hon. Minister and the Hon. Mr Feetham and have a chat with them about the matter and see whether we can make any further progress. Other than that, I think we should move on.

1360 **Hon. P R Caruana:** Mr Speaker, I find that a perfectly satisfactory outcome and can I just say, separately to that, in relation to this *sub judice*, that we Members of the House have grown used to simply referring to the matter as being *sub judice*, as if that were sufficient to rule it out of order.

Actually, the Rule is not that, the Rule is not that you cannot refer to a matter that is *sub judice*, in the sense that it is before the courts, the Rule says ‘it shall be out of order...’ I beg your pardon, Rule 1:

1365 ‘...references shall not be made to any matter on which a judicial decision is pending, *in such a way as may prejudice the interests of the parties thereto.*’

It is not a simple *sub judice*, in the sense of if the matter is before the court therefore you cannot comment on it. It is a little bit more complicated than that: it also has to be prejudicial to the parties. So –

1370 **Hon. Chief Minister:** Can I just assist there, Mr Speaker, because the hon. Gentleman may not recall, in fact, that Rule is interpreted in quite a lot of detail in *Erskine May*. There is a lot more about it and there is a ruling of your predecessor, Mr Speaker, that dealt with *my* assertion that a matter that was being raised which was *sub judice* which may be helpful in understanding how to deal with it. It also relates to which courts the matters are being dealt with and at what stage they are. So I think all of those things need to be taken into consideration.

1375 I understand from the hon. Member that he took all of those things into consideration before making the assertion and actually said the words, that further debate could be prejudicial to the parties.

1380 **Hon. P R Caruana:** I understand that. This may be a case where there is a jury involved and it is quite easy to see how that may cause... but if there was a case, for example, which was a civil matter which was being tried by a judge, it is *not possible* for the interests of the parties to be prejudiced in the minds of a judge by what I might say in this House or what *he* might. The idea that judges are swayed by what politicians say – juries are another matter: juries... I understand that juries are another matter. All I am saying is – and I really do not want to try the Speaker’s patience too far on the subject – that this *sub judice* area, and the extent to which *sub judice* curtails the freedom of Parliament to discuss, is a very sensitive issue which requires a case by case assessment but the assessment has got to be by the Speaker. If the Speaker, as is obviously the case in this case, is not sighted, he cannot be expected to make a rational ruling un-sighted and I think that, in those circumstances, the better practice is to say ‘no more debate until I have had an opportunity to consider the facts in private, if necessary, so as not to spill the beans, and I will make a ruling later.’

1390 **Mr Speaker:** That is what –

1395 **Hon. Chief Minister:** I agree with that except for one thing, which is that what we cannot do is open the door to the *sub judice* rule not applying to civil matters. There are other rules that also curtail, not just that the adjudicator might in some way be influenced.

Hon. P R Caruana: [*Inaudible*].

1400 **Mr Speaker:** Okay, let us move on to the next Question.

Legal Aid (Fees and Expenses) Rules 2012
Beneficial impact of changes

1405 **Clerk:** Question 903, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Justice state how many (a) people and (b) unrelated cases, have benefited from the changes introduced by the Legal Aid (Fees and Expenses) Rules 2012?

1410 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

1415 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, the answer to this question remains the same as the answer given to Question 562/2012.

Legal Aid (Fees and Expenses) Rules 2012
Details of payments made

1420 **Clerk:** Question 904, the Hon. D A Feetham.

1425 **Hon. D A Feetham:** Can the Minister for Justice please state, as at Friday 12th October 2012, how much has been billed and paid in legal costs in relation to any case covered by Rule 8 of the Legal Aid (Fees and Expenses) Rules 2012, identifying (a) the case or cases; (b) the legal firm or lawyers retained in Gibraltar; (c) any overseas lawyer retained in the case or cases and (d) in each of (b) and (c) the amount billed and paid?

1430 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, the information requested by the hon. Member relates to ongoing cases. It would be inappropriate to provide this information at this stage.

1435

Supreme Court Act (B15/12)
Consultation with Family Judge

1440 **Clerk:** Question 905, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Justice state whether he consulted the Family Judge before publishing the amendments to the Supreme Court Act (B15/2012)?

1445

Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice

1450 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, the matter was discussed with the Chief Justice.

Hon. D A Feetham: But you have not discussed it directly with the Family Judge?

1455 **Hon. G H Licudi:** The answer is that I have discussed the matter with the *Chief Justice*.

Hon. D A Feetham: I know that you have discussed it with the Chief Justice but unless, of course, you are asking me to imply from the answer that you have not discussed it with the Family Judge, *only* the Chief Justice, I am asking you have you discussed it *also* with the Family Judge?

1460 **Hon. G H Licudi:** No, Mr Speaker I have discussed the matter with the Chief Justice. (*Interjection*) Maybe with other people, but...

1465 **Sections 306 and 307, Crimes Act
Numbers affected by changes in notification procedure**

Clerk: Question 906, the Hon. D A Feetham.

1470 **Hon. D A Feetham:** Can the Minister for Justice please state how many people would have been subject to the notification procedure in Sections 306 and 307 of the Crimes Act before he introduced the amendments to that Act in the Criminal Justice (Amendment) Act 2012?

1475 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker I will answer together with Questions 907 and 908/2012.

1480

**The Crimes Act
Details of convictions under section 3**

1485 **Clerk:** Question 907

1490 **Hon. D A Feetham:** Can the Minister for Justice please state how many people currently residing in Gibraltar have been convicted and sentenced for offences listed in Schedule 3 of the Crimes Act, broken down in the categories set out in the first column of the table in section 307 of the Crimes Act (headed 'description of the relevant offender') identifying the date of conviction and/or the date of any relevant fine referred to therein?

1495 **The Crimes Act
Details of convictions requiring notification under section 306**

Clerk: Question 908.

1500 **Hon. D A Feetham:** Can the Minister for Justice please state how many people are currently serving a sentence in Gibraltar or are being treated in hospital pursuant to a sentence or a finding in respect of any offences listed in Schedule 3 of the Crimes Act and which would require notification under section 306 of that Act, as amended, when it comes into force?

1505 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice

1510 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, 21 persons would have been subject to the notification procedure in section 306 and 307 of the Crimes Act before the introduction of the Criminal Justice (Amendment) Act 2012. When I say 'before the introduction', this necessarily applies when the Crimes Act came into effect.

1515 In answer to Question 907, I now hand to the hon. Member a schedule containing the information in the Question.

SCHEDULE TO QUESTION 907/2012

Description of relevant offender	Date of conviction
A person who, in respect of the offence, is or has been sentenced to imprisonment for life, or to imprisonment for 30 months or more	1. 1976 2. 1976 3. 26/06/82 4. 01/07/02 5. 15/11/10 6. 14/11/10 7. 25/04/12
A person who, in respect of the offence or finding, is or has been admitted to a hospital subject to a restriction order	Nil
A person who, in respect of the offence, is or has been sentenced to imprisonment for more than 6 months but less than 30 months	8. 12/03/08 9. 14/07/10 10. 30/11/11
A person who, in respect of the offence, is or has been sentenced to imprisonment for 6 months or less	11. 14/11/08 12. 05/10/10
A person who, in respect of the offence or finding, is or has been admitted to a hospital without being subject to a restriction order	Nil
A person who, in respect of the offence, is cautioned	Nil
A person in whose case an order for conditional discharge is made in respect of the offence	Nil
A person of any other description	13. 12/07/10 14. 01/12/10 15. 30/03/11 16. 30/06/11 17. 17/08/11 18. 17/08/11 19. 21/10/11

1520 Can I say, in relation to the schedule, Mr Speaker, that I am now handing over, the question which that schedule relates to refers to a table in section 307 of the Crimes Act. That table provides for an indefinite period of notification in certain circumstances. As a result of developments in the European Court of Human Rights and in England, it will be necessary to introduce the possibility of a review of the indefinite notification requirement. I therefore anticipate, and I give notice to the hon. Member, that we will be bringing an amendment to Parliament to deal with this. There will, however, be no need to delay the commencement of the Act whilst we draft and bring to Parliament this particular amendment.

1525 In relation to Question 907, there are currently three persons serving a sentence in Gibraltar HM Prison pursuant to a sentence in respect of offences listed in Schedule 3 of the Crimes Act which would require notification under section 306 of the Act. I would also add, Mr Speaker, that all of the persons on the list that the hon. Member has, are known to the Royal Gibraltar Police and are subject to existing vetting procedures.

1530 The Government wishes to reiterate and provide further assurance that there is no risk to the public in Gibraltar, and is satisfied that no risk to the public in Gibraltar arises from the amendment to the Crimes Act in the Criminal Justice (Amendment) Act 2012.

1535 **Hon. D A Feetham:** Yes, I was aware about the case in the European Court of Human Rights. In fact, I think I alerted the hon. Member to those cases when I wrote to him, I think it was two weeks ago. In fact, I invited the hon. Gentleman to take stock of public opinion here in Gibraltar to reconsider his position, perhaps in the light of a review associated with a consideration by the Government of those Human Rights cases.

Do I take it, from the answer that he has given me, that the Government stands by these amendments and, despite the public outcry in relation to the amendments that the hon. Gentleman brought a number of weeks

ago, that the Government has no intention to reverse its policy?

1540 **Hon. G H Licudi:** Mr Speaker, the hon. Member refers to a public outcry. The Government deeply regrets that the outcry, the part of the outcry – if there *is* any outcry – has been caused by them unnecessarily and irresponsibly and, by continuing to mention that today, they appear to be intent in continuing to cause unnecessary public alarm.

1545 When I say it is being done by them unnecessarily and irresponsibly, I say that advisedly, Mr Speaker, because they have done so by putting out a press statement which actually contains false information and it is false information to the knowledge of the hon. Member, who considers himself –

Hon. D A Feetham: Mr Speaker, Point of Order.

1550 **Hon. P R Caruana:** That is a very serious allegation.

1555 **Hon. D A Feetham:** Mr Speaker, Point of Order. He knows that what he cannot do in this House is actually accuse a Member of this Parliament of intentionally lying and intentionally misleading. That is precisely what he is doing. So I take objection on that. That is the Point of Order that I raise, but I have to say that it is really surprising that the hon. Gentleman should just simply attempt to brush under the carpet public concerns by deflecting attention from an *ill advised, ill conceived policy* of protecting 21 sexual offenders at the expense of the public.

1560 **Hon. G H Licudi:** Mr Speaker, I have to deal with the Point of Order because the hon. Member says that I accuse him of providing misleading information. I do not accuse him of providing misleading information, I accuse him of providing *false* information. Information that *he* should know is false.

Hon. P R Caruana: [*Inaudible*] that he knows [*inaudible*].

1565 **Hon. G H Licudi:** Well, he knows because he proclaims himself to be the architect of the Act. Therefore, he is perfectly aware of what the Act says, of the provisions of the Act... he is perfectly aware of what he has said to the public and, therefore, it has to follow that he *must know* that the information that he has provided is false. But given that the hon. Member raises – (*Interjections*)

1570 Mr Speaker, it is obviously true and the hon. Member takes exception to suggestions that he is misleading or not giving true information, I certainly have not said that he has done that in this Parliament under our Rules in relation to that, but there is absolutely nothing wrong – and, specifically to address the Point of Order – there is absolutely nothing wrong to say that, in a press statement that they issued, they actually gave false information and, therefore, they misled the public.

1575 The hon. Member asks what false information? Well, let me read exactly what the hon. Member, dealing with this issue of whether they had been misleading or not... (*Interjection*)

Mr Speaker: No, let him conclude, please.

1580 **Hon. G H Licudi:** The Leader of the Opposition has asked what false information and the false information relates, in particular, to the effect of the amendments that we made on persons *outside* Gibraltar who have committed sexual offences in Gibraltar because, in their press statement – their original one – it says that the Opposition's *biggest* concern – not just *a* concern, their *biggest* concern – was not with locals, because obviously the hon. Member knows there is a list, the Police are aware of that list, there are vetting procedures, so their biggest concern is not with locals but rather that the amendment created a loophole for foreign offenders moving here to live and he goes on to say – and this is a quote of the hon. Member –

1590 'We could have the situation where a potentially dangerous individual convicted of a serious sexual offence *abroad* could relocate to Gibraltar and the Authorities here *cannot* now subject him to the notification requirements associated with the Register because the offence occurred *prior* to the commencement of the Act'.

Hon. D A Feetham: And I stand by [*inaudible*].

Hon. G H Licudi: That is the statement that the hon. Member makes and I would invite him to look

1595 *closely* at the provisions of which he was the architect, in particular section 321 of the Crimes Act, which talks about Notification Orders: ‘Whereby I, as Minister for Justice, can direct the Attorney General to make a complaint to the Magistrates Court to make a Notification Order...’ That relates to people who are outside Gibraltar.

1600 We have not made any amendment... Under the Criminal Justice Amendment Act, we have made no amendment at all to those provisions – and it was never our intention to make that amendment – so whatever the effect of those provisions were under the enactment that *they* put forward, in other words it applies to sexual offenders abroad who have committed offences *before* the commencement of the Act, that continues to apply. Therefore, the statement that he has made is false.

1605 It is even worse than that, Mr Speaker. It is even worse than that because there are provisions in the Act, which he is perfectly aware of: when he talks of people who have committed ‘serious sexual offences’, there are provisions for the court to make what are known as Sexual Offences Prevention Orders. That is all part of the provision relating to these requirements and that, as the hon. Member mentions in his press release, arises when I, as Minister for Justice, give a direction to the Attorney General to make an application to the court, to seek a Sexual Offences Prevention Order.

1610 And as if clarity was needed, section 327 says that

‘these provisions relate or apply to acts, behaviour, convictions and findings, including those occurring *before* the commencement of the Act.’

1615 Mr Speaker, in a press release he said there is a ‘loophole’ because these provisions no longer apply to those offences which occurred prior to the commencement of the Act. We have made no amendment to this which expressly says that these provisions apply to those occurring *before* the commencement of the Act. And if that was not enough, Mr Speaker, we have subsection 3, which talks about these specific provisions and saying a person is within this subsection if – and I will read it again so that he understands it –

1620 ‘if before or after the commencement of the Act, under the Law of a place *outside* Gibraltar he has been convicted of a relevant offence...’

or has done any other of the heinous matters that these matters protect from.

1625 In other words, a serious offender or sexual offender that falls within these provisions, that has committed an offence *outside* Gibraltar, comes to Gibraltar and those offences have been committed *before* the commencement of the Act, it is extremely mind-boggling, Mr Speaker... What part of the Act, which he was the architect for, and which says *before the commencement of the Act*, which part does he not understand? In order to issue a press release alarming the public saying their *biggest* concern is with sexual offenders, serious sexual offenders who have committed offences abroad and who come to Gibraltar and these provisions will no longer apply to it. Of course, it is false. Of course, it is misleading and, of course, he should have known about it. He *did* know about it.

1630 But it gets even worse, Mr Speaker. It actually gets even worse because there are other provisions in the Act which relate to Foreign Travel Orders, in other words the powers, these greater powers that the hon. Member talks about and which *he* says now no longer apply retrospectively as a result of the amendment that we have done. And these provisions, relating to Foreign Travel Orders, at section 335, says a person is a ‘qualifying offender for these purposes’ – Foreign Travel Orders and restrictions on travel and movement and all that – if *before* or after the commencement of the Act, before or after the commencement of the Act... In other words, these provisions apply retrospectively *and* as if, again, the matter was not clear as to whether this applied only to locals or applied to foreigners, subsection 2 says

1640 ‘a person is a qualifying offender for the purposes of section 333 if *before* or after the commencement of this Act under the law enforced in a place outside Gibraltar, he has committed...’

1645 one of these heinous offences. Again, these provisions apply to foreign offenders who have committed offences, whenever they may have committed it, and come to Gibraltar.

If the hon. Member wants more about the falsity of his statement, I can give him more because there are other provisions which relate to Risk of Sexual Harm Orders – separate Orders to protect the public from sexual predators – and that provision relates to applications to the court where the offenders have done certain of these heinous things, whether before or after the commencement of the Act.

1650 So there is a whole raft of provisions here which *he* well knows about: Foreign Travel Orders, Risk of Sexual Offenders Orders, Sexual Offenders Prevention Orders. All of those apply to foreign offenders who come to Gibraltar and who have committed offences *prior* to the commencement of the Act. It could not be clearer that they have given *false* information, they have raised public alarm unnecessarily and their behaviour is reprehensible. (*Applause*).

1655 **Hon. D A Feetham:** My, my, Mr Speaker, he really had a lot of pent up anger inside him over the last two weeks.

1660 I have to say, on the Point of Order, Mr Speaker, because this is what we are talking about at the present moment, the Point of Order... On the Point of Order, the hon. Gentleman can stand up and can say 'The hon. Gentleman is incompetent'. He can say 'The hon. Gentleman was wrong'. He can say 'The hon. Gentleman does not know what he is talking about, he has not read his own Act!' What he cannot do, in my respectful view, in accordance with the Rules in Standing Orders, is actually say that I have 'lied', that I have 'misrepresented' and that I have '*knowingly* misrepresented'. That is the Point of Order I have raised and that, succinctly, is the Point of Order before you today, but, look – (*Interjections*)

1665 **Mr Speaker:** Please!

Hon. G H Licudi: That is not what I said.

1670 **Hon. D A Feetham:** I have listened very patiently to the diatribe that you have –

Mr Speaker: May I say this. Members are now debating. We are in Question Time and supplementaries are intended to elucidate information, to press Government for a particular line of action or policy.

1675 This issue of the Sexual Offenders Register is a matter of serious public importance and, therefore, I am prepared to be liberal to a certain extent but we are not going to have, during Question Time, the kind of debate that should more properly be held with a substantive motion on the Agenda or the hon. Member raising, under Rules 24(a) and 24(b), which I would commend to the House because they seem to have fallen into desuetude, where the hon. Member can raise the matter on the adjournment and there can be a forty minute debate on which no vote is taken.

1680 That is the line of action that I would enjoin hon. Members to take, where matters are controversial, such as of this nature, and not to do so under the guise of Question Time.

Hon. P R Caruana: Indeed, Mr Speaker.

1685 **Chief Minister (Hon. F R Picardo):** Mr Speaker, may I just deal with something you said, in this way. I think it is salutary that we should take up, from either side of the House – because the motion on the Agenda can be from either side of the House – that opportunity which you alert us to, to raise issues of controversy and debate them and, therefore, in that way, spare listeners and ourselves each Question becoming a debate.

1690 I believe, Mr Speaker, there is a Rule that, before such a debate can be had, Mr Speaker has to be given notice of it –

1695 **Mr Speaker:** I have to be given notice before five o'clock on the day on which the... but the House is going to adjourn today until tomorrow. The House, presumably, is going to adjourn to another day and, therefore, there is an opportunity tomorrow on the adjournment to have not one, but two, debates lasting forty minutes each.

1700 When I was a Member of this House it was a practice that was very often followed by the Opposition. I would commend it to the House; I am not aware why, in the last twenty years or so, it has hardly ever happened. Where a Member of the Opposition, in particular, raises a matter on which they feel that they have not had satisfactory answers from the Government they can give the Speaker notice and the Speaker – invariably in my experience in the past – was liberal and allowed matters to be raised on the adjournment.

Hon. P R Caruana: I take absolutely no issue with the excellent advice that the Hon. Speaker gives to the House but, of course, we are not in Question Time, we are not debating the virtues or lack of virtues

1705 **Mr Speaker:** We are on a Point of Order.

Hon. P R Caruana: We are on a Point of Order which arises not from the merits of what the Government has done or the merits of the Opposition's criticism of what the Government has done in relation to the Sexual Offenders Register *at all*, but rather on a Point of Order... My learned friend, Mr Feetham, has just raised a Point of Order.

1710 The last Member to raise a Point of Order was the Hon. Minister for Justice, who stood up, Point of Order, everybody had to sit down, whilst he insisted that the Rules were on a Point of Order, a consideration of a breach of the Rules. That is what we are discussing now. The hon. Member has just made a fifteen minute speech justifying what *he* considers to be, not a defence of his Government's policy but a justification for having said of a Member of this House that he has given information in public, *knowing* that it is false, for the purposes of causing unjustified alarm to members of the public.

1715 There is a Standing Order that says that no Member shall impute improper motives to any other Member. We are not debating the merits of the Government's policy, we are debating whether a Member of this House has infringed a Rule of this House by applying an improper motive to another and that cannot be resolved by an emergency adjournment.

1720 **Mr Speaker:** And because I allowed the Hon. Minister ten or fifteen minutes to deal with that matter I am also quite prepared to allow the Hon. Mr Daniel Feetham the same time so that he can answer. But after that, after I have done so, we are going to move on to the next Question.

1725 **Hon. Chief Minister:** Mr Speaker, if I may just deal with what the Hon. the Leader of the Opposition has said. I think it is very important that the House not be deviated from what has been its practice for many years and what is the practice set out in its Rules and in *Erskine May* – and I know that you will not want to deviate us from that.

1730 It is not appropriate parliamentary language – this has been established on a number of occasions but it has been deployed from this direction in that direction and backwards – to say that an hon. Member is misleading the House or is lying in the House. It is acceptable, but unfortunate, parliamentary language when it has to be used to say that an hon. Member has lied to the public or has misled the public *outside* the House. That is the established principle in English parliamentary procedure and Gibraltar parliamentary procedure.

1735 I will refer the Hon. the Leader of the Opposition to his acerbic remarks towards me in July 2010 during the course of a Budget debate, where he expressly and repeatedly said that I had lied to the public and I refer him to that *Hansard* and to the rulings there about what it is appropriate and not appropriate to say. If a Member says of another that he has misled the public outside of this House, then that is outwith the Rule that says that one cannot allege against another Member improper motive in this House, or that he has misled the House or called them a liar. We should, in any event, in my view, seek to avoid such situations but there are some situations, such as this, where the Hon. the Minister for Justice has felt it absolutely necessary to highlight that issue in answer to the Supplementary that was put.

1740 That is the Rule, Mr Speaker. It is an established Rule. All Parliamentarians know it, the Hon. Leader of the Opposition knows it and I am not going to say that he has tried to mislead you by pretending the Rule is something else, but I am going to say that we all know that the Rule does not apply to things said outside the House.

1745 **Mr Speaker:** I will, therefore –

1750 **Hon. P R Caruana:** May I say one more thing, Mr Speaker. The hon. Member is talking nonsense.

We are not discussing here the Standing Order that talks about not using unparliamentary language, we are not talking here about the Rule that says you cannot call people a liar because it is unparliamentary language, which is all that he has just spoken to. We are talking about a quite *separate*... nothing to do with the unparliamentary language Rule. We are talking about a quite separate Standing Order, which says that no Member shall impute improper motives to any other Member.

1755 We are not talking about imputing improper motives *outside* of this House. (*Interjection*) The imputation of improper motives has taken place *in this House*, this afternoon, here. The Hon. Minister for Justice has stood up and, in this House, has imputed to the Hon. Opposition spokesman for Justice – in one of his public statements – but the allegation made in this House... the imputation of improper motives has been *in this*

1760 *House*, yes, in this House. The Hon. Minister for Justice has imputed to the hon. Member the motive of seeking to alarm public opinion through the use of *false* information, which he knew to be false.

1765 That is an imputation, made *in this House*, of improper motives to another Member and there is no rule in *Erskine May* or previous practice in this House about the quite separate Rule about calling people liars or use of other unparliamentary language. This is a quite separate Rule – 45.6 – and, fine, I do not mind what the Rule is so long as we all live by the same one.

If it is not imputing improper motives to any other Member to stand up and say that you have, through the use of false information that you know to be false, misled and sought to alarm and mislead public opinion, if that is not an imputation of improper motive, I cannot think of anything that would fall foul of this Rule.

1770 **Hon. Chief Minister:** Mr Speaker, if I may, because that now takes us to another Rule and I will be very brief and not test your patience.

That is exactly the Rule that would have been offended by the hon. Member in July 2010, and the Rule of not calling people liars because both, unfortunately, tend to go together. That is exactly the same. I refer the hon. Gentleman to the debate we had at Budget time in July 2010.

1775 I must also tell him that I would prefer *his* interpretation, were it not that we had visited upon us a different interpretation by him when he was Chief Minister.

1780 **Mr Speaker:** I will invite the Hon. Mr Danny Feetham to explain to the House why he considers that the statements which he made publicly are accurate. Perhaps accuracy is not an unparliamentary term.

1785 **Hon. D A Feetham:** Mr Speaker, I can be very short with that but let me say that this is a very... The issue of the amendments that the Government have brought which, effectively, means that twenty-one individuals who were convicted of serious sexual offences will now not go on the Sexual Offenders List, this is a very serious issue (*Interjection by Hon. G H Licudi*)

May I please – I sat very quietly...

Mr Speaker: I would be grateful if there are no interruptions from the other side. Please –

1790 **Hon. D A Feetham:** This is a serious debate and, quite frankly, I think that it demeans the debate if *I* call *him* incompetent, if *he* calls *me* incompetent, if *he* says that *I* am misleading, if *I* say that *he* is misleading.

1795 The reality of the situation is this, as I see it. I have provided a *bona fide* view as to the amendments and the effect of those amendments in relation to foreign offenders. I do not believe that you will be able to sustain, in a court of law, either through construction of the scheme, by just simply construing the scheme or, indeed, because it falls foul of discrimination provisions if we are talking about an EU national, yes. To have a situation where, effectively, the scheme does not apply retrospectively to *local* sexual offenders but, lo and behold, it applies retrospectively to anybody convicted of a sexual offence *outside* Gibraltar in the past but chooses to come to Gibraltar to reside.

1800 You will find that, if that is the position of the Government, it will open a can of worms. The Government will eventually get legally challenged and I hope that the hon. Gentleman will, at that stage, if I am right on that, that he is big enough to stand up in this House and, at the very least, apologise to me for saying that I have misled the House.

1805 My honest view, as a lawyer, as the architect of the reforms last year, is that it is not sustainable to have a situation where the law exempts locals but does not exempt people living outside coming to choose to live in Gibraltar. I do not accept that. That is the view that I have expressed in good faith and I stand by that view, despite all the criticisms of it by my hon. and learned Friend.

1810 Let me say this, the hon. Gentleman's position is inherently contradictory because he came to this House on that Bill and he justified the Bill by saying that it is not right to apply the law retrospectively to people who have been convicted of a sexual offence in the past (*Interjection*) – Hang on a minute! – and it is not right to apply the Sexual Offenders Register retrospectively to people convicted in the past.

Hon. G H Licudi: Mr Speaker –

Hon. D A Feetham: No, no, please –

- 1815 **Hon. G H Licudi:** No, give way.
- Hon. D A Feetham:** Please, I have listened to you intently and –
- 1820 **Hon. G H Licudi:** Please!
- Hon. D A Feetham:** – carefully. Please pay me the same courtesy that I paid you.
- Hon. G H Licudi:** I do not want to accuse him of misleading the House –
- 1825 **Mr Speaker:** Please!
- Hon. G H Licudi:** – but the information he has given as to what I said in that way is actually wrong.
- 1830 **Hon. D A Feetham:** He justified it on the basis that –
- Hon. G H Licudi:** To Locals only –
- Hon. D A Feetham:** Yes, to locals. Right, okay, let's take the statement as he makes it now.
- 1835 It is not right to apply the Sexual Offenders Register retrospectively 'to locals'. Well, how can it be right not to apply it retrospectively to locals but apply it retrospectively to somebody who is convicted of an offence *outside* Gibraltar but chooses to come and emigrate to Gibraltar? That cannot be right because the principle that he relies upon he said was the principle of law, a well known legal principle of not applying penalties and punishments retrospectively.
- 1840 I do not accept for a moment that, in fact, somebody who goes on a Sexual Offenders Register is actually either a penalty or a punishment. It is an administrative measure taken as a consequence of it. It is inherently contradictory.
- Those are the points that I have been making and I do not think, with respect to the Hon. the Minister for Justice, it really has justified the almost explosionary reaction that he has given to this House today, with all the name calling, and I think that it demeans the debate.
- 1845 **Mr Speaker:** Will the Hon. Minister accept that the Hon. Mr Feetham has made those statements in good faith? He is saying that he has answered in good faith.
- Hon. G H Licudi:** Yes.
- 1850 What I have accused him of is not understanding the legislation of which he was the architect and having made statements which were false, factually false, forgetting –
- Mr Speaker:** But not deliberately false?
- 1855 **Hon. G H Licudi:** Factually false –
- Mr Speaker:** But not deliberately false?
- 1860 **Hon. G H Licudi:** No, but in circumstances where he should have known... Not deliberately false, but in circumstances ...
- Mr Speaker:** But he says he was given a legal opinion: he was giving a legal view, a legal opinion.
- 1865 **Hon. G H Licudi:** What I have read, Mr Speaker, is not a legal view, it is simply a factual statement by the hon. Member that we now have a loophole because the authorities in Gibraltar *cannot* now subject these foreign offenders to these provisions. That is factually incorrect because of the relevant sections that I have quoted.
- The hon. Member now goes even further and asks a question, presumably of me: how can it be right to apply these amendments to locals only and not to foreigners? The answer is very simple and has been stated

1870 very simply. The Royal Gibraltar Police have a list of locals and, therefore, that information is already available. They do not have information about all sexual offenders abroad and, therefore, to the extent that people have committed offences abroad and they come here and they are a risk and they are identified as a risk, the hon. Member knows that, for those people, there are no *automatic* notification requirements, it requires an application to the Court. That application can be made in respect of those offences.

1875 To answer your query, I accept that the hon. Member has acted in good faith but what I do accuse him of is of not having understood the law that he passed himself.

Mr Speaker: Right.

1880 **Hon. P R Caruana:** I am very attracted by your approach [*inaudible*] to assist in establishing peace and I think the Hon. Minister may just have made an enlightened remark.

1885 I think that the assumption... the Hon. Mr Speaker asked whether the Hon. Minister accepts that the statements were made in good faith, the Hon. Minister has replied 'Yes, but he should have known better', effectively. I honestly think, Mr Speaker, that they are at cross purposes. The hon. Member thinks that, from his long explanation a few moments ago – a 15 minute intervention – that what the Hon. Mr Feetham was saying was somehow that they had amended the Act to make it statutorily impossible for this to happen whereas, in fact, what the Hon. Mr Feetham has just explained is that, in his view, it would be *unlawful* so to apply the legislation because it would amount to a challengeable discrimination of locals, as opposed to... and the hon. Member has answered a question that the Bill is *not* incapable of being applied retrospectively to foreigners, where that is not the point that the Hon. Mr Feetham has been making was that it cannot be applied, as a matter of law, because having been disapplied from locals it cannot be disapplied...

1890 Now if it does not help, it does not help. I will settle for the hon. Member's last statement, that he is not attributing the motive of premeditatedly seeking to alarm public opinion by the use of information which he knew to be false. If he wants to say that the Hon. Mr Feetham is incompetent, that is his privilege. That is very different to saying that he is a liar.

1895 **Hon. G H Licudi:** Mr Speaker, I have not said that and I do not want it to be left in any doubt. I am not suggesting that he is a liar but I am suggesting that public alarm has been caused unnecessarily as a result.

1900 **Mr Speaker:** Well the problem is that members of the Legal Profession never agree, unlike our school teachers, who do tend to come to an agreed position. I think we shall now move on.

1905 **ADJOURNMENT**

Clerk: The Hon. the Chief Minister.

1910 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that this House do now adjourn until 9.30 tomorrow morning.

Mr Speaker: I now propose the question, which is that the House do now adjourn to 9.30 tomorrow morning.

1915 I will now put the question which is that this House will now adjourn to 9.30 tomorrow morning. Those in favour. (**Members:** Aye.) Those against. Passed.

The House will now adjourn until 9.30 tomorrow morning.

The House adjourned at 5.07 p.m.