



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.03 p.m. – 5.16 p.m.

Gibraltar, Thursday, 20th February 2020

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The Gibraltar Parliament

The Parliament met at 3.03 p.m.

[MR SPEAKER: Hon. M L Farrell BEM GMD RD JP *in the Chair*]

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

Questions for Oral Answer

CHIEF MINISTER

Q196/2020

**Civil Service sick leave –
Mental health related absence**

Clerk: Meeting of Parliament, Thursday, 20th February 2020.

We continue with answers to oral questions. We commence at Question 196 and the questioner is the Hon. E J Phillips.

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Hon. E J Phillips: Mr Speaker, further to Questions 100 and 101/2020, can the Chief Minister confirm the sick leave rates for the Civil Service from 1st November 2019 to 1st February 2020 and indicate the number of absent days arising from reporting (1) anxiety, (2) depression, (3) work-related stress, and (4) any other mental health condition?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, as already stated in answer to supplementary questions to Questions 100 and 101/2020, the information is being compiled. It is expected that we will be publishing the information on a quarterly basis on the statistics section of the Government website.

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Hon. E J Phillips: I am grateful to the Chief Minister, and in no way was that question intended to refocus the Chief Minister's mind on what he may wish to bring before this House. It was just to try to shorten the time gap, to make it easier for civil servants to compile that information, to be as useful as possible to this House and to the question I am asking. I do appreciate very much the efforts that are being made to produce this material on a quarterly basis.

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Is the Chief Minister, given he has the detail at his fingertips, prepared to answer this question in relation to the breakdown in relation to those specific conditions that I have mentioned in this question? It would be helpful, rather than have a general response to the quarterly information, to have 'this is the answer' to that type of question on inquiry. Would it be broken down into further issues concerning physical and mental health? I am grateful.

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30 **Hon. Chief Minister:** Mr Speaker, I think that the hon. Gentleman has asked his question twice about the same issues, and therefore what I said we would compile would be the information in respect of these conditions and that we would publish it.

35 The hon. Gentleman in his question asks me once again to go back and obtain this information, and what I thought I had made clear during the course of my earlier answer last month was that it was difficult to go back because that was an exercise of having to recompile across Departments. I do appreciate it is a shorter period that he is asking us to go back, but still it is an exercise. What I thought made sense, because the hon. Gentleman has alighted upon a request for information that is not nonsensical and I think there is a value to having this information ... We are compiling it now as we go, and therefore we will have the information at
40 our fingertips once it is compiled on this basis.

If other sorts of breakdowns are available – in other words, if instead of just giving anxiety, depression, work-related stress and any other mental health condition it is also appreciable that there is a possibility of recording other conditions that give rise to absence in any meaningful way, for example work-related injury, then it will be compiled in that way also. But I am awaiting
45 information from the Office of the Chief Secretary and indeed he will likely be consulting with the Statistics Office on how best to compile this information apart from on the basis of the breakdown that the hon. Gentleman has requested.

I can imagine that there may be a difficulty. For example, I have seen a lot of certificates, and he will have seen them as well in the course of his practice: ‘anxiety and depression’ – is that tab
50 1 or tab 2? We may end up with more employees than we have medical certificates recorded if we are not careful to show that there is also a head of ‘anxiety *and* depression’, and therefore I think how this all plays out is something we will have more information on at the end of the first quarter.

I would invite the hon. Gentleman to ask us after the end of the first quarter, in the first
55 meeting after April, so that we can then have a better view of how this information is being compiled, maintained and published.

Q197/2020
Non-medical consultants –
Engagements since General Election

Clerk: Question 197, the Hon. E J Phillips.

60 **Hon. E J Phillips:** Further to Q20/2020, can the Government state the name(s) of the non-medical consultant(s) it or the GHA have engaged since the last General Election?

Clerk: Answer, the Hon. the Chief Minister.

65 **Chief Minister (Hon. F R Picardo):** Mr Speaker, other than as already provided for on the Government website, the answer is set out in the schedule that I am now handing over. The names on the schedule had not yet been added to the website and that is why they are on the schedule.

Answer to Q197/2020

Mr J Montovio — Accountancy services to IRO the Digital Transformation project;
Brian Syms Consultancy Ltd — Services required ICW the Sewer rehabilitation programme;
Wood Environment & Infrastructure Solutions — Services required ICW General Surface Water Model;
Golder Associates - Professional services in connection with Little Bay Cliff stabilisation works

Q198/2020
Runway tunnel –
Expected completion date

Clerk: Question 198, the Hon. E J Phillips.

70 **Hon. E J Phillips:** Mr Speaker, can the Government update this House on the completion date for the runway tunnel project?

Clerk: Answer, the Hon. the Chief Minister.

75 **Chief Minister (Hon. F R Picardo):** Mr Speaker, it is not possible to provide a definitive date for the completion of the tunnel. Progress on the runway tunnel project has, however, been steady, with the civil works being well advanced and nearing completion. The next stage involves mechanical and electrical installations and is expected to commence within the next few months, once the design packages are completed.

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Hon. E J Phillips: I just ask this question just for information: is there a period within the next 24 months that the Chief Minister can enlighten to, insofar as any potential possibility of a completion date? I very much appreciate what he is saying insofar as the technical aspects of this project, but it is obviously one that causes a number of question marks all over the place. Members and constituents of our community are very keen for this project to take place, and so are all of us in this House, no doubt for all sorts of reasons, but if the Chief Minister can be helpful in providing a period of time that it may need to take – and I am sure the contractors will be on board and the contractors will be able to provide that information too.

90 **Hon. Chief Minister:** Well, Mr Speaker, I do not necessarily agree that everyone in this House is looking forward to the runway tunnel opening. There are some who are concerned about the consequences of the runway tunnel opening. Certainly the Government believes that this is a project that we now need. We need to see it reach conclusion so that the tunnel is open and this will help traffic flow in Gibraltar; that is why we have pursued it.

95 I can tell the hon. Gentlemen that I have said, during the course of my New Year's address in the second week of January, that I expect the runway to be open during the course of this calendar year. I also remind the House that I said that in an earlier New Year's address and I said it this year with the confidence that I had been given that it was very likely that this project would be completed.

100 Hon. Members will no doubt realise that this is not a delay of any making of the Government in any way. The Government has been in litigation, since we were elected, with this particular contractor. We are pursuing, through the Government's advisers and professional consultants, that the work done on the tunnel is done to the required standard. That has required that the Government require that work be redone, and although there may be a period within which work should be done and you can therefore calculate when a project should be finished, if work done in that foreseeable timeframe is then not of the standard and quality required, the issue is do you accept it just because you want to hurry up, or do you take the advice of the professional advisers that the taxpayer is not getting the return for the amounts being paid and therefore it has to be redone, and therefore what was expected to take six weeks will take 12?

110 Mr Speaker, for that reason, although I remain confident that what I said at the beginning of the year, some six weeks ago, will still be something that we can expect to see materialise – namely that during the course of the calendar year the tunnel will be open – it is not possible to say with any more certainty that we will see the project come to fruition in that period if we are to pursue what I am sure we all agree is the right approach, which is that the taxpayer should have a project completed to the standard and quality that the professional advisers of the

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Government consider meets the standard and quality that British standards in our law require for a particular project as technically challenging and important as this one.

Q199/2020

Lease Place –

Landlord and beneficial owner of premises rented by Government

Clerk: Question 199, the Hon. R M Clinton.

120 **Hon. R M Clinton:** Mr Speaker, can the Government advise who the landlord is for premises rented by it at Lease Place, and who are the beneficial owners of the landlord if it is a corporate vehicle?

Clerk: Answer, the Hon. the Chief Minister.

125 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the landlord for the premises rented by us at Lease Place is Ryhall Ltd. The Government understands that the ultimate beneficial owners of the company are the Peralta family, the Hassan family, the Levy family and the Provasoli family.

130 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Chief Minister for his answer. Would he have the names of the individual members of the families he mentioned as being the beneficial owners?

Hon. Chief Minister: I really do not see why I should, Mr Speaker.

135 **Hon. R M Clinton:** Mr Speaker, I have asked about the beneficial owners and those beneficial owners have to be, I imagine, named as people, or rather as groupings. Therefore, I think my question is entirely reasonable of the Chief Minister – unless, Mr Speaker, you rule it inadmissible. I think the simple question ‘Who is the beneficial owner?’ is pretty clear, and again
140 I ask the Chief Minister: can he please supply the names?

Hon. Chief Minister: He is wrong, Mr Speaker, about beneficial ownership. Beneficial ownership can be held through trusts for classes of people, which do not have to be identified as individuals.

145 Mr Speaker, if we are going to be asked who are the beneficial owners, who are the Peralta family and who are the Hassan family, is the hon. Gentleman going to require me to give him a family tree? It is not information for which the Government is responsible.

I take the view that a Government cannot deal with a corporate entity that is not a publicly listed entity without knowing who is behind it, because the Government could inadvertently fall
150 into the trap of assisting in the laundering of funds. If you are dealing with a company that is owned ultimately by somebody who is not fit and proper and/or who is not in legitimate business, then it would be wrong for the Government to be doing that. Therefore, the Government knows who it is dealing with, but whether we know that a great grandchild or grandchild, a daughter or a son, or any other has a particular share or not share in the ultimate
155 beneficial ownership is really something quite difficult to require a Government to come to this House to give.

We know who we are dealing with and we know that these are the entities that hold the interests of those families. The interests of these families are held in absolute the proper structures, which do not give you names of individuals, and therefore the hon. Gentleman is
160 wrong about the premise of his question, that ultimate beneficial ownership is held in names of

individuals that governments know. We know the class of individuals we are dealing with and the families they represent. It is an answer that I have given him. I have been very forthright in giving him the answer when he has asked me, but I am not a maintainer of family trees, Mr Speaker.

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Hon. R M Clinton: Mr Speaker, just to be absolutely clear for the record, can the Chief Minister therefore confirm that he does not have the names of the ultimate beneficial owners of this landlord?

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Hon. Chief Minister: Mr Speaker, I can confirm that the hon. Gentleman seems to misunderstand the concept of ultimate beneficial ownership.

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Hon. K Azopardi: Mr Speaker, can I ask, the Chief Minister says, quite rightly, that when the Government does business it needs to know who it is doing business with – and he is satisfied as to the people who are behind the structure, presumably. That being the case, I think my hon. colleague is just simply asking ‘Who are those people?’

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Hon. Chief Minister: Well, Mr Speaker, the hon. Gentleman has been told, and I have said, the Peralta family, the Hassan family the Levy family and the Provasoli family.

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If the hon. Gentleman knows who I am talking about, these are families that are well known to him and well known to me. He knows, because he was a Minister, as was Mr Feetham, that successive Governments have held leases in that building through entities that have contractual arrangements with the Government, or the Government has shareholdings – for example, AquaGib – and he would therefore, presumably, having welcomed the attitude I have taken to ownership and the dealing, have known who his Government was in a contractual relationship with in that building. That has not changed.

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The issue is that there may be other children and children of children, and if I am being asked to say *exactly* who the beneficial owners are, that is to expect me to know the distribution there may have been *inter vivos* of beneficial ownership in those families. If I give an answer that is not absolutely precise, then I will be misleading the House. It is not possible for the Government to give an answer which is absolutely precise as to beneficial ownership because hon. Gentlemen will know that beneficial ownership moves without the register having to be updated, and so therefore I may give an answer which may change in a moment – indeed in the moment I am giving the answer – because individuals may say, ‘By the way, the quarter share that I have in this 25% of the business I am no longer going to divide 10% for you and 10% for your sister; it is now going to be 15% for you and 5% for your sister.’ So, beneficial ownership changes in that way, and indeed people may be excluded from beneficial ownership or may be added to beneficial ownership, but he knows who he is dealing with because these are the families of these individuals. They are well known in Gibraltar. They own two particular immovable hereditaments that the hon. Gentleman will be fully aware of, both of which are the subject of scrutiny in this House, although one of them in particular has been in the employ of Governments as an area where we have taken leases through three different administrations, one of which included him and his hon. and learned colleague across the way without the ultimate beneficial ownership of those buildings changing as to families, although the breakup of ultimate beneficial ownership and split between those families may have been different at every time.

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Hon. K Azopardi: Mr Speaker, first of all, certainly in the portfolios that I held when I was opposite, on those benches, I certainly cannot recall ever having to deal with tenants of Lease Place, so I am not in a position to say that I ever held any dealings with these tenants or indeed the structures behind them.

I certainly understand the Chief Minister's explanation, but I sense a degree of defensiveness in the answer and I do not understand why. He says he knows who he is dealing with, and we have simply asked who it is that he is dealing with.

215 It can be one of two things, if I can put it to the Hon. Chief Minister: it can either be because he loosely knows that he is dealing with those families but cannot specifically tell us who the beneficial owners are ultimately; or he does know who the ultimate beneficial owners are and somehow is reluctant to give it. I understood his first answer to be more reluctant than his second. His second seems to be saying, if I can paraphrase it, 'I loosely know who the people are
220 in the families but I cannot specifically tell you what specific shares they are holding.' That is how I understand his answer to be. Is it that my understanding is correct?

Hon. Chief Minister: Mr Speaker, the hon. Gentleman seeks to impute to me an emotion that I do not feel, and I am surprised that he thinks it necessary to do so. I am not feeling particularly
225 defensive, because I do not think there is anything to be defensive about. For us to have continued arrangements which were already in place when we were elected in 2011 should give rise to absolutely no need to feel defensive. To have added to those arrangements in respect of other arms of Government should give absolutely no reason for defensiveness. What he might sense is exasperation at having to have the same debate, House after House, because frankly
230 there is a lot, much better, to be getting on with, not just in this light but in the context of the things that the community requires us to be doing. But look, one is here to answer their questions.

When dealing with ultimate beneficial ownership, there is no register at the moment. There will be a register in the future. The hon. Gentleman knows that the Fifth Anti-Money Laundering
235 Directive requires that there should be a register of ultimate beneficial owners but it does not require, because the Fifth Anti-Money Laundering Directive does not require it, that trusts should be reflected.

With these families that the hon. Gentleman should be aware of – and I am surprised that he was so siloed in respect of his responsibilities when he was elected that he did not know any of
240 what else was happening with his Government, that he did not know or ask or seek to enquire about the fact that AquaGib held a lease at Leanse Place ... Wasn't he aware of that? Didn't he at least pay for his utilities in the old days with chequebooks before we could do it all by direct debit? And didn't he know that the Government owns a one-third share in AquaGib? Has he forgotten that? Or that the Government has a contractual relationship with Land Property
245 Services Ltd and that they are tenants of this same building, and that there are arrangements in respect of the costs of the business?

Mr Speaker, defensiveness is as nothing in the context of the emotion that I feel at the moment, but I do feel, of course, that continued frustration at not being asked to address some of the key issues that confront this community and instead being asked to descend to intimate
250 particulars as to the family structures that people may have established to own their properties.

Mr Speaker, despite that, if they wanted the information, I have told them the Government feels it must know who it is dealing with and the Government does know who it is dealing with. It is dealing with the Peralta family, the Hassan family, the Levy family and the Provasoli family. We do not know with any level of precision – because it is not possible to know with any level of
255 accuracy, because beneficial ownership can change at any time – who the exact beneficial owners in those families are, but what I know of these families, with all of whom I have had longstanding personal relationships ... I can tell him who the controlling mind of the Peralta family has been, I can tell him who the controlling mind of the Hassan family has been, I can tell him who the controlling mind of the Levy family interest is, of course, and of the Provasoli
260 family, but that does not mean that that is the ultimate beneficial owner, because they have set up structures to establish their family holdings for their families in different ways, which are private. And I cannot give him that level of family tree detail. Neither do I think the Government is answerable for how a family has set up its beneficial ownership of a structure.

265 But, Mr Speaker, I am in your hands if you wish me to explore further the family trees of these established and important trading families in Gibraltar.

Hon. K Azopardi: Mr Speaker, if that last answer does not redefine and take to new levels the meaning of the word ‘defensiveness’, I do not know what does.

270 The hon. Member has said he thinks that Government should know who it is dealing with and that in fact he does know. I would have thought that it would be an intrinsic part of that exercise simply to ask the people you are dealing with who the ultimate beneficial owners are. I do not think that is an unreasonable request. And is it right for then the Government to answer questions put by Opposition Members on the basis of who it is dealing with – that it says it knows who they are? Well, I think it is entirely reasonable.

275 It is not that the Government is answerable as to how families are structuring their business; they can structure their business however they want. The point is that if the Government enters into contracts in this House, that House or another House, with whoever it is, it should know who it is dealing with – point one, which the Chief Minister accepts – and not only should it know who it is dealing with, it should then make that information public if it is asked in this House. It is not an unreasonable request.

The Chief Minister can jibe all day as to what I knew when I was on that side of the House, but as Minister responsible for Health or for the Environment did I ask every single colleague Minister what individual dealings they were handling for the Government? I obviously had some visibility, but did I have visibility of every single contract? No.

285 That is not the point. Let’s not sidestep the issue. What we are asking about is today and it is a perfectly reasonable question that my hon. colleague has put, which I re-put to the Chief Minister. If he knows who the ultimate beneficial owners are, then we are asking him who those people are. If he does not know, because he knows loosely what the families are but he cannot tell us the ultimate beneficial owners because the Government has not asked, that is the other answer.

Hon. Chief Minister: Well, Mr Speaker, I suppose that given that hon. Members have got themselves up the creek, they are going to continue to seek to paddle their way out of it. So I am going to try and be explicit in the way that even they should be able to understand.

295 The Government that I lead has taken the view that if we deal with a corporate entity we are not satisfied simply, if there is on the register not an individual, to have a relationship with a corporate entity owned by a corporate entity; we want to know who is really behind it. We know who is really behind the entities that are the owners of the floors at Leanse Place – which is what this property is – and who we are dealing with. We have known not just in relation to Ryhall Ltd, but also in relation to the leases that AquaGib have acquired, where the Government owns one third of the interest, and the leases that have been acquired by LPS, who are the Government’s property agents. Those relationships go back for some time.

The point I am making to the hon. Gentleman is not to jibe, it is just to remind him, but he is so defensive that he takes every reminder as a jibe.

305 What has not changed are the families who own the building that give rise to the leases. Those families are the families I have referred him to. The ultimate beneficial ownership down to individuals is not something the Government requires to know to know who we are dealing with beneficially. We know that we are dealing with those families. We do not know the shareholding between those families and we do not know whether anybody has been excluded in the context of those families or included in the context of those families. For that reason, short of standing here and reading him out the family trees of each of those families, it is not possible to give him information, and in any event the Government is not answerable for how the beneficial ownership is distributed at any time in those family interests, and indeed it could change at any time because at the moment that ultimate beneficial ownership is not registrable.

315 I hope I have explained it slowly enough that the hon. Gentleman has understood, and that even in his attempts to make mischief he will not be able to pretend that they have avoided explaining who we are dealing with.

320 If he would actually quite like me to go through the family trees of those families, or at least those that I am aware of, I am quite happy at the next meeting of the House – despite having many other, better things to do – to ask one of the established family tree providers in Gibraltar, in conjunction with these families, to provide me with the data so I can read the names out here, if that, Mr Speaker, as we say colloquially, floats his boat.

Hon. R M Clinton: One last question, Mr Speaker.

325 I think on behalf of my colleague we will take you up on that offer, so please do.

330 Mr Speaker, one simple question which I am sure the Chief Minister is in a position to answer. He refers to the Peralta family, the Hassan family, the Levy family and the Provasoli family as being the beneficial owners. Can he confirm to this House that these are the same families given in answer to Question 85 as being the beneficial owners of Gibcorp Ltd, which held the lease on the previous Hassan offices which the Government Law Officers have recently moved into? Can the Chief Minister confirm that we are indeed talking about the same families?

335 **Hon. Chief Minister:** Well, Mr Speaker, yes, of course I can. I can confirm that these are the same families, but I cannot confirm on my feet that the families that own the interest in all the other hereditaments in Gibraltar where the Government may hold leases, which do not appear to hold any interest for hon. Gentlemen on the opposite benches ... They seem to have – well, *he* seems to have, Mr Speaker – an unhealthy obsession with these four families, which does not afflict his requirement for information in respect of any other families that might have business dealings with the Government. But that is a matter entirely for him, I suppose.

Q200/2020

NatWest House – Lease arrangement with Gibcorp Ltd

340 **Clerk:** Question 200, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise if it has entered or is contemplating entering into a lease agreement with Gibcorp Ltd for the fourth and fifth floors of NatWest House?

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

350 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the Government is not presently considering any lease or other arrangements in respect of the fourth or fifth floors of NatWest House, but does not discard doing so in the future, and the same is true of other buildings in and around Gibraltar.

Q201/2020
NatWest House –
Ministerial conflict of interest

Clerk: Question 201, the Hon. R M Clinton.

355 **Hon. R M Clinton:** Mr Speaker, can the Government advise if the Chief Secretary was made aware of the obvious conflict of interest by Mr Picardo and Mr Licudi as Ministers, and Mr Mena in his capacity as Financial Secretary, in the Government taking a new lease of offices in NatWest House and thus releasing them and all other individual partners of Hassans from personal liability for rental payments on the unexpired portion of the Hassans' lease of the sixth floor?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, yes, sir, the Chief Secretary was so advised, although, as I have already informed the House, none of Mr Licudi, Mr Mena or myself – or indeed, Mr Feetham, as far as I know – have had anything to do with the idea, negotiation or agreement of the lease at NatWest House for the Office of the Director of Public Prosecutions.

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Despite that, and although the idea, negotiation and agreement did not in any way arise from any conflict of interest, the Chief Secretary was made aware that it was not impossible that some foolish and utterly twisted mind might seek to pervert the honest and objective reality of utter propriety for potentially self-serving political mischief.

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The Chief Secretary was therefore fully aware of the issue when he assessed the arrangements and signed the lease.

Hon. R M Clinton: Mr Speaker, what directions did the Chief Secretary give in respect of such a pernicious transaction?

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Hon. Chief Minister: Mr Speaker, the word 'pernicious' suggests that something has been done which is improper, and if the hon. Gentleman is going to make that allegation I would ask him to do so by motion and to particularise why he says there is such a pernicious relevant motive.

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Hon. R M Clinton: Overjoyed.

Mr Speaker: Is the hon. Member prepared to put forward his views in writing as to why he has suggested that what has now taken place is pernicious? (*Interjection*)

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Hon. R M Clinton: I will consider the matter, Mr Speaker.

Clerk: Question 202 –

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Hon. K Azopardi: Can the Chief Minister help us with why his name was on the lease, when the lease is dated 2016?

Hon. Chief Minister: Mr Speaker, because the hon. Gentleman knows – and as declared in my Register of Member's Interests – that I hold interest in respect of the firm of which I am on sabbatical, and therefore when the firm enters into obligations it requires all of its partners, even those who are on sabbatical, to enter into those obligations. It was not just my name that was on the lease; the name of the founder of the GSD was on the lease, the name of Mr Licudi and Mr Feetham were on the lease. Signing leases has never been considered to be pernicious.

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Hon. K Azopardi: Mr Speaker, I was just trying to clarify that because this is a lease, as I understand it, was a 2016 lease. It has been then taken over and had a sort of term. The term did not expire – in fact was not due to expire until sometime next year, it was my understanding of the lease that has been brought to my attention. I certainly was not aware, because I have not
405 been checking his declaration of interest ... let me put it that way.

But the Chief Minister did indicate, I think, the last time a similar question was on the Order Paper ... and I note that today he said quite pointedly, I think, that none of them, meaning himself, Mr Licudi or Mr Mena – I think I took the note accurately – had anything to do with the idea, negotiation or agreement. In fact, I think last time there was some supplementary that I
410 put on this issue, the Chief Minister explained that the idea did not come from him, but that the idea came from the Attorney General one day, who met him and said, ‘Wouldn’t it be a good idea?’ and there was some kind of exchange by which the Attorney General then thereafter went off to negotiate the terms with the DPP on the building.

My question is this, though: given that the Chief Minister did advise the Chief Secretary and therefore thought that it might be that someone might form a view of that situation, when the Attorney General came to him with the idea, rather than say to him, ‘Well, okay, go off with the DPP and negotiate a deal,’ why didn’t the Chief Minister rather say, ‘Well, you know what, Michael, actually we should not be interested in negotiating something like that because the name of the Financial Secretary, my name and another Minister’s are on the lease and it just
415 simply won’t look good.’ Why wasn’t that the reaction of the Chief Minister?

Hon. Chief Minister: Mr Speaker, whether something stands the test of electricity, whether something is in substance right or wrong, whether there is a conflict of interest or not, is not about perception; it is about substance and indeed looking objectively at what happened in this
425 case and not simply taking the characterisations that the hon. Member opposite might like to put on it. Standing aside from something that involves you and allowing others to consider whether it should happen or not is what is required when there is a conflict of interest, and in particular in a situation where the decision is not led or indeed initiated by the person who may be said to have a conflict of interest.

Mr Speaker, it is not as if I did not imagine that these exchanges would arise. There is nothing that has been done here in secret. Everything has been done in the open. We are talking about things which are entirely registrable. In other words, notice is given to the world of these arrangements.
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The view of the Director of Public Prosecutions and the Attorney General was that there was nowhere else within walking distance of the courts which they considered apt for the needs that they had. And so the conflict that they have is that they tell us on the one hand that they want us to find offices for civil servants which are fit and proper for them to do their work, and then, when those offices are found, they try and drill down to some reason they may find to suggest that something does not look right.
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Mr Speaker, conflicts of interest arise in every community in the world. They would, of course, in particular arise in the context of a community of our size. It is not that where there is a conflict of interest there cannot be dealing; it is that where there is a conflict of interest, it is important, or indeed a potential conflict of interest, it is important to highlight that and ensure it is dealt with properly.
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I am satisfied that this was dealt with entirely properly because I immediately alerted the Chief Secretary to this possibility through the Attorney General, distanced myself and the Financial Secretary from the negotiations and the possibility that it may happen, indicated that I thought that there might be a debate of this sort later in the House and ensured that all decisions were made at arm’s length.
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Therefore, hon. Gentlemen can cry from the rooftops about what they would *like* people to think about the transaction, but the reality and substance of the transaction – and as counsel
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they will know that it is substance that matters – was absolutely and entirely proper and I am delighted to have it subject to the scrutiny of this community.

455 Mr Speaker, frankly, I think that the deal that was done was one that was in the interests of the Director of Public Prosecutions because he sought it and pursued it, one which he had the support of the Attorney General on and on which those who it is alleged have the conflict of interest had absolutely no influence whatsoever, thereby denuding the potential conflict of any negative effect.

460 **Hon. K Azopardi:** Mr Speaker, doesn't the Chief Minister agree that it is not just substance; it is substance and perception because the conflict of interest issue is not just an issue of substance? Of course the substance is important, and in substance there may not be a conflict of interest; but it is also perception, and perception matters, especially in a small community where it may not look right.

465 Mr Speaker, I am staring at the Draft Ministerial Code which hon. Members opposite produced, which emphasises the point that it is not just about substance, that it is about substance or perception:

Ministers must ensure that no conflict arises or could reasonably be perceived to arise. Ministers must scrupulously avoid any danger of an actual or perceived conflict of interest between their ministerial position and their private financial interests.

Actual substance perceived because perception matters.

Where it is decided that a Minister can retain an interest, the Minister's Department must put processes in place to prohibit access to certain papers and ensure that the Minister is not involved in certain decisions and discussions relating to that interest.

Discussions too. (**Hon. Chief Minister:** Exactly.)

470 And so perception matters, so I repeat the question, because there was a lease dated 26th ... 2016, that expired in, midway in -2021. The fact that the Attorney General's Chambers was moving to that building made the tenants of that building surrender their lease early and therefore get out of a liability of 18 months' rent. There is an obvious interest there. We can make a distinction between substance and perception, and I am saying to the hon. Member:
475 would it not, on reflection, have been the right thing to do to avoid this whole debate and rather say to the Attorney General, 'You have raised this issue, it has come from you and not from me, but I have to tell you that there will be a perceived conflict of interest and it is not in the interests of anyone for this to go further'?

480 **Hon. Chief Minister:** Well, Mr Speaker, he knows the answer to his question. Of course I do not agree with him, because I told the Attorney General the opposite of what he says. I told the Attorney General that despite the fact that I knew that it was likely that there would be such a debate in the future, if it was the right thing to do he should pursue it without my involvement and without the involvement of Mr Mena. Mr Licudi I do not think had any awareness
485 whatsoever.

And so what he has not understood is that it is exactly for that reason that I made clear that we would not be involved in the negotiation or discussion of the lease, because there would otherwise have been a perceived conflict of interest; but because we were not, it is only in the context of attempting to twist and pervert reality that a perception may so arise.

490 Is it that the hon. Gentleman is saying that it is fine for other partners of Hassans to have the benefit of being released from the 18 month obligation, but not for others? Mr Speaker, as long as you are not in executive control of the decision making, you are not in control of the driving seat of the negotiation, there can be no conflict of interest which arises actually or in substance after that point. In other words, once you take yourself out of the executive decision making and

495 you alert those who will be involved in the executive decision making of what your potential
interests would be, that is it.

Of course you can spin it, which is what the hon. Gentleman is doing. He is just trying to spin
it to try to cast an aspersion. But you could spin many things. You could spin somebody being a
500 consultant or on a sabbatical from a law firm 15 years ago, on issues relating to the island at
Queensway Quay that then materialised in a way that others have said was not entirely proper
and did not stand the test of electricity. You could spin conceding liability on a claim on a right to
light which appears to have been done in a way that is not at arm's length because of interests
and relationships between people, even if it were done in exactly the right way, because
perception can be spun, which is what the hon. Gentleman is trying to do.

505 The hon. Gentleman is just trying to suggest that we have done something to get for
ourselves a benefit, when in fact, despite the fact that we knew that it would cause us political
grief, because those who were suggesting it should be done thought it was proper, we put
ourselves apart from it and allowed the political grief to happen because it was the right thing to
do for the community and for those who it was the view of the DPP and the Attorney General
510 would be better housed in that place than any other.

Mr Speaker, we can keep going round the houses on this as much as he likes. I know he
wants to continue to go round the houses, I know that he wants to find a reason to ask me
another question because he wants to keep talking about this – because talking about this is
what he thinks is going to garner him some element of support that he cannot otherwise garner
515 for himself. That is fine. To an extent I understand that that is politics the way that they do it, but
it does not change the fact that we were very careful to ensure that there could not even be the
perception of that conflict by setting ourselves apart the moment that we were told about it.
That is the proper way to deal with things, it is the way that we have dealt with it and I am
frankly not surprised that they are trying to spin it in another way.

520 **Hon. K Azopardi:** Mr Speaker, I am not twisting the perception of reality. Nothing that I have
said, I believe, is a twist or unreality.

I have asked him questions about a lease which in fact is dated 2016 on which he is on. I have
asked him questions because that lease was due to expire midway in 2021. That is also a fact. It
525 is also a fact that by the Attorney General's Chambers getting into that property, it made the
tenants of that property give it up early, therefore saving 18 months' rent – and he is on that
document, therefore there is a perceived and actual conflict of interest.

He has talked about what processes he put in place, but I ask him ... He is the Finance
Minister as well. When it came to the crunch and the negotiations of the DPP and Attorney
530 General were at an end, someone had to sanction the deal – because the Attorney General is
not the Finance Minister and the DPP is not the Finance Minister, someone had to sanction the
deal, and he is compromised. The Financial Secretary is compromised because his name is on the
deed as well. Who then takes the decision at arm's length to make sure that there is no
perceived conflict of interest? That is the point, Mr Speaker. So, who in fact did take the final
535 decision?

Hon. Chief Minister: I see, Mr Speaker: in an attempt to say that he is not doing what I
suggested he was doing, which was to repeat things just for the sake of spinning them, he has
got up, said he is not doing it, and gone on to repeat everything just for the sake of repeating it.

540 So, let us just be clear about this. I have absolutely no compunction in the hon. Gentleman
repeating what he has said as many times as he likes, because I believe that the transaction that
he is trying to impugn is one which is absolutely and perfectly proper and that it was dealt with
absolutely and perfectly properly, not just in keeping with the existing rules but in keeping with
the rules as we would have them be, which are the ones that we apply to ourselves in respect of
545 conflicts of interest.

He says, 'Who made the final decision, therefore? If you set yourself apart and the Financial Secretary set himself apart, and you are the Finance Minister, who made the final decision?' Well, Mr Speaker, we delegated that power to make that final decision – as I have already explained to him, but I shall spell out once again – to three people, the probity of which is very
550 much in question, given the things that he has said obviously: to the Attorney General, to the Director of Public Prosecutions and to the Chief Secretary.

He will recall from the time that he was a Minister that agreements are entered into not by politicians but by members of the administration, principally the Chief Secretary. If I were to say in respect of any other transaction – forget this one – that I have made the decision, then that
555 might vitiate the signature on the document by the Chief Secretary because the Chief Secretary is the person who signs, is the person who has to make the final decision, because if the person who signs and binds has not made the decision, you impugn the decision in that way.

So, Mr Speaker, he has his answer. They have had this answer for some time. They are not interested in the answer that the Attorney General, who, as he will know, in law is considered to
560 be the fountain of justice, the Director of Public Prosecutions, who, as he will know, is the person who has been delegated to the Attorney General as a person to make decisions about prosecutions, and the Chief Secretary are the people who made that decision. How can they not have known? I have given him the answer before as to the Attorney General and the Director of Public Prosecutions and the Chief Secretary as the person who signed the document.

He can pretend as much as he likes. What is going on is obvious: he is trying to cast
565 aspersions. His sidekick was not able to do it as effectively as he thinks he can. He has got up to try and spell it out. Every time I sit down, he is going to get up again to spell it out again in the hope that it is going to somehow cast more mud that will in some way deprive me of personal support in this community and somehow drive that support to him. We can play this game as
570 long as he likes; and, if he likes, we can play it going all the way back to when he was a Minister and the things that happened at Queensway Quay and the Island – it is up to him – or other things that happened when he was a Minister.

Mr Speaker: Can I ask you just to make this the final supplementary, please? Thank you.

575

Hon. K Azopardi: Certainly.

The hon. Member, if he does not want to prolong the issue, should not go round the houses himself. He not only goes round the houses; he will need a map to get out of the maze he gets into sometimes.

Mr Speaker, I certainly cannot recall that he has spelt out who took the financial decision. I
580 know that he has said before who negotiated once he had that meeting with the Attorney General and he sent him off. I know he has said that before, but I cannot recall that he has expressed in detail this delegation to this triumvirate of officials – whom we are not casting aspersions about, by the way; we are simply trying to understand how they dealt with the actual
585 and perceived conflict of interest which clearly arose in this case.

Can I ask the Chief Minister: given that they put in place this delegation, was this delegation orally communicated, or was there a delegation in writing explaining the purpose of it?

Hon. Chief Minister: Mr Speaker, it is remarkable that the minute somebody puts it to hon.
590 Members on the other side that they are casting aspersions, despite the fact that they may have spent the past 20 minutes casting aspersions they immediately recoil from that. If they want to cast aspersions, they should have the gumption to cast aspersions and say that they are casting aspersions, because that is what they are doing.

Again it is a little the distinction between form and substance, because if they get up and
595 they say, in effect, this is all – this is what they are saying – a transaction born from conflict and designed to relieve the liabilities of those who were signatories to the 2016 lease, they should

get up and say it. They know they cannot because that is not what happened, but they try to seek to create the suggestion that that is what was happening.

600 I am reminded of the debates that there were had in this House, Mr Speaker, which did great damage to the reputation of people in 1995. When the perception of corruption was raised and people did not have the gumption to talk about corruption they talked about the perception of corruption, and in that way they ruined the reputations of many people. If hon. Members want to cast aspersions, they should have the gumption to tell us that we have acted improperly and then defend why they say that we have acted improperly.

605 We have acted entirely properly in the interests of the civil servants who required to be moved from where they were and in the interests of the taxpayer. We have divorced ourselves from decision making. We have ensured that we have delegated the negotiation and conclusion of these matters to others. We have done that orally, not in writing. I cannot confirm to him whether there may have been an email on this or whether there was just a conversation. If there
610 was a conversation, I cannot confirm to him whether there was or there was not a note, but it was all done entirely properly. But I wonder whether other Governments can say that they did things entirely properly in the past. I wonder whether, if we look into files in the past, we might not find all sorts of things which I am not even going to venture to mention at this stage.

615 Actually, it would be better for them to simply withdraw any suggestion of impropriety if that is what they are intending to do, not to cast any further aspersions, advertently or inadvertently, and not dig this community into a hole of mudslinging when we least need to do that. We need to be looking out to the challenges that we face and accept that people go to work, in particular in this Government – as, I am sure, in others, from his point of view – to do their best for the community every day and not to look out for their pocket or to look out for their liabilities in a
620 lease that might have been entered into in respect of other responsibilities that one may hold. But if they want to see the world in a different way, it does not do anything other than belittle them.

Q202/2020

James Stocks & Co –

Fees paid or payable from Government

Mr Speaker: Question 202, the Hon. R M Clinton.

625 **Hon. R M Clinton:** Mr Speaker, can the Government provide details of fees paid or payable to James Stocks & Co in respect of the Eruca transaction?

Clerk: Answer, the Hon. the Chief Minister.

630 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer with Question 203.

Clerk: Question 203, the Hon. R M Clinton.

635 **Hon. R M Clinton:** Mr Speaker, further to Question 106/2020, can the Government identify the financial advisers who are receiving fees of £2,500 per calendar month, and what services are they providing to whom?

Clerk: Answer, the Hon. the Chief Minister.

640 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the Eruca transaction involved a number of entities not owned, controlled or managed by Government and as such the Government is not

able to provide details of the transaction as a whole in respect of James Stocks & Co, or any other entity.

645 I can tell him that an annual retainer fee to act as a financial adviser for GIC Ltd is payable to James Stocks and is £2,500 per month.

650 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Chief Minister for his answer. Can he advise, given that the Eruca transaction is closed, what further services James Stocks & Co is providing that require this monthly retainer?

Hon. Chief Minister: Mr Speaker, if I am interpreting the note I have been given correctly, as a process service agent.

655 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Chief Minister again for his answer. My recollection of the functions of a process service agent may be a bit dusty, but is the Chief Minister able to confirm that the process service agent merely acts as a post box in respect of any legal agreements in respect of any potential disputes under the various agreements, and they are served on James Stocks & Co – presumably they have an address in London – and for that they are charging £2,500 a month, which, to be honest, I think seems a bit excessive?

660 **Hon. Chief Minister:** I do not know whether it is excessive or not, because I do not know what process service agents charge in London, but I told him in the course of the first answer that it was also as financial advisers, and then I have added as process service agent.

665 **Hon. R M Clinton:** Mr Speaker, my very last supplementary on this. He says as financial advisers, but as I said earlier, the transaction, as far as I am aware, is closed – unless what the Chief Minister is saying is there could be more transactions in the future on the structure, in which case they are being retained. Does the Chief Minister have any knowledge of this, or is it that this is information that is privy to the companies within the structure?

670 **Hon. Chief Minister:** No, Mr Speaker, it does not mean any of that. It means that they provide some advisory service and they provide process agent services. That does not mean that there can be other transactions in respect of the structure, although we have already alerted the whole of the community that there can be further transactions of the sort to fund future affordable housing.

675 I do not know what it is that they do as financial advisers to GIC and as process service agent, Mr Speaker. We can try and conjecture as much as we like about that, but without looking at the documents themselves and seeing what their duties are we would not be able to reach a final conclusion.

Q204/2020

GIC Ltd –

Repurchase of affordable housing interest

680 **Clerk:** Question 204, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise how it is envisaged that GIC Ltd will make a profit on the repurchase of Government affordable housing interests if these were bought for £88.5 million from GRP at book value?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, the interest purchased by GIC Ltd grows every year at 7%. This will create a profit for GIC Ltd rising at that rate per annum.

690 **Hon. R M Clinton:** Sorry, Mr Speaker, can the Chief Minister explain what he means by the housing interest? Is that the rate at which homeowners have to buy their interest, in that it is increasing at 7% per annum according to the original purchase agreement – is that correct? – at which point, in future, GIC would be making a profit compared to the book value it bought it at? Is that what the Chief Minister is saying, that there is a contractual agreement with the home purchasers that the 50% that the Government owns goes up by 7% each year indefinitely?
695

Hon. Chief Minister: Mr Speaker, I have not said the words ‘housing interest’. The hon. Gentleman said ‘housing interest’; I said ‘interest’.

700 There are no home purchasers here. The home purchasers are people who buy these properties as their homes, not those who invest in the equity at 50/50.

705 But yes, the agreement is that the growth rate is 7% per annum, and there is a reason for that. Since affordable housing was introduced in this community in the late 1980s, the leases provide for growth at 7% per annum, reaching market value at the time that the individual may wish to buy the residual 50% interest, or such other interest as he may not have bought at the time of original purchase. But subsequently the Land Management Committee of successive administrations has simply applied a 7% uplift to the price to reach the sale price, rather than have an assessment of market value. The reason for that is just because you could have many competing interests in determining what market value might be at any particular time, and so this is the way it has been done since the first equity purchases – in 1990, I think. And when purchasers then came back to Government to purchase their interests, even after the period that was prescribed for in lease as the 7% growth – I think it was 7% growth for seven years that was provided for in the leases – that continue to be applied by successive Governments going forward.
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Q205-06/2002

Government-owned companies – Allocation of contribution to recurrent expenditure

715 **Clerk:** Question 205, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government please provide a schedule with an analysis showing how the £25 million contribution to the recurrent expenditure of Government-owned companies has been allocated by company name for each of the following financial years ended 31st March, being 2015, 2016, 2017, 2018 and 2019?
720

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer with Question 206.

725 **Clerk:** Question 206, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government please provide a schedule with an analysis showing how the £30 million contribution to the recurrent expenditure of Government-owned companies is anticipated to be allocated by company name for the financial year ended 31st March 2020?
730

Clerk: Answer, the Hon. the Chief Minister.

735 **Chief Minister (Hon. F R Picardo):** Mr Speaker, yes, sir, the contribution has been as follows: for the year ended March 2015, £25 million to Gibraltar Investment (Holdings) Ltd; for the year ended March 2016, £25 million to Gibraltar Investment (Holdings) Ltd; for the year ended March 2017, £25 million to Gibraltar Investment (Holdings) Ltd; for the year ended March 2018, £25 million to Gibraltar Investment (Holdings) Ltd; for the year ended March 2019, £25 million to Gibraltar Investment (Holdings) Ltd.

740 Mr Speaker, the Government is not able to provide a schedule of the allocation of the £30 million contribution to the recurrent expenditure of Government-owned companies for the financial year ended 31st March 2020, simply because the financial year ended 31st March 2020 has simply not yet ended, as 31st March 2020 has simply not yet passed.

Q207/2020
Insolvency Fund –
Law re redundancy payments to directors of insolvent companies

745 **Clerk:** Question 207, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, does the Government intend to review the law relating to the liability of the state to make redundancy payments to directors of insolvent companies out of the Insolvency Fund?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, I am very pleased to see the hon. Gentleman back among us; I know he has not been well this week.

755 There is no liability of the state to make redundancy payments to directors of insolvent companies out of the Insolvency Fund and there is therefore nothing to review in this respect.

760 **Hon. D A Feetham:** Mr Speaker, I had somebody look at this before I asked it and I looked at it myself, and the interpretation was that a director can be an employee of a company, and therefore, as an employee – *qua* employee – of a company, they can then make a claim on the Insolvency Fund.

I know that this happened in relation to I think it was Haymills some time ago when that company went into insolvent liquidation, and I recall that there were questions actually that were raised by the Hon. the Father of the House in relation to this at the time. So, unless this has been reformed and I am not aware of it, the law continues to be what it has been, but no doubt
765 the hon. Gentleman will put me right in relation to that.

770 **Hon. Chief Minister:** Well, Mr Speaker, as to what he says that the Hon. the Father of the House may have said, he knows that, with the very greatest affection, I do not take anything that he says at face value and would have to check what it was that was actually said at the time, but the advice that I have, which has been set out very clearly and I am happy to share with him, relates to regulation 2 of the Gibraltar Development Corporation (Employer's Insolvency) Regulations 1991, which reads as follows. I am not able to tell him if this was amended at any particular time; this is the regulation as it stands. Regulation 2 defines 'worker' as being:

an individual engaged by an employer under a contract to which the Employment Regulations, 1994 apply whether that contract is –

(a) written or oral;

- (b) expressed or implied; and the
 - (c) articles of apprenticeship or any other training scheme are included, and that contract, whether written or oral, including the Articles of Apprenticeship was;
 - (d) entered into –
 - (i) in Gibraltar for employment either wholly or in part in Gibraltar or elsewhere in the European Union; or
 - (ii) outside Gibraltar for employment in Gibraltar:
- Provided that these Regulations shall not apply–
- (a) where the employer is a company, to an individual who is a director of that company;

775 Mr Speaker, for that reason, I think it is pretty clear that there is no application of the sort the hon. Gentleman believes there is.

Q208-11/2020

Brexit –

Tax treaty; MoUs; common travel area with Schengen Area

Clerk: Question 208, the Hon. K Azopardi.

780 **Hon. K Azopardi:** Mr Speaker, when will legislation in respect of the tax treaty with Spain be introduced to Parliament?

Clerk: Answer, the Hon. the Chief Minister.

785 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Questions 209 to 211.

Clerk: Question 209, the Hon. K Azopardi.

790 **Hon. K Azopardi:** Mr Speaker, how can the Chief Minister reconcile what he says about his tax treaty with Spain with what the Spanish government says it does and the actual effects it has?

Clerk: Question 210, the Hon. K Azopardi.

795 **Hon. K Azopardi:** Mr Speaker, has the Chief Minister seen the press release by the Spanish Foreign Affairs Ministry on the meeting held in Madrid on 23rd January 2020 in respect of the MoUs signed affecting Gibraltar?

Clerk: Question 211, the Hon. K Azopardi.

800 **Hon. K Azopardi:** Mr Speaker, does the Government think we should seek future arrangements by which Gibraltar would form part of a common travel area with the Schengen zone, and has this been formally or informally tabled in inter-governmental discussions or with the UK?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, the Bill to give effect to the tax treaties which we may enter into with any particular nation has been published today in the Gibraltar Gazette.

810 I am only answerable in this House for what the Government of Gibraltar says or does. I am surprised the Hon. Leader of the Opposition thinks that the Chief Minister of Gibraltar should be answerable here for what the Spanish government says or does, or their interpretation of things.

815 I have seen, of course, the press release of the Spanish Foreign Affairs Ministry on the meeting in Madrid on 23rd January 2020 in respect of the MoUs. I do not know if the hon. Member has seen the press release from Her Majesty's Government of Gibraltar of the same date. I have no doubt he will regard our Government's statement as a more reliable source of information.

820 As I have said publicly, the Government is examining various options for the establishment of a regime that will ensure frontier fluidity at the end of the transitional period set out in the withdrawal agreement. As I have also said publicly, such options include the establishment of a travel area with the Schengen Area.

Hon. K Azopardi: Mr Speaker, those four rolled-up questions spanned quite a lot, so I have a number of supplementaries, if I may, and I will take it in stages.

825 Yes, a few minutes before arriving at the House we noted that the legislation had just been published, so we will take our points in respect of that legislation in due course.

I am not suggesting to the hon. Member, in respect of the tax treaty, that I think he is answerable for what the Spanish government says; I am not suggesting that at all. He is, of course, answerable for what he says and does, and that is really what we are probing today.

830 It seems to us quite markedly different, and poignant indeed, that the Spanish Foreign Secretary recently – who has made some comments that I think Members opposite and indeed the Deputy Chief Minister has said are constructive, but Members opposite have also made the distinction that they do not agree with some things that she has said – the Foreign Secret any of Spain made it clear in an article in the *Financial Times*, which was then reported locally, that she thought that the tax treaty was important for sovereignty.

835 Does the Chief Minister agree with the Spanish Foreign Secretary that that is the effect of the tax treaty?

Hon. Chief Minister: Mr Speaker, I am grateful to the hon. Gentleman from having clarified what it is that he is asking me about. He is now saying he is not asking me to interpret or to become answerable for what it is that the Spanish government has said; he is asking me only to reflect on the things that we have said and the interplay between that and what it is that the Spanish government has said. Okay, well, that I do appreciate, but which of the things that the Spanish government has said is it that he is trying to get me to address? Is it the things that he might agree with us are constructive? Or is it their perception of why they have done a particular arrangement? If that is the case, he might want to juxtapose the position of one Minister with the position of another, one Foreign Minister with the position of a former Foreign Minister.

845 I do not know whether he has seen the exchanges that the current Spanish Foreign Minister has had today with the former Spanish Foreign Minister, Sr Margallo, about the statements that she made, because Sr Margallo has taken issue with what Sra Gonzalez Laya has said, telling her that she must not give up sovereignty in the way that they are saying that she has. So, although he might like me to comment only and dryly on what Sra Gonzalez Laya said in the *Financial Times* and the interpretation that some have given to it, I would ask him to look at the very negative perception that has been put in Spain on what Sra Gonzalez Laya has said by her second immediate predecessor Sr Margallo.

855 We are very clear: the tax treaty has not ceded one iota of sovereignty. I say 'we' because I am the leader of Government business as Chief Minister, but the Hon. the former Chief Minister, Joe Bossano, long known as the hawk of hawks on the issue of sovereignty, has said the same thing, and my immediate predecessor, who won four elections on the trot for the GSD, has said that from a legal point of view he has seen no reason to believe there is a concession of sovereignty and that, from a political view, if he had perceived the slightest concession of

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sovereignty he would have spoken up immediately. So, I would comment on what my predecessors have said and suggest that they are in keeping with and of the same view that I have taken, that my Government has taken and that my Cabinet has taken.

865 But if we were going to do the exercise of seeking to reconcile what is said by a Spanish Minister with what is said by a Gibraltar Minister, can he reconcile what the Spanish Foreign Minister at the time said about the Cordoba arrangements and about the trilateral process with what his former leader said about the Cordoba arrangements and the trilateral arrangements? In the same room, people seemed to be speaking the same language. The minute they went outside and spoke to different newspapers, they seemed to have been in different rooms
870 speaking different language. Perhaps that is the nature of diplomacy, but as far as I am concerned, everything that we have said in Gibraltar about the tax treaty, on which I am backed by the former Chief Minister and by the former, former Chief Minister, both of whom have expressed their views about sovereignty ...

I think it is very clear that there is absolutely no question of the international tax treaty
875 between Gibraltar and Spain being anything that could be characterised as a session on sovereignty, but you could say that these days, for some, it is more important to reach arrangements that are practical than to simply pursue ephemeral concepts, and if that is what Sra Gonzalez Laya was saying then I would add that to the list of what I consider to be positive and constructive. If she was saying something else, then I might not consider that to be part of
880 what I consider to be positive and constructive, but as what matters here is the substance of the treaty – which, as he knows, we take a completely different view on to him, and it is not just us, it is the former, successful, leader of his current party that takes the same view as us and at a political level he has now clarified at the legal level; and the former leader of my party, the founder of the GSLP, the hawk of hawks, Sir Joe Bossano takes that view – do you know what,
885 Mr Speaker, I am entirely comfortable in the view that I have taken.

Hon. K Azopardi: Well, I am sure that we will probe that in greater detail another day.

Mr Speaker, I think the hon. Member talks about Cordoba, but at Cordoba of course there was probably less scope for disagreement because there was a joint communique between the
890 Foreign Secretary of Spain and the Chief Minister then, because indeed it was a trilateral process – but anyway, that is an important distinction.

Can I ask, on the question on the press release by the Spanish Foreign Ministry on 23rd January – and yes, I indeed did see his, but if he has seen the press release of the Spanish Foreign Ministry, he will have been struck like I was struck, presumably, by the tone of
895 bilateralism that press release had, with which I expect he does not agree. Can I ask him whether he was similarly struck by that? And can he assure the House that in proceeding to engage with the governments of Spain and indeed the United Kingdom as we go forward, he will be careful to ensure that the arrangements are preserved so that we have a separate and distinct role in those negotiations?
900

Hon. Chief Minister: Mr Speaker, I am surprised that he prays in aid of the Cordoba agreements. I was, of course, going to mention them, as I did in my earlier intervention, because it was clear that they were relevant in the context of this debate, but the Cordoba arrangements were not agreements, as we found the moment that a different government was elected in
905 Spain. What had been sold here as agreements turned out to be political statements, we were told, which did not bear signatures and which were therefore not enforceable. And so he is wrong to say that those were in any way comparable to the arrangements today, because the arrangements today are agreements.

There are two agreements, Mr Speaker, and it is important that he bear this in mind both
910 when he goes back to read the very disparaging things that he said about the trilateral process and the Cordoba agreements when he was not in the party that he is in now and he was leading another party that he failed to lead to success, and when he analyses these agreements.

915 He is absolutely right, the Spanish statement – it is just a statement – reads in the way that the Spanish would draft it, to allege a bilateralism that is not there. Why is there no bilateralism there of the sort that they allege? For a simple reason: these are not agreements between the United Kingdom and Spain that can be characterised bilaterally in the way the Spanish have attempted to do.

920 The withdrawal agreement is indeed a bilateral agreement, a bilateral agreement between the United Kingdom and the European Union; and the United Kingdom, for the purposes of that withdrawal agreement, includes Gibraltar as part of the withdrawing member state United Kingdom. On that, Mr Speaker, the legal position is clear. It is also true, and he will be aware, that there is a concordat, signed after I agreed it with the former Prime Minister, Theresa May, at Downing Street, between me and the then Deputy Prime Minister, the Chancellor of the Duchy of Lancaster, Mr – Sir, now – David Lidington, which sets out how the responsibilities under the MoUs use are to be attributed given the constitutional rights and obligations of the different parties, namely the United Kingdom and Gibraltar.

925 And so, Mr Speaker, he can have the assurance he seeks from me that Gibraltar will always insist that anybody who properly characterises what is happening, understands it in keeping with the United Kingdom law and Gibraltar law, the withdrawal agreement and the agreements entered into between the United Kingdom and Gibraltar, and therefore cannot characterise anything that is going on as being bilateral between the United Kingdom and Spain.

935 **Hon. K Azopardi:** Mr Speaker, the Chief Minister talks about the withdrawal agreement. Of course the withdrawal agreement was bilateral in one sense, at least initially: bilateral between the Union and the UK. The protocol annexed to the withdrawal agreement is part and parcel of an agreement which is bilateral between the European Union and the UK.

940 The Chief Minister makes reference to the Cordoba agreements not being agreements and so on, but in some way seeking to suggest what precisely – that we should take comfort in the fact that they were not agreements? I think a lot of Members in this House, probably all of us, share the view that other political agreements that were not legal agreements that were not legally enforceable – the Lisbon Agreement, the Brussels Agreement – had, presumably, the same status but were objectionable to the people of Gibraltar. They were still objectionable and the Chief Minister knows that.

945 So yes, I get the distinction between political and legally enforceable, but there are agreements, that can still be of a different status, that are objectionable, and indeed I suggest to the hon. Member that he needs to be careful where in the same way that he says ‘Caution,’ to Members of the House and people out there generally, ‘do not assume that there is bilateralism just because people say that it is bilateral or give the tone of bilateralism,’ hon. Members should not assume there is trilateralism just because someone may mention that it is trilateral. I have come across press articles in Spain where they refer to ‘*tres partes*’ even though they are talks under the Lisbon Agreement, which plainly was not trilateral in nature.

950 So, what I am seeking to urge the hon. Member is that he be mindful of substance and form and that he protects Gibraltar in the negotiations in relation to all the facets. I have no doubt that he goes into those negotiations with good faith seeking to protect Gibraltar. When we were on the other side, when I was a Minister on the other side, it took us a long time to sit down with Spain at talks, and the reason for that was because structure and form were so important to us when we were on the other side of this House, and I ask him to be mindful and to seek to give assurances on that issue.

960 **Hon. Chief Minister:** Mr Speaker, I give those assurances; of course I give those assurances. Indeed, if the hon. Gentleman has followed the debate, he will know that even in the context of the presentation to the Spanish media of the decision of the Spanish Cabinet three weeks ago – the tax treaty was going to the Cortes for approval – the spokesperson Minister of the Spanish government said clearly ‘the arrangements with Gibraltar’, because that is what they are. In her

965 interview with Radio Nacional de España on Brexit day, on 31st January, the new Spanish
Foreign Minister said, 'We are going to sit down at the negotiating table with the authorities in
Gibraltar.' So, I think it is very clear that everybody understands that Gibraltar is not going to
accept anything which is in any way going to affect our ability to have a separate voice and to
have a veto over anything that applies to Gibraltar being agreed – that, and, if my mind is
970 slipping, any of the other ingredients of the trilateral forum.

But I must correct him when he says that when he was in government they did not sit down
with the Spaniards to talk and that it took them some time. Unless they were talking to the
Spaniards before joint sovereignty and they have not told us, the trilateral forum did not happen
until he was leading, or about to lead, another party and had left the executive of the GSD. I do
975 not know of a period, between 1996 and 2003 when he was in government, of them talking to
the Spanish in the context of formal talks – but if he does know, I am sure the House would be
delighted to have that historical fact set out.

Mr Speaker, everyone can be confident that the Government that I lead is not going to
compromise one iota when it comes either to Gibraltar being able to represent itself and being
980 recognised to represent itself, or on the substance of the issues of sovereignty or anything else
which is either commercially important or important in respect of jurisdiction or control.
Everybody has that assurance. People understand that the Government that I lead is not up for
any discussion that might compromise any of those issues, let alone the substance of any
agreement compromising any of those issues.

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Hon. K Azopardi: Mr Speaker, I certainly was not suggesting we were talking to Spain at any
time before joint sovereignty or when I was a Minister. What I said was that it took us a long
time. It did. It took us – us in the GSD – a long time (*Interjection*) to sit down with Spain in talks.
And I was still a member of the executive (*Interjection*) because the trilaterals commenced in
990 2004. The trilateral process of the Cordoba Agreement may have culminated in 2006 – that was
another matter.

The hon. Member can be as rude as he wants about the fact that I left the party and then
came back – because he left the party of the Member who sits on his right, even though he is
not here today, and joined the party of the Member who sits on his left, the 'hawk of hawks',
995 because it was convenient, politically expedient, for him to do so because he did not have the
guts to go and run with another political party. I have told him that before. Every time he is rude,
I can be rude back. We can play this game all day long.

Mr Speaker, on the last question, which is the issue on the Schengen zone, the common
travel area, we note what he says and are grateful for his explanations. In some quarters it was
1000 considered to be somewhat of a surprise. I am only just staring at the headline of a popular
Gibraltar daily that called it 'Picardo's Schengen bombshell' and bemoaned the fact that people
in Gibraltar seem to find out about these things after the Spanish or foreign press.

Will the Chief Minister give assurances that even though he does not give us the detail of it,
he will keep the people of Gibraltar a bit better informed than the foreign press?

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Hon. Chief Minister: Mr Speaker, the hon. Gentleman does not stop to surprise me and other
Members of this House. He now considers rude a reminder of the facts of history. I do not
consider it rude for him to say that I moved from the Liberal Party – of which I was a member
with him, and with the hon. Gentleman sitting to his right – to the GSLP. I do not consider it rude
1010 at all. The characterisation that I did it because I do not have guts might be considered by some
with thinner skin as being rude, but I obviously did it because I am a much shrewder politician
than him and I got to the chair that he wants sooner than he has been able to (*Interjections and
laughter*) and at the first shot, Mr Speaker. (*Interjections*) At least I did not have to compromise
my principles when I did that, because by then the leader of the party to my left had done an
1015 agreement with the leader of the party to my right some years before and they were already
defending a joint manifesto. So, I do not see why I should be, for one moment, concerned about

that, for defending a joint manifesto, which means you are defending the same principles, which means you do not have to compromise your principles to make the move.

1020 But of course I understand that this hurts him, Mr Speaker, because having moved four times from political stable – from the National Party to the GSD, from the GSD to the PDP and from the PDP back to the GSD – he has a thinner skin than most when it comes to these issues, and of course in that context, when those parties were fighting elections against each other, you have got to have a strange definition of ‘principle’ to try and suggest that it is others who are bending. But never mind. I do not regard it as rude at all. He must not for one moment think that, 1025 Mr Speaker. I regard it as quite entertaining to see him twist in the wind. He will not have a problem with me if what he wants to have is a debate about the history of our respective political leanings. I have always leant in one direction. He has leant left, he has leant right, he has left, he has leant right. He reminds me of the hon. Gentleman whom I have always regarded as a stalwart soldier of Gibraltar politics, because I see Mr Feetham sometimes marching politically 1030 left, right, left, right – we just do not know which side he is on at any particular time.

But despite that, I am surprised that he is trying to gain some kudos for having been involved in the trilateral etc. Well, Mr Speaker, the things that he said about the trilateral process and the Cordoba agreements which I have had cause to read recently can best be regarded as rude about the people he now shares a bench with and the way that they defended those 1035 arrangements. Indeed, there is a very entertaining exchange in one of the local dailies between the former member of the GSLP, then member of the Labour Party and leader of the Labour Party, then member of the GSD, who was deemed by some not to be of GSD stock and therefore led to some leaving the GSD, having left previously the National Party to form the PDP, which was progressive, to come back to the Christian Democratic ... GSD, which is very entertaining 1040 indeed. One was defending the Airport agreement, saying it was fantastic, and the other one was saying it was the greatest treachery since treachery was invented. So, history, as he knows, is always going to treat us better than him because it is going to be written by the Deputy Chief Minister, who is the only historian in this House. (*Interjection Hon. Ms M D Hassan Nahon*) But when it comes ... I thought you were a journalist.

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Hon. Ms M D Hassan Nahon: I am an art historian.

Hon. Chief Minister: Oh, I see, okay. Well, as one tries to paint the picture of what is happening in Gibraltar as artistically as possible, I hope the hon. Lady will also treat us well.

1050 Mr Speaker, the hon. Gentleman, in relying on another newspaper to say that somehow people have been surprised by what he characterised, or he said the newspaper characterised as ‘the Schengen bombshell’, he would be failing to bring his own forensic skills to the analysis of the Schengen debate. If he is relying on that publication for that particular article, he would be forgetting to analyse the statements we have made repeatedly on this subject, starting with the 1055 visit to Gibraltar by Danny Alexander when Mr Alexander, as a member of the Liberal-Conservative Government in the United Kingdom – I think he was Exchequer Secretary to the Treasury – came to Gibraltar. I had cause to say then that Gibraltar should consider the possibility of accessing Schengen and indeed consider our position in the common customs union, and that was supported, as he will have heard me say before – but he appears to have 1060 forgotten, preferring the publication he is referring to – that Celia Malmström, who was then responsible for immigration in the European Union, had supported the fact that Gibraltar should explore this possibility and that subsequently the Minister for Europe, then David Lidington, now Sir David Lidington, had also supported the possibility of the exploration of Gibraltar’s inclusion in Schengen. That is some five or six years ago. So much for the bombshell, Mr Speaker.

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So, the hon. Gentleman will allow me to say that I think he needs to brush up a little on his history, and that when he does and he brings the facts to this House I will not regard any of what he says as rude, as long as he does not refer to my entrails.

Q212/2020

Public contracts –

Non-contractual controls re fairness and abuses

Clerk: Question 212, the Hon. K Azopardi.

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Hon. K Azopardi: Mr Speaker, what non-contractual controls are in place to supervise, monitor, assess the performance of and ensure that public contracts are fairly priced and that the risk of abuses is minimised and dealt with when identified?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the Government introduced a purchasing and procurement policy on 28th March last year. This is a Government-wide policy which lays out policies, procedures and an ethical code when dealing with suppliers, to be adopted by Government organisations when sourcing goods, services and/or works.

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In this respect, the digital transformation programme introduces sourcing, ordering and payment platforms which also affect procurement. These platforms, together with robust reporting tools and audit trails, simplify and provide a greater level of supervision and monitoring of Government spending on procurement. The rollout of these platforms is currently under way.

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Any spend below Government's tender threshold must be in accordance with the purchasing and procurement policy. Below tender threshold sourcing is limited to suppliers who have achieved the status of preferred supplier on Government's supplier network portal and determined using a price-only criteria.

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The purchasing and procurement Policy, and in particular the new procedure for below tender sourcing, is increasing competition and transparency of Government spend and allowing the market to price itself.

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Hon. K Azopardi: Mr Speaker, does the purchasing and procurement policy also impact on subcontracts entered into by public contractors?

Hon. Chief Minister: Mr Speaker, I do not think that there are any public contractors other than the ones that I have referred to.

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Hon. K Azopardi: What I mean – the hon. Member has perhaps not understood my question – is these controls as policy are non-contractual controls on the pricing of public contracts. Once there is a contract in place, if there is any degree of subcontracting does it impact on ...? Are there rules that also affect that, the pass on.

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Hon. Chief Minister: Mr Speaker, this system ensures that the price that we obtain is checked against every other price on the market and in that way must be affecting the pricing of subcontracts because the Government is getting the best price for the taxpayer.

Are there controls through into the pricing through to the subcontractor? I do not think there ever have been and I think it would be very difficult to reliably have any such mechanism in place.

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Hon. K Azopardi: Mr Speaker, is this purchasing procurement policy contained in some kind of document or rules that the Members opposite could give us a copy of, firstly?

And secondly, who precisely has the duty to supervise this policy? He may have said it in his principal answer, but he was giving quite a lot of information.

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1120 **Hon. Chief Minister:** Mr Speaker, these matters are run by the Government's Procurement department, but they are run electronically now, and this is the point – that they are run on the basis of having to have the information inputted into the portal, and therefore what comes out of the portal is assessed as being – and that is why I have said the price-only basis – the best price for 500 HB pencils, for example.

1125 **Hon. K Azopardi:** And in respect of my question as to whether there is a written document, does he know that?

Hon. Chief Minister: Mr Speaker, I do not know that. I do not want to assume anything. I believe that there will be something that can be extracted in writing, but I do not know that it has been circulated as a memorandum.

1130 **Hon. K Azopardi:** Can I ask the hon. Member perhaps to inquire whether there is such a document; and, if so, perhaps he could give us notice of it. If he wants us to ask the question specifically again, we can, just to remind him perhaps.

1135 **Hon. Chief Minister:** Mr Speaker, I am happy for the hon. Gentleman to either write to me or to ask the question again.

This is the successor in title, so to speak, of the policy that we have shared with the House before, which sets out the criteria for procurement and how it had to be done, but because it is now been done electronically it is done through this portal. That is why I am telling him I do not know whether this has been circulated as a document, as it used to be before, which is what he has asked me about.

1140 If he asks me next time or if he writes to me, I will extract the substance of it and either read it to the House or let him have a copy of it.

1145 **Hon. K Azopardi:** And just finally, if I understand it correctly, the pricing is done on filling in this form and through the electronic portal on a sort of self-referral basis, I suppose – I am not sure how best to short-circuit the description of it. But what happens next? There may be an adjudication of a contract, but in terms of actual performance, does the Government Procurement Unit then go out on the ground and have discussions with contractors as necessary?

1150 **Hon. Chief Minister:** Mr Speaker, the way the system works – which I think I have explained – is if you want to be on the portal you have to be licensed with your trade licence as you go into the portal and you need to maintain that up to date, otherwise the portal rejects you; you need to be up to date with your tax and social insurance contributions, and if you do not the portal rejects you and rejects your contribution; you have to be registered with the Department of Employment in Gibraltar, and if your registration lapses the portal rejects you. This is all done now ... I hesitate to call it AI, but it is done electronically. If your registrations fail, you are not able to provide the quotes – you are unable to go into the platform to provide your quotes. And then the quotes are assessed on the basis of the price to market – in other words, which is the cheapest of what we are being offered – to ensure that people are not able to favour one or another on the basis of knowing who might be making a particular offer and then making the best choice.

1160 I hope that explains the way the system works and why I think the question he has asked does not go to the way that this system ensures that we are getting the best value for the taxpayer in respect of the procurement that we are doing.

Hon. K Azopardi: Mr Speaker, I am grateful for that, but those mechanics ... As I understand it, what he has indicated is there are a number of hurdles at which, to put it loosely, computer

1170 can say no and reject you from your application. But if you are then adjudicated the contract for
baked beans to the Government, for example, what I was really asking is who then assures not
just that the price of the baked beans is the best possible but that actually the backed beans are
of good quality? I am talking about quality assurance. Does the Procurement Unit then,
subsequently, after adjudication, is there any kind of monitoring of quality and performance in
that way?

1175 **Hon. Chief Minister:** Well, Mr Speaker, the Procurement Unit will be the place where those
who enjoy the benefit of the procurement would go to complain if the quality were not what
they were expecting. We do not expect those in Procurement to try the beans, but those who
have the beans would come to Procurement to tell them that they are not of the required
1180 quality. I do not know whether that helps them to understand the price of eggs.

Hon. K Azopardi: Well, baked beans in this case. From that, I take it that the hon. Member is
saying to this House ... Am I right that in fact there is no quality assurance mechanism other than
informal reporting to those who adjudicated the price of the putrid baked beans?

1185 **Hon. Chief Minister:** Quite the opposite, Mr Speaker. I do not know whether he has
understood what I have explained, because it would be quite something to have somebody who
is not an expert in the thing procured be the filter of quality.

If the person at Procurement is asked to procure a thing like, for example, food to be used in
1190 our hospitals or elderly residential services and he is required to taste it, then he or she might be
the wrong filter, whilst the best filter ... The most appropriate way to ensure that we are getting
the quality is to have direct contact through to those who take the benefit of the procurement,
so that they do not do anything informally, they actually consume, and if the consumption of the
commodity which has been procured is not to the standard required, it can be stopped
1195 immediately by formally advising Procurement to stop the procurement of that commodity from
that entity, person or company because it is not up to the required standard. I would have
thought that is the best possible filter – in other words, giving those of our citizens or civil
servants who have to use the thing procured the ability to determine that what is being
procured for them has or does not have the quality that is required. Otherwise, Mr Speaker, we
1200 would be putting in place a system that would not be producing what the citizens or the civil
servants who have to use the things that are procured would have any feedback on, and I would
regard that as not being satisfactory.

Q213-17/2020
Abortion law referendum –
Consultation with Opposition re rules and subsidiary legislation

1205 **Clerk:** Question 213, the Hon. K Azopardi.

Hon. K Azopardi: Mr Speaker, when will the Opposition be consulted on the draft neutral
information document to be sent by the Referendum Administrator to persons eligible to vote in
the forthcoming referendum on 19th March 2020?

1210 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer with Questions 214 to 217.

Clerk: Question 214, the Hon. K Azopardi.

1215 **Hon. K Azopardi:** Mr Speaker, when will the motion proposing the draft neutral information document to be sent by the Referendum Administrator to persons eligible to vote in the forthcoming referendum on 19th March 2020 be presented?

Clerk: Question 215, the Hon. K Azopardi.

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Hon. K Azopardi: Mr Speaker, why were the Opposition not consulted on the draft of the Crimes (Amendment) Act Referendum Regulations 2020 introduced on 7th February 2020 for the purposes of the forthcoming abortion law referendum on 19th March 2020?

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Clerk: Question 216, the Hon. K Azopardi.

Hon. K Azopardi: Are any other rules or subsidiary legislation envisaged for introduction under the Referendum Act or any other Act for the purposes of the forthcoming abortion law referendum on 19th March 2020?

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Clerk: Question 217, the Hon. K Azopardi.

Hon. K Azopardi: Will the Opposition be consulted on any other rules or subsidiary legislation that may need to be introduced under the Referendum Act for the purposes of the forthcoming abortion law referendum on 19th March 2020?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the hon. Member opposite has already been sent a draft of the document by the Referendum Administrator for his comments, I understand.

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Additionally, he will note that the motion proposing the approval of the said neutral information document is on the Order Paper for consideration at this meeting of Parliament.

Given the time constraints, it was not possible to consult hon. Members on rules for the referendum and neither did the rules go beyond what was debated during the discussion of the earlier motion on this subject in this House.

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It is not envisaged that any other legislation will be necessary, and thus there will be no need to consult any further.

As far as I am concerned, Mr Speaker, the important thing now is for people to register to vote, if they have not done so already, to go out to vote on the day and to vote yes to protect the rights of women.

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Hon. K Azopardi: Mr Speaker, yes, we have been consulted on the draft neutral information document, and I wonder whether the tabling of our question prompted that, on the Saturday indeed, after the Friday I received the neutral draft information document in draft. But be that as it may, yes, we have received the document and indeed we note that the motion will be taken in this session of Parliament.

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We note also what the Chief Minister says about consultation on the rules. It was our understanding, I have to say, that there would be some consultation on the rules. The motion had been presented by consensus. There had been a degree of conviviality – to use the Chief Minister's word that he has used from time to time in the better moments in this House – at that time. I certainly will not be drawn when we are discussing these questions – or indeed hopefully when we are adopting a more neutral and fair tone, which is I think the purpose of the neutral information document – as to how people should vote. We will no doubt express our views on this side of the House in due course, but it was our understanding that there would be consultation.

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Does the hon. Member agree with me that it would have been better for there to have been a bit of consultation on those rules and that indeed, as a matter of practice, when there are rules that are contemplated in respect of elections or referenda, there should be such consultation of Members opposite? Indeed, there was consultation before the last election when there were rules that were contemplated for the introduction of proxy voting, for example. So, does the hon. Member agree that, as a matter of principle, really we should avoid, that there should be rules introduced by regulation in respect of referenda and indeed elections?

Hon. Chief Minister: Mr Speaker, the hon. Gentleman is absolutely right that it was his question that prompted that he should be sent the information document on a Saturday. I had, of course, in mind that the House should have the neutral information document in order to be able to debate the motion, but given that he asked on the Friday and I knew the House was meeting this week I saw no reason why I should not ask that he should have it that day so that he had the benefit of the weekend to consult it, rather than during the course of the week, as I would have been happy to spend time consulting with him on the issue of the rules.

But the rules unfortunately took time to draft, I was unable to look at them before and we were running out of the time set out in the legislation to publish them – and they did only the things that we had debated during the course of the first, convivial, motion on the subject. The things that should be in rules, that we had agreed should be in rules, were put in rules, and they are indeed a carbon copy almost of the rules that he reminds us there was consultation on before the General Election on those issues.

So, Mr Speaker, yes, I wish we had had more time to consult with him on these dry legal issues; but no, I do not think that anything has turned on it.

Mr Speaker, the hon. Gentleman refers to the better times in this House being convivial. Well, I do not think there have been any bad times in this House since he has been elected. If he wants to see what a bad time in this House looks like, he needs to go back to the day when some of us were called unfit to govern and transcripts of Facebook videos were referred to as grubby publications, etc. – none of that on my own rather lighter watch than the sorts of things that he might have seen before in this House. Indeed, Mr Speaker, I have not heard the *Imperial March* for ages, even on the hon. Member's phone. (*Interjection*)

Mr Speaker, as to neutrality, the Government, of course, during the course of the debate on the motion that I brought to determine the neutral information document, will seek to ensure that the House is satisfied that the neutral information document is neutral. But in my position as Chief Minister I have expressed repeatedly and I will continue to express, and I will express it during the course of these debates, or not, as may be appropriate, because the debate does not have to be neutral – it is the conclusion that we reach as information that we send to all voters that has to be neutral.

Q218-20/2020
GJBS subcontractors –
Monitoring of contracts; termination of workers' contracts

Clerk: Question 218, the Hon. K Azopardi.

Hon. K Azopardi: Mr Speaker, does the Government have any say on which subcontractors are engaged by GJBS and on the monitoring of such subcontracts?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer with Questions 219 and 220.

Clerk: Question 219, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: Why is GJBS, a Government-owned company, terminating the employment contracts for workers in subcontracting firms?

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Clerk: Question 220, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: Can Government confirm how many workers have lost their jobs as a result of GJBS terminating contracts with subcontractors?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, GJBS has acted commercially, at arm's length and independently since its inception and has not had any political involvement since its commencement of operations, at least whilst we have been in office.

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The Government is not able to provide any information on workers who have lost their jobs with subcontractors, or been told that they have lost their jobs with subcontractors as a result of GJBS work streams coming to an end, with any degree of accuracy.

The hon. Lady should, however, note that no one has alleged that GJBS have terminated any contracts with subcontractors. What has been referred to is that contracts have come to an end, not that they have been terminated – in other words, there has been no termination of a contract that is on foot.

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Hon. K Azopardi: Can I just ask, on the question that I put ...? The Hon. Member, I think, when he used the phrase that there has not been any political involvement, must have been addressing the question that I put. I was not suggesting there was political involvement; all I am saying is ... What I was asking about is: is there some kind of rules to which that perhaps have been put in place? GJBS is a wholly owned Government company. Does it have to adhere to certain rules in the adjudication of subcontracts by it? That is really what I was probing. And if so, what are the rules that it adheres to? Or is it free to the operatives of GJBS to subcontract without reference to Governmental control – I was not talking about political control – some kind of procurement office kind of influence? That is really what I was asking.

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Hon. Chief Minister: I see, Mr Speaker. What led me to think he was asking about political interference was the words 'does the Government have any say on?' but if what he is asking is actually now more clearly set out, given his supplementary, then I can tell him that we ensure that all Government entities, even if they are independent, are subject to the same Government rules, and so therefore the rules on procurement that would apply to us apply to them. They have to follow in the context of these sorts of services: the three quotes system; those they contract with have to be approved Government contractors registered with the ETB, registered with PAYE and Social Insurance and up to date in respect of all of those, etc.

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Hon. K Azopardi: And then, just pulling that thread, therefore also subject to review and supervision by the same people? Is that right?

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Hon. Chief Minister: No, Mr Speaker, the supervision is done by the management team of GJBS.

Hon. K Azopardi: So, in terms of adjudication of the subcontracts, they have got to comply with the same rules as the Government has for itself, but in terms of the supervision – the tail end, as it were – that is left to them? There is no value-for-money supervision by the Government itself?

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Hon. Chief Minister: That is not what I have said, Mr Speaker. This is something he needs to, I think, better understand. If GJBS or indeed another contracting entity contracts with the Government to build something for the Government and they want to subcontract, then our rules say, 'You must subcontract only those whom the Government would be prepared to contract with and you must do so in the way the Government would contract with them to ensure value for money. That is to say you must obtain three quotes and you must show, unless it is under a particular threshold,' as the hon. Gentleman has just been told ... if it is above that threshold, it has got to be the best of those three quotes.' And then what there is, in terms of a control, is a control on the price being charged to the Government by GJBS or by any other entity, and that control is exercised by the Chief Technical Officer and those who work with the Chief Technical Officer who have supervision of all those contracts for the Government, almost on a QS basis and the QSs that may be there also for either GJBS or any other company that we have contracted with. They will have to QS their subcontractors also in order to bring in the contract to the price agreed with the Government.

Hon. Ms M D Hassan Nahon: Mr Speaker, thank you to the Chief Minister for his answers. I appreciate the substance of what he has said and that perhaps my wording should have been more about non re-engagement rather than termination. If he will allow me to go with that, I could still ask him: given that that GJBS is a Government-owned company, even though there has been no re-engagement for these subcontracted firms, what type of responsibility anyway would the Government take, considering we are going to have redundancies or job losses? I know that the Government is often very proud of the low rate of unemployment in Gibraltar, so obviously this is going to cause a surge in unemployment. How does the Government deal with that?

Also, what does it actually imply on the whole, in general, that a Government-owned company is not re-engaging subcontractors? What does it mean? Does it mean that construction is shrinking, there is no need?

Also, there is a lot of talk that ... I have had subcontractors coming to me, telling me that there has been a delay in getting paid, in payments. Is the company in financial difficulty, which may be leading to such a lack of re-engagement?

Can the Chief Minister give us some light on all these factors which appear to be shrinking in terms of the company?

Hon. Chief Minister: Mr Speaker, I want to be careful in the way that I answer the hon. Lady. There is no financial issue afflicting the ability of GJBS to pay.

There are always issues between companies when it comes to payments, in particular at the end of construction contracts. If this is now my third term as Chief Minister ... I do not say that just for the sake of gloating, as the hon. Gentleman will suggest I am, but simply because I have lived through this process now on a number of occasions.

I have answered a very similar question from members of the Spanish media recently, who have thought that Brexit somehow is affecting the number of people who are contracted in our market as cross-frontier workers. There is no such effect, Mr Speaker.

What is happening, much as we saw in 2011 and we saw in 2015 and we are now seeing again, is that you come to the end of an electoral cycle; you therefore come to the end of those of us who do not have Caruana virus thinking that we have an obligation to deliver what we have said in our manifestos we are going to deliver. When we have done that, or got as close to that as possible before a General Election, the contracts are completed. There is a new manifesto. Those of us who do not regard it as a wish list then have to start the process of delivering against that manifesto. That manifesto is, when you win the election, if you have done it properly ... In some instances in 2011 we found Government plans were in the GSD manifesto, so you could have gone from the John Mackintosh Hall to the Chief Technical Officer the next morning and said carry on. For us it is different. The plans in our manifesto are the plans of the

1415 political party. They become the plans of the Government the morning that we are sworn in. Those plans then have to be given to the civil servants and say, 'This is the mandate of the people.' You have a hiatus in that process, where projects are finishing or finished, the subcontractors tend to go on to do other work, and then, when the Government companies are ready to develop the new projects, there is a re-engagement or new contracts which lead to the uptake again.

1420 We saw it in 2011-12, then we saw it in 2015-16, and now we are simply seeing it again. It is the up and down of the construction industry. So, as the new Government projects start to take off, you will see many companies in Gibraltar – GJBS is one, because the Government owns the shares in it, that tends to have a lot of the Government work – starting these projects and you will start to see people engage once again as subcontractors, and in some instances those subcontractors will have more work and will engage other workers.

1425 This is a pendulum that we have seen moving in the context of completion of Government contracts and restarts of Government projects on a Parliament to Parliament basis now, I think, for generations in Gibraltar, so there is absolutely no need to have those concerns.

1430 The hon. Lady will know – she has had the information from the Hon. Minister for Housing – that we are now almost complete on the sales of Hassan Centenary Terraces. I told the House that we had commenced the work down at the East Side reclamation in respect of Hassan Centenary Terraces. That, the House knows, was adjudicated to Casais, so they have started work. There is the adjudication of two other housing projects, Bob Peliza Mews and Chatham Mews, to come as well, which will give rise to more people having to be employed. There are schools to be built. There is a magnificent manifesto to deliver before the next General Election and so there should be absolutely no difficulty whatsoever.

1435 But because you come to the end of a contract, there is an adjustment then for payments in respect of things which may be disputed or not disputed, and there is also something called a 'retention'. At the end of any construction period the principal contractor will suffer something from the contracting party – usually, in the context of these Government projects, the Government – which is known as a retention, and the principal contractor will also inflict that retention against its subcontractors. That retention is to ensure quality of work etc. It is usually about 10% at the end of a contract and it is not paid for a period of 12 to 24 months, depending on the contractual arrangements that have been done. I do not know whether that is the issue that has been perhaps misinterpreted by some to be some issue with the financial health of GJBS.

1440 I can tell something to the hon. Lady which might be helpful, if she likes, and everyone can hear it. I have said it before and other Chief Ministers have said it before that the Government of Gibraltar will always stand behind a Government of Gibraltar company, so there is no question, even if a Government of Gibraltar company did not have money, that the Government of Gibraltar would allow it to fall, because it would affect the credibility and credit worthiness of the Government of Gibraltar. So that is not in any way an issue, full stop.

ECONOMIC DEVELOPMENT, TELECOMMUNICATIONS AND THE GSB

Q193-95/2020

Government borrowing –

Barclays Bank Plc and Royal Bank of Scotland International Ltd

Clerk: We now return to Question 193. The questioner is the Hon. R M Clinton.

1455

Hon. R M Clinton: Mr Speaker, can the Government advise the individual level of gross borrowing from Barclays Bank Plc and Royal Bank of Scotland International Ltd (trading as NatWest International) respectively as at 31st October 2019?

1460 **Clerk:** Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

Minister for Economic Development, Telecommunications and the GSB (Hon. Sir J J Bossano): Mr Speaker, I will answer the question together with Questions 194 and 195.

1465 **Clerk:** Question 194, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise if it intends to refinance the £50 million Barclays facility that matures on 29th June 2020 by causing the Savings Bank to purchase new Government debentures?

1470 **Clerk:** Question 195, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government explain why Royal Bank of Scotland International Ltd made it a condition precedent that all existing borrowing had to be repaid (as per schedule, 1 clause 3.1) in respect of the entering into force of the £75 million credit facility dated 10th October 2019?

1475 **Clerk:** Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

Minister for Economic Development, Telecommunications and the GSB (Hon. Sir J J Bossano): Mr Speaker, the gross borrowing as at 31st October 2019 was £50 million from Barclays Bank and £75 million from NatWest International.

1480 It is intended to refinance the £50 million facility in June 2020. A decision on the source of refinance will be taken nearer the date.

The answer to the question on the decisions taken by the Royal Bank of Scotland International Ltd is no.

1485 **Hon. R M Clinton;** Mr Speaker, I am grateful to the Minister for his Answer.

1490 Given that the maturing Barclays facility of £100 million was not renewed with Barclays and they have £50 million coming up, and that NatWest made it a condition precedent that existing borrowing either as an existing £50 million facility be repaid before lending £75 million, would the Minister agree with me that NatWest's total appetite for Gibraltar is £75 million and Barclays is unlikely to renew their £50 million? Would the Minister agree with me, with that analysis?

Hon. Sir J J Bossano: Well, my understanding is, in fact, that the terms on which Barclays Bank was willing to renew the £50 million were not acceptable to the Government because we could get better terms than the ones they were offering. So it is not the case that they had no appetite; their appetite came at a price that we were not prepared to pay. That is my understanding of the situation as far as Barclays is concerned.

1500 As far as NatWest, it was the view in the Treasury that it was preferable to have one loan agreement with £75 million than allow the existing one to continue and make a new one for £25 million.

1505 **Hon. R M Clinton:** I am grateful to the Minister for his Answer.

1510 If he could just answer one last question in relation to Question 194 – and I can guess the answer, but if he could confirm to the House that from his point of view he would have no problem with the Savings Bank taking on the £50 million Government debt if Barclays were not willing to renew or there was no other source to renew it or to replace it.

Hon. Sir J J Bossano: I think I have said before, Mr Speaker, that if it was my decision it would be done by the Savings Bank.

Adjournment

1515 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I move that the House should now adjourn to tomorrow at 3.30 p.m.

Mr Speaker: I now propose a question, which is that this House do now adjourn to Friday, 21st February at 3.30 p.m.

1520 I now put the question, which is that this House do now adjourn to Friday, 21st February at 3.30. Those in favour? (**Members:** Aye.) Those against? Passed.

The House will now adjourn to Friday, 21st February at 3.30 p.m.

The House adjourned at 5.16 p.m.