



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 9.25 a.m. – 9.40 a.m.

Gibraltar, Thursday, 21st November 2013

The Gibraltar Parliament

The Parliament met at 9.25 a.m.

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

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

PRAYER

Mr Speaker

Order of the Day

Clerk: Meeting of Parliament, Thursday, 21st November 2013.

(i) Oath of Allegiance.

CONFIRMATION OF MINUTES

Clerk: (ii) Confirmation of Minutes – the Minutes of the last meeting of Parliament which was held on 17th, 18th and 29th October 2013.

5 **Mr Speaker:** May I sign the Minutes as correct? (**Members:** Aye.)

Mr Speaker signed the Minutes.

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COMMUNICATIONS FROM THE CHAIR

Whether Government Ministers misled the House
Ruling by the Speaker

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Clerk: (iii) Communications from the Chair.

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Mr Speaker: This is the first time that I am formally ruling on a matter raised by the Leader of the Opposition. It is not very often that the Speaker, either here in this Parliament or perhaps in any other parliament is asked to make a ruling. Accordingly, I have checked with the Office of the Clerk of the House of Commons as to whether a Member of Parliament is entitled to rise and respond to a ruling.

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The position in the House of Commons is that a Member will not be allowed to rise and respond, or even reserve his position, as this would in effect be challenging the ruling. The correct formal step for a Member who is dissatisfied would be to table a formal motion stating his opposition to the ruling clearly.

Now as to the matter at hand.

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As Members are no doubt aware, the Leader of the Opposition has been in correspondence with me, seeking my adjudication on an allegation that Government Ministers had misled Parliament when answering questions in relation to the Sunborn Floating Hotel.

Having studied our Standing Rules and Orders, consulted the edition of 'Erskine May' currently in use and after consulting the Office of the Clerk of the House of Commons, I responded with a ruling which I think should be placed on the record so that all Members should be aware of the salient points contained therein.

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In the Leader of the Opposition's letter of 17th July 2013, he asked that I rule on:

'whether:

- (a) the deliberate misleading of Parliament by a Member is capable of amounting to a contempt of Parliament; and
- (b) you have the power on a complaint by another Member that a Member of Parliament has deliberately misled Parliament and therefore acted in contempt, to rule that a *prima facie* case has been established?'

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The following extracts from my replies to the Leader of the Opposition constitute my ruling:

(1) Erskine May, at page 203, sets out the breaches of parliamentary privilege which could amount to a contempt. These include circumstances where the business of the House is obstructed or impeded.

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Up until the present time, and noting the Leader of the Opposition's dissatisfaction with the answers given to his questions, but in no way judging the issue, I fail to see how it can be held that the business of the House was impeded so as to constitute a contempt. Nor, again, do I consider that the business of the House was obstructed or impeded.

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(2) There is no provision in our Standing Rules and Orders to deal with cases regarding allegations of a Minister misleading Parliament when answering a question. This is also the position in the House of Commons. In not giving the Speaker the power to adjudicate on allegations or complaints that a Minister has misled Parliament when answering questions, the Speaker is being safeguarded, probably intentionally, from being placed in an untenable situation. Never-ending instances would, no doubt, arise whenever a Member was not satisfied with an answer, when the Speaker would be expected to adjudicate on allegations that Parliament had been misled.

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(3) I have also asked the Office of the Clerk of the House of Commons as to what courses of action in Parliamentary terms are open to the Opposition, should they consider that the Government have misled Parliament. They have replied that:

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'Purely procedurally, if a Government Minister is accused of misleading the House then:

- (a) Either the Opposition could approach the matter politically, with motions of censure, confidence etc, or
- (b) If they felt that a particular Member (in this case a Minister) had misled the House then another Member could make a complaint in the normal way for the matter to be treated as a matter of privilege and referred to the Committee of Privileges.'

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Since we do not have a 'Committee of Privileges' in our Parliament to whom the matter can be referred, only (a) above would seem to be relevant.

That is the end of my ruling, and I am providing all Members with a copy of this ruling.

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Clerk: (iv) Petitions; (v) Announcements.

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DOCUMENTS LAID

Clerk: (vi) Papers to be laid.
The Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to lay on the Table the Audited Accounts of the Gibraltar Regulatory Authority for the year ended 31st March 2013.

Mr Speaker: Ordered to lie.

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Clerk: The Hon. the Minister for Enterprise, Training, Employment and Health & Safety.

Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano): Mr Speaker, I have the honour to lay on the Table the Social Security (Insurance) (Amendment of Benefits) Order 2013 (Legal Notice 131 of 2013).

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Mr Speaker: Ordered to lie.

Clerk: The Hon. the Minister for Tourism, Commercial Affairs, Public Transport and the Port.

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Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa): Mr Speaker, I have the honour to lay on the Table the Report of the Principal Auditor on the Accounts of the Gibraltar Port Authority for the financial year ended 31st March 2012.

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Mr Speaker: Ordered to lie.

Questions for Oral Answer

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Questions from 690/2013 to 706/2013 to be answered in writing

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Clerk: (vii) Reports of Committees; (viii) Answers to Oral Questions.
Question 690/2013, the Hon. J J Netto.

Hon. J J Netto: Mr Speaker, I would like my Oral Questions from 690/2013 to 706/2013, both included, to be treated as Written Questions instead.

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Chief Minister (Hon. F R Picardo): Mr Speaker, the Government will not object to that application made by Mr Netto, but it is a matter, in my view, entirely for the Chair.

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Mr Speaker: There is nothing in the Rules to cover this situation. Where it is... Members of the Opposition who desire that questions should be answered in a written form, prior notice is given to that effect, and likewise, when notice is given that questions are down for an oral answer, separate notice is given.

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The only situation, once notice of a question has arisen, where written answers are provided to questions which were meant for oral answer, is when a Member due to ask that question is not present. If that Member is absent, and no other Member in his or her place asks that question, then a written answer is given.

Since the Government has no objection, I am not going to object to that being the case, but I do wish to make the point that it is not covered by Rules, and that therefore it should not be taken as a precedent.

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Procedural

Chief Minister (Hon. F R Picardo): Mr Speaker, given that Questions 707 onwards are to be answered by me, and we have established a precedent in this House that the Chief Minister answers

135 Questions on the third Thursday of each month at 3.00 p.m., I now move that the House recess until 3.00 p.m. this afternoon.

Mr Speaker: The House will now recess to 3.00 p.m.

140 *The House recessed at 9.40a.m. and resumed its sitting at 3.00p.m.*