



Procedure Committee

Oral evidence: Procedure of the House of Commons and the territorial constitution - 29 01 24, HC 323

Monday 29 January 2024

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[Watch the meeting](#)

Members present: Dame Karen Bradley (Chair); Nickie Aiken; Kirsty Blackman; Samantha Dixon; Chris Elmore; Patrick Grady; James Gray; Nigel Mills.

Questions 119-173

Witnesses

I: Hon Fabian Picardo KC MP, Chief Minister of Gibraltar and Hon Dr Joseph Garcia GMC MP, Deputy Chief Minister for Gibraltar.

II: Hon Teslyn Barkman MLA, member of the Falkland Island Legislative Assembly and Hon Joseph E. Farrell, Premier of Montserrat.

Written evidence from witnesses:

- [HM Government of Gibraltar \(TTC 22\)](#)
- [Falkland Islands Government \(TTC 24\)](#)



Examination of witnesses

Witnesses: Hon Fabian Picardo KC MP and Hon Dr Joseph Garcia GMC MP.

Q119 **Chair:** Thank you very much for coming today. The Procedure Committee has been working for nearly four years on this inquiry. When it started, it was about how the UK Parliament—the Westminster Parliament—interacts with our devolved legislatures around the United Kingdom. We did have a little distraction called covid, which meant quite a lot of work for the Committee in working out how our procedures might cope with covid, but we have been able to focus on this inquiry pretty much since covid.

One thing that has come out of our work is that we recognise that what Westminster does has an impact not just on devolved legislatures, but on the Overseas Territories. We are very keen to make sure that we have a chance to build into our recommendations the thoughts of the Overseas Territories, and how we might improve parliamentary relations between Westminster and the Overseas Territories. That is the context for what we are doing.

Could you kick off by answering this question: how do you feel relations are with the Westminster Parliament, and in particular with the House of Commons, at the moment? How effective are the relations you have?

Fabian Picardo: Good afternoon, Chair and members of the Committee, and thank you for the opportunity to address you on this issue.

Gibraltar, as an Overseas Territory, feels it is an integral part of the United Kingdom family of nations. To start with your question, as the pinnacle of how we interface with the United Kingdom, we do so through the House of Commons and in particular through the all-party parliamentary group on Gibraltar; I met with its members just a few minutes ago.

Members have the opportunity of interacting with the Government directly through the Office of the Deputy Chief Minister and myself; through other Ministers where there are relevant issues affecting their Ministries; and in particular through Gibraltar House in London, which represents Gibraltar's interests in London. It is not an embassy or a high commission, but it is a pivotal point for that interaction between members of the APPG and the Government of Gibraltar. Members of the APPG also come out to Gibraltar on particular days, such as Gibraltar National Day, and others may come out when they have Commonwealth parliamentary issues that might link them to our Parliament as well.

I would say that the relationship is very positive and very fluid. It ensures that on a cross-party basis, Gibraltar's issues are understood by Members of Parliament, who therefore have the opportunity to influence their own parties and their thinking on Gibraltar.

Chair: I myself have benefited from a Commonwealth Parliamentary Association meeting in Gibraltar, so I have had the opportunity to meet parliamentarians in Gibraltar and hear about ongoing issues.



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Q120 **Nickie Aiken:** Thank you for your time today and for your submission, which I read with interest. How well do you think that House of Commons Members understand the Overseas Territories and particularly Gibraltar?

Fabian Picardo: Those who take an interest in the territories understand the territories that they take an interest in, but the system under which the Commons operates and has operated for centuries—I was going to fall into the trap of saying “decades” and forgetting just how old our democracy is—is based on a constituency system, so the first duty of a Member of Parliament is to their own constituency.

The Overseas Territories do not fall into the constituency of any individual—with a small footnote, which I will come to in a moment. Therefore, although we are very grateful for those Members of Parliament who take an interest in Gibraltar and other Overseas Territories that are part of the UK family of nations, it is not the obligation of Members of Parliament to take that interest. I think those who do so catch the infection of wishing to know more and to spread that infection to other Members of Parliament, and it works well in that context, but it is really a voluntary system of interaction with the Overseas Territories. You therefore have a group of British citizens not resident in the United Kingdom who do not have direct representation through a Member of Parliament in either Chamber of the Westminster Parliament today.

The footnote I would alert you to is one that I was reminded of this morning: there is now the opportunity for British citizens to vote in British parliamentary elections going forward if they have voted previously in parliamentary elections. This morning, as I was here, I took the opportunity to register to vote in the next British parliamentary elections, because having been a resident of the United Kingdom when I was a student between 1990 and 1994, I will have the right to vote in the next British election, and I will vote for an Oxford seat.

A system is therefore being created that creates an element of anomaly. If we have been resident in the United Kingdom before—for the purposes of this analysis, many Gibraltarians have been students in the United Kingdom and will have voted when they were students—we will have the opportunity to vote in the next parliamentary election in the United Kingdom for a constituency MP, who we will then be able to write to and express our views to.

Since scholarships were introduced in Gibraltar by the socialist Government in 1988, about 7,500 people have availed themselves of the opportunity to come to the UK as students. Other people move to the UK to work here or simply come for social or family reasons, but let’s just look at that cohort: 7,500 people have come to the United Kingdom since 1988 to study in the United Kingdom. They will be able to vote. That is one third of our electorate.

So if you are a graduate, you will be able to vote in a British parliamentary election. If you are not, unless you have moved to the United Kingdom for another reason, you will not be able to. This new system is going to create



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even more layers of representation in the British Parliament for individuals who will be able to vote, who are British, while some will not be able to vote, even though they are British.

Q121 Nicky Aiken: But you could argue that you will have better representation, because if you have a constituency MP, as you will have—no matter who you vote for, Oxford’s MP will be your constituency MP—that MP could then represent your views in Parliament, which gives that third of Gibraltarians much more of a say in the UK Parliament.

Fabian Picardo: Yes, but you can see how the layering of that hardly seems fair. It is almost as if we are going back to the days when only landowners could vote. If you are a graduate, because you have been living in the United Kingdom as a student, you are more likely to have the vote in a Parliament that can still potentially make laws for your territory, but if not, you are very likely not to have that right.

I think it is absolutely right that all British citizens in the world, wherever they may be, should be able to vote for the British Parliament, but with the best will in the world, I do worry that you are starting to create layers of representation that might, if you take a step back, end up being demographically skewed in a particular direction.

Q122 Nicky Aiken: From reading your submission, it is obvious that you are very keen for the UN to change its view that Gibraltar is a non-self-governing country, and for it to be seen as a self-governing country, which I absolutely understand. But with the agreements as a non-self-governing country at the moment, you have the defence and the security provided by the United Kingdom. In your view, is it worth going down the route of becoming a self-governing country and losing that security and defence?

Fabian Picardo: I don’t think that that question is about the UN list; I think that question is about independence. It is a different argument.

Q123 Nicky Aiken: Well, it’s a similar argument, because if you are recognised as a self-governing country, that is a step towards independence.

Fabian Picardo: I don’t accept that. I think that legally those are two very distinct statuses, and the United Kingdom Government takes the same view as the Government of Gibraltar. Being on the list of non-self-governing territories is, in effect, to be regarded by the Committee of 24—and therefore the United Nations, because that reports to the Fourth Committee of the General Assembly—as a colony, which is what the sort of abbreviation for non-self-governing territory means.

The United Kingdom Government’s stated position—I am not one to speak for the United Kingdom Government, but this is its stated position—is that Gibraltar should not be on that list because of the nature of the relationship between Gibraltar and the United Kingdom, which the United Kingdom says is non-colonial in nature. The Government of Gibraltar takes the same view, but also considers that there is a good legal reason, not just a political reason, why we should not be on that list, which is that the



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2006 constitution gives us autonomy in respect of all matters that relate to the running of Gibraltar, except external relations and defence, and therefore we should not be on the list.

Not being on the list does not mean that we are independent and does not mean that we must take responsibility for our external relations, defence and internal security, because the United Kingdom considers that we can continue to have that relationship and Gibraltar considers that we can continue to have that relationship and not be on the list.

In fact, I think you would find that although in principle the people of Gibraltar believe that we should be able to be independent should we wish to be, and that there should be no constraint in that respect, based on a treaty signed in 1713 with Spain, which Spain says curtails our rights to independence, there is no constituency seeking independence in Gibraltar. It is very unlikely that there ever would be—not for reasons dissimilar to the ones that you have suggested.

Q124 Kirsty Blackman: How do you influence legislation in Westminster? How well do the UK Government consult, how effective are those processes, and how do you engage with parliamentarians? During Bill Committees, for example, Back Benchers might be making amendments to Bills. How do you engage with the individual parliamentarians scrutinising the legislation and moving amendments?

Fabian Picardo: Let me start again with the 2006 constitution. Absent issues related to defence, internal security or external relations—the last of which, ironically, I spend most of my time dealing with—the Government of Gibraltar and the Parliament in Gibraltar are competent to legislate for Gibraltar in each of those areas for the peace, order and good government of Gibraltar.

The British Government of the United Kingdom retain the right to legislate in those areas for peace, order and good government also in the event of there being, for example, a failure of the Government of Gibraltar to permit the United Kingdom Government to comply with their international legal obligations. But there is a convention between the United Kingdom Government and the Gibraltar Government that the UK Government would not legislate for Gibraltar, even through Order in Council, unless the Government of Gibraltar had agreed to such legislation being extended to Gibraltar.

In the 12 years that we have been in government, we have not had any instance when the United Kingdom has felt it necessary to legislate for Gibraltar. I recall that on one occasion there was one reference in a private Member's Bill that might tangentially have had an effect in relation to Gibraltar. We communicated directly with those private Members on the issues, which related to financial services, registers of ultimate beneficial ownership and so on. We explained the Gibraltar position, and they understood that we were going to be the first part of the European Union—we were still members then—actually to see the implementation of the



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requirement in the fourth anti-money laundering directive on having registers of ultimate beneficial ownership.

There was an agreement that there should therefore be specific reference to Gibraltar not being included in the scope of the legislation. It was through Gibraltar House in London and directly through our contacts through political parties; I lead the Socialist party, which is the sister party of the Labour party. The Deputy Chief Minister leads the Liberal party, which is a sister party of the Liberal party in the United Kingdom, and we have excellent relationships with the Conservative party, the Scottish National party and all other parties represented in the House of Commons. We are able to deal with those issues in a way that does not create a conflict between Gibraltar and the Parliament in the United Kingdom.

Q125 Kirsty Blackman: Can I ask about the voting legislation and the fact that many more people in Gibraltar will be able to vote? Did you consider that to be something that the UK Parliament was dealing with, and that it therefore did not affect Gibraltar and you did not have a say in it? Is that something you would have had conversations with the Government about, on behalf of your citizens?

Fabian Picardo: It was a unilateral extension by the United Kingdom of the right to vote to all British citizens who had had the right to vote in the past. We were not consulted on the structure of the legislation, because in the context of the views that we have expressed to you in our paper, you can understand that our view would be that every British citizen should have the right to vote for the British Government at Westminster, and that there should not be a slicing and dicing of who enjoys that right in some way based on whether you were ever, at some stage, resident in the United Kingdom, especially now—and this might be the sort of issue that was vexing those designing the legislation—that you have very few British Overseas Territories citizens compared with the number of British citizens. Having those different categories of British citizenship opens a completely different can of worms, if I may say so with respect.

In my view, the time has come for the United Kingdom to seize the day and consolidate a pax Britannica for British citizens around the world, and make them all equal British citizens with the same right to representation in Westminster, in one or both of the Chambers, but in a way that does not erode the right to manage the business of the territories in which each is resident under the constitution, such as it may be, of each of the territories in which they might reside.

Kirsty Blackman: That is helpful. Thank you.

Q126 James Gray: First, on this question of allowing British citizens to vote from overseas, how many Brits live in Spain?

Fabian Picardo: I do not represent Brits in Spain, and therefore it is not—

James Gray: No, I am not saying you do, but it was a question. It is quite a lot, isn't it—several million?



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Fabian Picardo: I imagine so. And most of those who live in Spain will have lived in the United Kingdom at some stage in their lives, and therefore will be able to vote in the next British parliamentary election.

James Gray: That is precisely my point. A small number of people in Gibraltar could be allowed to vote in UK elections, but there would be a very large number—from memory, 3 million or 4 million—living in Spain. There are a huge number of Brits living in Spain.

Fabian Picardo: I hardly think it is 3 million or 4 million, because that would make it 10% of the Spanish population. That would encourage me to start running a political party in Spain.

James Gray: That is not the point. The point is that very, very many more Brits live in Spain than in Gibraltar, and they would be allowed to vote.

Fabian Picardo: Absolutely.

Q127 **James Gray:** Does that mean that they should also have some kind of direct representation in Parliament?

Fabian Picardo: They do not live in British territory.

James Gray: That is true.

Fabian Picardo: So my answer, based on that important nuance, would be no.

Q128 **James Gray:** What about the mechanisms that have been proposed—for example, the legislative consent motions that Scotland has enjoyed since devolution? What do you feel about the various mechanisms that have been proposed for legislative scrutiny?

Fabian Picardo: I believe that it is important that we understand the difference between the constitutions of each of the overseas territories. Each of them is different. It is usually said that the constitution of Bermuda is the most advanced, I think, simply because the reserve power, as it is known—the right to legislate for peace, order and good government—was removed from that constitution in the 1970s, because it was seen as a pre-independence constitution. Ours is probably regarded as the second most developed for the purposes of the assessment of the autonomy that Gibraltar enjoys. I am not competent to comment on the constitutions of the other overseas territories.

Q129 **James Gray:** No, I am just talking about Gibraltar. I am asking about your view in Gibraltar on the things that have been proposed, like making you consultees on legislation, for example.

Fabian Picardo: This is the point: if you juxtapose the constitution of Gibraltar with the devolution statute of each of the devolved territories, Gibraltar enjoys much more autonomy than the devolved territories.

Q130 **James Gray:** You may have misunderstood me; perhaps I was not speaking very clearly. I am keen to know what your view in Gibraltar is—



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never mind the other OTs—of the various proposals that have been made with regard to legislative consent motions or automatic consultation on British legislation.

Fabian Picardo: To answer your question fully, which I am trying to do, I have to start making the analysis, which is based on—

James Gray: Don't bother being full, just be direct—that's fine.

Fabian Picardo: The point is this: because the Gibraltar constitution gives more autonomy to the Government of Gibraltar than the devolution statute gives to the Governments of each of the kingdoms of Scotland, Wales and Northern Ireland, the process of legislative scrutiny that is being offered to the Government of Gibraltar is not in our view sufficient for the purposes of permitting the United Kingdom to subsequently legislate in an area that is in the constitutional competence of the overseas territory involved.

Q131 **James Gray:** So you are saying, basically, that those things are not good enough, because of your constitution.

Fabian Picardo: Indeed, because consultation cannot lead—I think this is the point—to a right being exercised by the not directly elected representatives of the people of a territory to legislate for them in an area in their constitutional competence. Consultation does not require agreement; you simply take the view, with which you might disagree. For example, if you consult the Government of Gibraltar in an area where the United Kingdom Parliament might be seeking to legislate but which is in the competence and autonomy of the Government of the territory of Gibraltar, then you consult, and we give our views. We might disagree—

Q132 **James Gray:** Give me one example.

Fabian Picardo: Well, everything short of defence, internal security or external relations. Let's take a non-controversial area—

Q133 **James Gray:** Hang on. I want an example. What you said was that where something has been legislated on in the UK, you need some means of controlling that, rather than just influencing it. Give me one example of something that might be legislated for in this place that would affect Gibraltar in the way that you described.

Fabian Picardo: Education.

Q134 **James Gray:** Why is that?

Fabian Picardo: It could be any area; I just picked education because you asked me for one example.

Let us talk about education. Let's say you were to take the view, in Westminster, that you were going to legislate in an area that relates to how children are educated. We have our own statutes on education in Gibraltar, which ironically are very similar to yours: we do GCSEs and A-levels. We just mapped our education system entirely on to yours, but we



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chose to do that; we legislated for that and have been legislating on that issue since the 1960s.

Q135 **James Gray:** So has Scotland, since the 1560s.

Fabian Picardo: Good. Let us assume—I am using this example because it is probably the least controversial area that we can talk about—that you are going to take the view, in Westminster, that you will legislate for the United Kingdom and the Overseas Territories. Let's assume that you are going to do that in the area of sex education, and that you are going to determine—

Q136 **James Gray:** Why on earth would we do that? Surely we are not allowed to do that. Are we?

Fabian Picardo: You are not, but you could. You have the power, in Westminster—

Q137 **James Gray:** Hang on. I am very sorry—I am very down to earth and straightforward; I am a very stupid fellow and don't have many brains—but surely we are not allowed to legislate for Gibraltar on education. Are we?

Fabian Picardo: You are not disallowed—*[Interruption.]* Hang on. The point is—

Q138 **James Gray:** In that case, it is not a very good example, is it?

Fabian Picardo: I am sorry, I'm afraid that if I cannot answer your questions, then you will never hear the logic of what I am trying to explain.

Q139 **James Gray:** Forgive me for interrupting, but if your answer is illogical, then I think it is important that we do so. We needn't sit here listening to a tirade. If I think your answer is illogical or mistaken, it is perfectly reasonable for me to interrupt you.

Fabian Picardo: Let me tell you why it is not illogical. It is not illogical, because Westminster is not disallowed from legislating on any issue for any of the Overseas Territories. There are conventions that you observe which do not, therefore, result in you legislating on that basis. However, in answer to your request for an example, it is not illogical to suggest that you could legislate in an area that is at present in autonomous control of the territory's Government, under its constitution, and that you could decide to do so. When you decide to do so, you would consult us in that process. In the course of the consultation, we could disagree with what you are going to do—for reasons that may be social in Gibraltar, we may decide that we want to do our sex education in a different way from how Westminster has decided sex education is to be done. We would respond to you through the legislative consultation process, and you could disregard or disagree with what we submitted and go on to legislate anyway. That would create a constitutional conflict between Gibraltar and the United Kingdom. You would then impose your legislation through what we would call direct rule, and that would be contrary to the interests of the



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relationship between Gibraltar and the United Kingdom Government, as well as between Gibraltar and the United Kingdom Parliament. It would also be contrary to the convention that people should be governed by Governments that they elect.

Although it may have appeared illogical, when you actually think this through—I think I have given you an example that is sufficiently uncontroversial that you should be able to see how the model could develop—it becomes very dangerous indeed. Legislative consultation is not legislative agreement. Therefore, you could have a Government not elected by two thirds of the electorate in Gibraltar—if we were all to register—legislating for Gibraltar in an area which, under the constitution granted by Her Majesty the Queen to Gibraltar in 2006, is our area of legislative competence.

Q140 **Chair:** Can I check whether I have this right? Apologies, James, but I just want to clarify this. You talked about education.

Fabian Picardo: For example.

Chair: Yes, for example. The Prime Minister has said he wants to introduce a new form of education, with new exams: instead of having GCSEs and A-levels, he wants a different system with maths throughout etc. I think that what you are saying is that the UK Parliament could say, "We are going to do that. We agree with this. The Prime Minister wants to do it, and we agree that it is a wonderful idea." That would have a direct impact on you, because, for your education system, you have chosen to follow the UK system. You would then, in effect, have a new exam system imposed on you. You could then say, "We don't want to do this," but it is then a question of where else you could go.

Fabian Picardo: That would happen. For example, the Gove reforms happened to all of us; we had to adapt our curriculum to that. But that is not the point. If you included in that Bill a clause that said, "and this Act will extend to the Overseas Territories, including Gibraltar," for example, then it would automatically trigger a legislative effect in Gibraltar, because it would be direct rule.

You wouldn't do that. You will legislate to introduce those reforms in education—let's call them the "Sunak reforms"—and we will adapt to the Sunak reforms in education by changing our laws to match them, because our children come to the United Kingdom for university and so on. But we would be choosing to do that rather than having anything imposed on us by Westminster legislation.

Q141 **Nickie Aiken:** On that point, if a British Government did what you suggested and had a clause in an education Act—

Fabian Picardo: Or a private Member's Bill.

Nickie Aiken: Or whatever, if you chose to ignore that Act, what would happen to you? What are the sanctions, if any?



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Fabian Picardo: There are two issues I need to deal with. A piece of law made in Westminster extending to Gibraltar is law in Gibraltar. Our constitution would mean that, in effect, this would be law in Gibraltar. You would be exercising—

Q142 **Nickie Aiken:** Under the 2006 constitution—or at least because it is part of that constitution?

Fabian Picardo: The 2006 constitution actually provides that an Act of Parliament passed by His Majesty's Government in the United Kingdom—actually, His Majesty, so it would potentially have to be by Order in Council—would be supreme. Remember, we form part of the legal structure of the United Kingdom. This would be directly applicable in Gibraltar and potentially is law in Gibraltar—binding on the Gibraltar Government. There are various ways in which we might seek to address that with the United Kingdom Government if it were, for example, a private Member's Bill. If it were the United Kingdom Government doing it, the consequences would be political, and there would have to be a political debate between the Governments of Gibraltar and the United Kingdom. Of course, these are hypotheticals; the relationship between the Governments is very close, and we are simply exploring academic hypotheticals here.

Q143 **Nickie Aiken:** If you chose, for reasonable reasons, that you did not wish to change your education system in the way it was suggested in the Act, what sanctions could the British Government bring to bear on the Gibraltar Government to make you do it, if anything?

Fabian Picardo: You would actually be able to do it. This is the point. Gibraltar is British territory, and the United Kingdom Government, through the sovereign that grants the constitution, are able to exercise their right to legislate for the territory. The Gibraltar Government would probably have to bring legal action in the United Kingdom to prevent that piece of legislation from taking effect in Gibraltar, through judicial review, another declaration or other potential remedies that I might not be aware of that we would have to seek in those circumstances and that we would be advised we should have to implement.

James Gray: I remain puzzled as to how you think the UK Parliament could possibly legislate in the way you described. It seems to me to be contrary to the 2006 constitution, but let us leave that to one side for a moment. That is your concern, even though I personally find it hard to imagine. Your solution to that concern seems to be that you ought to have an MP here. If you did, why would that answer that point?

Chair: I think we have questions coming up on that from Nigel.

James Gray: Sorry, I beg your pardon. I am trespassing on someone else's territory.

Chair: No, that is absolutely fine. We will bring in Nigel Mills to start that point.



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Q144 **Nigel Mills:** It is fair to say that on open beneficial ownership registers, we got pretty close to legislating for you and requiring you to do it, didn't we? I think you agreed and did it in the end, but not all the Overseas Territories agreed, did they?

Fabian Picardo: With respect, the position is completely different. We were members of the European Union at the time. The fourth anti-money laundering directive, which directly applied to the United Kingdom and to Gibraltar, already required us to do it. We were very comfortable with doing it because we believed that the positioning of Gibraltar's financial services sector had to be on the basis of being open and transparent going forward.

Q145 **Nigel Mills:** I am just citing a recent example where this Parliament chose to legislate for the Overseas Territories to do something they thought was in their jurisdiction. I accept that it was not for you, but it is not impossible that we might get tempted down these lines in the future.

Fabian Picardo: Yes, absolutely.

Q146 **Nigel Mills:** I am intrigued by your submission, which I think has the "have your cake and eat it" option of wanting an MP for a constituency that is about one third the size of most of our constituencies, and at the same time wants to change the rules so this Parliament could not actually legislate for all your domestic affairs. That is quite an ask, isn't it? "We want an MP and we want to stop them having an influence over our own affairs." Isn't it a little bit excessive to ask for both?

Fabian Picardo: With the greatest respect, when you did devolution, you opened Pandora's box. You have Members of Parliament here for the devolved territories, and you have Parliaments in the devolved territories. They make decisions for themselves in areas that are different from the areas in which we make decisions. They have different sizes of constituencies for elections in the devolved Parliaments. If you are asking us whether we think that we, as British citizens resident on British soil, should be represented in the mother of Parliaments that retains the right to determine issues as existentially important to Gibraltar as external relations, defence and internal security—well, frankly, the only answer you are going to get is yes. If you ask us the question, don't expect us to say anything other than yes. We did not volunteer this; you asked us the question.

Q147 **Nigel Mills:** I think we have just discovered that a lot of our devolution conventions are conventions, whereas you are asking for a legislated position that this Parliament could not do stuff domestically that you thought was in your purview, and then to add an MP that you do not currently have. That would be quite a step.

Fabian Picardo: We already have the power to legislate in the areas in our purview, because this Parliament and the United Kingdom Government, through the Crown, gave us that power.

Q148 **Nigel Mills:** We still have a reserve power as well, as you have just been articulating.



Fabian Picardo: You do. We should talk about the nature of that reserve power, because, in my view, the sovereign should exercise it only in consultation with Ministers. The relevant Ministers in the context of the British legal hierarchy here, absent the Secretaries of State for Foreign Affairs and Defence, are his Ministers in Gibraltar, who should be the ones in consultation with the sovereign when the reserve power is exercised. We could have that argument separately.

I do not necessarily accept that that power exists in an untrammelled way, unless there is a very clear British foreign policy interest that we are failing to abide by. In my view, that can only be the United Kingdom being in breach of its international legal obligations, although, as we have seen in the past five years, the United Kingdom has not been averse to potentially putting itself in breach of its international legal obligations.

Q149 **Nigel Mills:** Do you envisage that Gibraltar could elect an MP who could speak on and vote on education matters in my constituency, and have a reform so that this Parliament could not legislate for your education system in any way?

Fabian Picardo: That is the point: there has to be a fine balance between having representation on the areas in which we are not autonomous, and having no representation, or at least no voting, on areas where we are not expecting you to vote for us. I will be very clear with you: I think this is the opening of Pandora's box. Finding the right balance between those two is not easy.

To an extent, you have an element of that in the context of the devolved Parliaments, so there is a window into how you might do it with the Overseas Territories, given your wish to analyse whether you could do it with them, which is what the Committee asked for our evidence on.

Q150 **Nigel Mills:** There have been other suggestions that we could have just one MP to represent all the Overseas Territories together. Would you support that?

Fabian Picardo: The interests of the Overseas Territories are very divergent. Take the example you gave of registers of ultimate beneficial ownership and the example I gave of sex education in schools: different Governments in different territories have different outlooks on social issues and business issues. Some territories will bitterly resist the idea of having imposed on them registers of ultimate beneficial ownership; indeed, some territory Governments have said that they would have to consider independence if that was imposed on them. Different territories have different attitudes to social issues, such as recognition of same-sex couples, equal marriage and civil partnerships—all of which we have done in Gibraltar—and how sex education is done in schools.

If you had one MP, I dare say he or she would have a very difficult job in making representations across the board. You might say that the answer to that is that he or she would have to be elected and would therefore have to have a position which is defended across the territories—his or her travel bill at the time of the election would be considerable—and



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whichever shade of opinion was eventually elected would be the shade represented in Westminster, as is the case in any constituency. I think it would be sub-optimal for many people in the territories because they would have such divergent geographic, social and financial interests that it would be impossible for one MP to represent all.

Q151 Patrick Grady: Just to draw that out a little more, what about a scenario in which the territories that wanted a Member of Parliament had one, such as one for Gibraltar, and that territory was their constituency, and others who did not wish to have an MP did not have one: would that be manageable, or would it create yet more levels of distinction and inequality?

Fabian Picardo: I see that Pandora's box has several different doors in it. I will put it this way: for example, Gibraltar was the only one of the Overseas Territories to form part of the European Union with the United Kingdom. We were the only article 2274 territory in the old days, when it was just the original treaty. We sued the United Kingdom Government, because they failed to include Gibraltar in European parliamentary elections and therefore denuded us of the right to vote for a Parliament that made legislation that was directly relevant to us. We won in the European Court of Human Rights and therefore, as a result of that, for two or three of the European parliamentary elections after the decision in *Matthews v. the United Kingdom*, we voted through one of the United Kingdom's constituencies.

Therefore, we did not just choose to have that right of representation; we sued to have that right of representation. Other territories, because they were not part of the European Union, perhaps could not, but they might have wished to have representation because European parliamentary elections were having effects on other Overseas Territories, such as the Falklands, for example, with fishing rights and so on.

Therefore, I say again that one size does not fit all in the context of representation of the territories in Westminster. If we are going to open that particular opportunity and window, different territory Governments will have different views about that, and different peoples of the Overseas Territories will have different views.

Q152 Patrick Grady: When people voted from Gibraltar for the European Parliament then, were they essentially just voting for the UK political parties, or did anyone ever put themselves forward as "Gibraltar's voice"?

Fabian Picardo: From memory, I think that one person did put themselves forward as a Gibraltar individual, but the UK political parties came out to Gibraltar for the South West constituency, and there were campaigns in Gibraltar and people voted for those options that were on the ballot for that constituency.

Q153 Patrick Grady: If, say, there was a constituency of "Gibraltar", would you expect the UK political parties to compete in that, or would local candidates emerge?



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Fabian Picardo: That is impossible to speculate on. I mean, I would have thought that, in a tight election, every constituency matters, and the UK political parties contest all of the 650 constituencies, so I would imagine that they would contest all of them.

Chair: Well, we do not contest all of the Northern Ireland ones, but yes.

Q154 **Patrick Grady:** Yes, that's the thing, because Nigel was asking earlier about whether a Gibraltar MP would have the right to legislate on English education; technically, I have that right, but I exercise a self-denying ordinance because it is devolved.

Fabian Picardo: That's the point; finding that balance in how you do it is perhaps more an issue for conventions than it is for specific legislation about what you would be excluded from doing, but that would have to be agreed if the opportunity to have a constituency were ever to really materialise—and if it were to be something that the Government were proposing to consult us on.

Chair: We have only three more minutes, and I know that Sam Dixon has some questions on Select Committees. If we have a second, I will bring you back, Patrick.

Patrick Grady: Yes, sorry, we'll move on.

Q155 **Samantha Dixon:** Very briefly, because you have already touched on this to a certain extent, you have talked about your relationship and the informal links through the APPG, which obviously has no official status in Parliament. I just wondered whether there was anything more that you wanted to say about those links, and also your links with the Select Committees and how you play into that—or what the relationship is like.

Fabian Picardo: We work very well with the Select Committees. Again, that is on the basis of the Select Committee being interested in our views. The European Affairs Committee, European Scrutiny Committee, the Foreign Affairs Committee and the Public Administration and Constitutional Affairs Committee are all very engaged in seeking our views on issues, particularly in the context of the current negotiation between the Government of the United Kingdom and the European Union for a future relationship treaty for Gibraltar, and we have very fluid relationships.

However, those relationships, of course, are on the basis of the interest of members of those Committees in seeking our views, as you are seeking our views today on issues that you determine are relevant to us. If we saw that a Committee was acting on an issue which was relevant to us, I am sure that, if I wrote to the Chairman or Chairwoman of that Committee, they would be interested in hearing our views and taking our evidence, but there is nothing formal that requires you to take our evidence or to hear our views.

Q156 **Samantha Dixon:** And you would prefer to see something more formal?

Fabian Picardo: Simply because we have been asked what our views would be, we think it would be helpful for all of us to set out the circuitry



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that enables British citizens who are resident in the Overseas Territories to influence the work of Committees and Parliament.

Q157 **Patrick Grady:** You mentioned the possibility of representation in the House of Lords. How would that work? Would you appoint them? Would you elect them?

Fabian Picardo: The only reason we mentioned that possibility is that the issue is about representation in Westminster, and Westminster is two cameras, not just one. Therefore, if you want to address more formally the question of how you don't vote in the Commons on issues that relate to areas where you already have autonomy in the territory, then potentially one way of doing so is to hear the voice in the context of scrutiny of legislation in the upper Chamber.

How you would do those appointments is just as devilishly difficult as the question of how you would vote for an MP in the context of the Commons. So whether it is the red Benches or the green Benches, I think the problems are equally difficult, but finding a way of doing this is not beyond the wit of man. If it was the early 1990s before the Labour Government and you were talking about the issues that devolution could give rise to, you would say, "My goodness, that is a lot of issues that we are going to have to deal with," but dealt with they were, and those Governments are working.

Chair: Thank you. We have just kept you to time, so we are very grateful. I think we could do another hour at least because this has opened up an awful lot of things. If you have any other thoughts and you want to submit them to the Committee, you are of course welcome to submit further evidence. We are going to suspend the sitting for 20 minutes. Thank you once again for your time.

Sitting suspended—

On resuming—

Examination of witnesses

Witnesses: Hon Teslyn Barkman MLA and Hon Joseph E. Farrell.

Q158 **Chair:** I welcome our next two witnesses from the Falkland Islands and Montserrat. We are grateful to you for joining us. For anyone watching and wondering why the screen looks like it does, the connectivity in the Falkland Islands is not as good as we would like. Ms Barkman has turned her camera off so that she can at least hear us and we can hear her. We can see Mr Farrell in Montserrat, so that's good, and we know you are there, Ms Barkman.

Our Committee has been working on an inquiry for some time on how the Westminster Parliament and the House of Commons interact. It started off with the devolved legislatures in the United Kingdom, but during our work we realised that what we do in Westminster also has an impact on the Overseas Territories. That is why we are very pleased that we have



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had written evidence from the Overseas Territories and that we are able to do an oral evidence session today so that we can put our questions to witnesses. We are very grateful to Ms Barkman from the Falkland Islands and Mr Farrell, the Premier of Montserrat, for joining us today.

I want to start with a quick question. In what ways do you currently interact with the House of Commons and how effective do you think that interaction is? We will start with you, Mr Farrell.

Joseph E. Farrell: It is very nice to meet you. Good afternoon/evening. I am not sure that we have much contact with Westminster. In most cases, unless there are conventions that they want to extend to us—or wish for us to determine whether we want it extended to us—there is very little communication between Montserrat and the UK Parliament. In recent times, though, the Speaker has been very much engaged with us, but from a political and policy standpoint there is very little direct connection between us.

Chair: Thank you. Ms Barkman, what about from the Falkland Islands?

Teslyn Barkman: Our London representative engages with MPs on a regular basis to try to keep them updated with what is happening in the Falklands. We invite groups, such as the APPG members, to come and visit us. We try to maintain regular contact. A lot of ministerial-level contact comes through the Joint Ministerial Council. We engage with Select Committees, particularly Committees such as this one, when there are inquiries in place.

We have been trying to push for improved civil service links between the UK and the Falklands in areas of mutual benefit, such as some of those that have been identified, climate change or regional high seas work. When it comes to engagement with the UK Parliament, we are very much trying to improve the information or knowledge base in the UK Parliament about the Falklands, but mostly it is working on and engaging in things as requested.

Q159 **Nickie Aiken:** Thank you both for joining us. How well do you think MPs in the House of Commons understand the Overseas Territories, specifically Montserrat and the Falklands? Perhaps we could start with Premier Farrell.

Joseph E. Farrell: That is a very good question. In recent times, we were of the view that parliamentarians across Whitehall knew very little about the OTs. Yes, they hear about them, but they had very little understanding of the relationship between the Overseas Territories and the United Kingdom. I admit, though, that in recent times, there has been more of an understanding and appreciation of the Overseas Territories through a number of conduits.

The FCDO has been working well with us to ensure that parliamentarians understand. We have a local office in London and our local rep, Mrs Panton, has done extremely well in interacting with parliamentarians—unofficially sometimes—so that they can appreciate and understand



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Montserrat. I, too, have taken responsibility myself to share knowledge with parliamentarians and with members of the FCDO team about Montserrat and its history, culture and relations with the United Kingdom. We are getting there.

In particular, over the past year, with the Prime Minister asking Ministries and Departments to identify leads within their Ministries and Departments with responsibility for Overseas Territories affairs, I think that the message is now getting clearer that the Overseas Territories are now an integral part of the United Kingdom. More and more politicians and parliamentarians are inquiring about Montserrat and Montserrat's contribution to overall development in the United Kingdom and, of course, about how the United Kingdom can help us to develop our country. I would say, in closing, that there is a move that will allow for better understanding by United Kingdom parliamentarians of the OTs.

Teslyn Barkman: The Falkland Islands are best known through the lens of 1982. That is obviously a significant part of UK history, and will be forever, in complete admiration for those who stood up to save us and to protect our right to self-determination. The modern Falklands is a lot less well known.

I have been a politician for six years, and I know that if I ask an MP about what illegal economic blocks Argentina currently has lodged against the Falkland Islands, it may be difficult for them to name more than one. I also know that if I mention Argentina, it may cause their eyes to glaze over a little, as it is a threat that is not easy to engage with while expecting it to change. I would say, however, that the cross-party support for our right to self-determination in the face of that threat is 100% unwavering, and we are very appreciative of that.

I have found that when we have gone to MPs and certainly Ministers—speaking of our last few Ministers, Amanda Milling, Lord Goldsmith and now Minister Rutley, as well as our current shadow minister, Stephen Doughty—in areas where they can look to collaborate, on matters such as those to do with the environment, climate change, overfishing, and things that we can tackle together, there has been a much better engagement. I would also say the steps that the UK and the FCDO have taken more recently in the joint declaration have been positive.

What we make of that will, I hope, be a lot more than just words on a communiqué. There is a lot of work to go into what was agreed at the last joint ministerial council. The Speaker, Lindsay Hoyle, has been a great advocate of the OTs. I would just reiterate that. I know my honourable colleague mentioned him already. Getting information out there about the OTs requires needs ownership and leadership from the UK Government to help support that.

Q160 **James Gray:** I think there is a sharp difference between the Falklands and Montserrat. In my experience of recent years—certainly since 1982—relations with the Falkland Islands have been extremely close. I was down there a couple weeks back with a Select Committee, and the all-



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party parliamentary group is extremely active and takes groups down. I am chairman of something called the armed forces parliamentary scheme, which goes down to the Falklands every year, and there are more things. There is a lots of interaction with the Falklands. Montserrat, on the other hand, does have an all-party parliamentary group, I think, but I am not sure how active it is or who runs it even. Do you know? Is it something you are familiar with?

Joseph E. Farrell: I am familiar with the all-party parliamentary group, and I discussed it with my representative in London in November. Being very blunt here, Andrew Rosindell has been the self-appointed Montserrat rep on the all-party parliamentary group. I have some concerns as to how that selection process takes place. I was advised that it was on interest from individuals, but I would still prefer to have a say in who those people are that wish to represent our interests and, clearly, the means of communication between the particular OT and the representative. I am not sure that Mr Rosindell has been to Montserrat in recent times. I have been in office for just over four years, and I am not sure that I have had a conversation with him. I would expect a group like that to be able to agitate and argue Montserrat's position, but I am not sure that that group has proven its worth, to be honest.

Q161 **James Gray:** Just to interrupt you very briefly—forgive me—all-party parliamentary groups are set up by a Member of Parliament who chooses to set one up. If I chose to set up, say, the all-party parliamentary group for the Caribbean—or Montserrat—I could do so. There is no rule as to what you then do. Many of them are very inactive, which is why I asked you about it. The all-party parliamentary group for the Falklands is extremely active and does a great many things. We had a parade not so long ago for the 40th anniversary of the war. The Falklands has an extremely active all-party parliamentary group, and the armed forces parliamentary scheme is very active, and there are all sorts of other things. As you say, it seems that Montserrat has rather missed out.

Joseph E. Farrell: Very much so. I guess that individual might not agree with me, but from my standpoint we have really missed out. I am not sure that we get the representation that we would expect from that member of the all-party parliamentary group.

James Gray: The point about APPGs is that there is no formality about them. They are merely things that happen informally. If you are an enthusiast and someone who loves Montserrat, you could set it up and really make it active, but I suspect that there probably just is not such a person in the UK Parliament.

Q162 **Patrick Grady:** Thank you both for joining us. We have been talking about the interaction with Parliament. I wonder if we might focus specifically on legislation and how or if you have the need or opportunity to influence legislation directly here at Westminster. How effectively is the UK Government consulting your territories and representing your views? How do you engage with parliamentarians who might want to make amendments to legislation that might have an impact on the



territories?

Teslyn Barkman: Thank you for the question. It very much speaks to how we should be represented in that process. As we have outlined in our written evidence, it also raises a question about whether it is appropriate for Members of the House of Commons to be legislating for the OTs when their knowledge of a country may be weak. As James Gray has just pointed to, if they do not have a personal interest in familiarising themselves with a territory or another country, there is the question of whether they should also hold the responsibility and power to legislate for them. There is nothing to protect that territory from the personal agendas of MPs.

For us, that has been a bit of a bugbear when it comes to the process of legislating on the governance of an OT, for example, which is a reserved power, certainly in our constitution. That needs a framework around it and potentially even a threshold to be able to say when it would be appropriate to do so and to what level. That lack of clarity probably leaves a lot of people, both on the UK House of Commons side and our side as a self-governing territory, wondering, "Do we just react to a piece of legislation that is going to be imposed upon us and then start lobbying from there? Is it not better to consult from the very start to understand if that legislation is appropriate and its consequences for the Overseas Territories? In the case of the Falklands, could we possibly live up to its expectations?" There are some regulatory requirements to legislation that we think the Falklands could not meet without creating a whole new Department to do so. It may be inappropriately placed, and it may also be inappropriate to effect. It is obviously linked to the previous point about familiarisation that, for a democracy to function properly in the Falklands, we also need to know what is wholly within our control as a democratic society, and when and how the UK can legislate for us. That needs to be clearly defined.

Q163 **Patrick Grady:** Just in terms of formalising things, and maybe Mr Farrell can speak about this as well, with the devolution settlement on the British Isles, we have a process of legislative consent motions. The devolved Parliaments in Scotland, Wales and Northern Ireland are, if legislation is passed at Westminster that directly affects something that would otherwise be passed by them, expected to grant their consent through a formal legislative consent process. Is there any kind of equivalent at the moment? I think you are saying that kind of thing would be helpful.

Teslyn Barkman: There is no equivalent process at the moment. We tried to establish one at the last Joint Ministerial Council, in particular, when the Foreign Commonwealth Office was driving this move for a joint declaration, which talked about that process and creating a consultation framework. The UK made a commitment in that document last November that it would consult with OTs on the construction of legislation. We have not yet seen that in action. That has probably been a product of it, but we have not actually seen that specific framework yet.



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While it has been confirmed at a high level that that will be what is going to happen, we have not actually seen the detail of how it is going to work in process. We certainly need to see if it fits each Overseas Territory's requirements. It is understood that quite a lot of the detail from that joint declaration will come out of bilaterals, but this is the big fundamental question: when is it appropriate to legislate for OTs and what is our position and our engagement in that? Fundamentally, we should be front and centre of it.

Q164 **Patrick Grady:** Thank you. Mr Farrell, would you reflect on the same points—how you currently influence legislation and whether some more formality or different processes would be helpful?

Joseph E. Farrell: Thank you very much for the question. There is absolutely no mechanism for us to consult with the United Kingdom Government on any legislation that they wish to impose on the Overseas Territories. They usually do that legislation—those Acts of Parliament—that that they are given. Very seldom do we have a say in it. The problem we have is that our constitution allows us to make legislation here, but that legislation must be accepted by the Governor, in conjunction with the FCDO. They have a say in what legislation passes. On the other hand, they will pass legislation and just pass it down to us, unlike in the Crown dependent territories, which have a say. For instance, I understand that, if they are promoting legislation for a Crown dependent territory, they discuss it with them. In our case, we have absolutely none.

My contention has always been that you cannot be in the UK and design legislation for someone 7,000 miles away from you whose culture, religious background and socioeconomic background is different. You cannot design one-size-fits-all legislation for all the OTs, irrespective of where they are. It just does not work that way. They have had discussions at the Joint Ministerial Council; they have had discussions in other forums. I have said to them, "Yes, we are willing to consult, and if you are willing to enact legislation that impacts the Overseas Territories, we should at least have a say at the beginning rather than at the end of it." Very seldom do you have any opportunity to change the legislation at the back end, whereas, if there is negotiation up front, you may be able to influence the content of some aspect of that legislation. The way things happen now, we do not have a say in any of the legislation that the UK intends to impose on the OTs.

Q165 **Samantha Dixon:** This is a question for Ms Barkman. There is a line in the written evidence that you submitted to the Committee that I want to ask a little more about. You are talking about legislating for the Overseas Territories and the principle of the UK Parliament creating that legislation, and you state: "This is particularly important when knowledge of the Territories is weak and the motives of some who seek to legislate for the Overseas Territories are often driven by a personal agenda rather than the principle of good governance." I can see Mr Farrell nodding. Could you expand on that? That is quite a worrying statement—that your experience shows that there is a personal agenda rather than the principles of good governance. Could you expand on that?



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Teslyn Barkman: We have seen examples that have gone through the UK Parliament where it has had an economic impact on the UK Overseas Territories—not particularly always on the Falklands but the Overseas Territories as a whole—and those impacts are not taken into account when that legislation is progressed. Obviously it happened with regard to the public registers of beneficial ownership. There have also been instances of marine protected areas being declared across Ascension Island, which were cited as removing the economy of the people there, but it has not been downgraded to not have a permanent civilian population, as you will probably be familiar with. But the public registers of beneficial ownership were probably in mind when that sentence was written.

On the whole, it sits there as an example of a concern that, while there is great interest in the protection of the self-determination of the Falkland Islanders now, we know that that historically that has not always been the case with the UK Government. As much as we would like to rewrite parts of history that do not suit us, there was a time in the '60s and '70s when the Falklands were going to be traded like a commodity, and their people too. Very fortunately, that is no longer the case.

We also have huge economic blocks—illegal sanctions—placed against us by Argentina, which we need the assistance of the UK Government to help us navigate. Probably part of the reason why the connectivity is so poor today is that we are trying to navigate some of these issues, to try to get international businesses to set up here in the Falklands, and they are being threatened by our neighbour. We have issues with connectivity and flight connectivity in particular because of that.

Sorry, that was a bit of a sidebar, but to go back to your original point, and as Mr Farrell has also explained, knowledge of the Overseas Territories is often high level or absent in certain areas, so to be able to deliver complex legislation that changes that without a familiarity of the consequences will always be a risk. Whether it is intended or unintended, it will still always carry those risks.

Q166 **Chair:** Did you want to say anything, Mr Farrell?

Joseph E. Farrell: I totally agree with Ms Barkman. I for one usually follow your questions in the House on House of Commons TV, and there seem to be personal agendas. There are topics raised by individuals, and those topics are pushed through by those individuals for months, for years, for several Sessions in the House. Of course, the public register is a classic example of one of those agenda items in the House that is pushed by individuals without fully knowing and understanding the consequences and the reasons why such legislation is in place in the Overseas Territories. Most countries that are forced to introduce a public register already have some form of public register, and their economies depend very heavily on revenues coming from those companies doing business in those OTs.

I think more needs to be done to understand why we are doing these things and how you can work with the Overseas Territories to improve the



delivery of those services. Yes, we all agree and are all in favour of governmental transparency. How can they help us to improve, rather than pushing a policy agenda that, to me, is an individual agenda, which in the end would derail the economic structure of any country? Some countries cannot survive without these international businesses. Rather than pushing this agenda to shut down these businesses, as far as we are concerned, how can the House of Commons and the various Overseas Territories work together to see how best we can improve on those services, rather than calling for a blanket shutdown? That is the impression we get from the Overseas Territories.

Q167 Nigel Mills: Can I turn to the issue of whether the Overseas Territories should have an MP in the House of Commons or in the Lords who represents them all? There was a pretty clear view in the Falkland Islands submission that that was not a very attractive option. Is that still the case? Mr Farrell, do you agree that you do not want an MP in the House of Commons?

Joseph E. Farrell: I don't know that we have had public opinion on it. There were pockets of discussion on whether there should be someone in the House of Commons representing the Overseas Territories. We are still trying to figure out how that would work. I have spoken to my representative in the UK to see what information we can gather. We are not clear how it would work. Are you asking us to elect somebody from among the MPs to represent the OTs? Are you asking us to elect one person for each OT? Are you asking us to elect a bloc of MPs to represent a number of OTs? I cannot say yes or no until I am clear as to the processes that could be engaged in doing so. Once I am clear on how the representation would take place and who would determine those representations, we might be in a better position to answer yes or no.

Q168 Nigel Mills: Are there any options that are attractive to you? Would you like one MP in the House of Commons representing just your territory? It seems quite unlikely that that would happen, but is that something you would like? Or would you not like that and be happy to have one representing all 12 of the Overseas Territories? Are any options attractive at all?

Joseph E. Farrell: It would be difficult to have one person representing all 12. The question is, what would the relationship be between the FCDO and that individual? Would they be speaking out of turn? Would they be speaking to us and to the FCDO? Would our representation be through them directly or through the FCDO to them? Again, I would prefer to have some time for deliberation on this subject, without committing myself to a position.

Q169 Nigel Mills: Thank you. Ms Barkman, I think you were pretty strident, in your submission, about the Falkland Islands not wanting any representation in the UK Parliament. Is that still your position, a few weeks later?

Teslyn Barkman: Certainly. We have been consistent on this, and certainly history has reinforced our view. We currently have the



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opportunity to appeal to all Members of the House of Commons and of the House of Lords. We do not agree that funnelling all our concerns through one MP would give us that same breadth of reach.

Today we have been speaking about familiarisation. I do not think that having one person designated as the go-to person for Falklands issues would help improve familiarisation with the Falklands across the rest of the House of Commons. Also, I do not imagine they would be democratically elected from the people of the Falklands. It would be difficult to structure that, and it does not take into account an understanding of the fact that we are a people who choose a free association with the UK.

If we were to be a part of that collective UK Parliament system, it would be difficult for us to go out internationally to advocate for the fact that we are a self-governing people with a right to self-determination. One of the common misrepresentations that Argentina likes to promulgate internationally is that we are a British-implanted population, and it would not lend well to that in terms of optics. But certainly from an administrative and advocacy position, it would dilute our opportunity to familiarise ourselves with the House of Commons.

Was that strident enough?

Chair: Perfectly.

Q170 **James Gray:** Teslyn, I have two linked questions. To what degree would you agree that, given the constitution of the Falklands, with the Governor, who is also the Commissioner of South Georgia, the chief executive and yourselves, it is extremely complicated and difficult to work out who has the relationship with Parliament? Linked to that, would you not agree that—perhaps because of that—your informal relationships are exceptionally good? The Falkland Islands Government Office in London is brilliant and has worked tremendously for many, many years. Your relationship with Select Committees, informal groups in Parliament and the military is superb. Your influence in the UK Parliament is therefore much stronger than it would be if you had, for example, an MP for all the Overseas Territories, which would water it down. Would you accept the thesis that, at the moment, the interests of the Falklands—partly because of 1982 but not only that—are better represented in Parliament than they would be if there were any kind of formal arrangement?

Teslyn Barkman: Thank you. I certainly think that the work our London office does is spectacular, and I agree that knowledge of our small population down here in the south-west Atlantic is a lot higher across Parliament than our size would belie. That comes through all that effort and the opportunity to reach all MPs and Members of the House of Lords.

I would also highlight the fact that—this might come up in a later question—although we currently have the opportunity to advocate to everybody, which is the preferred system, there is an issue with how seriously those concerns are carried through at crucial stages. That is



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where it is important to understand the need for more certainty around how far our issues go in the representation processes.

A very Falklands-specific example—well, it is certainly present in my mind—is the UK’s decision to exit the EU. We fully support the UK public’s right to decide their relationship with the European Union, but when the UK withdrew from that relationship, it withdrew all its Overseas Territories and withdrew the Falklands from its most dominant market, which it can’t replicate elsewhere. When it rebuilt that relationship with the EU, it left the Overseas Territories outside the mandate. Although we advocated hard to be included in that, along with other OTs, it never quite made it to the negotiation where it needed to be discussed.

That is an example. I am certainly not going to let the UK Government forget the impact that had on the Falklands and the need to include us when the free trade agreement is reviewed in 2025, but there could be an opportunity to remedy that, and I can continue to appeal to all Members of Parliament and the House of Lords to do so.

Q171 **Patrick Grady:** Our earlier witnesses, the Chief Minister and the Deputy Chief Minister of Gibraltar, made an interesting point about the changes to UK electoral law that will allow—let me get this right—British citizens, resident anywhere overseas, who have lived in the UK and have voted at some point in the past 15 years or whatever to vote in elections to the House of Commons in the constituency in which they can attest they lived and voted previously. Do you have any sense of what proportion of the populations of Montserrat and the Falkland Islands might fall into that category, now that the franchise has been extended in that way?

Chair: Can we start with Mr Farrell?

Joseph E. Farrell: Could you repeat the question?

Chair: The question is about the extension of the franchise for UK parliamentary general elections. UK citizens living overseas will now have the right to vote in UK general elections, and this will apply to anybody who has at some point in the past been registered to vote in the United Kingdom—they may have been a student in the UK, or have lived in the UK at any time.

Joseph E. Farrell: Thank you very much for the clarity. I do not know that it will affect Montserrat significantly, as we do not have a very large UK population here. What we do have are Montserratians who have resided in the United Kingdom for years and then returned home. Those numbers are pretty small. In the future, they might grow, but for now they are very small.

Teslyn Barkman: It is an interesting point. The UK is probably the main destination for our students to go overseas to get a college and university education, so I imagine that, as well as the relatively healthy UK expat population resident here in the Falklands, it might be a significant number, but I don’t know it off the top of my head—I wouldn’t like to guess. We have a twice-weekly air bridge to the UK, and the number of Falkland



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islanders who have lived in the UK at some point is increasing, probably because of our education links in particular.

Chair: Our final set of questions is about the interactions that your two territories have with Select Committees and other Committees of the House of Commons.

Q172 **Samantha Dixon:** You have both said that you don't have a sense of the formal structures working—you may want to confirm that—but how fruitful are the informal links that you have with, for example, APPGs and Select Committees? How much work do you do with those groups?

Joseph E. Farrell: Thank you very much for that question. As I said, we do have a London rep who speaks with the APPG rep. I was fortunate to meet with not our rep but Committee members in November when I was in the UK. I think we can improve the representation on the all-party group as we go along. We have a new head in our Montserrat office, who I think will be dynamic and reach out to that grouping.

Apart from the Public Administration and Constitutional Affairs Committee and obviously this Committee, which I think we met in 2018 or 2019, we have very little contact with other Select Committees, except on occasions like this when various Committees seek information from us as the Overseas Territory of Montserrat. For instance, we have a constitution, and we are self-governing to an extent; under our constitution, the Governor has certain authority and responsibilities. The Governor responds directly to the FCDO, as part of the FCDO staff. I understand that in recent times there is a Committee in Whitehall to which the Government of Montserrat can make representation if the Governor is misbehaving in some manner or not adhering to the rules, but we never knew about it. We never had one occasion to report to that particular committee; we just did not know.

What we to hear from you, and from the committees across is Whitehall, is who they are, what their functions are and how we can have access to them. I will ask my rep to get in touch with you, because we now have an office—the Overseas Territories head office in Whitehall—where we can meet weekly. I will ask her to get that information because there is a lack of knowledge—we don't quite understand or know, and in the absence of that we cannot maximise or utilise the committees that are available to us. If we were aware of the functions of various committees, we would be better off in having representation and our case would be put a little more strongly across Whitehall. Not knowing about them is a problem.

Teslyn Barkman: In the last six years that I have been involved in the Assembly, we have submitted evidence to a number of different Committees including the Defence Committee, the Environment Committee and the Trade Committee. We have good interest from armed forces groups and the all-party parliamentary group, which helps to raise awareness of the Falklands. We are also sometimes contacted by Committees to give evidence specifically related to the Overseas Territories. It would be useful to have more engagement across the board,



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but it is pretty good. Last November, the Foreign Affairs Committee also agreed to implement a sub-committee for the Overseas Territories, which was very much appreciated and welcomed, so we thank the Chair for her efforts there. I think that that will help across the board, because the Overseas Territories' issues are sometimes similar. However, they are quite often very diverse and difficult to funnel through one Committee in particular. However, having that reach is really appreciated.

Q173 Chair: Thank you. That concludes our questions. Do you wish to make any other points that you have not had a chance to cover through our questioning?

Joseph E. Farrell: Thank you ever so much for having us. The contention within the Overseas Territories is that the constitution was given to us, in a sense, by the UK. In many cases, the representative—the Governor—has the final say, irrespective of what the local Parliaments would agree on. Certain areas in the constitution are earmarked for His Majesty's representative on the island that we think should be under the ministerial portfolio: public service, for example. Elected representatives have no authority, no responsibility whatever, for public servants, even though they agree on the budgets and on salaries and conditions of service. They have absolutely no say in how the public service is run in Montserrat. It's a position that is set aside for the Governor and the Governor alone, and that for us is a retrograde step. We have been arguing over the years, trying to discuss and negotiate over the years, for some aspect of the public service to be put upon the elected representatives. We are having to struggle with that piece. The question is this. The Governor can override legislation. I understand that. The UK uses contingent liability, so they can override legislation, even though it's in the interests of the population, if it's not in the interests of the UK. If the Governor doesn't agree with it, clearly it is not assented to.

So these are the things where, if we are partly self-determining and we pass our legislation, we think that we should have the opportunity to pass legislation, of course if it's not conflicting or not exposing the United Kingdom Government, but if it's in the best interests of Montserrat that it should be assented to. Of course, the role of the Governor is always going to come under scrutiny, in almost all the Overseas Territories. We still maintain that—the Governor, for instance, is still chair of Cabinet, and the agenda is still agreed by the chair. It's these sorts of things. So there is sometimes disgruntlement—if I can put it that way—among the population about the role of the Governor vis-à-vis the role of elected representatives. But I think, as time goes by, we will negotiate those things and see whether we can find common ground, maybe on one of these powers that are delegated and assigned specifically to the Governor. Thank you very much.

Chair: Thank you. Ms Barkman?

Teslyn Barkman: I would first like to stress that the relationship between the Falkland Islands and the House of Commons is one that we hugely value. It is incredibly important to the people here in the Falklands that we

continue to be a part of the UK family. It is something that we chose to do in the referendum back in 2013, with near unanimous results. So, first, thank you for that, and thank you and the Committee for your considered questions. I think we managed to get across most of the points that we had submitted in our evidence. As was also mentioned there, the recommendations that this Committee makes may have an impact on us, so it is very important not to treat us like one big bloc of OTs. We are individual countries with people and different societies, histories and economies and different relationships with the UK as a result of that. On paper, we are all part of that Overseas Territory family, but we must be treated as individuals in that process. It would be very difficult, as regards a clear divide, for us to be able to absorb an MP representing the views of the Falklands in the Houses of Parliament—someone in that role. That is something that wouldn't suit our country, for a number of very clear reasons.

Thank you for your time and for allowing us to give—reaffirm—our evidence today.

Chair: Thank you both very much for your time. This has been very useful and will really help us with our recommendations. If anything comes to mind after this session and you would like to submit it as additional written evidence, we will be very grateful to receive that. We do appreciate you giving us the time, and we look forward to working with you and making sure that the House of Commons and our scrutiny reflect properly the views of Overseas Territories that are affected by the work we do. Thank you again.