



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

**MORNING SESSION: 10.00 a.m. – 12.57 p.m.**

**Gibraltar, Tuesday, 23rd September 2025**

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# The Gibraltar Parliament

*The Parliament met at 10.00 a.m.*

[MADAM SPEAKER: Hon. Judge K Ramagge GMH *in the Chair*]

[CLERK TO THE PARLIAMENT: P A Borge McCarthy Esq *in attendance*]

## PRAYER

*Madam Speaker*

## Order of the Day

### CONFIRMATION OF MINUTES

**Madam Speaker:** Almighty and merciful God, from whom comes all counsel, wisdom and understanding, we humbly ask you to guide and assist us in our deliberations and in our work.  
5 May all our efforts be directed to the welfare and good of our community and our country.

May we act honourably in pursuit of true justice for all our people, now and for the future and for generations still to come. Amen.

**Clerk:** Meeting of Parliament, Tuesday 23<sup>rd</sup> September 2025. Order of Proceedings.  
10 Oath of Allegiance. Confirmation of Minutes. The Minutes of the Seventeenth meeting of the Fifteenth Parliament which was held on the 23<sup>rd</sup>, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 30<sup>th</sup> of June and 1st, 2nd, 3rd, 4th, 7th and 8th of July 2025.

**Madam Speaker:** May I sign the minutes as correct? (**Members:** Aye)

**Clerk:** Communications from the Chair. Petitions. Announcements. Papers to be laid. The Hon. the Chief Minister.

### PAPERS TO BE LAID

**Chief Minister (Hon. F R Picardo):** Madam Speaker, I have the honour to lay on the table the High Executive Possessing Specialist Skills (Amendment) Rules 2025, the Qualifying (Category 2) Individuals (Amendment) Rules 2025.  
25

**Madam Speaker:** Ordered to lie.

**Clerk:** The Hon. the Minister for Health, Care and Business.

30 **Minister for Health, Care and Business (Hon. G Arias-Vasquez):** I have the honour to lay on the table the Audited Accounts for the Gibraltar Electricity Authority for the financial year ending 31st of March 2017.

**Madam Speaker:** Ordered to lie.

### SUSPENSION OF STANDING ORDERS

**Clerk:** Reports of Committees. Suspension of Standing Orders. The Hon. The Chief Minister.

40 **Chief Minister (Hon. F R Picardo):** Madam Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Government Motions.

**Madam Speaker:** Those in favour? (**Government Members:** Aye.)

45 **Hon. D J Bossino:** No, no.

**Hon R M Clinton:** Division, Madam Speaker.

50 **Madam Speaker:** I beg your pardon? Division.

**Hon R M Clinton:** Division.

*Voting resulted as follows:*

55 **FOR**

Hon. G Arias-Vasquez  
Hon. Sir J J Bossano  
Hon. L M Bruzon  
Hon. Prof. J E Cortes  
Hon. N Feetham  
Hon. P A Orfila  
Hon. F R Picardo  
Hon. C P Santos

**AGAINST**

Hon. D J Bossino  
Hon. R M Clinton  
Hon. J Ladislaus  
Hon. G Origo  
Hon. E J Reyes  
Hon. C A Sacarello  
Hon. A Sanchez

**ABSENT**

Hon. Dr K Azopardi  
Hon. Dr J J Garcia

**Madam Speaker:** The ayes have it.

60 **GOVERNMENT MOTIONS**

**Clerk:** Government Motions. The Hon. the Chief Minister.

65 **Chief Minister (Hon. F R Picardo):** I have the honour to move the Motion standing in my name, which reads as follows.

"THIS HOUSE:

CONSIDERS that the Principal Auditor's Report for Financial Year 2018 / 2019 fails, in many material respects, in both form and substance, to conform to standards of independence and objectivity;

FURTHER CONSIDERS THAT the said report contains material errors that reflect both (a) a lack of competence in its finalisation by the former Principal Auditor, and (b) that it has been presented in a manner that is designed to be politically biased against the political parties that make up the Government and to align with the policies of the Opposition in a manner that is outside the bounds of an Auditor's report thereby further illustrating a failure of independence and objectivity;

CONCLUDES THAT, as a result, such transparent bias significantly and completely compromises the accuracy and reliability of the Report and significantly constrains and limits of any reliance that this House can place on it;

AND THEREFORE rejects the criticism of the Government contained therein and the Report itself as not being in keeping with the rigour, objectivity and independence required Constitutionally from a Principal Auditor's Report."

Madam Speaker, on 17 July 2025 I wrote to give you notice of my intention to move this Motion in respect of the accuracy and reliability of the Principal Auditor's Report at the next meeting of Parliament.

Madam Speaker, we have been in correspondence and I have confirmed to you that it is my intention to amend the text of the Motion as it currently stands. We will not be rejecting the report as a whole, although we believe we would be entitled to do so. The Motion as currently drafted proposes that the report fails in both its form and substance to conform to the standards of independence and objectivity that are both expected and required.

It further moves that this House considers the material errors of the report that reflect a lack of competence on the part of its author and the politically biased manner of its presentation that further illustrate a failure of independence and objectivity. The Motion calls on the House to conclude that the report's clear bias significantly and completely compromises its accuracy and reliability and to reject it as not being in keeping with the rigour, objectivity and independence required constitutionally from a Principal Auditor's Report. Since the Motion was initially drafted, the Government has received legal advice which confirms our initial views, but also goes further in helping us to confirm that our views were accurate.

I will be referring at length to that legal opinion in ensuring that the House are aware of the precise legal grounds on which we rely. Additionally, as all hon. Members will have heard me say outside of this place as part of the media reporting of this matter, the report gives us a clean bill of health on the accounts of the Government. That is fundamental, and of course, Madam Speaker, we do not reject that part of the report.

Indeed, we set that up to the light and juxtapose it to the remarkable, mutually exclusive findings in the report which we find so objectionable. I will therefore be moving an amendment which will reflect that the Government is rejecting aspects of the report, but not the whole of it. I shall move the amendment once I have finished presenting to the House the Government's reasoning for the rejection of the relevant parts of the report which fail to apply the standards expected and required of a Principal Auditor's Report.

I will be making further amendments also which will reflect on the face of the Motion the exact parts of the report which we reject, and the reasons for that. I will of course, Madam Speaker, as required by the Standing Orders and Rules of the House, move those amendments in writing when I do so.

Madam Speaker, I was moved by being reminded when you entered the Chamber of the words that we all reflect on when we start each session, that all our efforts should be directed to the welfare and good of our community and our country, and that we should act honourably in pursuit of true justice for all our people, now and for future generations still to come.

It is in that spirit, Madam Speaker, that I rise today to address the House in respect of this Motion. I do not know that we added much value to this debate by having a division on the vote to see whether the Government was going to prevail or not on suspending standing orders. It was obvious that we would.

But Madam Speaker, it is important that I highlight at the very outset of my intervention today as Leader of the House and as Chief Minister, that I very much welcome scrutiny, as do all members of my Government. But when that scrutiny is not accurate, when it is not fair, when it is not objective, and when it is not free from bias, we will not hesitate to point it out. Indeed, Madam Speaker, it is our duty to do so.

And to do so, Madam Speaker, in trenchant terms. Madam Speaker, we introduced monthly meetings of this House, and the televising of the monthly meetings of this House, because we welcome scrutiny and we have no fear of it. We wanted our people to see what was happening here, because we have absolutely nothing to hide here or anywhere else.

No one, however, on this side of the House, whether we have been on this side of the House or on that side of the House, has ever pretended to be perfect. And wherever there are lessons to be learnt from any quarter, be it from the Report, the author of it, or any other reliable source, we will do our utmost to learn those lessons and improve on how we spend taxpayers' money on our valued and cherished public services. Indeed, I will take the House, Madam Speaker, through various examples where the Government agrees with the Report's recommendations and I'll reflect on the work that the Government has already undertaken, in some instances even before the publication of the Report, to implement such recommendations. No one should pretend, for their own partisan purposes, that we are somehow arrogantly saying that we believe we are going to learn nothing from this report or not implement anything in it. Already, Madam Speaker, when I say that, I hear nervous utterings from the benches opposite, who are obviously going to try and do no more than that. And in doing so, Madam Speaker, give credence to the things that we are going to say about the way that the report has been confected.

Additionally, Madam Speaker, I think most people will also see that in many instances, this report reflects complaints and criticisms of things which the author will have known we had already changed before the publication of it. And yet the reporting of those matters appears to ignore the changes affected.

For what purpose would a fair and balanced report continue to highlight problems that have already been dealt with, I ask? It would only appear to be a desire to press on with criticisms which in such circumstances can never accurately be described as constructive. In fact, quite the opposite.

And for that reason, and having said that, Madam Speaker, it would be not right or proper to allow inaccurate, unfair, outdated, subjective and biased reporting to remain unanswered. The Report, Madam Speaker, is laid in this House. Indeed, I laid it in this House. It will remain laid in this House. But the Government is as entitled as it is obliged to set out its own version of the events heralded in the Report and to do so here, in Parliament, where the Report is part of the record. And to do so, Madam Speaker, in a manner that will also indelibly form part of the record of this Parliament.

And not just in press releases and interviews outside of this place, because the Report, Madam Speaker, is indelibly a part of the record of this Parliament. I have therefore absolutely, Madam Speaker, no sympathy whatsoever with the foolishly misguided comment that suggests that this Parliament is not exactly the right place to debate these matters. That we are somehow curtailed in our ability to debate these matters here, in the home of our democracy, and the very place in which this report has been laid by me - where better, and where else, Madam Speaker? In fact, Madam Speaker, to remain silent would be tantamount to accepting that the Government has

175 committed irregularities. That when those alleged wrongs are investigated rationally, demonstrate that, in fact, the Government has attended to matters sensibly, fairly, proportionately, and always based on the best legal and other advice.

That is to say, the objective reality is the complete opposite of the subjective fiction that makes up some of the most objectionable parts of the report. Failure to address such matters in the report would also be tantamount to confirming to the world at large, beyond our frontiers, that the Government accepts it has engaged in practises which are not of the standards that the world has come to expect from us. The very highest standards of international best practise, which is what we pursue in Gibraltar, and we have pursued in Gibraltar, at least since 9 December 2011, which is my period of responsibility - I am not suggesting it was not the case before, but I can only speak for myself.

That, Madam Speaker, would be hugely damaging to Gibraltar's reputation. Indeed, aspects of the report have already been hugely damaging to Gibraltar's reputation internationally.

Madam Speaker, the Government has an obligation to show that those criticisms are wrongly founded, in fact and in law, in order to ensure that our nation is not further damaged by the relevant, incorrect aspects of the report that have had, and will continue to have if we do not counter them, that pernicious effect. Indeed, Madam Speaker, I will highlight the potential consequences, including potential blacklisting of Gibraltar, with all its dangerous effects for our economy and public finances, that we are unforgivably at risk of as a result of some of the worst excesses, errors and overreach in the report. And it is, therefore, the Government's duty and obligation to reflect our strongly held, reasonably based and factually correct contrary views to those expressed in the report.

Amusing, though some members of the Opposition seem to find those issues which are so hugely dangerous to Gibraltar. And it is trite, Madam Speaker, but equally important that we should do so, reminding the House and those outside it that we are as constitutionally independent of the office of the Principal Auditor as it is of us. That is to say, there is nothing in the report, nothing in the report, which binds the Government.

The report may inform the Government. Indeed, it may, as we venture it might have been designed to do, embarrass the Government or seek to embarrass the Government. It can have a political effect on the community.

It can have a political effect beyond our shores. And for all of those reasons, a Government may choose or be compelled to act in consequence of such a report. But that is the realm of politics.

It is the *realpolitik* of the effect of this or any similar report by anybody external to the Government. But none of that, Madam Speaker, makes anything in the report binding on the Government. And it is important that that be reflected in the community's understanding of the nature and standing and the effect of this report.

The report is not a judgement in any judicial or binding sense. Even when it is otherwise unobjectionable, a Principal Auditor's report is not a binding finding in respect of any matter. It is never better said, Madam Speaker, an audit opinion.

Equally as importantly, Madam Speaker, it would not be right or proper for the Government not to speak today also, not just on its own behalf, but also on behalf of the very many dedicated public servants who work faithfully and competently on behalf of our community and who had not been afforded a genuine opportunity to respond to requests for information, but who were nonetheless criticised in the report. And here, and in this respect, Madam Speaker, I will provide to the House the relevant timeline which will show a shocking disregard for the principles that require an auditor to give people a reasonable time to reply.

You will see evidence, Madam Speaker, of letters with many pages of queries sent after the close of business on Friday 30 May this year, asking for a response on certain points. The former Principal Auditor's last working day in Office was that very Friday. He was *functus officio* on 31 May.

Yet letters were sent, which I will refer to the House, on 30 May. And then, in the report, we read complaints that timely replies have not been received. Madam Speaker, as I will demonstrate when I get into the facts of this matter, what had not been received were timely requests for information.

230 The situation is therefore not one of an audit impeded. It is a situation of an audit not properly planned or timeously conducted. Not to give any person the right to respond before he is criticised in a public report is a flagrant breach of one of the more fundamental principles of our system of laws, namely the principle of natural justice.

235 And I will have quite a bit to say about these principles later on in my speech when considering one of the principal areas of concern for the Government. There was, Madam Speaker, to use a more topical term, there was not even an audit equivalent of the opportunity for maxwellisation for many here. Again, a further breach of natural justice.

240 As a result, Madam Speaker, I intend to take the House through the many instances in the report, and there are many examples that are plainly wrong, inaccurate, unfair, subjective, and biassed. And Madam Speaker, I intend to do so by studying and analysing the contents of the report carefully, slowly, and dispassionately for the whole House and the whole community. And in doing so, Madam Speaker, I will show that the Government as a whole, Government Ministers in particular, and Government officials also, have acted properly, diligently, and carefully, always in the spending of public money.

245 We have acted to save money, not to be profligate in spending it. And we have acted properly in replying to audit queries as we have all auditors' queries, whether from the former principal auditor, his predecessors, and his successors. And that we have, and that I in particular, Madam Speaker, have acted constitutionally and entirely properly in every single regard, never impeding any proper discharge of an auditor's functions, always acting in keeping with the provisions of the  
250 Constitution that is permanently on my desk.

And furthermore, as a result, the public will see that the allegations made against us, against me, and against our officials, are wrong and factually and legally improper. Indeed, any fair-minded observer is likely, Madam Speaker, in all good conscience, having heard what I am going to say, to consider that many of the allegations, accusations, and innuendos contained in the  
255 report should properly be withdrawn. That is the legal advice that we have, as I will show during the course of this debate.

At the very least, Madam Speaker, I am confident that once subjected to proper scrutiny, the unfair, inappropriate, and unsubstantiated allegations, accusations, and innuendos in the report will be deemed by the public to be so unsustainable as to be unworthy of being considered reliable  
260 in any regard whatsoever. I am convinced also, Madam Speaker, that once the House and the public have watched, heard, or read the material that I am to put before it, they will question whether there was ever any basis on which to properly even raise many of these issues in the report. Let alone, Madam Speaker, issue a report that reads, in part, like an indictment fit only for a kangaroo court.

265 An indictment issued with what appears to be the purpose only of damning those charged with allegedly unconstitutional behaviour. And additionally, Madam Speaker, expressed as if determined by a tribunal whose views are unchallengeable. Although, for all the reasons I have already highlighted, the report is not a judgement.

270 It is not a binding finding on the Government. It is not a sentence. Nor does it have any judicial or quasi-judicial authority of any type or form.

And so, Madam Speaker, starting today but not ending today, I will provide the House, and from this place to the wider community, the benefit of the analysis that has been provided to me by my senior officials as to the facts and how badly wrong the report reflects those realities. Additionally, and crucially, Madam Speaker, I will also provide the reflections and opinion of  
275 leading counsel in London on principles relating to audits, and in particular, audits of the different emanations of the state. I will have more to say of Mr. Jonathan Fisher KC's legal analysis in due course. But I will highlight that the legal analysis I will present to the House is based directly on

the advice received from him. The principal reason for undertaking this analysis is to allow the community to decide for themselves whether the report for 2018/2019 has met the standards that apply to auditors' reports. The standards of impartiality and independence, which I highlighted in my responses to the report in my various interviews outside of this place.

I will say already, Madam Speaker, that having received the detailed legal advice from Mr. Fisher KC, I am now even clearer about one of the most basic requirements as to independence and impartiality. In reaching that conclusion, and in inviting all hon. Members and the wider community to join me in reaching the same conclusion, I will descend to three types of particulars. I will deal with factual particulars, I will deal with legal particulars, and I will deal with the particulars of audit standards both in the audit of public bodies and internationally accepted standards and I will, of course, also deal, Madam Speaker, with parliamentary rules, practise and procedures.

My request to my fellow citizens and to all hon. Members, Madam Speaker, is that they afford me the opportunity to listen to my responses to the report. Let the good men and women of Gibraltar decide for themselves, having heard the facts and the law I am going to put before the House, whether the report is genuinely, genuinely, the impartial and objective piece of work that we, in this House and outside it, are entitled to expect from a constitutional postholder in the role of Principal Auditor.

That decision, which is one for each hon. Member and each citizen to make for themselves, can only be made properly and fairly if it is made in the light of the cold facts, all of them, and in the light of all of the relevant legal principles and parliamentary rules and procedures - all of them. That is the relevant information to have before us as we carry out this important analysis.

I will make one point, Madam Speaker, which should serve as a warning to my party-political opponents. Madam Speaker, we thrive today in a Westminster-style model of adversarial confrontational politics. I have no problem with that.

Armed with the report of the Hon. Leader of the Opposition clearly felt he had an axe with which to beat the Government and me in particular. I fully understand that. We are each paid to fulfil a role and as Leader of the Opposition, the report gave the hon. Member ammunition to make hay in the slow news summer months.

I get it. As a person who has lived in politics by the sword, I make no complaint whatsoever about someone coming to make me die by the sword. That is the nature of our adversarial system of Government and Opposition.

But there is a further issue to be contended with here beyond the simple issue of adversarial politics and it extends to the party-political tribes outside of this House as much as it extends to the party-political nature of the debate inside this House. If a report on which the harshest attacks have been deployed is a flawed report, then the attacks in retrospect are as blunt as the report is flawed.

But additionally, to persist in the attacks once the report has been shown to be legally, factually and procedurally flawed, as I contend it will be by the time I have sat down, is to persist to attack on a demonstrably false premise. To do that is likely to backfire in a number of ways. First, because the public will see that the report is flawed after I have gone through the detail.

Fatally flawed. The public, Madam Speaker, are fairer to each of us than we are to each other as party-political opponents and then the party-political tribes are to each other on social media or on the streets.

And the public, Madam Speaker, will not take kindly to an Opposition persisting in its pursuit of the Government based on a report that will have been shown to be discredited and unreliable in respect of the most incendiary and controversial of its allegations. Moreover, Madam Speaker, if having established just how legally, factually and procedurally flawed the report is, if the current hon. Members of the Opposition persist in using it as a weapon against the current hon. Members of the Government, what are they going to be establishing from here on in as the ground rules for politics in this community? Clearly, that factually, legally and procedurally flawed material will be fair game in the future to be used against them.



330 In doing so, hon. Members will be responsible for a further breakdown of trust between the political class and the public. Indeed, Madam Speaker, for all of those reasons I will contend that the current report will already be part of the breakdown of trust because once I have finished my analysis, which as I say is based on the objective legal advice of Mr Fisher KC, not my own self-serving assessment but an objective assessment, the public is very likely to suffer a huge  
335 disappointment at the way that the 2018/2019 report has been settled.

That disappointment will lead to a diminution of the trust and confidence that the public can have in future reports. The Spanish saying that the just pay for the sins of the sinner *paga justo por pecador* is apposite Madam Speaker. But I will implore the public not to feel that way despite the devastating demonstration of the failure of objectivity, independence and impartiality which  
340 I will show that the 2018/2019 report suffers from.

I believe Madam Speaker that this report is an utter aberration and that for that reason the Opposition should cautiously withdraw from reliance on it for its attacks on the Government and that the public should rest assured that it can ignore its most incendiary unsustainable and sometimes even nonsensical allegations. Moreover Madam Speaker, that the public can have  
345 confidence in the Office of the Principal Auditor including its current post holder and his members of staff who are not infected with any permanent desire to produce reports that are as patently deficient of the key requirements of independence and impartiality as this 2018/2019 report is. Of that I am convinced Madam Speaker.

Madam Speaker in order that I should orient hon. Members as to the structure of my address  
350 I wish to explain at the outset that I will start by explaining the nature of a Principal Auditor's role and function and the legal principles that apply to his work. I will then proceed Madam Speaker to present a summary account of the Principal Auditor's report and I will then take the House to the Government's views of it. In light of the fact that the relevant part of the former Principal's report is 255 pages, the remainder of the report constitutes the public accounts of Gibraltar in  
355 respect of the financial year 2018/2019 which the former Principal Auditor gave as a clean bill of health on Madam Speaker, I will present a detailed analysis of nine or 11, depends how you break them down, aspects of Government activity identified by the former Principal Auditor in the report as areas of concern. I will then proceed to set out the Government's conclusions in respect of those parts of the report. Madam Speaker to do this properly, and to reflect the importance that  
360 the Government ascribes to the role of external audit, I will do this exercise in a manner that is designed to ensure that each part is meticulously explained.

That means that I will be dealing with each aspect of the elements I have set out in great detail and to do that properly Madam Speaker, I expect that my address in presenting this Motion will not be dealt with just today. The Government is Madam Speaker, as we speak of course, seeking  
365 to finalise the text of the UK-EU Treaty on Gibraltar. There are meetings in that respect already on foot and there will be during the course of this week and next - we are working to settle the text as soon as possible. That requires considerable work and many hours dedicated to decision-making on that. Indeed, Madam Speaker, this is an issue that has dominated the Cabinet sessions since the return of the summer.

370 Additionally, Madam Speaker, we are in a period when we are attending Party conferences. This is a critical year in respect of the attendance of Party conferences and the opportunity to engage with Party leaders and senior members of political parties, in particular those front-bench Opposition members and front-bench members of the Government. The Deputy Chief Minister is today returning from the Liberal Party conference in Bournemouth.

375 Those who follow our current affairs, Madam Speaker, will have seen that yesterday the Deputy Chief Minister spoke at a fringe event at the Liberal Party conference and has had an opportunity of engaging with front-bench Liberal Party spokespeople. I will be at the Labour Party conference in Liverpool next week to host the Gibraltar reception and to meet senior Ministers. The following week, Madam Speaker, the Deputy Chief Minister will be at the Conservative Party  
380 conference, which coincides with the United Nations Fourth Committee of the General Assembly in New York, which I will attend.

All those, Madam Speaker, require work to prepare, planning and travel. For all of those reasons, Madam Speaker, I expect that the debate on this Motion will occupy us for a number of days. For good reason, Madam Speaker, that I do not criticise, the Hon. Leader of the Opposition is not in the House today.

He asked that I should adjourn for him to reply immediately after my address, and I have undertaken to him that I will do so. I expect to be, Madam Speaker, addressing the House for the rest of this morning. I expect I will return tomorrow morning to continue my address, and, if necessary, will return again on Thursday morning to continue.

If necessary, we will meet after that day also for me to continue, or for other hon. Members to start making their contributions. I am mindful, Madam Speaker, and respectful, of course, of the fact that the Opening of the Legal Year is on Friday, and for that reason I do not intend that the House should sit on that day. I therefore expect to return to continue my address, if necessary, next week, or to consider other hon. Members' contributions before my reply.

I am conscious also, Madam Speaker, that I will be moving an amendment also, which will enable all hon. Members to speak on the amendment before we return to the Motion as it will then be. The long and the short of it, Madam Speaker, is that I expect that the September and October sessions will therefore be one and the same. We will deal with questions after the Motion, then questions, Madam Speaker, legislation and then a further Government Motion followed by the Leader of the Opposition's Motion, should he wish to proceed with it.

I expect, Madam Speaker, that because of the aforementioned ministerial travel, we will be returning at different times and dates, and we will not, this month and next, be able to stick to our preferred rhythm. But I want to be clear that the Government understands that the incendiary nature of the unsustainable and improper allegations made caused huge concern in the community after the publication of the report. Whether they were or they were not designed to do so, we will see what conclusions we all reach by the time that we finish this debate, they had that effect.

And the pressing by hon. Members opposite, outside of this place, of those erroneous, unfair and unsustainable accusations outside of this House, means that in the unanimous judgement of the whole Cabinet, we feel it is essential to start this parliamentary session with this careful, proper and legally well-founded rebuttal of the worst of the things that have been said against the Government in the report. Against me, against each of us, and against the Government's most senior and hard-working officials. Fairness and constitutional propriety requires nothing less that we challenge the erroneous findings in the report, and we will not fail to address each of the relevant points arising.

So, Madam Speaker, with that timetabling element dealt with, I need to move on. But perhaps, Madam Speaker,

**Hon. D J Bossino:** Perhaps the Chief Minister will give way?

**Hon. Chief Minister:** No. Not without reflecting on the fact that there has been some element of comment about the absence of the Leader of the Opposition today, which I have said I do not criticise, but I would just gently reflect that all of the debate on the report – and this is a debate on the report in the House – but all of the debate on the report outside of this House was led by Members Opposite when I was not in the jurisdiction. And so, Madam Speaker, I will be forgiven for having simply pursued the Government's timetable, which is fixed for all of the reasons that I have set out in the most difficult two months of the year for ministerial travel except for June and July, looking at the importance of the work that the Government does also outside of this place and ensuring that the Government and the public and Members Opposite have the most time available to consider the issues that I am raising in this report.

But as I say, Madam Speaker, and as I have said already expressly, I make absolutely no criticism of the absence of the Leader of the Opposition as I have said. I believe that he is away for a good reason, as I have also said outside of this place and I am happy to repeat here, I congratulate his

family for the happy reason for which he is travelling today. Madam Speaker, what I need to do now is to go on to something called the audit principles.

As I have just said, before I take the House of the Government's analysis of the report, it is fundamental for me to start by setting out the legal architecture and the legal principles that apply to the functions of the officer that holds the hugely important constitutional position of Principal Auditor. Madam Speaker, this is not designed to be an arid academic exercise, but I recognise it will not be the most politically riveting part of my address. That, I hope, will come later.

But it is, may please you, an important first step in allowing the Government to explain the various reasons why it has asserted, and why we continue to assert that the report is biased, and does not meet by any serious measure the important standards that apply to auditors of impartiality and independence. It is an essential part of how we will prove also that we have acted entirely properly in the way in which we have administered, spent, and dispersed public money. Our people's money.

The money that we are bound to administer properly and efficiently, which is exactly what we have done, and which is what any audit which is independent and impartial would have found. Indeed, that is why we were given the clean bill of health in other parts of the report, which I'll come to. The principles that I will analyse, and the question that I am asking the people of Gibraltar to consider, is whether the report adheres to the well-recognised standards of auditor independence, impartiality, and professional accounting, ethical and audit standards expected when an auditor presents a report to the House.

Once I have set out these principles, and set out the facts, I have no doubt that the public and any honest and objective member opposite will say that actually they agree that the report fails all of that essential and fundamental criterion. Madam Speaker, it cannot be forgotten in doing that analysis that the person who occupies the post of Principal Auditor occupies a post that is enshrined in our Constitution.

And the Constitution, Madam Speaker, is not just the law. It is our principle and overriding enactment. It is, Madam Speaker, in the pyramid of our laws. It is at the top of the hierarchy of our laws. Our whole *corpus uris* flows from it.

That means that if there is a conflict between a law made by Parliament, a statute, an Act, and the Constitution, then the Constitution will prevail. So, as a result, Madam Speaker, persons appointed under the Constitution hold hugely important posts of responsibility in our legal and political, and indeed, social hierarchy. The post of Principal Auditor is such a post by virtue of Section 25(3) of the Constitution. The person so appointed by that provision is also an officer of the House, and it is right that we should all expect that such a person will conduct his or her affairs in adherence to the highest ethical standards.

That is a given, Madam Speaker. Such a post, Madam Speaker, however, does not only demand the highest standards of professional conduct and competence. The person who occupies the post must also discharge his functions by reference to well-recognised and universally accepted legal principles, to which I will speak later in my address. And I would add, Madam Speaker, that that is not only applicable to the post of Principal Auditor, it applies also to the post of Chief Minister.

To finalise the picture, Madam Speaker, under Section 56 of the Constitution, the appointment of the Principal Auditor from time to time, is done by the Governor, acting on the advice of the specified appointments commission. Madam Speaker, I am referring to many sections of the Constitution and telling the House what they say.

If I was addressing you somewhere else, I would have taken you to the section and read it. I think for the purposes of this debate, it is sufficient, in particular, in respect of these uncontroversial aspects, that I do not take you to the text of the Constitution and read it. I think, in any event, you are familiar with it, and so will be most Members, given the topicality of the issue, and most will have referred to those sections already.

These days, hopefully, all of these things are available online. If anyone watching wants to read the sections, by simply typing them into the Google search engine or the AIs, they will be able to read those sections, and, as I have said, until now, I haven't come into any part of controversy in

the interpretation of sections, so I do not think it is necessary for me to take you to the sections. But, moreover, Madam Speaker, in continuing that analysis, under section 72 of the Constitution, the salary of the principal auditor is a first charge on the consolidated fund, together with that of certain other officers, not the Chief Justice.

490 Madam Speaker, pursuant to section 74(1) of the Constitution, the principal auditor is obliged to audit and report on the public accounts of Gibraltar. That is the role the Constitution gives him after we have set out how he is appointed and how he is paid and what is expected of him. This obligation, Madam Speaker, includes the auditing and reporting on all accounts of courts of law and all authorities and offices of the Government.

495 For this purpose, pursuant to section 74(2) of the Constitution, the principal auditor must be afforded access to all books, records, reports, and other documents relating to those accounts. And under 74(3) of the Constitution, the Principal Auditor must submit and lay his reports before Parliament, and in the exercise of his functions, the Principal Auditor must not be subject to the direction or control of any other person or authority. Of course, Madam Speaker, that section 74 is  
500 the section that we will come back to later in my analysis in days to come when we look at what was and was not done and the comment in the report about those things. It naturally follows, Madam Speaker, that the Principal Auditor's role is independent of any governmental or political influence, and it must be and continue to be, which is entirely harmonious and consistent with the designation of the Principal Auditor as an officer of this Parliament under 25(3) and as an  
505 external auditor to the Government.

I am reminded, Madam Speaker, that sometime in 2015/2016, some of the hon. Members opposite still here, seemed not to be aware that we had an external auditor to the Government, and if necessary, I may reflect on that in my reply.

Madam Speaker, whilst hon. Members may well consider that setting out the provisions of the  
510 Constitution is a little otiose in light of the media scrutiny of the report, the headline issues, et cetera, going back to the Constitution and the appointment seems perhaps a little bit rarefied, it is actually vitally important to detail these technical legal aspects for the purposes of the record of the House and to set the foundation for understanding of the rest of the debate. Additionally, Madam Speaker, for the reasons that will become clear as I proceed with the Government's  
515 analysis of the report, the provisions in the Constitution are germane in the context of analysing whether the audits that are referred to in the report were conducted in keeping with the relevant sections of the Constitution and the applicable standards. For all the reasons that I will demonstrate to all hon. Members, it is the considered opinion of this side of the House that the report, regrettably, and I mean that sincerely, Madam Speaker, regrettably, the report does not  
520 adhere to the Constitutional provisions that govern its office and functions.

It is our view and we are advised, Madam Speaker, that certain aspects of the work that led to the report were conducted in a manner that was itself unconstitutional. They were outside of the limits of the actual or ostensible Constitutional and statutory authority of the author of the report. They were ultra vires, the powers of the office of the Principal Auditor.

525 And Madam Speaker, I repeat my request to the people of Gibraltar to consider the analysis that I am undertaking today in this House and assert for themselves whether, once they have heard me, they believe or continue to believe that the report adheres to the Constitutional provisions that govern and discharge its author's functions. Judged fairly, I believe that the majority will agree that it does not. That, in fact, the report strays beyond the Constitutional, statutory, and parliamentary ambit of the office of the Principal Auditor.  
530

Madam Speaker, the legal background, does not end with a consideration of the Constitutional provisions. It is equally important to address some of the relevant provision of the Public Finance Control and Audit Act. In this respect, Madam Speaker, Sections 55 to 65 of that Act supplement the procedural provisions for the proper discharge of the Principal Auditor's obligations.

535 Here, I will go, Madam Speaker, to some of the text. Section 57 of the Act, which describes the nature of the audit, provides as follows:

All reasonable steps have been taken to secure the due collection of revenues and of all other public monies due and owing to the Government and the provisions of the Constitution and of this Act and any regulations and instructions relating to such collection have been complied with.

540 All monies which have been appropriated and dispersed have been applied for the purposes of which they were appropriated and the expenditure conforms with the authority which governs it. Public monies, other than those which have been appropriated, have been dealt with in accordance with proper authority. All reasonable precautions have been taken to safeguard the proper receipt, custody, issue, and proper use of cash, stamps, securities, and stores and the regulations and instructions relating thereto are sufficient and have been duly observed.

545 The regulations, directions, and instructions in force relating to the issue and payment of public monies are sufficient to secure effective control over expenditure and such regulations, directions, and instructions have been duly observed by the public officers concerned therewith. And the regulations, directions, and instructions in force relating to the accounting for public monies, stores, and other Government property are adequate and such regulations and instructions have been duly observed by the public officers concerned therewith.

550

That is what the Principal Auditor is charged with checking - additionally, as paragraph 1.31 of the report itself notes:

555 The Principal Auditor has discretion as to the form and content of his annual report on the public accounts of Gibraltar.

Direct quote.

However, and continuing my quote:

560 He generally restricts himself to reporting matters that he considers significant and or constituting an actual or potential loss of public resources, a lack of financial control, an impairment of accountability and the breach of or non-compliance with legislative or other requirements.

He does not generally,

565

and this is a quote from his report:

He does not generally report areas or deficiencies that in his opinion have been or are being satisfactorily rectified, except where deficiencies have resulted in a loss to the public purse.

570

Madam Speaker, having now necessarily addressed the House first on the applicable constitutional and statutory principles that apply to the work of the Principal Auditor, I need to take some time to reflect on what those sections mean in practise.

575 In the first place, quite plainly, the Principal Auditor, of course, may advise as to the need for improvements in accounting processes and governance within His Majesty's Government of Gibraltar's departments, agencies, and authorities. It is important to underline, however, that such advice must be consistent with his role as an independent servant of the Parliament. As a result, Madam Speaker, it is, of course, axiomatic that any concerns expressed by a Principal Auditor must be free from political influence or bias and based on a correct understanding of the legal and accounting framework in which a Principal Auditor is required to act.

580

585 Madam Speaker, when one talks about bias, one is talking not just about actual bias but also about perceived bias, something which I will come to, is detailed in case law and which I will detail also in the course of my address. The requirement to act independently is to conduct an audit free from any outside interests or controls. The Committee on Corporate Governance, Madam Speaker, known as the Hampel Report, which was chaired by a former Chairman of ICI, made clear that the basic statutory duty of an Auditor, whether he is a public Auditor or an Auditor in the commercial world, is to report on whether an organisation's annual accounts are properly prepared.

590 Madam Speaker, I should also say that it is my intention to issue the full text of my address today and that it will contain footnote references to each of the areas of the case law, of the statute, the constitution and the reports that I will be referring to the House should hon. Members

or anybody who is listening wish to follow that and wish to dig deeper into those reports and indeed, Madam Speaker, to give the Leader of the Opposition something to read on the plane on the way back.

595 Madam Speaker, any Auditor should, the Hampel Report said, report on any inconsistencies and report privately to the Directors any observations on internal controls resulting from an audit. That is in the commercial world, not in the sphere of a public audit. I'll come to those principles later.

600 The Hampel Report explained that these are the extensive responsibilities which apply to auditors and which require auditors to demonstrate both their financial expertise and the skills of objective enquiry, analysis and the ability to report. Key word there Madam Speaker is objective and with reference to an auditor's independence, a quote from the report importantly says as follows from paragraph 6.8 of the report:

605 Everyone concerned accepts the principle that auditors must be objective and thus remain independent from company management. Statutory provisions, auditing standards and professional guidance all aim to ensure that this principle is applied in practise.

610 The emphasis Madam Speaker on the importance of an auditor discharging his role objectively is to be particularly noted. To summarise the position Madam Speaker that we have got to so far. Auditors through their systematic examination of processes, operations and financial records should identify weaknesses in internal controls, inefficiencies in operations and areas for potential improvement. Auditors can often include recommendations in their audit reports to address the identified issues and enhance an organisation's performance. These recommendations might  
615 focus on improving those internal controls, streamlining processes to make them more efficient, more value for money, reducing waste or generally enhancing efficiency. Auditors can also work with management and stakeholders to help to implement the suggestions that they make and align operations with the organisation's objectives.

620 Madam Speaker where an auditor operates within those boundaries the performance and outcome of an audit will be uncontroversial. However, where an auditor of a public body in particular expresses an opinion that trespasses outside of his traditional task of a review of financial statements, regulatory issues or value for money considerations, an auditor is breaching the standards of professional conduct that he is meant to uphold.

625 In such a situation Madam Speaker, an auditor must take care to ensure that his objectivity and independence is not compromised and that the correct legal principles have been applied at all times. The Government, however, I am sorry to have to inform the House, is advised that the report does not only stray outside of the boundaries that limit its author's professional responsibilities, but it also considerably exceeds such limits. Again, Madam Speaker, this is a highly regrettable state of affairs, not least because of the wholly unnecessary damage that the report  
630 has caused to the good reputation of the integrity of our nation and our institutions.

Indeed, the huge risk that the report has created for Gibraltar as a jurisdiction, which I will address when I deal with matters related to the Gibraltar Savings Bank and which the Hon. Sir Joe Bossano, the Father of the House, who has ministerial responsibility for the bank, and the Hon. Nigel Feetham who has ministerial responsibility for financial services, will also address. To the  
635 mind of hon. Members on this side of the House, it is a striking feature of the report that many sections reflect many of the same policy positions repeatedly espoused by hon. Members opposite. It is the considered opinion of the Government that it cannot be a close synergy, indeed symmetry, between several sections of the report and the GSD's statements in this place and outside it.

640 On policy issues Madam Speaker, on policy issues it is important that I emphasise that to Members opposite. These comments relate to policy issues. The word policy has a meaning. We will come to analyse it and what the courts have said about auditors who talk about matters of policy.

Again, our concern, in respect of many areas, is that those sections stray beyond the aspects on which an audit should or can opine. I will deal with the aspects of this matter that relates to the Public Accounts Committee and my analysis of the case law which limits an auditor's rights to opine on matters of policy in his audit report.

I am not going to be asking the astute people of Gibraltar to take my words at face value. I do that even though, as their Chief Minister, the public should have the deepest trust and conviction that I would never mislead them or this Parliament. They should comfortably take my words at face value.

But these are times of a worldwide loss of trust and faith in institutions, in politics and all politicians. These are times of absolutely mindless indeed, Madam Speaker, I want to be explicit. These are times of moronic conspiracy theories given wings by social media and sometimes by irresponsible Oppositions and politicians.

And in any event, Madam Speaker, I have far too much respect for this place, for you, Madam Speaker, for all hon. Members, for all our citizens and for the seat here of our proud democratic traditions to ever mislead this house or my community. Of that, Madam Speaker, Hon. members and the public should have absolutely no doubt, even those who might feel that because of our adversarial system, they need to get up and say the opposite. But they know in their heart of hearts that I would never stray into misleading this house or the public.

But what I will do, Madam Speaker, instead of asking people to take me at my word, is that I will prove each of my points. I will ask my fellow Gibraltarians to look at parts of the report and then look at the GSD's statements, literally to place them side by side and then decide for themselves whether the Government is right or wrong to conclude that several sections of the report are nothing more and nothing less than a channel for the partisan views of hon. Members' opposites, policy positions. Policy positions.

And it is key to keep that in mind. A channel for the partisan views of hon. Members' opposites, policy positions.

I note that it appears that some hon. Members' opposites find that amusing. Well, perhaps it is funny for them, despite the huge institutional damage that has been done in the past few months by that confluence of interest, which is obvious, from parts of the report and hon. Members in respect of policy matters. Should the public, Madam Speaker, as I believe they will, inevitably come to the same conclusions as we have, then the rest of the community, too, will come to hugely regret that they should ever have been placed in a position of having to doubt the word of their elected representatives and the many outstanding men and women in the public service that administer their affairs. Again, Madam Speaker, when I say these things, it causes mirth on the Opposition benches.

Surprising, because I would have thought that if there was one area where there was agreement between Members opposite and this side of the House, is that we have many outstanding men and women in the public service that administer our affairs. If my fellow Gibraltarians come to the same conclusions that we have, Madam Speaker, if hon. Members here come to the same conclusion that we have and put their partisan interests aside, then they will also come to hugely regret that there should have been an insidious attempt to pull the wool over their eyes and mislead them, in some cases, Madam Speaker, quite unforgivably in respect of the use of their money. Madam Speaker, it must be said that Gibraltar's institutions are robust enough to withstand criticism, but the public deserves that criticism to be neutral and grounded in fact, objective, independent, impartial and when those criteria are not met in the report, we do not consider such unwarranted criticism to represent idle gossip or harmless rumour that can be safely ignored.

Such unsupported and unfounded criticism in a report from a constitutional postholder hurts the fabric of our nation. It gratuitously and unnecessarily undermines the trust and faith that our community has in its institutions, and it does so at a time when that trust is already fraught for reasons which relate more to the insidious nature of social media and to anything else. But

695 remarkably, Madam Speaker, in this report, we have one part of the constitutional edifice of the state casting unwarranted aspersions on another.

Friendly fire, so to speak, Madam Speaker. Although it hasn't felt very friendly to us, I have to say.

Madam Speaker, the people of Gibraltar need not take from me at face value, as I say, the very real dangers that can potentially arise when an auditor trespasses outside the limits of his professional duties. In this respect, it is important that I should take the House through some of the relevant jurisprudential principles that apply in such circumstances.

Madam Speaker, I am about to embark on more legal detail but I promise you, Madam Speaker, the next part of my speech is all about the facts but it is important that I put these building blocks in place because that is the basis on which the filter through which and the lens through which we have to see the facts.

So, Madam Speaker, it is important that I should do this because the words of the Constitution and the Public Finance (Control and Audit) Act, which are the things I have referred you to already, or very similar words in constitutions and statutes have been interpreted already in cases in other common law jurisdictions with similar or identical laws. And those cases are crucial in understanding what courts have said, the meaning of those words, those legislative provisions mean in practise.

The first case, we call them authorities, Madam Speaker, in courts, the first case that I wish to refer to the House is: *Williamson and another versus the Port Authority of Jamaica*, which was heard in the Court of Appeal in Jamaica in 2019. Port Authority of Jamaica is then referred to as PAJ, as I will read you the relevant parts. The Court, Madam Speaker, in that case, had been asked to determine whether an employer, in this case, a public sector employer, the PAJ, the Public Authority of Jamaica, had acted irrationally when declining to make an award to the claimant on their retirement.

So that is to say an individual retires and the Port Authority of Jamaica says we are not giving you any money on your retirement and this is challenged. Instead of helping to clarify the situation, the dispute was complicated by the involvement of the Auditor General of Jamaica, the equivalent of a Principal Auditor, who when when she was asked about the matter, had come to the view that no award should be made in circumstances where the making of awards was prohibited by guidelines issued by the Ministry of Finance and the Public Service.

Madam Speaker, this is not analogous, but it is not dissimilar to the issue of the ex-gratia payments which is referred to in the report, which I'll deal with in more detail later, but that is one of the areas of focus that we will need to use this case to analyse, but the case goes further than that in setting out principles. This is the important point, however, Madam Speaker. The Auditor General's view, the Principal Auditor's equivalent in Jamaica, the Auditor General's view was found not to be determinative.

Morrison, the President of the Jamaican Court of Appeal, Justice Morrison, made this point, and I quote it:

Despite the undoubted importance of the office and role of the Auditor General, her views on whether retirement benefits should be paid to the appellants in this case was only one of the considerations, albeit of course an important one, which the PAJ was obliged to take into account. In my respectful view,

said the President of the Court,

by treating the Auditor General's advice as decisive of the issue which it had to determine, the PAJ excluded from its purview other obviously relevant considerations and thereby acted irrationally.

So, a public body acted irrationally because it followed the advice of a Principal Auditor as if it were a binding finding. It is not. It is quite clear from the passage of the judgement that I have just quoted that notwithstanding the independent nature of the role, an Auditor General's conduct will not be immune from challenge by the executive and indeed review in the courts when that is



appropriate. Interestingly, Madam Speaker, as I indicated, the case dealt with facts which are not dissimilar with this question of the exgratia payments that we will deal with later on as part of the report, the exgratia payments and the police officers move - the whistleblowers.

The Government's view, Madam Speaker, is further reinforced by additional case law, which I am about to start to analyse. Madam Speaker, I do not need a comfort break, but if you do, I am very happy that this would be an appropriate moment. I think I am halfway through what I intend to say this morning, and if this was a good point to break for 10 minutes, we could.

**Madam Speaker:** For my part, I do not need a comfort break...

**Hon. Chief Minister:** Madam Speaker, let us stop for 10 minutes and then come back. I am conscious that we are halfway through the morning. I do not need a comfort break, but it might be a good moment to break.

**Madam Speaker:** So, I move that the House should recess for 10 minutes.

*The House recessed at 11.15 a.m. and resumed its sitting at 11.29 a.m.*

**Hon. Chief Minister:** Madam Speaker, thank you. I had just dealt with Williamson and the Port Authority of Jamaica, and I was moving on to deal with more case law.

In this case, Madam Speaker, the case of *Ramdas versus the Minister of Finance and another* in Trinidad and Tobago in this year, in 2025. Madam Speaker, in that case, the Ministry of Finance in Trinidad and Tobago had understated revenue by \$2.6 billion in the public accounts for the financial year 2023. What the what the Father of the House might say, Madam Speaker, it would be a nice problem to have understating your revenue by \$2.6 billion.

The Auditor General, Madam Speaker, was required to audit the public accounts and submit a report the same as the Principal Auditor in Gibraltar. After being notified of the understatement, the Auditor General accepted revised public accounts but issued a qualified audit report. That is to say, the Auditor General in Trinidad and Tobago did not give the clean bill of health that we have received from the former Principal Auditor in the report as to the accounts - She qualified the audit report.

In audit language, Madam Speaker, when you say that something is qualified, it is that you have got a black mark and the Auditor is saying something is wrong there and, in this case, Madam Speaker, something was very wrong as the Government of Trinidad and Tobago had admitted because they had understated their revenue by \$2.6 billion. Would, Madam Speaker, that we would enjoy such a black mark by having found \$2.6 billion?

I would happily take a qualified audit in that respect. But the Trinidad and Tobago Government, Madam Speaker, decided to challenge the Auditor-General's decision and appointed its own investigating team to examine the treatment of the understatement. In response, Madam Speaker, the Auditor-General there sought leave to quash the Government's decision to investigate her decision, and in a procedural ruling, the Privy Council – Trinidad and Tobago still goes to the Privy Council in the United Kingdom, Madam Speaker, the old House of Lords, now the Supreme Court, the Privy Council – made clear that the Auditor-General was entitled to challenge the

General contended that the Government's approach was flawed because it displayed bias and disregarded constitutional convention regarding the independence of an auditor.

So, Madam Speaker, whilst that substantive issue is still live in the Privy Council, it is clear, both from Williamson and Ramdas, that a challenge to the content of an Auditor's report is not, as we have been told in some of the more expansive remarks one has heard, a challenge to an Auditor's report is not an assault on democracy, as we have been told, or anything of the sort. Actually,

800 there's a lot of these cases I'm referring to that are most relevant, but there's a lot of them. And none of them have been referred to as an assault on democracy, as we've heard in Gibraltar, because the Government has the temerity to say that there are things in the report with which we do not agree.

805 It's important, Madam Speaker, to remind ourselves of that and put in proper context the things that have been said after the report has been issued. This type of challenge, Madam Speaker, to an Auditor is not at all unprecedented, even a public Auditor. Indeed, Madam Speaker, these cases illustrate other situations where even legal proceedings have been pursued for the Court to consider in the facts of a given case whether an Auditor has acted within or outside the parameters of his legal framework.

810 In fact, Madam Speaker, I feel obliged and duty-bound to tell the House that one of my Ministers rightly sought legal advice from local council, who advised him in no uncertain terms that in so far as the sections of the report refer to him personally and to his department, it breached well-recognised and accepted principles of procedural fairness. I will have significantly more to say on this question, Madam Speaker, when I get to the relevant part. Suffice to say that 815 the only reason why the Gibraltar Audit Office is not presently a respondent to a judicial review claim is because I stopped the Minister from commencing the proceedings.

I have no doubt, Madam Speaker, that if the Minister had proceeded in his legal challenge, he would have prevailed in it. I will also explain, Madam Speaker, my reasons for advising that matters should not proceed to Court when I get to the relevant part of my speech. In any case, 820 Madam Speaker, there is a more relevant case law of which all hon. Members should be aware.

I am referring to the House of Lords decision in 2002 of *Porter v Magill*. It is an authority that hon. Members who practise in the Bar and no doubt you will likely be aware of because it is the authoritative guidance on an auditor's independence, the appearance of bias and the limits of an auditor's role, although it goes a little further than that. Indeed, as I have already alluded to above 825 and I will be alluding to throughout this debate and I hope it will not be an issue of difference between us and hon. Members opposite in this debate, the independence of an auditor is fundamental.

It is not a shield against scrutiny. It is a fundamental part of how an Auditor must operate. In *Porter and Magill*, the House of Lords reviewed the conduct of a District Auditor, it was a public 830 Auditor, a District Auditor, who had accused councillors of gerrymandering and had pursued surcharges, financial penalties, against them for doing so.

As with the other cases I have described, the Law Lords firmly rejected the idea that the public Auditor's conclusions are unchallengeable simply by virtue of the office that he holds, as some seem to foolishly suggest is the case in Gibraltar. Because it has been said in the report, that is it. 835 It is the damning judgement beyond which there can be no challenge, no different view, binding finding, sentence.

Far from it, Madam Speaker, far from it. To the contrary, Madam Speaker, actually *Porter and Magill* is clear and top-level jurisprudential authority for the proposition that an Auditor's independence does not immunise them from accountability. Their role is to hold us to account, 840 but they too are accountable in that process.

Of course, we are all accountable to each other, Madam Speaker. If an Auditor oversteps his legal boundaries or appears biased, of course he can be called to account. Can we imagine a world where the opposite would be true?

845 Even, Madam Speaker, as you know, judges' decisions are appealable, and a judge makes a decision which is a binding finding and is a sentence in appropriate cases. But there is an appeal process, and a court of appeal can look three judges at what one judge has decided, and they will make a binding finding, which is not what an Auditor makes or issue a sentence. And their decision is appealable to five judges who will issue a binding finding.

But in some circumstances, Madam Speaker, even that will be appealable, or before a binding 850 finding will be referred to 17 judges in the European Court of Human Rights, or in the old days, Madam Speaker, would go to the Court of Justice of the European Communities. Even judges

whose decisions we are not entitled to challenge here in this Parliament under our rules when they relate to judicial matters heard in the Supreme Court. Even judges' own binding findings are challengeable because that is how we ensure in an adversarial system we keep accountability.

855 So the notion that an Auditor, a Public Auditor in particular, somehow makes findings against whom one cannot raise their voice and that what is set down in the book is unappealable the truth is for the birds, or Madam Speaker, I might gently say, for the GSD Opposition. Because I do not think anybody believes that that is the case. In the professional world, and in perhaps the blogger world, that might be a truth that they might want to create.

860 In the Government haters world, that might be a truth that they might want to establish. Look, I fully get it. It is a, as I started saying, it is a, it is a sword to use against the Government.

But let us not pretend it is a sword made of platinum or stainless steel. It is a sword which can be bent out of shape once you get to the core of what metal makes it. So, Madam Speaker, what we are doing today in this motion, what we have done outside of this place, is simply saying, well, 865 look, chaps, there are problems with this report.

It is not legally properly founded. It is not factually properly founded. The criticisms are unfair for the following reasons.

Nobody should argue that that is contrary to what democracy requires, and that somehow what we are doing is anti-democratic, even if we have had to go back to basics and look at the case law that establishes that to make clear that of course these issues can be reviewed. The 870 Porter case, Madam Speaker, is actually quite a seminal case because it is the case that established the concept of the fair-minded and informed observer, which is the test for determining whether or not there is apparent bias. Madam Speaker, I am just going to pause there in my prepared remarks to remind ourselves that it was the great, if I may say so, John Alcantara who established that the reasonable test, which was the test of what the man on the Clapham omnibus might 875 consider was appropriate, was best translated in Gibraltar as the test of what the reasonable man who read his Chronicle at the Piazza might determine. So, it would be the reasonable man in the context of Porter and Magill that would be making the determination of whether a fair-minded and informed observer would consider that there was apparent bias. In Gibraltar, Madam 880 Speaker, it is not so much up here that we should be making that determination, maybe it is down there where people are reading their chronicles that people will be determining. I hope having heard the Government whether a fair-minded and informed observer would at the end of this process, having considered all issues, consider actually that apparently, I do think that this report is perhaps biased.

885 Magill is the leading authority for that test of apparent bias in public decision-making, including but not limited to the work of Auditors. It is a case that has established a principle that goes beyond just Auditors.

The test for determining the existence of apparent bias is now well recognised and understood, namely this question of whether the fair-minded observer, fair-minded and informed observer, 890 would conclude that there was a real possibility of bias. It is important, Madam Speaker, that the observer is both fair-minded and well-informed. Hence why, Madam Speaker, the Government considers it is essential that the public should have all of the information, which is what I will be doing in the next couple of days, which is go through the factual information so that at the end, Madam Speaker, having heard all hon. Members' views also of everything I have to say, the fair- 895 minded and informed observer is, when he came to it, we hope, fair-minded and when he leaves the debate, well-informed. Then the public can make a determination, Madam Speaker.

Crucially, the House of Lords in Magill stressed that an Auditor's protestations of personal impartiality are legally irrelevant and beside the point. The assessment as to bias is an objective one. What does that mean?

900 It means that the court decided that whether the Auditor in question or in any other case of apparent bias, the professional or individual in question says, but honestly, I am not biased. I did not mean to sound biased. I am not biased at all. I like them both as much or in this context, I

have never voted, I have poxed on both their houses, I hate all politicians of all sides. - It does not matter. What matters is that the assessment as to bias is an objective one.

905 It is the fruit of the work of the Auditor, whatever his motivation, that is to be judged objectively by the fair-minded and well-informed observer and the determination is made upon that fruit, not upon the individual. Hugely important because, Madam Speaker, this is not a judgement on an individual, current Auditor or former Principal Auditor. This is a judgement on the fruit of the work of the former Principal Auditor, which is in this House.

910 This is what we are judging in matters of bias. It matters not, as the House of Lords said, what the protestations of the individual Auditor in that case might be. We do not need to cross-examine or hear the arguments of the author of the text because what the House of Lords tells us we judge is the fruit, the text, and we apply fair-mindedness and information to that test objectively and then decide does it look biased.

915 That is the sum total of what Porter and Magill tells us we must do. Madam Speaker, I think that is hugely important from the point of view of any idea that anybody might have that we are somehow here dealing with a trial of a person who is not present. That is not the issue.

Politics sometimes is about challenging each other, but this Motion is about this report and what is in it. Madam Speaker, I should also say for those who are listening that I am referring to the House of Lords in Porter and Magill because that was the nomenclature of what is now the Supreme Court in the United Kingdom. It was before the change of that well-known House of Lords structure to the Supreme Court structure in the UK.

925 Madam Speaker, the House of Lords decision there in Porter and Magill also illustrates that several factors can undermine an appearance of neutrality. That is also important, Madam Speaker, as the case confirms that an Auditor's methods and presentation may themselves undermine confidence in the neutrality of the office. As to methods, I will be going through a lot of material in coming days when I will show the exchanges of correspondence between the former Principal Auditor and Government officials.

930 As to presentation, I refer once again to what we are dealing with - it is this. Madam Speaker, although apparent bias was ultimately not established in Porter, on those facts, in the facts of that case, the case reinforced the principle that Auditors must refrain.

It is imperative language. The case showed that Auditors must refrain from conduct, and conduct includes the making of findings, that would lead an objective, well-informed observer to suspect bias. Objective, fair-minded, well-informed observer to suspect bias.

935 That is the test. That is what we are dealing with. Not the GSD says, the GSLP/Liberal says.

What does the objective, fair-minded, well-informed observer think, and what can he think, Madam Speaker? I will put it to all of us to consider. When Auditors are not supposed to talk about policy, the report talks about policy, and the policy is theirs, not ours.

940 To make the decision, you have to look at their policy, you have to look at our policy, and I have to take you, as I will in a moment, to the case that says that no public Auditor should ever talk about policy. But, Madam Speaker, the decision draws a line that I ask this House to bear in mind the House of Lords drew, as I conduct the Government's analysis of the former Principal Auditor's report, which is this, that even the appearance of prejudgment or partisanship can be fatal to the credibility of the report, unless the Auditor's behaviour clearly demonstrates caution and adherence to proper bounds. Those words are going to be fundamental when we do the factual test as well.

945 Caution and adherence to proper bounds, and I put it to all Members, Madam Speaker. I was going to say I put it to you, but you are not a witness, Madam Speaker. I put it to all hon. Members, that when they see the exchanges of correspondence and the text of them, both caution and adherence to proper bounds will be obviously things that were disregarded in the preparation of this report.

Unlike the District Auditor in Magill, who repeatedly emphasised actually that his findings were a provisional nature, this report presents some criticisms as in fact settled conclusions. So there, the Auditor who was challenged and whose case got to the House of Lords was saying in his

955 equivalent of the report, he was saying, but look, these are interim findings and I am prepared to listen to other points of view. Here, that which got the District Auditor in Magill his way out of the problem is not present.

These are final findings settled in this report. Settled conclusions. And that, Madam Speaker, is wrong. It is wrong in law and it is contrary to basic principles of natural justice also, of course.  
960 The relevant parts of the 2018/2019 report that I will consider in detail in my address to the House, did not use the cautious language of a preliminary assessment. Instead, Madam Speaker, it delivered definitive accusations without in many instances even waiting for evidence to be supplied.

Of course, you might say logically so, because if you send a request for information 45 minutes  
965 after the close of business on your last day in office, and you settled your report the following day, which is a Saturday, how can you obtain the information on the next working day? Well, I suppose, Madam Speaker, there is a way where people work in more of the overtime that you complain about. Madam Speaker, in some instances, as I will show, the information was requested, as I have said, after the close of business on the last working day, making things impossible.

970 And indeed, Madam Speaker, by adopting an overly accusatory tone of final assessment that aligns with one political side's publicly stated political opinions, those political public positions, which are known to all of us, and that was no secret that they take one view on some things and we take another, they tell the world, we tell the world, and in things which we have ventilated furiously between us in General Elections, etc., as we are right and expected to do, the report falls  
975 into serious error by taking one side and not the other, by seeking to choose a side on issues of policy. And that is not just a trifling mistake, Madam Speaker, or something that, you know, somebody might be forgiven on retirement to do, oh, damn it, I have been agreeing with them all along, I am going to put it in. This is a fundamental failure of constitutional obligation, which guts the 2018/2019 report of credibility in those respects.

980 It cannot be otherwise if we are going to operate as a serious jurisdiction going forward. In this respect, Madam Speaker, the report fails to maintain even the appearance of detachment expected from an impartial report. It is clear, Madam Speaker, that the correct practise would have been to step back from making any statements in the report where there is no doubt that any objective observer would say that the author was jumping into the political fray - in this case,  
985 on the side of hon. Members opposite.

The report, Madam Speaker, should not have strayed, as it does, into matters that any fair-minded and informed observer knew or must have known were current and hotly contested political battle lines drawn in successive General Elections in press statements and in debates in this house between the main political parties. Indeed, the report itself illustrates that the author  
990 of it is aware of that live political debate on policy issues between the political parties.

Incidentally, Madam Speaker, only one of which said political parties is celebrating its first half-century this year. But let me stick to the matters at hand. All hon. Members, and each one of the people of Gibraltar in this instance, are those fair-minded and well-informed observers, and I ask them once again, once they have heard what I have to say in respect of the report, whether they  
995 perceive a real possibility of the appearance of bias in its findings in the value for money section and in the Public Accounts Committee section.

Indeed, Madam Speaker, it may be easier if the public just asks themselves at the end of this debate whether there is any doubt about the obvious appearance of bias in the various value for money findings in the report and in the Public Accounts Committee section of the report. Because  
1000 Madam Speaker, from some of the sections of the report that I will scrutinise during the course of the rest of the factual parts of my speech, it is simply impossible not to conclude that they are fully aligned in the clearest way with the policies espoused by The hon. Gentlemen and Ladies opposite. And that, Madam Speaker, is unusual to say the least.

Indeed, I challenge Members opposite in their responses to find one example, not two, not  
1005 three, one example, in one Public Auditor's report in the United Kingdom or anywhere in the

Commonwealth, where a Public Auditor has staked his ground on a policy which is in dispute between any party-political rivals in that jurisdiction. Bring me one. Madam Speaker, I say to them.

1010 One example where the National Audit Office has said the Tories are wrong, the Labour policy is right. One example where in Canada the Auditor has said I do not like what the Liberals are saying, the Labour party is right.

1015 One example where without even mentioning the Tories or Labour or the Liberals or Labour, a policy position has been mentioned in a Public Auditor's report, a policy position which is a policy position of difference between the political parties and a Public Auditor has put in his report I prefer this one, not the other one. One example. They will never find it, Madam Speaker, it does not exist, because Public Auditors do not do that.

1020 This report does. Madam Speaker, from some of the sections of the report that I will scrutinise during my speech, that is exactly what has been done in Gibraltar. Again, I will take the House to the relevant passages, when we are dealing with the Parts of the Valley for Money report, the dying question and on the issue of the Public Accounts Committee.

1025 In that respect, Madam Speaker, Porter and Magill is of great relevance to a proper understanding of the legal principles that apply to the functions of the Principal Auditor and all the Public Auditors, and I therefore need to distil some additional points from it. It is important to highlight that in that case, the District Auditor was criticised for appearing to combine the roles of investigator, prosecutor and judge. That is what raised questions as to fairness.

1030 Investigator, prosecutor and judge. The structural concern in Magill reinforces one of the Government's salient points, which we have made outside of this place and here, namely that simultaneously acting as Auditor, legal commentator, that can decide whether things are constitutional or unconstitutional, and political critic, choosing which policies to be preferred. A Public Auditor, if he did that, would perpetrate a huge disservice to his constitutional office as he would fundamentally compromise the necessary appearance of impartiality.

I have taken some time to explain that in great detail, Madam Speaker. I know, but it was important that I should do that because I had to explain the Auditor's statutory role is to audit and certify the accounts of the Government - that is it.

1035 The Auditor's constitutional role is not to inappropriately insinuate corruption or accuse Government officials of constitutional impropriety in the manner of an advocate or a judge. If he had been an advocate or a judge, one could challenge his decisions in the court on appeal anyway. In fact, Madam Speaker, in accordance with section 58 of the Public Finance (Control and Audit) Act, there is a provision that the Principal Auditor in Gibraltar must follow if he encounters any of those things.

1040 If at any time, and this is a direct quote from the section, Madam Speaker, 58:

1045 if at any time it appears to the Principal Auditor that irregularities have occurred in the receipt, custody, or expenditure of public monies, or in the receipt, custody, issue, sale, disposal, transfer, or delivery of any stamps, securities, stores, accountable documents, or other property of the Government, or in the accounting for the same, he may bring the matter to the notice of the Financial Secretary.

So he calls the Financial Secretary and says, look, I found these things. You have got to deal with them. That is the route.

1050 That is the route. Accordingly, Madam Speaker, the allegation in the report that I somehow acted unconstitutionally, purporting to be a finding in that respect, is not an appropriate audit finding at all. Not least, Madam Speaker, because it is factually entirely misconceived, as I will show in detail, but also because it is a legal conclusion from a non-qualified person who is not a lawyer, seeking to determine something which is of huge importance, and outside his remit anyway.

1055 Madam Speaker, it is not that the Chief Minister of Gibraltar cannot be accused of acting unconstitutionally. It is not that I may have inadvertently acted unconstitutionally, which is not the case here. I have not acted unconstitutionally. I have acted entirely properly. It is that if the

Chief Minister of Gibraltar acts unconstitutionally, it is not something to put in a report. It is something to take to the Supreme Court immediately, and there have the argument about whether something is constitutional or unconstitutional, and there have a binding finding of constitutionality or otherwise, which is appealable, and then take it to the Court of Appeal or to the Privy Council if necessary.

It is not something that somebody can do, even another lawyer. Another lawyer can say, I think you acted unconstitutionally, because this is how I read the constitution, and this is what I think you did. It is not just in the purview of lawyers, but you would have thought that you would have wanted somebody legally qualified.

Lawyers regularly, because we are vociferous sorts, put on Facebook things that they say are the law, and some of the things that I read some lawyers put on social media that they say are the law have never been the law, Madam Speaker. But look, people do that. Non-lawyers put things on social media that they say are the law.

It is not the law, and indeed, Madam Speaker, it is not the law until a judge says it is the law, and then you appeal it, and another judge might say that judge was wrong, and then you get to the final judge who says this is the law, and those are the most senior judges, and they make the determinations, and you cannot go beyond them, and if you do not like it, as The Hon. the Father of the House has repeatedly said, in some instances, you just have to lump it, right?

But this is not a finding or indeed an accusation for a report. Far from it, but it is irresponsible in our submission to put such a thing in a report, and I will show, Madam Speaker, it is particularly irresponsible when even the facts, when properly analysed, will not make out such a thing. Indeed, Madam Speaker, let me quickly short-circuit to that part of my address that will come, because what I will show there is that in the thing where the Principal Auditor's report for 2018/2019 says I acted unconstitutionally, actually what I told him was exactly what he had told us in a letter.

I even used exactly the same words that he had used in a letter. Hon. Members, therefore, should wait to hear that before jumping on the bandwagon of Picardo having acted unconstitutionally, because they will find that what Picardo said was word for word what the former Principal Auditor had said. We will come to that, Madam Speaker.

This is an important exercise, an accusation against the most Senior Elected Official of His Majesty's Government of Gibraltar that he acted unconstitutionally by a fellow constitutional officer. It is hugely important, not something to determine based on stuff that you might read on social media, whoever might write it. Something to determine with all of the facts, and then to feel hugely disappointed when you find that that accusation was made by one constitutional officer against the other on flawed facts, and in fact that the accused constitutional officer had simply said to the accuser exactly that which the accuser had said using his own words.

But in any event, Madam Speaker, to put that sort of thing in their report is acting beyond remit, as Porter and Magill cautions against. In summary, Madam Speaker, what we will ask the community to ask themselves once they have listened to everything, read everything, heard hon. Members' assaults on the Government, is whether those of the report's findings which are in dispute fall squarely within the scenarios that actually the case law tells us the law provides against. And we are firmly advised, Madam Speaker, for all of the reasons I have dealt with already, and I will detail on my issue-by-issue analysis of the report, that the report's disputed findings fall well short of the required level of both objectivity and impartiality.

It cannot be forgotten, Madam Speaker, that in Magill the Auditor narrowly avoided that finding of apparent bias because he stayed within his investigative remit and continuously reminded the public that his findings were not final. That was his swim lane. He stayed within it.

He did not say, these are my findings. By comparison, and I will endeavour to demonstrate, the 2018/2019 report crosses those boundaries. It presents definitive accusations and legal conclusions without the tempering caution of provisional language.

Unlike Magill and the Auditor there, who was investigating an unlawful policy clearly within his jurisdiction, the report's author ventured beyond his jurisdiction in the 2018/2019 report. The combination of such actions, Madam Speaker, and by explicitly adopting the GSD's policy positions

1110 in parts of the report that we say are the subject, in fact which are the subject of hotly contested political debate, we say, respectfully, shows that the report has been finalised in breach of the constitutional and statutory remits available to its author and his concomitant obligation of objectivity and impartiality.

1115 That will be, when I have finished, Madam Speaker, so obvious that it would lead the objective and fair-minded observer that we are going to talk about a lot in the next couple of days to conclude that there is obviously no prospect of this being anything other than a report authored with a real possibility of more than just apparent bias. Madam Speaker, that is the case law. So we have looked at the Constitution, we have looked at the statute, we have now looked at the case law.

1120 But there are much more than just legal principles that apply to how an Auditor, in particular a Public Auditor, must act and how he discharges his responsibility. It is important that I now also spend a little bit of time setting out and explaining the standards of conduct that we should all expect from the incumbent of a post of Auditor, in particular a Public Auditor, and the constitutional role of the Public Auditor. I'll be analysing those standards based on the relevant professional standards applicable to Auditors.

1125 To do so, I want to set that in context by briefly talking about the context of the Gibraltar Audit Office's functions and to provide some relevant context. You will be happy to know, Madam Speaker, that this is the last part of what I intend to say this morning. The Principal Auditor heads the Gibraltar Audit Office (GAO), which describes itself as the watchdog of public spending in Gibraltar.

1130 The Gibraltar Audit Office audits the public accounts of Gibraltar, which encompass Government departments and the statutory bodies. Madam Speaker, if you will give me a moment, I need the sip of something hot because we are not observing environmental etiquette and it is very, very, very cold in here. Madam Speaker, the GAO audits the public accounts of Gibraltar, which encompass the Government's departments and the statutory bodies.

1135 The GAO's core function is to hold the Government to account for the use of public money. This is what the GAO website tells us. Parliament needs objective and fact-based information about how well Government raises and spends public funds.

1140 The Gibraltar Audit Office, through the Principal Auditor, is an independent and reliable source of such information. Its principal role is to examine the receipt of public sector revenues and to scrutinise public spending on behalf of the Principal Auditor. I agree that that should be the role of the GAO and it has our full support in doing so, although unfortunately, some of the information that is in the report in question is not a reliable source of information, because I will also, during the course of my analysis, have to show that some of the numbers in the report are wrong.

1145 Madam Speaker, this work is carried out by the good people of the Gibraltar Audit Office daily in the preparation of financial statements and audits of Government authorities and agencies, compliance audits of Government departments, value for money audits that promote efficient, effective and economic use of resources across Government departments and statutory corporations, authorities and agencies. That is exactly what they do.

1150 The functions of an Auditor's role are essentially retrospective. An Auditor is looking at what you have done and how you have done it, not what you are going to do and how you are going to do it. That style, Madam Speaker, of the Gibraltar Audit Office and of the Principal Auditor's report follows, or should follow, the format for financial reporting established by the National Audit Office in England and Wales.

1155 Essentially, there are two types of report, financial and audit reports and value for money reports. They both live in what we call the Principal Auditor's report that is tabled in Parliament. Those things are two different parts of the report.

1160 Financial audit reports contain audit opinions on accounts across the public sector. Value for money reports provide independent and rigorous analysis, when they are done right, on the way public money has been spent to achieve the Government's objectives. As its overriding aim, the



National Audit Office in the UK supports the UK Parliament in holding the UK Government to account to help improve public services through high-quality audits.

In the UK, just as in Gibraltar, the NAO, the National Audit Office, is independent of Government and of the Civil Service, something which is not exactly the case here, although I am certainly open to pursuing that greater independence for the employees of the GAO, the Gibraltar Audit Office, who are presently also Civil Servants, not as is the case in the UK, something which I am certainly prepared to consider in the time that I have left as Chief Minister.

In the UK, the Principal Auditor is called the Controller and Auditor General, and he leads the National Audit Office. Like the Principal Auditor, the Controller and Auditor General is an officer of the House of Commons with statutory authority to audit and report on financial accounts of all Government departments and other public bodies and examine and report on the value for money of how public money has been spent. The Auditor General in the UK can carry out examinations into the economy, efficiency, and effectiveness of Government departments, although the scope of these examinations is not unlimited.

Now, this is perhaps the most important part of what I am going to tell the House this morning when it comes to matters of policy. Section 6(2) of the UK National Audit Act 1983 explicitly in the law stipulates that the power to examine shall not be construed as entitling the Controller and Auditor General to question the merits of the policy objective of any department, authority, or body in respect of which an examination is carried out. Let me just read that again, Madam Speaker.

UK Statute, National Audit Office Act section 6(2).

The power to examine shall not be construed as entitling the Controller and Auditor General to question the merits of the policy objectives of any department, authority, or body in respect of which an examination is carried out.

This is a crucial point, Madam Speaker. It is a crucial point.

It is reinforced by section 7za(5) of the same Act, the UK National Audit Act 1983, that makes clear that the Controller and Auditor General is not entitled to question a. the merits of the policy objectives of any relevant authority in respect of which an examination is carried out, or b. the merits of Government policy.

The Auditor of the National Audit Office, the head of the National Audit Office in the United Kingdom, is not entitled to question the merits of the policy objectives of any relevant authority in respect of which an examination is carried out, or b. the merits of Government policy. That is the law, Madam Speaker, in the United Kingdom since 1983.

Our law is earlier than that. Our law does not contain that provision. Before hon. Members opposite get excited about the fact that that provision is not in our law, we are advised that actually those principles do apply to the Principal Auditor in Gibraltar, for a simple reason.

That law in 1983 in the United Kingdom, those statutory provisions in 1983 in the United Kingdom, were put into the statute because the case law had already said that that was the position of what the limits of the power of a Public Auditor were. That means, Madam Speaker, that although our Public Finance (Control and Audit) Act, which I think dates from 1977, does not contain these words, or those relevant parts seem to date from there, the decision in cases before that 1983 Act in the UK already made clear that that was how even our earlier Act had to be interpreted. Madam Speaker, when we have, the thing that we call the common law is the thing that is made up by decisions of judges who interpret statutes and earlier decisions, and we call that thing, apart from the Constitution and the legislation, the other branch of our law, which is the jurisprudence.

And the jurisprudence is fully applicable in Gibraltar as common law, interpreting sections which are identical to our Public Finance (Control and Audit) Act. And those cases go back to a case in 1908, the Crown and Roberts in the King's Bench Division, where Lord Justice Farrell clarified specifically, and this is the quote:

that Auditors cannot exercise control over questions of policy but are entitled to challenge administrative actions.

1215 of course. So, you look at the administrative issue, you deal with that, but you do not challenge the policy.

In that case, Lord Justice Farrell illustrated this distinction by stating that the establishment of a Works Committee, which is what was in issue there, is a policy matter beyond an Auditor's remit. So the Auditor could not say it is right to establish the Works Committee, it is wrong to establish the Works Committee, I agree, I prefer the GSD view on the Works Committee, I prefer the GSLP liberal view on the Works Committee, or set out the GSD view on the Works Committee and say that is the right position instead of setting out the GSLP liberal view on the Works Committee. He could not do that.

1225 Whereas the payment of abnormally high wages by the Works Committee certainly falls within the scope of administration, because that is something the Works Committee is doing, having been set up as a matter of policy, and the Auditor can look at that, of course he can. And that reasoning, Madam Speaker, in the Crown and Roberts, was affirmed almost 20 years later in Roberts versus Hopwood in the Court of Appeal, where it was affirmed that Auditors are bound to ensure that payments are lawful and proper, but must refrain from interfering with policy decisions. The case law sets out clearly that which the legislation picked up in 1983 in the United Kingdom, but that was already the law.

It was the law, Madam Speaker, before we had a Legislative Council. It was the law when we were a municipality. It was the law when the first House of Assembly was created, when the first Auditor was appointed in Gibraltar.

1235 It was the law that that Auditor, the first one ever appointed, must refrain from interfering with policy decisions, even though it is not in our legislation. So, these are vital legal principles that must inform a Principal Auditor's duties, and that hon. Members on both sides of the House should very much keep at the forefront of their minds as they consider the points I am making, uncomfortable though they may be, Madam Speaker. Because these cases establish two points that are internationally accepted.

1240 The first, Madam Speaker, that the cases collectively underline the principle that Auditors are tasked with evaluating the implementation of policies, not the policies themselves, or which is to be preferred. That is a clear boundary between administrative oversight, on the one hand, definitely the Auditor's purview, any public Auditor's purview, and policymaking, let alone policymaking after something is in a manifesto, has been defended in four General Elections, and is the opposite of what is in the other manifesto, unsuccessfully proposed in four successive General Elections. No, I lie, Madam Speaker, and I must not, for one moment mislead the House.

1250 Unsuccessfully set out in ten manifestos, some of them leading to success in the polls, but non-implementation of the policy, and some of them leading to failure in the polls, and non-acceptance of the policy by the public. So, this is not just an Auditor that says, I do not like the policy that the entity I am auditing is dealing with, which can happen in the private sector as much as it can happen in the public sector, but the word policy in the public sector means something different. So, this is not an Auditor that comes to this without regard to the hot public debate on the subject, and says, look, the Government's implemented this policy, I do not like it because of whatever reason.

1255 Overreach, failure to comply with the principles in the UK, failure to comply with two sections of the Act, in Gibraltar, failure to comply with the common law in the rest of the Commonwealth, failure to comply to the common law. This is worse, Madam Speaker, as I will show when I get to it. This is an Auditor choosing one option in respect of a policy position, when we should not be anywhere near that part of the debate.

1260 The second point that is internationally accepted as a result of these cases, Madam Speaker, is that it is hugely important in the observance of this boundary of an Auditor's activity in the preparation of an Auditor's report, is subject to judicial review on the grounds of legality, rationality, and procedural fairness, if breached. So, to just be abundantly clear as I come towards

1265 my conclusions in this area, the case law applicable in Gibraltar to our Public Finance (Control and Audit) Act already makes clear that the Principal Auditor in Gibraltar is in exactly the same position as the Comptroller and Auditor General in the United Kingdom. They cannot question policy, one by statutory provision, the other by common law interpretation.

Policy is a matter for the politicians in Government, or for the directors in commercial entities. 1270 In this case, Madam Speaker, the policy is not even a matter for the politicians in Government. It is the binding obligation the politicians in Government have entered into with the public in a general election, on four successive successful occasions, and in particular with public servants, who are the subject of that policy, which we say is that there should not be a Public Accounts Committee, we are answerable in this place, and they say there should be a Public Accounts 1275 Committee, the public servants should come here to answer for things. So, for us, Madam Speaker, this is not even a policy position which we choose to take.

It is our obligation. Or, hon. Members opposite could say, should we accept their position in the Public Accounts Committee? Thank you for accepting our position in the Public Accounts Committee. By the way, the GSLP is failing in the manifesto commitment not to have a Public 1280 Accounts Committee, which they would undoubtedly do. They would both take the win on us deciding to accept the Public Accounts Committee, and then they would condemn us for breaching our manifesto commitment.

Finally, Madam Speaker, coming back to the structure of the National Audit Office (NAO), in the UK it is responsible for maintaining and publishing what is called the Code of Audit Practise, 1285 which is approved by the Parliament of the United Kingdom, and that Code, Madam Speaker, sets out what Auditors of local Government and health bodies are required to do to fulfil their statutory responsibilities.

The NAO Code is principle-based, and it is informative of the approach which the Principal Auditor should adopt in the preparation of the report. The guidance contained in the Code has 1290 some resonance for our role of Principal Auditor under the Constitution. Madam Speaker, I am going to underline some of the more germane principles, save that I should stress to the House that the principles I will now turn to highlight are not exhaustive.

There are more principles that apply. Forgive me, Madam Speaker, but I need to take you through these principles, which are in the National Audit Office standards, at least in some 1295 measure, so that it is clear that these are the principles that apply to Public Auditors in the United Kingdom and are informative of what should apply elsewhere. For instance, 1.7 says:

the audit of a public sector organisation is wider in scope than that of a private sector body. Special accountability is attached to the use of public money and the conduct of public business. It is not part of the Auditor's 1300 responsibilities to question the merits of policy, but the Auditor does have the wider duties, depending upon the relevant legislation, to scrutinise and report not only upon the truth and fairness of financial statements, but also on aspects of stewardship of public funds. The Auditor carries out this work on behalf of the public and in the public interest.

1.8, the Auditor does not act as a substitute for the audited body's own responsibility for putting in place proper 1305 arrangements in support of the proper conduct of public business, and for ensuring that public money is safeguarded, properly accounted for, and used with due regard to value for money.

1.10, the Auditor's work should be risk-based and proportionate. It should be designed to meet the Auditor's 1310 statutory responsibilities, applying the Auditor's professional judgement to tailor their work to the circumstances in place at the audited body and the audit risks to which they give rise. The Auditor should also consider carefully the practical and resource implications for the audited body when framing recommendations arising from their work.

1.14, the Auditor should adopt a constructive approach to their work with the audited body. The Auditor should 1315 share and discuss their audit plan at an early stage with the audited body. The Auditor should build effective coordination arrangements with internal audit, using the work of internal audit where, in the Auditor's judgement and in line with professional standards, this is appropriate.

We do not have internal audit in Gibraltar. Another issue that we do need to consider is whether the Government needs internal audit.

The hon. Lady has proposed internal audit in the GHA, and that is working. It may be that we need to consider internal audit also coming into other parts of the Government in the future. As the GDP grows and the public finance of revenue and expenditure grows, internal audit may be necessary.

As I am going through these audit principles, I am so happy that I do not live with an Auditor who might want to have a discussion about these things of an evening over a glass of wine. At 1.17, which deals with independence, integrity and objectivity:

the Auditor should carry out their work with integrity and objectivity to underpin their independence at all times.

Those words again, Madam Speaker, integrity and objectivity.

Auditors also need to comply with the ethical framework applicable to Auditors, including any ethical standards set by a relevant regulatory body, along with any additional requirements set out by the Auditor's recognised supervisory body or any other body charged with oversight of the Auditor's independence. The Auditor should be, and should be seen to be, impartial and independent. Accordingly, the Auditor should not carry out anything outside of their statutory duties, or they might reasonably be perceived as not being impartial or independent.

On professionalism, at 1.18:

The Auditor should carry out their work in compliance with the requirements of the Code.

I would ask, Madam Speaker, that all Members read 1.18.

1.19 on professional scepticism:

In carrying out their work, the Auditor should exercise professional scepticism. They should obtain and document such information and explanations as they consider necessary to provide sufficient, appropriate evidence in support of their judgments, both in relation to their work on the financial statements and their work on arrangements to secure value for money.

When we look, Madam Speaker, at the detail of what was sought and what was given back, we will certainly question whether the report complies with that requirement for professionalism.

The Auditor should meet the requirements of legislation, the Code, and where applicable professional standards, while also having regard to statutory guidance issued by the NAO on behalf of the Controller.

The responsibilities of the Auditor at 3.6:

Auditors of the different types of local public bodies covered by the Code have a consistent statutory responsibility in respect of the Auditor's body's use of resources to satisfy themselves that the audited body has made proper arrangements for securing economy, efficiency, and effectiveness in its use of resources.

At 3.7:

In practise, this means that the Auditor should have, in regard to the relevant statutory guidance issued by the NAO on behalf of the Auditor General, undertake sufficient work to be able to satisfy themselves as to whether, in the Auditor's view, the audited body has put in place arrangements that support the achievement of value for money in carrying out this work. The Auditor is not required to satisfy themselves that the audited body has achieved value for money during the reporting period. However, should evidence of poor value for money come to the Auditor's attention during the course of the audit, the Auditors should consider the implication of this for their work.

Importantly, Madam Speaker, at 3.13:

In reviewing the audited body's value for money arrangements, it is not part of the Auditor's function to question the merits of the audited body's policy decisions.

This is important.

1380 In reviewing the audited body's value for money arrangements, it is not part of the Auditor's functions to question the merits of the audited body's policy decisions.

Not just in relation to the PAC issue. This goes to the excreta payments, the policies in place in that respect. However, the Code continues:

1385 ...the Auditor may examine the arrangements by which policy decisions are reached and implemented. In making recommendations, the Auditor should avoid any perception that they have any role in the decision-making arrangements of the audited body.

At 3.15:

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When the Auditor identifies significant weaknesses, what should they do?

1395 All of that, Madam Speaker, is hugely important because those are the National Audit Office's reporting standards. I apologise, Madam Speaker, for those extensive quotes, but as you have seen, it is important that I should set these important principles in the NAO Code out in a Hansard, as they will be a hugely important part of what I ask the House to keep in mind when I apply the relevant law and principles to the facts which are set out in the report so erroneously.

And then, Madam Speaker, the final string in this bow is the international auditing standards.

1400 So, you have got the Constitution, you have got the legislation, you have got the case law, then you have got the National Audit Office Code, and then you have got International Auditing Standards. Generally accepted principles for the purposes of auditing, International Auditing Standards. So, I have taken you through the UK principles already, and Madam Speaker, I have to do this to show, of course, that the functions of a Public Auditor represent a highly regulated and codified function, as much in Gibraltar as in the UK and in every common law jurisdiction.

1405 I do not mean to suggest it is not also the case outside of common law jurisdictions, it is done in a different way. In Spain they have a thing called *El Tribunal de Cuentas*, which is not identified in an individual in the same way as in the common law jurisdictions. But it is only by fully understanding these relevant principles that Gibraltarians can fully see and understand and put in context the criticisms in the report and why the Government has felt it has no choice but to respond.

1410 So, Madam Speaker, these are, I must emphasise, well-recognised legal principles. These are not things that I am remembering now because it is convenient. These are the rules that apply every day to a Public Auditor doing his job, a Principal Auditor in the Gibraltar context.

1415 And the information I am providing, Madam Speaker, is the legal advice received from leading counsel and also the principles that apply in Gibraltar generally. And that is no different, Madam Speaker, to the principles that have to guide the conduct of the Council of Ministers and the Ministerial Code of all hon. Members under the Code of Members of Parliament, of public servants under the Public Sector Code when it is adopted, or of other professionals. Barristers, Madam Speaker, and we have a lot of them here, solicitors, chartered accountants, all of professionals

1420 have a code that you have to respect, Madam Speaker.

As a barrister and former Supreme Court judge, you yourself will be intimately familiar with the high professional standards that you were required to adhere to as a lawyer in private practise, then a lawyer in public practise, and subsequently as a judge and now as Speaker of this Parliament. All of this, Madam Speaker, to say it is vital to understand all of those layers Govern what we all do. Constitutional layers that Govern what I do as Chief Minister, legal layers that Govern what we do as Ministers, professional layers and ethical principles that Govern what we do as Members of Parliament, as professionals in our private life, lawyers, ethical principles, all of those things, Madam Speaker, have to be in place also in respect of a Principal Auditor when he

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prepares a report and in us when we assess the report and we respond to the report. So, the conclusion of all that, and I hope for this morning, will be the International Accounting Standards that apply.

On those, Madam Speaker, International Auditing Standards, the Principal Auditor has to have an eye to them, and some of them have special relevance. International Auditing Standard 260 (ISA 260), which focusses on:

Ensuring open, timely and relevant dialogue between an Auditor and those charged with Governance, covering audit scope, significant findings, independence.

You will remember there was a very similar provision in the code for the NAO.

The purpose of communication between the Auditor and the person with Governance responsibility is to ensure that the latter understand the scope and timing of the audit, the planned audit approach, key risks and when the audit will be performed. Communication can be oral or written. Written is to be preferred for significant matters, and it must be timely...

Before the Auditor's report is issued, not 45 minutes after the close of business on the last day when the Auditor is imposed as Auditor, no doubt.

The Auditor is obliged to foster an effective dialogue, not just a one-way report seeking input from persons charged with Governance responsibilities.

Madam Speaker, ISA 260, stipulates that at paragraph 16, amongst other things:

An Auditor must communicate with those charged with Governance about significant difficulties, if any, encountered during the audit, as well as any other significant matters arising during the audit that in the Auditor's professional judgement are relevant to the oversight of the financial reporting process.

And then international auditing standard 265, building on the communications importance set out in 260:

An Auditor is obliged to communicate appropriately with those charged with Governance, and that to manage any deficiencies in internal control that the Auditor has identified during the audit, and that in the Auditor's professional judgement are important enough to merit their attention. Significant deficiencies should be communicated in writing to those charged with Governance on a timely basis, setting out a description of the deficiencies and an exploitation of their potential effects, but tempered by a statement that the purpose of the audit was to express an opinion on financial statements and not to identify all deficiencies.

But all of that, Madam Speaker, on a timely basis, not 45 minutes after the close of business on the last day.

And International Auditing Standard 450, on evaluation of misstatements identified during the audit, setting out very clearly that once again communication between the Auditor and the management is key, with misstatements communicated on a *timely basis* with a request for management to correct them. Timely basis, Madam Speaker, not 45 minutes after you are going to end your last working day. Madam Speaker, International Auditing Standard 700, about how to form an opinion and reporting on financial statements, which sets out the Auditor's responsibility to form an opinion on a complete set of general purpose financial statements and prescribes the form and content of that report, and guiding Auditors on what they should consider informing their opinion, emphasising a presentation for ethical responsibilities and the structure for delivery of the report, with the aim to support transparency, comparability and credibility in audit reporting globally, Madam Speaker.

Those are just an oversight of the relevant International Auditing Standards that apply. And so, Madam Speaker, having taken the time to properly explain the relevant constitutional, legal,

professional and other ethical principles, I now need to turn to consider the key findings of the 2018/2019 report. I will at least start to do this exercise today.

1485 The first thing to highlight is, before I commence in earnest with the assessment of each of the relevant parts of the report, I begin by noting, Madam Speaker, that the report is an extraordinary piece of work. Less my statement might be misconceived by anybody in this place or otherwise, Madam Speaker, I do not mean extraordinary in any positive sense. I say, Madam Speaker, that it is extraordinary, because on the one hand, the author has conducted an audit of Gibraltar's accounts and concluded that:

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The public accounts properly represent the revenue collected and expenditure paid during the financial year ending 31st of March 2019.

1495 Let us just stop there, Madam Speaker. Let us repeat this, and let us have this pinned to, or as they now say on social media, pinned to the top of our feed, as we have the rest of this debate. The Principal Auditor, the former Principal Auditor, has conducted an audit of Gibraltar's accounts and concluded that:

1500 The public accounts properly present the revenue collected and expenditure paid during the financial year ending 31st of March 2019.

Yet, in the same report, Madam Speaker, the report proceeds to identify multiple areas of concern, which, whilst not undermining the presentation of a positive audit opinion, nevertheless criticise the Government as the audited body in multiple ways, which are almost tantamount to that. It is with the report's areas of such alleged concern that we are taking strong issue, not with the finding that actually everything was properly done, which is what that finding is, the one that I have told you, Madam Speaker, we should all have pinned at the top of our feed for the purposes of this debate.

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1510 The accounts properly present the revenue collected and expenditure paid during the financial year ending the 31st of March 2019.

What is extraordinary about the report is that it is characterised by the fact that in making these criticisms, the ones that are objectionable, the author has exceeded his limits and his remits for the reasons I have identified in law and which I will now marry to the facts. Indeed, far exceeded his remit and limit and made serious errors of law in the application of Gibraltar law and applicable case law. He has insinuated the presence of corrupt practises and displayed an apparent bias, Madam Speaker, in permanently aligning parts of the report with the Opposition on policy, which is where he should never have gone in very material respects.

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And Madam Speaker, as I said at the beginning and throughout, when we saw these things and were startled by the nature of them, we took a view. But it is always important when you do not think you are perfect, as others might have done in the past, to check your view, to make sure that what your view is, is correct. That is also the view of highly experienced and independent London council, leading council, who were instructed for the purposes of making sure that what we were thinking and saying was not somehow wrong.

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If we would been advised that we would got it wrong and the report was right, we would have taken it on the chin, learnt, applied the lessons and moved on. But the legal opinion that we have obtained, Madam Speaker, however, validated the response of the Government to the report. And I'll take the House, Madam Speaker, to each of the reasons why the Government's position has been vindicated in all material respects.

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As a result, Madam Speaker, I want to stress to the House and those beyond here that the legal principles I have taken such care to explain are set out on the basis of expert legal advice received. Expert legal advice received. I want, Madam Speaker, before I go into those specific areas of

1535 concern, to finish this morning's contribution, to share the overall conclusion of the highly experienced and independent London Silk that we instructed for this purpose.

Having considered the report, in his view, and I quote, Madam Speaker, this is not Fabian Picardo, the Chief Minister, Fabian Picardo, the lawyer, or Fabian Picardo, the citizen. This is the leading council in London in this field of audit. And he says this:

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The approach to production of the report is inconsistent with the fundamental norms of International Auditing Practise, which make clear that Auditors are tasked with evaluating the implementation of policies rather than reviewing the policies themselves, while at times maintaining a clear division between administrative oversight and policymaking.

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The approach to production of the report is inconsistent with the fundamental norms of International Auditing Practise, which make clear that Auditors are tasked with evaluating the implementation of policies rather than reviewing the policies themselves.

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That is not me. That is leading council. Not from Gibraltar, Madam Speaker, not from the GSD, not from the GSLP, not from the Liberals, not from any other party. That is leading council, Madam Speaker, which apparently is going to be something that hon. Members are going to find funny. Okay, so be it, Madam Speaker.

Mr Fisher Casey continues with this:

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In my view...

and it is his view, as much as the report is the principal Auditor's view, again, it is Mr Fisher. It is not a binding finding, Madam Speaker but he says this:

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In my view, the report fails in these material respects in both form and substance to conform to international standards of independence and professional objectivity. The report contains material errors that reflect a lack of competence in its finalisation, and regrettably, in my view, the report fails to adhere to the principle of Auditor independence and professional accounting, ethical and auditing standards expected of a Principal Auditor. In consequence, the report is fatally flawed.

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My goodness, if they find that funny, Madam Speaker, I do not know what concerned them. Madam Speaker, the last sentence of the conclusion that I have just read from Mr Fisher Casey bears repeating:

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The report contains material errors that reflect a lack of competence in its finalisation, and regrettably, in my view, the report fails to adhere to the principle of Auditor independence and professional accounting, ethical and auditing standards expected of a Principal Auditor. In consequence, the report is fatally flawed.

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Yet, Madam Speaker, on the critical matter for the former principal Auditor to determine, which was the integrity of the accounts for Gibraltar, the report makes clear that the outcome of the auditing of Gibraltar's public accounts was satisfactory. Page 254 of the report says exactly that in these terms. This is the report, Madam Speaker, the 2018-19 report. This is not Fisher KC or Fabian Piccardo, this is the report:

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I certify that I have audited the public accounts of Gibraltar for the year ended 31st March 2019, as required by the provisions of Section 74.1 of the Gibraltar Constitution. These compromise the statements of accounts as specified in Section 52 of the Public Finance Control and Audit Act 1977. I have also audited the information in the Accountant General's report, the statement of the financial position of the Government of Gibraltar and the related notes. These public accounts have been prepared using the cash receipts and disbursement basis of accounting as modified by the accounting policies set out within them.

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That is it. They have been prepared using the cash receipts and disbursement. So, at page 254 of the report, the former Principal Auditor recited that he conducted his audit in accordance with generally accepted Government accounting standards, the ones that I have referred you to before,

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to give that assurance that the public accounts are free from material misstatement, whether caused by fraud or error.

That included an assessment of whether the accounting policies were appropriate to the Government of Gibraltar's circumstances and had been consistently applied and adequately disclosed. Additionally, the former Principal Auditor stated his full satisfaction *that in all material respects, monies that had been appropriated and disbursed had been applied to the purposes for which they were appropriated and the expenditure recorded in the public accounts conformed to the authorities that governed them.* That is the opinion on regularity, as it is known, Madam Speaker.

The previous one is the audit opinion, and then the opinion on the public accounts. At page 255, the former principal Auditor also states that he was *fully satisfied that the public accounts properly presented, the revenues collected, and expenditure paid during the financial year ended 31 March 2019 and that the assets and liabilities are set out at the end of that period are properly set out.* The audit opinion on the public accounts.

Madam Speaker, let hon. Members reflect on those certifications, because the report gives the public accounts of Gibraltar top marks, a clean bill of health. This is not a qualified account, Madam Speaker, on the accounts. It is not a qualified account in respect of the accounts.

But the value for money section, Madam Speaker, is fatally flawed. And if hon. Members had not realised that that distinction was the one I was making, they hadn't heard that I was saying that earlier on. The report states that the public accounts of Gibraltar, the accounts, are free from material misstatement, whether caused by fraud or error.

The report reflects that the former Principal Auditor has stated his full satisfaction that in all material respect, monies that have been appropriated and disbursed have been applied for the purposes for which they were appropriated. Listen to that. When we come here for the appropriation debate, which they vote against, we take money and appropriate it for ex-gratia payments.

And on respect of that head, Madam Speaker, the Auditor has said that we have acted in full satisfaction of the law and the rules, and that in all material respects, the money had been appropriated and disbursed have been applied for the purposes for which they had been appropriated. The ex-gratia payments, for example, Madam Speaker. The former Principal Auditor, in effect, in his report has stated that the expenditure recorded in the public accounts conformed to the authorities that Govern them.

That is to say, the authorities have spent the money that they were given to spend. He is given us, Madam Speaker, the report gives us the highest grades that he could possibly give to the different emanations of the state that comprises His Majesty's Government of Gibraltar. That is the true measure and reflection of the lawful and appropriate use of appropriated monies by the different entities that form the Government.

As a result, Madam Speaker, a fair and reasonably minded, well-informed observer, in the terms delineated by the House of Lords in Porter and Magill, would immediately see the incongruity of the Government's accounts and use of appropriated monies having been given a clean bill of health, on the one hand, and yet on the other hand, in relation to many and diverse other matters, the report containing serious criticism relating to unsubstantiated allegations of poor governance and lack of transparency and financial accountability. Madam Speaker, having said that, not everything is mutually exclusive. Sometimes many things can be true simultaneously, but this is not one of those occasions, Madam Speaker.

Either the public accounts are correct in all material respect, or there is a lack of transparency and financial accountability on the part of the Government. Both things cannot logically be true. And with that background, before turning to the detailed analysis of the principal areas of concerns for the Government in the report, let me provide the House with this high-level analysis of why we say the report's clean bill of health of the public accounts, on the one hand, and the accusation of lack of transparency and financial accountability on the part of the Government, on

the other hand, are by definition mutually exclusive. The report contained complaints about obstacles faced by Auditors when trying to access information during the audit process.

1645 The report identified overspending issues and poor budget management. In addition, the report placed significant focus on what are called opaque financial practises. For example, the report alleged that the Government made a series of ex-gratia payments worth over £13 million between April 2018 and May 2025 without an adequate explanation.

1650 But those are made under a Head, which he said has been properly provided for. The report describes these as excessive and, in many cases, unwarranted. Well, if they are unwarranted, they cannot be paid under the Head.

And he said that we have acted properly and made all the payments properly under the Head. The report further referenced instances of excessive ministerial interference, allegedly, including in areas like the Gibraltar Savings Bank and housing allocations. Indeed, as regards anti-money laundering, the report accused them of obstructing him, of obstructing the former Principal Auditor, in carrying out a review of the Gibraltar Savings Bank anti-money laundering process.

1655 Nothing could be further from the truth, as I will show, Madam Speaker. In addition, the report emphasises strong support for the need for better parliamentary scrutiny mechanisms. It then goes on to advocate this policy difference of establishing a Public Accounts Committee and enacting a new public audit act matters of policy.

1660 Well, Madam Speaker, outside of this House, we have already addressed these matters, but I must now deal with these criticisms in this House and in detail. So, having set out those criticisms as headlines, Madam Speaker, I must now also set out the Government's response. On behalf of the Government that I lead, I note that I have already strenuously rejected, outside of this place, the assertions contained in the report that have criticised my own conduct and that of Ministers and senior officials in my Government.

1665 I will now move to do so in detail in this House, going through each of the relevant nine, maybe 10, 11 areas in dispute, one by one, and providing all of the facts necessary for all hon. Members to understand why the report is entirely wrong in fact and not in-keeping with the legal principles I have set out that should Govern its authorship, at least insofar as it relates to those areas that I will deal with, Madam Speaker.

1670 In order, Madam Speaker, however, to accommodate other pressing work and the agenda of the Government, which I have set out at the beginning of today, I will not be able to do that today. Today, Madam Speaker, however, has been about the legal background to the role of Principal Auditor, how the constitution provides for it, how the statute provides for it, how in the United Kingdom we see how a statute provides for that, how the case law deals with all of those issues, and what standards apply, and setting out the areas of complaint.

### Adjournment

1680 **Chief Minister (Hon. F R Picardo):** I now move, Madam Speaker, that the House should adjourn until tomorrow at 10 a.m. when we return to start doing the factual work.

**Madam Speaker:** I now propose the question, which is that this House do adjourn to tomorrow morning at 10 a.m. I now put the question, which is that this House should adjourn to tomorrow morning at 10 a.m. Those in favour? (**Members:** Aye.) Those against? Passed.

1685 This House will now adjourn to tomorrow morning at 10 a.m.

*The House adjourned at 12.57 p.m.*