



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 10.32 a.m. – 12.29 p.m.

Gibraltar, Wednesday, 15th October 2025

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The Gibraltar Parliament

The Parliament met at 10.32 a.m.

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

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

Order of the Day

SUSPENSION OF STANDING ORDERS

5 **Clerk:** Meeting of Parliament, Wednesday the 15th of October 2025. Suspension of Standing Orders. The Hon. Chief Minister

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

10 **Madam Speaker:** Those in favour? (**Members:** Aye.) Those against? Carried.

GOVERNMENT STATEMENT

15 **Chief Minister (Hon. F R Picardo):** Madam Speaker, hon. Members will be aware of the Government's decision on 6th October 2025 to introduce a temporary administrative pause on new long-term residency registrations for EEA and UK nationals following publication in the Gazette of Legal Notice 246 of 2025, the Immigration (EU Exit) Regulations 2025. Madam Speaker, given the significant interest for local and international media and, in my view, unnecessary
20 concern being expressed by some in Gibraltar, I wanted to make a Ministerial Statement today to provide further reassurance to our community and business community in particular.

 Firstly, and most importantly, Gibraltar remains open for business. The measure we announced earlier this month is not a closing of our doors. It is the Government acting in the best interest of our community in a way that will manage the unprecedented demand for residency in Gibraltar.
25 Over the past three years, Gibraltar has experienced an exceptional rise in new arrivals, with figures showing over 3,000 people migrating to Gibraltar between 2022 and 2024: 952 in 2022; 896 in 2023; and 1,245 in 2024.

 The increase since the conclusion of the UK-EU Treaty negotiations and the agreement announced has been unprecedented. So much for limbo, Madam Speaker. The temporary
30 suspension simply means that from 6 October, anyone without a valid registration certificate, residence card or permanent residence document and who had not applied before that date cannot now submit a new application.

 Those who did so before 6th October remain unaffected and their applications will continue to be processed as normal. The Chief Minister will retain a statutory power to authorise new

35 residence documents in limited circumstances, such as where it is necessary to meet an international obligation, prevent extreme hardship or serve Gibraltar's economic interests. Those decisions will require my approval.

Following the publication of the regulations, the Department of Immigration and Home Affairs saw a sharp rise in attendance and enquiries, including from individuals whose documentation
40 had long expired or who had not been in contact with the Department for several years. I want to make it absolutely clear that these measures are not intended to affect people who are legitimately living, working, investing or otherwise contributing to our community and economy. They are designed to prevent abuse of the system and to strengthen the integrity of our residence framework as Gibraltar prepares for the new treaty environment.

45 Madam Speaker, I also want to address the business community directly, because I know that this announcement has generated understandable but unnecessary questions from employers and investors, both here at home and overseas. Let me be very clear. Nothing in these regulations prevents legitimate business growth, relocation or the recruitment of necessary expertise.

Existing or new businesses, financial services firms, gaming operators, maritime companies and
50 other sectors that rely on specialist talent will continue to operate without disruption. Where a business demonstrates an economic need to recruit, skills are not readily available locally, or where investment supports growth and employment in Gibraltar, such cases will of course continue to be considered under the provisions that allow authorisation in Gibraltar's economic interests. So, Madam Speaker, to be clear, if a local business needs to recruit someone from
55 outside Gibraltar or if a new business wants to relocate to Gibraltar, this has not become an issue after 6 October 2025.

Madam Speaker, what we are trying to do is protect the integrity of our systems whilst ensuring that those who genuinely wish to live, work and invest here continue to find an open and welcoming Gibraltar. Madam Speaker, Gibraltar is open for business, and it will stay that way. I
60 hope this now provides the House and the wider community with the additional reassurance that was being sought. Thank you, Madam Speaker.

Hon. Dr K Azopardi: Can I first thank the Chief Minister for, first of all, making the statement and providing me with a copy earlier this morning. I just have a few questions of clarification that
65 perhaps he can address when he replies. Certainly, from where we sit, it was understandable as a concern that businesses were raising as a result of suspension of these powers or these rules because the Chief Minister indicates that there has been, in the last three years, an unprecedented growth in applications for residence.

But of course, if this has been happening for the last three years and the Government has been
70 monitoring it, I suppose the first question is that the temporary suspension that happened on an unannounced basis on 6th October created a sense of drama that perhaps was unnecessary if the Government had been mapping out and tracking these trends for the last three years. Why could it not have been done on a more measured basis, announced basis, explained to business community and so on, rather than do it on a Monday, outside the ordinary Gazette, without real
75 explanation, with a short statement accompanying it? But that did create a sense of concern, and he has got to understand that because some of the concerns that have been raised are understandable.

Can I ask him, he says that there has been an unprecedented demand and increase in new arrivals over the last three years and he gives some statistics. Does he have statistics about
80 previous figures going backwards so that we can understand really the concern that the Government has so that people can put it in context? So, does he have those figures of previous years so that on an average we understand what that is?

Does he also, and in the Government's mapping of these increases, has there been any work done, I assume there has, has there been any work done that he can share with us as to the nature
85 of these new arrivals? Are these new arrivals, have they been, can they be sub-categorised of 896 in 2023, 300 in relation to new businesses? Has there been that kind of work done to isolate so

that we know to what extent the new arrivals have been about adding business or about personal reasons to relocate to Gibraltar?

Does he have that and in respect of what areas, especially if it is related to business and the financial services industry, I welcome his assurance as I understand what he is saying is any person who has, for example, expired cards and so on should not be worried about these measures. The Department will continue business as usual in respect of residence applications for people who already have valid cards or have expired cards. I understand that to be his position.

Certainly, on this side of the House, to the extent that there is, of course, abuse, we would support any measures to crack down on abuse. I think it is important to distinguish between abuse and genuine interest in coming to Gibraltar, for example, business reasons. That is not in any stretch of the imagination abusive and that should be welcomed by all if we want to continue the expansion of our economy and so on.

There may be other good personal reasons why people relocate to Gibraltar. Can I ask him to what extent are any of these measures that have been taken suddenly because of interface of possible treaty agreements to be concluded, given that there has been discussion in the past about aspirations of others in those negotiations in relation to the grant of residence and so on? Then finally, Madam Speaker, the statement is welcome but in the advent of the Gibraltar Day in London week, it has now become a week, business will be interested in how Gibraltar is to be marketed.

So it is not just a question of giving a statement here but giving assurance to the business community when the various events happen in London and also perhaps explaining with a bit more detail how exactly this statement and the suspension will be reconciled in the marketing of Gibraltar because business will be reassured to some extent by this statement but we will want to understand precisely how, for example, the approach on these matters will be taken when it comes to, for example, considering inward investment into Gibraltar. I am grateful, Madam Speaker.

Hon. Chief Minister: Madam Speaker, I am grateful for the hon. Gentleman's questions. When I go through dealing with the issues that he has raised, I think he will understand why we think that these are not understandable concerns that are being raised because we have been heralding the fact that we are going to do this for some time. Indeed, I spoke during the course of my Budget speech about the concerns that we had about the abuse of residence already happening and how that was getting or likely to get worse.

I set up during the course of my Budget speech a new committee that would look at issues relating to residence and immigration, headed by the Father of the House, a committee that has met on a number of occasions and that is, in fact, a committee that has given rise to the request that this hiatus be put in place, a committee that also includes the Minister for Business. We are very clear that this is not about, in any way, being negative to business. Quite the opposite.

In fact, if I can just put it this way in shorthand so that everyone can understand, we are open for business, we are closed to freeloaders and that is what I am going to develop a little more as I answer the hon. Gentleman opposite, because there are a lot of freeloaders trying to come to Gibraltar and that is what we have to stop. We have to stop that because when the time comes, we want to be able to look after our people in the Health Authority, in Education and, in particular, in Elderly Care. If somebody who has been paying PAYE in Gibraltar and Social Insurance in Gibraltar for all of their lives requires elderly care and we have one of the most generous systems in the whole of Europe in respect of elderly care, they should not be told in five years' time or in ten years' time, sorry darling, there is no room for you at Mount Alvernia or at Rooke or wherever it is at the John Mackintosh wing or Hillsides, because there is somebody who arrived just after the treaty announcement who moved to Gibraltar, was able to buy a house, had enough money to buy a house, they have never contributed PAYE, they have never contributed social insurance, but they were here, they were now on their own because their partner had died and they have taken your place at Mount Alvernia or at the John Mackintosh wing.

That is what we are doing, Madam Speaker, that is what we are stopping, so much as it relates to elderly care. Of course, it also relates to schools where we have seen an influx, I think the figure I was given by the Department of Education and the Minister, the Father of the House, was something like 150 new registrations this year into our schools, sorry, 199 new registrations into our schools just this academic year, not the kids born in that year, it is the kids born in that year in Gibraltar and who were in schools plus an additional 199 starting in this September. So, we have got to deal with this, Madam Speaker. Now, insofar as we are dealing with people who are coming to Gibraltar to work, the children of people who are coming to Gibraltar to work, the elderly care eventually of the people who are coming to Gibraltar to work, who are contributing PAYE, who are contributing social insurance, there will be no problem there.

You are coming to be a contributing member of our society. But what we cannot have are people who are coming to Gibraltar, having never contributed PAYE, having never contributed social insurance, with no desire or expectation that they will do that, either because of age or because of how they are going to maintain themselves from investment income. Nonetheless, taking all of the advantages that our society provides for, either for themselves or their children or their elderly relatives.

So, Madam Speaker, the hon. Gentleman should therefore not for one moment think that what we are doing is trying to be closed to business. The whole ethos that drives what we do is to be open for business, to bring more business to Gibraltar, as we have demonstrated in the 14 years we have been in Government. Indeed, Madam Speaker, the hon. Gentleman asked me what the numbers were like in terms of immigration to Gibraltar in years before the numbers I have given, where it has been near 1,000 every year.

It was something like 500 a year for the 10 years before the numbers I have given, and 350 a year on average for the years before that decade. So, Madam Speaker, the numbers have gone up, ironically Madam Speaker, in the three years I have had to sit here, hearing the Hon. Leader of the Opposition tell me that I was leading an economy that was in limbo, actually the numbers of people seeking to immigrate to Gibraltar have gone up double from 500 to almost 1,000 a year. So, Madam Speaker, in any event, all of this is temporary.

All of this is temporary whilst we set out the new criteria that will apply to people who want to immigrate to Gibraltar, and not because Madam Speaker there is anything in the treaty that has led us to do this. The hon. Gentleman has suggested almost that we have had to do this because a treaty will provide for somebody else to approve residence in Gibraltar and therefore our hand has been moved to do this. Far from it Madam Speaker.

It is because of what we think is the excellent result that this treaty produces for Gibraltar and how interesting Gibraltar becomes as a place to reside in, and that is not just our interpretation, it is the interpretation of thousands of people outside of Gibraltar and the interpretation of thousands of professional advisors outside of Gibraltar that we have to say, hang on, let's set out the criteria of who we want to see come to Gibraltar, and by all means that means the people who are coming to Gibraltar to run a business from Gibraltar, because we are open for business. The people who are coming to work in those businesses if there is not somebody here who can work in those businesses, because unemployment is now in the region of five, Madam Speaker. All of that we are open to, but there will be a class of individuals who might very much like to come to Gibraltar, who you might have to say, I am sorry to, you cannot come to Gibraltar to live in Gibraltar, or the circumstances in which you come to Gibraltar to live in Gibraltar will not permit you to take certain advantage of the social care system in Gibraltar, and you might have to sign yourself out of that. Coming to Gibraltar to do business is not abusive, there is no question of us ever having suggested that, quite the opposite, Madam Speaker, quite the opposite.

And yes, this is entirely reconcilable with the message that we are going to sell in London next week, a Gibraltar week in London. Ironically, Madam Speaker, a Gibraltar week in London which is not funded by the taxpayer, as Gibraltar Day used to be when hon. Members were in Government and we used to have to pay for the highest *honchos* lunch, now the *honchos* pay for their own lunch, Madam Speaker. So, I am very pleased that this is the opportunity that we are

going to have to send exactly the same message in the City of London, because in the City of London, Madam Speaker, what we are trying to do, and we have done very successfully in other years, is attract businesses to Gibraltar, not freeloaders.

So, when we are there saying, come to Gibraltar to run your business, the best place to run your business, bring employees to Gibraltar to contribute PAYE and social insurance and to form part of the social fabric of Gibraltar, none of what we are stopping is going to be on the agenda, because they are not the freeloaders. And Madam Speaker, we will be setting out the new criteria very shortly, we are working on it very assiduously, the Hon. Father of the House is working on it very assiduously, also the Minister for Business is looking at it, the Minister for Financial Services also has an input in relation to special categories of taxpayers, and what that will demonstrate, Madam Speaker, is that we will not just have the best product from the point of view of the infrastructure that Gibraltar provides, the rule of law that Gibraltar provides, the access to the European Union that Gibraltar provides and the access to the whole of the Schengen area that being resident in Gibraltar will provide, it will be the best product also fiscally, because there are other places you can go and live in Europe, which give you access to Europe, but we will design this to be the most fiscally attractive product also, in keeping with the obligations that we are taking in respect of the treaty, which do not in any way affect personal taxation. So, Madam Speaker, I hope that is helpful for people to understand the Government's views and answers in respect of the issues raised by the Leader of the Opposition.

Madam Speaker: Any other hon. Members have any questions for the purposes of clarification? The Hon. Mr Clinton.

Hon. R M Clinton: Thank you, Madam Speaker. I was wondering if the Chief Minister would have to hand of the numbers of people coming to Gibraltar in the last few years some indication of nationality. Are they all coming from Europe or are they coming from the UK?

And also, it would be useful if we had any indication of age. Are these retirees over 60, 70? Is this what the concern is, is that we seem to be attracting maybe UK retirees who want to leave the UK?

I do not know. It would be interesting if the Chief Minister had that information. And of course, when the Chief Minister talks about freeloaders, it is in itself a loaded word, in that these people are coming here, as it were, with a view to abuse their residence in Gibraltar.

But it could be bona fide people who genuinely want to, for example, retire to Gibraltar, who have independent means and are not going to be a drain on society or on the taxpayer. And are these not people that we would wish to welcome? Because of course, if we say Gibraltar is closed to retirees, there may be a knock-on effect on the property market.

I mean, not everybody is coming here for business. I would be grateful for the Chief Minister's thoughts.

Hon. Chief Minister: I do not have that information with me, Madam Speaker, but the hon. Gentleman can ask a question, and we can give the breakdown in that way. It is clear that most countries do have provisions which do not just allow people to retire there. There are many countries that say you cannot immigrate unless you are under 50 and you are going to be economically active.

Gibraltar is a place which is 2.5 square miles by 1 mile, Madam Speaker, and we have to be careful of who we permit to come here, because the property market might be affected in a way that might be very negative indeed if we allow everyone to come here and the prices go up even more. Because we are the Socialist Party, we care about workers and their ability to afford houses. I suppose hon. Members opposite care more about the price of property going up, rather than whether it should be affordable to people in our community.

But Madam Speaker, all of this will be dealt with in the context of what we are going to set out, and all of these issues are live issues. I said, perhaps the hon. Gentleman did not hear, that when

we provide a new system, there may be a provision for people to come to live in Gibraltar, but not to have benefits in Gibraltar, and that might permit them to own a property here, to live here, but not have access to our Health Services, our Education Services, our Elderly Residential Services, or any other of the welfare services that are provided by the Government of Gibraltar. All of that will be set out in the new criteria.

Madam Speaker: Yes, the Hon. C Sacarello.

Hon. C Sacarello: Thank you very much Madam Speaker, and good morning. I very much welcome the Chief Minister's statement there, particularly on the business side of things. I think it is extremely important Madam Speaker that businesses are allowed to operate freely in order to grow, start up in the first place, and in doing so recruit the best candidate for the job.

Sometimes the opportunities come from abroad because the skill set is not available, as has been indicated by the Chief Minister. So great news to hear that Gibraltar remains open for business during this hiatus, the timeframe of which has not been indicated, but we assume there is a limited timeframe. I would ask, in the spirit of clarity and the provision of information, which the Chief Minister has been very open on, if he could offer a little bit more detail on the process and the procedure.

I understand that the Government is currently working on it, the Hon. Minister for Economic Development perhaps heading this up, but it would be interesting to know how onerous the test would be. The Chief Minister mentioned that the companies must demonstrate an economic need and that the talent is not locally available. Will this test be onerous?

Which department will it be run by? And how long will the process take so that businesses can proceed with their day-to-day running of their companies? Thank you.

Hon. Chief Minister: Well, Madam Speaker, the test is exactly the same as the test is today. There is no change. The only difference is that the Minister with responsibility for immigration now has the ability to stop attempted abuse of that test, because we have seen attempts to abuse that.

Not by the legitimate businesses that are doing good business in Gibraltar, but by people who purport to be businesses and are just sitting on their own in an apartment pretending to be a business, pretending to be self-sufficient, and actually all they are doing is employing other members of their family to try and bring them to Gibraltar. So, this is not in any way a test that is designed to stop a legitimate business from continuing to employ people that they need. We have said from the beginning that we take the approach that if people need to bring somebody from outside of Gibraltar, they immediately get the permit for that, because we have five people unemployed, because the Future Jobs Strategy was a huge success, because there are not now, as there were when the GSD was last in Government, 500 people unemployed, and therefore there will be absolutely no change to the test. So, Madam Speaker, it should not be news to hear that we continue to be open. It would be news if we were closed, because that would be a new thing.

We are continuing the position that we have set out when it comes to businesses and people who need to come to Gibraltar to work.

Madam Speaker: Does any other hon. Member have any more questions?

We can continue with the business of the House. I think we are back on the Motion. The Hon. Chief Minister.

GOVERNMENT MOTION

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Chief Minister (Hon. F R Picardo): Thank you very much, Madam Speaker. I am going to continue now my detailed analysis of the section of the report that deals with ex-gratia payments, and today I am going to deal with one, and I am going to deal with it in very great detail, because the report deals with it in very, very great detail.

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It is only fair, Madam Speaker, that given that the author of the report thought that it was necessary to spend 12 pages of closed text analysing one officer in the public service in Gibraltar, that the Government should also spend the same detailed period of time necessary to analyse what was said, and what was said were the Government's failings in dealing with certain of the issues that are raised in the report.

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Madam Speaker, when we ended the last sitting, I dealt with all of the legal aspects affecting the ex-gratia payments. I have gone through the issue of the definition of ex-gratia payments and when they are used. I had explained why such payments, however large they may be, are actually designed to avoid having to make even larger payments.

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So, in the case of any such payments, I shared with the House that we would anticipate that we are saving in the region of 25% when we agree to make a settlement payment, and that is at least, Madam Speaker. But I should be clear that on legal costs, when we make a settlement ex-gratia, we can be saving much, much more than 25%, because if you get a case at the early stages, the costs are very low. If you settle a case at the last minute, after lawyers have done all of their preparation, after they have taken all of the witness statements, after they have prepared for court and read all of the cases, etc., settled all of the arguments, etc., the savings that we make on legal costs could be in the region of 90% to 95%. So as most will understand, Madam Speaker, it is sensible to settle a case early if you can, and not allow lawyers to spend the money that you spend in preparing to go to trial, etc. And settling, in our view, Madam Speaker, where it is appropriate and necessary is always better than litigating and settling early is always cheaper than settling late. Now, so much should be obvious to everyone, but I think that there is so much that was not obvious to the author of the report that I am sorry to have to set these things out on the record.

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So, Madam Speaker, when we do a settlement ex-gratia, we are not just settling the case or the issue that is brought to us, we are also settling the legal fees that would be attached to that case. And that was certainly the case in the matter that I will deal with today, Madam Speaker. And this is the settlement paid of £260,000 to one GDC officer.

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Madam Speaker, perhaps for the first time in the history of this Parliament, a report from a Principal Auditor concentrates on one particular individual. The only reason I say perhaps, Madam Speaker, is because I have not been able to go all the way back to 1969. But I am sure that this is the first time in history that a report has concentrated on one particular officer in this way.

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And not just, Madam Speaker, looking at one matter or one aspect of a particular officer's record. Looking at one particular officer's record. Looking at a whole employment record.

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This is really, Madam Speaker, an unprecedented approach. And for the reasons I will show during the course of my address this morning, I hope it will be clear to everyone, even those who might wish to defend the author of the report and the report, that there are aspects of what is said in the report in relation to this officer that are clearly and completely unconstitutional, ultra vires and contrary to the Equal Opportunities Act.

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To such an extent, Madam Speaker, that I doubt that once genuine thought and non-partisan reflection is brought to bear on these issues, even hon. Members opposite might say in respect to one particular part of what I am going to deal with, we all have to agree on that. We all have to agree on that. But the detail and length in which the report analyses this particular officer's record is absolutely remarkable.

It is remarkable. There is a whole 12 pages of tight text in the report which relate directly to one public servant. To one officer of the GDC.

345 One would be free almost, Madam Speaker, to speculate that there was something of the witch-hunt about the approach, just based on the length and concentration on the officer in the report. But hon. Members opposite might like to note that the Government's view is that this is not just something of a witch-hunt. This is a witch-hunt.

An absolute witch-hunt. Undeniably a witch-hunt. Because the way that the report is structured in this respect is as follows:

350 First, it analyses the relevant officer's employment record and looks at absences and overtime claims; Second, it analyses the relevant officer's legal claim against the Gibraltar Development Corporation; and third, it analyses the political activities of the relevant GDC officer.

Those are the three sections about one public servant in the Principal Auditor's Report for 355 2018-2019. And in doing so, Madam Speaker, the report is clearly authored to engineer the sending of a message to the reader. It is obvious.

Unfortunately, any messages the report is designed or engineered to send are clearly not based on an accurate factual analysis, as I will demonstrate. They are therefore unfair in the extreme. Let me deal with those three aspects of what the report analyses in detail and in order.

360 First, the officer's employment record. I am not going to comment on matters relating to attendance and overtime claims of one officer in the public service. They are not matters I can ask the House to fairly attend to.

If I did, Madam Speaker, the only way to measure whether the relevant officer's position is anomalous would be to do an analysis of the attendance and overtime records of all relevant 365 officers. It would otherwise be supremely unfair. And that would mean that the House would have to look at the records of 5,000 people to decide if one was acting in a manner that required sanction or not.

Otherwise, you are just picking one out and dedicating 12 pages to that person without looking at how that compares to everybody else. Is this anomalous? Is this the only such situation?

370 Are there more such situations? Are there 10 such situations? Are there 100 such situations? Are there 1,000 such situations? Is there an administrative problem in dealing with the 100 such situations? Or is it just because it is this officer?

What are the characteristics of this officer that make them the one that must be singled out for the purposes of this analysis? In any event, that is work that must be done by the relevant 375 Human Resources Department. I certainly did not get into politics to come to Parliament to look at the attendance and overtime records of individual officers.

I am very sorry to say the hon. Members are disappointed and they thought I had come into politics. For that purpose, that is not what I came into politics for. I am not in politics to look at the attendance and overtime records of individual officers.

380 That is what the administration is for. That is what the Chief Secretary is for. The Human Resources Department is for.

The GDC Secretary is for. Ironically, Madam Speaker, it is not what a Principal Auditor is for, unless it relates to payments of overtime and salary in respect of an officer. But I make no complaint that the Gibraltar Audit Office should do this work.

385 I think it is entirely proper when it comes to payments that they look at whether somebody has been overpaid or not overpaid, but not just one person has been overpaid or not overpaid. I think it is unusual that this has only ever been done in relation to this one person. I think it is very peculiar indeed.

But so be it. That is the first point. That is the overtime record and all of the rest of it.

390 I intend to say no more about that. But the next point that is raised is the question of the proper settlement of the GDC officers' legal claims against the GDC. And on this, the analysis in the report is so seriously flawed in the way that it purports to deconstruct the claim that the same officer had made against the Gibraltar Development Corporation that it is worth going through in minute detail.

395 It is so fundamental for the House and for the wider public to understand exactly how wrong the report is on this issue, as it is fundamental for the public and the House to understand why

the ex-gratia payment was made in this case. So, I have to start by highlighting why this claim was brought about. There is none of that in the report.

400 It just talks about a claim was filed. But that is essential to understanding the nature and manner in which the whole thing starts. And what happened here, Madam Speaker, was that the relevant officer of the Gibraltar Development Corporation became the subject of allegations in the place of work.

Those allegations required investigation, as all allegations do. And that involved months when the officer was not at work on suspension, given the nature of the allegation and the then amount
405 of stress that had been created as a result of the investigation when the investigation was concluded and the suspension ended. I do not want to say any more about the nature of the allegations because it would not be fair, for a simple reason.

They were not proven. The allegations were investigated and not made out. I also do not want to say more about the nature of the stress that they caused the officer in question, because it is
410 not fair, it is not right, and it is not proper to talk about a medical state of mind of an individual in this place.

But much can be gleaned from the claims set out in the report about what the medical expenses that the officer claimed were for. But all of this, Madam Speaker, all of this genesis of this matter is ignored in the report. The report proceeds on the basis that the claim was somehow
415 improper.

Indeed, the conclusion of this part of the report is to say the officer should have been told that she should have filed a grievance in her department. Madam Speaker, I do not know whether any advice was taken before those words were written. But in the place in which I live, which is the fantastic Rock of Gibraltar, nobody is entitled to say to anybody else, you cannot get a lawyer and
420 start a claim against anybody else.

You have to go through a grievance procedure instead, which traps your rights to start a case against your employer. It is absolutely not the case. So, the idea, the flawed idea in the report, that somehow this was all wrong because the officer should simply have filed a grievance in her department is worse than nonsensical.

425 It makes everything that is written in respect of the settlement absolutely and entirely incorrect. People can go to law when they want to go to law. In fact, Madam Speaker, the advice that the Government had suggested that there was a very, very high likelihood that the claim presented could succeed at trial.

And this arose from some considerable procedural irregularities that had occurred during the course of the investigation. Nonetheless, the Government did not take the claim at face value. But
430 already in having to get up in this House, Madam Speaker, the settlement that we did, which was ex-gratia with no admission of liability, I am now having to justify.

So, I am now having to get up in this House and say, yes, there was a very high likelihood of success in this claim. Something which is totally unnecessary and is not the way in which you settle
435 cases, but because of the foolish way in which the report addresses this issue, I have to now deal with. But the Government does not take any claim, let alone this claim, at face value.

Contrary to what is said in the report, we did seek the views of the officers who the claimant refers to in her claim. The report says we did not. I'll go through that in detail now.

We checked each aspect of it and concluded, based on the information available and indeed a number of meetings with the claimant's lawyers, on the basis also of our own advice, that the
440 claim had a prospect of succeeding. And this is where the report is dangerously wrong. In fact, it is completely wrong.

Because when we go through the heads of damage that were claimed and compare our advice in respect of those heads of damage with the things that are in the report about those heads of
445 damage, you will see, Madam Speaker, and the House will see, that there's no correlation to the facts in what's in the report. Indeed, Madam Speaker, not only has no report ever gone in such detail into the career of one public servant, never has a Principal Auditor report gone into such detail in respect of a claim filed against the Government and settled. No report has ever X-rayed

a legal claim filed and tried to dissect the heads of damage as this report does in respect of this particular claim, in respect of this particular public servant.

But so be it. Given the report has gone there, the House must go there too. I do not think it's a challenge in this respect, an Auditor's right to do this analysis, because it's about money paid and it's a public account of Gibraltar.

But I do highlight, Madam Speaker, how peculiar it is that it's ever only been done in this case and in respect of this officer. And, Madam Speaker, I will show that the settlement was done properly and correctly and that the report is incorrect in its analysis. So, if I can take the House, Madam Speaker, to paragraph 4.3.19 of the report, that sets out a table which sets out the heads of damage claimed by the officer. It also shows the total at the end of schedule of loss, representing the total quantified amount of the claim, what we would call the liquidated claim, a quantified amount of the claim. The first Head of claim are General Damages. That's a general figure based on precedence and is fixed here by the relevant officer's lawyers at approximately £40,000.

And the report actually makes no adverse comment about that figure. It does not say the £40,000 is too high or the £40,000 is too low. I agree with the report, Madam Speaker, on the assessment of that figure.

It just sets out this is the amount claimed based on general principles of law, etc., etc. So General Damages, £40,000, the report says, okay. The next part is the liquidated claim, the quantified claim, based on loss of earnings.

That amount of the claim is fixed at £106,638. And the report breaks that figure down and takes issue with it in several respects. The key issue that is repeated several times in the table by the author of the report is the following when dealing with Overtime Substitution and On-Call allowance.

It says this:

The standard practise when remunerating an Officer who is suspended from work is to pay basic salary only and does not include any hypothetical overtime the Officer could have been eligible for.

When paying an officer who is suspended from work. And that appears various times in the text of that table.

And it always appears, Madam Speaker, on Overtime, On-Call allowance and Substitution. Well, Madam Speaker, I confirm that I agree with the report in this regard also. That is the standard practise in relation to officers who are on suspension.

It is the standard practise remunerating an officer who is suspended from work to pay them basic salary only and not include the hypothetical overtime, on-call allowance and substitution. But what the author of the report fails to consider, Madam Speaker, or overlooks, or was not aware of, or did not take advice on, is what happens when the suspension has been found to have been based on facts which cannot be proven. So, not in the period of the suspension where you do only pay the basic salary.

At the end of the period of the suspension, when the suspension is found not to have been proper, the suspension is lifted, and the person has a claim for that period. What happens then? Then the officer has been suspended for no good reason.

And when that officer makes a claim, they are able, indeed they are entitled to say, hang on a minute, I accept you did not pay me the overtime, the on-call allowance and the substitution whilst I was suspended. But now that I have been found to have been improperly suspended, I claim for what I would have been able to receive if I had not been improperly suspended. And if the author of the report does not know that he has never had a meeting with a Union after they are representing a person or a member who has been improperly suspended.

And he has never spoken to a lawyer about what claims one makes in law arising from improper suspension in employment. So, the report and its author are right to state that these amounts are not paid during the period of suspension. But the report and its author are wrong to say that these

sums could not form part of a claim from the officer once the suspension has been found to be improper or unsustainable.

The report is also wrong to state that an officer who has been away for these reasons is unable to claim pension contributions just because they had not claimed them before. The fact is that the GDC permits officers to start pension contributions at any time. And when they do, the Government matches them.

For that reason, Madam Speaker, when a person makes a claim against the GDC, even if they had not been making pension contributions before, they are entitled to say, I was about to start making my pension contributions. So, in respect of my claim, I claim 8% less in respect of my salary, but 17% more from the Government. Because that is the amount the Government would be contributing.

The report would be right, Madam Speaker, perhaps it would not be right. The report might be legitimate in saying, wow, that is a bit sharp on the part of the officer. They did not make pension contributions before and now they say they would have been about to start.

Well, different people make different assessments about when they want to start making pension contributions. An officer might want to start making them at 21 or at 18, another at 30, another at 35, and another at 40. Indeed, we have many people now in the Public Service who come to us from other careers, usually in the Armed Forces, and they start their contributed pensions at 40.

This individual is below 40. But it would be perfectly legitimate, understandable, and reasonable for the report to say, goodness, it was a bit sharp, for the officer to now start claiming pension contributions when they had not contributed before. But it is not contrary to law, and the claim can be made, and therefore it is wrong to say that the claim cannot be made.

Indeed, Madam Speaker, at paragraph 4.3.21, it is therefore completely wrong to say that this somehow vitiates the statement of truth. Because this is what the report says at 4.3.21. It says:

I further pointed out to the GDC Secretary that I found it surprising to see in the schedule of loss claim that the GDC Officer asserted in a statement of truth paragraph that the facts in the schedule of loss are true, when some of these facts are false, e.g. the loss of pension contributions, bearing in mind that the GDC Officer is not a contributor to a contributory pension scheme.

And it continues. But that part, Madam Speaker, that part is false in the pen of the author of the report.

Not in the mouth of the claimant in this claim. Because the schedule of loss is true, because the officer could, from that moment, have made a claim for pension contributions. Indeed, in some instances we may allow them to go backwards.

So, it does not vitiate the truth that this person made a claim for a pension contribution. And that is completely wrong. And the author of the report, in his report, challenges the oath of the person and the truth of what that person has said.

Wrongly. Because the report fails to reflect an understanding of the practise that can enable the individual to make the claim for the pension contribution. So, completely wrong in the analysis, Madam Speaker.

The rest of the analysis of the claim for liquidated damages made in the report is not suggesting that the sums are not justifiable, although there are suggestions that they should be challenged. Which is fair enough. But then there are three areas of claim which are unliquidated.

Now, for the non-legal, that means unquantified. They are things claimed without a number set against them. That's the most dangerous part of a claim like this.

The unliquidated damages. Because the specific damages, the liquidated damages, you know, that's what it is. That's my liability.

But I do not know, in respect of the things which are at large, where if I am found liable, the amount I could be found to pay is not yet fixed. Essentially what the claim is saying there is that the officer in question may find it impossible to return to work. Because the circumstances are

intolerable and therefore in employment law the employer has breached the contract and the claim is for the rest of the claimant's working life.

555 But that's not an easy claim to make out and one would not expect it to succeed at trial, Madam Speaker, in recovery of the earnings due until retirement. But that's what the claim is for. The claim is for the contract to be paid out as the analysis of the report actually indicates.

The report says this:

560 A substantial continuing loss of earnings claim would be made if the GDC officer is unable to return to her pre-accident employment given her age and years left to retirement.

The report acknowledges that, but it makes no calculation of what that could be. Going back to the approved estimates for the year 2021-2022, which is the one we are dealing with, the relevant officer's salary as a grade 3 GDC at the top of the spine point would be £38,669 per annum.

565 The officer's age then was 35 years old. Therefore, the potential liability that opens up for the Government was up to 25 years at the time. But as I said a moment ago, it is very unlikely that a court would ever award that amount.

570 In other words, it's very unlikely a court would ever do 25 times £38,669. Because courts rarely award damages for the entire remaining term of the contract unless the employee can prove they couldn't reasonably find comparable work or indeed that the injury is such that they cannot go to any other work as a result of what has happened. But compensation would usually cover lost earnings during the reasonable job search period, benefits such as pensions and healthcare lost during that time or completely because this was a person in the Public Sector.

575 If they then had to go to the Private Sector, the benefits might be less and therefore there might be a claim for those benefits until retirement, any unpaid wages or notice. It's likely that anybody in Gibraltar would be able to get a job quickly but perhaps not on the same pay, terms and conditions as in the Public Sector. We cannot make that determination now.

580 It would require a whole trial of the quantum of this matter to determine what it is. But let's be clear that the £38,669 would not necessarily be the figure by which we would be multiplying here. It would be the salary plus the sum of the average overtime on-call allowance and substitution allowance that the officer could have proved she would be receiving and the pension contribution.

585 Well, Madam Speaker, when you come to the pension contribution, the report once again deals with that issue. Almost I can feel the author's anger at the claim for pension. The report shows us how the author of the report is incensed by the claim for pension by the officer who was not contributing to pension.

It says this under that line:

590 The GDC Officer ascertained that there would be a substantial claim given her age and years left until retirement if she is unable to return to her pre-accident employment. The schedule of loss states that the amount of the loss will be valued upon receipt of information as to her prospective pension.

595 Once again, this is simply not true, given that as previously mentioned above, the GDC officer has not contributed and has never contributed to a Government contributory pension scheme.

Of course, in respect of an actual pension, the author is right. But there can be a claim, Madam Speaker, because there cannot be a claim for a pension if the pension has invested at the time that the person is going to retire. But, although the court might award very little in terms of pension, it might award pension contributions for the period because the officer could have started to make those contributions.

600 But even if there was a low award there, there might be something. Madam Speaker, there is also an element of claim for what is called future gratuitous care and assistance, which is the support that somebody who has had an accident needs, etc. And this is what the author of the report says:

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Given the GDC's Officer's ongoing condition, there would also be a continuous claim for gratuitous care and assistance as she still requires help with some aspects of her everyday life.

610 So, the report is not challenging that potential head of future loss. The report is not actually challenging the potential claims for two future heads of damage, unquantified damage.

615 Loss of earnings and future care and assistance. It is only on the pension that the author of the report does not accept that there can be any amount paid. But it is fundamental in doing the analysis of this ex-gratia settlement that we remind ourselves that even the author of the report that criticises the amount paid is not challenging that there would be an amount paid in respect of the unliquidated damages due in respect of loss of earnings and future gratuitous care.

Those are the ones that could be the largest amounts of the claim. They would potentially dwarf the sums that the report and its author seem to be so affronted by in respect of pension contributions. So, it is important that when looking at the schedule of loss, which gives a number of £295,000 claimed, that is not the sum of the claim.

620 It is £295,000 plus the loss of earnings, plus the loss of future gratuitous care, plus the potential claim for at least the pension contributions. And that would make the claim worth much, much more. So, what would be the potential damages that the Government would suffer if we went to court?

625 It is the £295,000 plus the salary at £38,669 and the average overtime, the average on-call allowance and the substitution allowance. Let us do a calculation which is very, very, very ungenerous in respect of Overtime, On-Call and Substitution. And let us say that is just an extra £6,000 a year.

630 Very ungenerous but let us do it for the purposes of settling. And let us say, let us give a notional salary going forward of £45,000. So, that becomes the multiplicand for the loss of earnings, £45,000.

And then let us calculate the amount, not over 25 years. The only way that that claim could be made out is if the officer suggested that she could not ever go back to work anywhere, which is I think the beginning of what is said in this case, but we actually are able to avoid that. So, not 25 years, which would get her to 60, not even 15 years, not even 10 years.

635 Let us do the calculation very, very ungenerously to the claimant, generously to the Government. And let us say that the court were only to determine that they would give her five years of that claim. The officer would then have had to satisfy the court that she was not able to go back to work for at least five years.

640 And that the terms on which she would go back to work would not be as generous as the terms and conditions she had in the Public Sector. Just that would add, done as ungenerously as I have done it, would add £225,000 to the claim. That is multiplying by five.

645 If you multiply by 25, and if the officer had been able to convince the court that she could never go back to work because of what had happened to her, then multiply 225 by five. Then, on top of that, you have the gratuitous care and assistance claim and there, the way to understand what is likely to happen is you go back to the claim that was made for special damage for gratuitous care and assistance, which was £23,400 for three years.

That makes it £7,800 a year, and you take that forward. Again, she would only be able to get it for the rest of her life if she was able to convince the court that she could not go back to work and she needed this care for the rest of her life. So either 30 years, 25 years, et cetera, et cetera.

650 Let us be completely ungenerous. Let us just say five years. Okay, let us go to a low number.

Let us go to five years. £7,800 for five years, £39,000 is what would be added to the value of the claim. Now, when these claims are filed in the Supreme Court, you're asked whether your claim is likely to exceed half a million or not likely to exceed half a million.

655 It's one of the ways that you determine what court fees you pay. But even if you tick the box that you're going to not exceed half a million pounds, if the court then determines that you must be paid more than half a million pounds, you are paid more than half a million pounds. It does not matter what box you ticked.

Because now you can see, Madam Speaker, that the claim might reach half a million pounds ungenerously assessed as I am assessing it. The claim goes to close to £559,000 without legal fees.
660 It could be more, or it could be less.

That is the dice that you roll in litigation. You look at all the applicable principles, you look at the comparable and you make a decision about whether you want to go into the battle for liability and if you lose the battle for liability, the battle for what is known as quantum, which is the amount that has to be paid.

665 So, what the report does, Madam Speaker, is it says all of these payments are excessive, improper, etc but it does not analyse the three heads which are set out as TBC to be confirmed. And they are not confirmed by the individual. They are confirmed by the court at the end of a trial. But the report does not challenge those. It does not say these are improper and it leaves them at large.

670 All the report says, the only thing it says after all of that detail analysis, and this is really, really remarkable, is that there was at least a chance that the claim would be rejected and thus public funds spared. That is the final sentence of 4.3.25. There was at least a chance. There is always a chance, Madam Speaker. Even when your lawyers have told you are going to lose in court, you do not stand a snowball's chance in hell. You go to court and there is always a chance that you could
675 win.

Why? Because a document might come out that the other side had not disclosed. The judge might be particularly favourable to you.

The law might change in the interim because there is a case going through a Supreme Court in the UK and you want to take the chance. Of course, there is always a chance. If the Government
680 conducted litigation on the basis that there is at least a chance that the claim would be rejected, we would never settle.

And what would happen? That in a case, for example, recently when we paid 10 million, we might pay 20. In a case also recently when we paid 10 million, we might have paid 15.

685 Is that the Russian roulette of litigation that the report is recommending to the Government and to the community? The idea that the Government should defend every single civil claim against the Crown on the basis that there is at least a chance that the claim would be rejected and thus public funds spared. Or is it just this one to which the author of the report would have this rule apply because it is this particular GDC officer?

The characteristics of whom I will come to towards the end of my address. In fact, Madam
690 Speaker, if you read 4.3.25 carefully, what it must mean, perforce, is that there was at least a chance that the claim would be accepted and thus even more public funds would have had to be paid because if there is just a chance that it might be rejected, there must be more than just a chance that it will be accepted.

That is the reality and that is a necessary interpretation of what the report is saying. So, what
695 leads to this very weak challenge in the report to the potential to avoid liability?

So, when the report says there was at least a chance that the claim might be rejected, on what is that based? What is in the report that tells us that there is a chance that it might be rejected? Well, it is all set out there, Madam Speaker, in 4.3.25 at the beginning of that paragraph.

700 In my letter,

says the author of the report:

705 dated the 22nd of May 2025, I told the GDC Secretary that given the circumstances that transpired, I should be grateful to learn why the GDC did not in the first-place contest the claim against the corporation by filing a defence in court. The fab of the public officers named in the claim put forward by the GDC officer were committed to making representations that refuted the GDC officer's allegations against the way the GDC officer claimed she had been treated, suggested there was at least a chance the claim would be rejected and thus public funds spared.

At 4.3.26:

715 I told the GDC Secretary that I found it most concerning that the GDC appeared to have willingly accepted not to file a defence in court, with a view of challenging the claim served by the GDC officer. Instead, the corporation proceeded to settle out of court without first undertaking a formal internal investigation into the matter by seeking the views of the officers that the GDC officer refers to in her court claim. Conducting such an investigation would have established whether the claim was right, justified and reasonable.

720 Every single aspect of those paragraphs is based on incorrect assumptions.
Every single one of them. And I will go through every phrase in those two paragraphs now to show that all of those assumptions are wrong. Of course, there are the questions.

Questions asked on the 22nd of May, Madam Speaker, 2025. But asked on the 22nd of May, 2025, about things that happened three years earlier, which was the settlement.

725 But about facts that had occurred in 2018-2019, Madam Speaker. Six years earlier. But between the 22nd of May and the 31st of May, there was no time to reply.

As you will have seen from the report, Madam Speaker, this involved me. It involved members of my team. How much time did I have this year from the 22nd of May to the 31st of May when the report was put to bed?

730 Remember, this was all in the run-up to the 11th of June agreement. This is two weeks, two and a half weeks before we actually get there. In fact, at that time, there had been a proposed earlier date for agreement, but because of ministerial diaries, it was not possible to have it.

735 I confess, Madam Speaker, I was not even told about this letter coming in. Rightly so, because first of all, I had a medical issue involving a very close individual to me. I was here in Parliament answering questions on the 22nd of May. I was preparing and conducting the negotiation. I do not think there has ever been a more difficult period.

Additionally, remember, that is the time when we are also preparing for the budget. We are also preparing to go to the United Nations in New York. So, this letter, which requires my input, was not given to me before the 31st of May. So, the author of the report had no reply to his letter.

740 But neither was it reasonable for him, Madam Speaker, in our view, to seek this level of information. This is a 23-page letter, Madam Speaker. This level of information, nine days before he puts his report to bed, in respect of a matter which had happened three years before, and which he had been investigating for some time, because he says he looked at the file in 2022, he looked at the file in 2024, etc.

745 But let us go through these things that are in the letter and in the report. 4.3.25:

In my letter, dated the 22nd of May, I told the GDC Secretary that given the circumstances that transpired, I should be grateful to learn why the GDC did not in the first-place contest the claim against the Corporation by filing a defence in court.

750 Madam Speaker, that is wrong. The Government would have filed a defence if it had not been possible to settle the matter. The fact is, Madam Speaker, that judgement in default was entered because the claim was not a claim against the Crown under the Crown Proceedings Act, but a claim against the GDC and issues of proper service arose.

755 But the claimant filed for and obtained judgement in default because the claim had not been brought to the attention of relevant officers in the GDC. But we persuaded the claimant that we would succeed in setting aside that regularly obtained judgement in default, and that therefore it was better for her if she agreed to set aside the judgement and that was done.

760 So, the judgement was set aside, and then the matter was stayed, so that the Government did not have to file a defence if we could settle it. But we would try and settle it first, without needing to incur the cost of a defence and Madam Speaker, that is the reasonable position to take.

That is the way to save public money, not to settle a defence and spend a lot of money on lawyers settling a defence, if there is no need to do so because you can settle the matter. But the

answer to the question in the letter and now in the report is that if we were not able to settle, we would have been in a position to file a defence in court. Then 4.3.25 continued:

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The fact that the public officers named in the claim put forward by the GDC officer were committed to making representations that refuted the GDC officer's allegations against the way the GDC officer claimed she had been treated, suggested there was at least a chance that the claim would be rejected and thus public funds spared.

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Well, I met with those officers. In fact, they themselves instructed their own lawyers. I saw them, I believe, with their lawyer. They had very clear views about the case. They were also the people who had been involved in the making of the allegations which had not been proven, and which had led to the claim.

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So, Madam Speaker, already the issues that they were putting on the table had to an extent been litigated unsuccessfully for them, but to a different standard that would have been applied in civil proceedings Madam Speaker. That group of individuals insisted that the allegations made against them by the claimant should be withdrawn. They threatened litigation against the Government themselves if we did not procure the removal of those allegations from the record.

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And therefore, as a result, the settlement included the thing that those individuals required, which was the withdrawal of the allegations made in the claim against them and the removal of that from the public record. So, it is wrong to suggest that we did not meet with those individuals and take their views. And then at 4.3.26:

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I told the GDC secretary that I found it most concerning that the GDC appeared to have willingly accepted not to file a defence in court with a view of challenging the claims served by the GDC officer.

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As I have shown, that was not the case. We would have filed a defence and challenged the thing said had we not been persuaded that we would eventually have failed in that defence. That the chance of her succeeding and us failing was very much in her favour because that is all that the report tells us, that we would have had a chance. Not a very good chance or it very highly likely that the claim would not have succeeded. That is not what the report says rightly. It says just that there was a chance.

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The responsible thing, therefore, Madam Speaker was to do exactly as we did. Set aside the judgement in default, enter the negotiations, talk to the people on the Government side who might give us information to be able to displace the claim.

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But on the basis of advice, make the decision that we would likely lose. There was a very good chance that the claim would succeed and therefore settle. But with the proceedings stayed, because if we made a different decision, we could have filed a defence or we could have filed a defence if the settlement was not going in the way that we wanted to try and use that to try and lower the settlement claim.

But remember Madam Speaker, the other thing that we had in mind was that if we did not settle, just the costs would not be £19,000, it would likely be closer to £100,000. Just the costs. And then the report continues at point 26:

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Instead, the corporation proceeded to settle out of court without first undertaking a formal investigation into the matter by seeking the views of the officers that the GDC officer refers to in the court claim.

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That is not true. It is a lie contained in the report to this Parliament. It is not true. I had those meetings. I did that internal investigation.

So all of the assumptions contained in 4.3.25 and 4.3.26 are flawed and the highly inflammatory, highly prejudicial and highly judgemental conclusions that the report reaches are therefore wrong, unreliable and misleading. It should be withdrawn because the next sentence says this Madam Speaker:

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Conducting such an investigation would have established whether the claim was right, justified and reasonable.

As I have already said, we carried out those investigations. We had those discussions. We determined, and it is us that should determine, not a third party marking our homework, that the claim was right, justified and reasonable to the extent that it might succeed.

820 The conclusion was that there was a serious risk that liability would be established against the Government in sums well in excess of the sums claimed as liquidated or unquantified damages. Not a conclusion, Madam Speaker that can be suggested to be unreasonable given that the author of the report himself tells us that he thinks that there is only a chance that the claim might have been rejected and remember that, Madam Speaker, he does not say there is a high chance, there is a good chance, there is a very good chance, there is a very high chance that the claim will be
825 rejected.

He says just that there is a chance. He throws to the bottom rank of opportunity the likelihood that the claim would not succeed and yet he expects us to litigate and not settle.

That is a foolish way to suggest that the Government should go about spending public money. It is the wrong way to go about protecting the taxpayer's interests. So, Madam Speaker, in those
830 circumstances, it seemed to me clear that the Government acted entirely properly in settling the claim as it did.

We acted to protect the public purse. And Madam Speaker, for all the reasons I set out on Monday in my legal analysis of ex-gratia settlements, this is exactly what the discretion provided to ministers and to Government to settle matters entails. We saved at least, if not more, than 50%
835 of the sum that could have been the liability ordered against the taxpayer.

And whatever the identity or political persuasion of the claimant, acting properly and without political bias would have led a Government of any complexion to settle on these terms if they were genuinely looking after the interests of the taxpayer. That is the reality. That is the reality.

What I am saying, Madam Speaker, is that they, if they were here, would also have settled and
840 probably for exactly the same amounts. And if any other Gibraltarian was in my chair and was faced with this advice and was faced with these issues, and if they had any logic about them and wanted to avoid paying more, they would have settled for these amounts. But Madam Speaker, I showed you I had here the letter of 22 May.

It is 23 pages long. It has three annexes. It is extraordinarily detailed in the information it seeks,
845 and it was sent six working days before the finalisation of the report. It is not serious, Madam Speaker. Who does that? Who does that? But what is absolutely remarkable, Madam Speaker, what is absolutely remarkable is that I do not need to give you the letter to read, because the letter is word for word in the report. Apart from dear Secretary of the GDC, it is word for word in the report.

850 Any objective observer, Madam Speaker, might reasonably think this was a set up. I am not going to say it was. I am not going to make such an assertion.

Let us ask an objective, well-informed observer. The standard set out in Porter and McGill. Do you remember Porter and McGill that I referred you to, Madam Speaker, on the first day that I was addressing you?

855 In Porter and McGill, the standard is the objective observer who is well-informed. Well, if you are so well-informed, Madam Speaker, that you read the letter and you find that the letter is word for word in the report, you would very likely come to the conclusion that given that the letter was sent just six working days before the report, it requires input at the highest level of Government. It goes back three years as to the settlement and six years as to the issues.

860 This is not an attempt to get information. This is an attempt to skewer someone in the report. But if that is not remarkable enough, Madam Speaker, it is true of the other letters too.

The letter also of the 22nd of May 2025 to the CEO of the Environment Ministry is word for word in the report, starting at page 89 of the report, paragraph 5.4.1. Apart from dear Chief Executive Officer of the Ministry for the Environment, it is word for word in the report. The letter
865 to the GDC Secretary is word for word in the report at 141, page 141, starting at paragraph 4.30.1. And what about, Madam Speaker, the letter of the 30th of May 2025 to the CEO of the Environment Ministry, which was sent after the close of business on the last day before the report

was filed? Word for word, page 135, paragraph 3.7.11. What about the other letter of the 30th of May 2025? I do not know whether he only sent the letter on a Thursday, to the Director of Personnel. Word for word in the report, page 210, paragraph 5.6. Too much of a coincidence, Madam Speaker. Too much of a coincidence.

In fact, the objective well-informed observer that Porter and McGill tells us is the standard by which we judge this, would look at this and say, it is a set-up. I am not, Madam Speaker, able to do the exact same analysis, because I have not got it, in respect of the letter that you were sent at quarter past eight in the evening, on the 31st of May, two hours before the report should have been finalised. But I am going to allow myself to do that which the author of the report does.

He does it unfairly and reaching a wrong conclusion. I will bet my bottom dollar, mine, not the taxpayers', that your letter is word for word in the report, with the cliffhanger at the end, I have not had a response to this letter in the two and a half hours since I sent it.

And I have no doubt it is more than one page, Madam Speaker. Tell it to the Marines, if anybody is going to try and persuade me that this is fair or proper audit practise. Tell it to the Marines.

Because, Madam Speaker, to set out questions with nigh impossible timelines for response, giving people there the detail of the criticism you are going to make without giving them a chance to reply, and then publishing that and not waiting perhaps for next year for the other auditor, when he has the information to deal with those issues, is not proper or appropriate audit practice, either in the public sector or in the private sector.

Any objective observer would say the person writing to you is not interested in your reply. They are only interested in making the allegation against you, which is the opposite of what audit practise should be. The report, Madam Speaker, in my subjective opinion, was already written by them.

These were not letters written as letters. These were letters written as paragraphs of the report. And the intention, Madam Speaker, as far as I can see, was that the report should be the most incendiary possible, making the most incendiary allegations and giving no time for reasonable answers to be provided.

But Madam Speaker, given what we were told by the Hon. the Leader of the Opposition last week, when he issued his statement, I am sure that he will be able to provide explanations for this, given that is what he told us he was going to do. And so, Madam Speaker, I am saddened, disappointed and concerned to have had to bring to the attention of this House this behaviour by the author of the report and every Gibraltarian, whoever they vote for, whatever they think of the things that were in the report, should be equally concerned to see an independent constitutional officer of the Government of Gibraltar, a member of this Parliament, acting in this way.

Because even if they do not like us and they are delighted with how the report has skewered us politically, they have to realise that if this behaviour is acceptable, it could be them next. Because there could be a change of Government, there could be a Government of a different political complexion, and the game is then to see how we can get a Principal Auditor to skewer the Government in this way, with all of this manifest unfairness and impropriety, Madam Speaker. But there is one part left for me to analyse.

And perhaps, although it may be shorter than my analysis in respect of the claim that was properly settled, as I have shown, for much less than the taxpayer was on the hook for, perhaps it is the most important, Madam Speaker, and it is the part that will sadden me the most to have to do. It's a part that should put all of us on enquiry, and it is a part that challenges not the Government, it challenges our democracy, it challenges our constitutional freedom of association, and it challenges our core right to have political belief. In the letter, there is a part, which of course is also in the report, it is the third part of what I told you I would deal with, which is a section about the relevant officers' involvement in politics, in political activity.

It is identical, the letter and the report, of course. None of what is in this part of the letter or this part of the report has anything to do by the widest, most generous stretch of the imagination with the public accounts of Gibraltar. None of this has anything to do with anything remotely the jurisdiction of an auditor, let alone a public auditor.

920 Section 74 of the Constitution, which we've read so many times, and we will no doubt hear about so much more during the course of this debate, sets out the constitutional jurisdiction of the auditor, and it sets it out very clearly.

925 The public accounts of Gibraltar and of all courts of law and all authorities and offices of the Government shall be audited and reported on by the Principal Auditor. And for that purpose, the Principal Auditor or any person authorised by him in that behalf shall have access to all books, records, reports and other documents relating to those accounts.

930 That is the jurisdiction of the office, the public accounts of Gibraltar and of all courts of law and all authorities and offices of the Government. How is one particular GDC officer's compliance with General Orders, where it deals with political activity, an audit of the public accounts of Gibraltar? So, Madam Speaker, very clearly, any analysis of one public servant's compliance with the political activity part of General Orders is not within the constitutional jurisdiction of the Principal Auditor.

935 It is just impossible to suggest that it is. But there are other powers that the Principal Auditor has, not just the Constitution but they do not expand his constitutional jurisdiction.

940 It is worth ensuring, Madam Speaker, because of the nature and gravity of what I am going to say, that we do ensure that there is nothing else in the law, in the statutes, which empower the Principal Auditor before we say that he has acted entirely ultra vires. So let us look at the sections of the Gibraltar Public Finance (Control and Audit) Act, sections 56 to 62. I am sorry that we have to go through this, Madam Speaker, but this is seminally important. This goes to our human rights, our freedoms, each of us.

Section 56 says:

945 The powers of the Principal Auditor, in the performance of his functions under the Constitution and under this Act, the Principal Auditor shall, (A) have access to all accounts, books, cash, documents, security stamps, scores, vouchers, or other Government property under the control or in the possession of any public officer, in the performance of his functions under the Constitution, to audit the public accounts of Gibraltar. (B) he may call upon any public officer for any explanations and information which he may require in order to enable him to discharge his duties in auditing the public accounts of Gibraltar. He may authorise in writing any person publicly carrying on the profession of accountant to conduct on his behalf any enquiry, examination, or audit, and such person shall report thereto to the Principal Auditor.

950 He may, without payment of fees, cause such to be made, and extras to be taken from any book. He may lay before the Attorney General a case in writing as to any question of law, and the Attorney General shall give a written opinion upon such question.

955 Nothing there that says that he has any jurisdiction to look at whether a public officer is complying with General Orders on political activity. And all in the discharge of his constitutional authority, which is to audit the accounts, the public accounts of Gibraltar and its courts and agencies and authorities.

960 57 - The nature of the audit:

965 In the performance of his functions under the Constitution and under this Act, the Principal Auditor shall have other powers as are reasonably necessary in order to satisfy himself whether or not, (A) all reasonable steps have been taken to secure the due collection of revenue and of all other public monies due and owing to the Government, and the provision of the Constitution and of this Act, and any regulations and instructions relating to such collection have been complied with, collection and spending of money.

(B) All monies which have been appropriated and dispersed have been applied for the purpose of which they were appropriated and the expenditure conforms with the authority which it governs. That thing which he says we have done properly in the report, because he gives us that clean bill of health.

970 (C) Public monies other than those which have been appropriated have been dealt with in accordance with proper authority. He also gives us a clean bill of health on that.

(D) 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. Nothing to do with officers keeping to General Orders.

975 (E)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.

About money, nothing to do with political activity.

980 Section 58, Notification of Irregularities.

If at any time it appears to the Principal Auditor that any irregularities have occurred in the receipt, custody or expenditure of public monies or in the custody or disposal of Government property, he shall bring the matter to the notice of the Financial Secretary and the Minister responsible for Finance.

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Nothing to do with civil servants and their code, the General Orders.
59, delegation.

990 Anything which under the authority of this Act is directed to be done by the Principal Auditor other than certifying of and reporting on accounts and exercise of the powers conferred upon the Principal Auditor by 56.1c may be done by any officer and his staff authorised by him.

Nothing.

995 Examination and Audit of Accounts of Corporate and Similar Bodies. This is Part 9, Section 60, subsection 1.

1000 This part shall apply to every person or body that is in receipt of a contribution from any public monies, or in respect of whom the Government has given a guarantee to any person, or whose operations may impose or create a liability on any public monies, not being a body corporate whose accounts the Principal Auditor is for the time being specifically required or empowered to audit and report on under any law.

And then 61.

1005 The Principal Auditor may audit and report on the accounts of any person or body to whom this part applies.

The Principal Auditor may audit and report on the accounts of any person or body to whom this applies. On the accounts, but not on their political activity and their compliance with General Orders.

1010 In exercise of his powers under subsection 1 the Principal Auditor shall have in relation to any person or body to whom this part applies the same powers as are conferred on him under sections 56 and 57 in relation to public officers, public monies, stamps, securities, stores and other Government property.

62.

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Where in accordance with the provisions of this part the Principal Auditor has or by virtue of directions given by him under the provisions of section 57C caused to be examined, enquired into and audited the accounts of any person or body, he may certify the accounts, prepare and sign a report on such audit if he considers such a report is necessary, transmit to the Minister responsible for finance all such certified accounts together with any report he may have made, and transmit the report to the person or body which is the subject of the report.

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In respect of their accounts, this part of the letter and of the report does not ask anyone about the accounts of this individual. It talks about this individual's compliance with General Orders under Section of Political Activity. Where in the constitutional power in section 74 or in the legal power in the Public Finance Control and Audit Act is there the right, the power, the jurisdiction for the Principal Auditor to ask about let alone report on the compliance by one officer in the whole of the public service with the Political Activity provisions in General Orders. There is no such power. There is no such jurisdiction. This is all ultra vires.

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And if there is such a power, why has it never been used since 1969? Why is there no report that deals with these issues before? At the time of the general strike when so many public servants were politically active, in 1988 the big change of Government, in 1996 in the big change of

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Government. Why? No other report goes there because no other Principal Auditor has thought that he had the God-given power to do this because it must be God-given because there is no constitutional power.

1035 There is no power from the Crown in the Constitution. The Queen did not give him the power, and this Parliament has not given him the power in the laws made in this Parliament.

Madam Speaker, and why only this officer? Is it because of the party that she is affiliated to? What about all the others in all the other parties?

1040 What about the schoolteacher that goes around Catalan Bay sticking up posters for the GSD? Why is there nothing in the report about that? Why is it only one person in the Socialist Labour Party that is singled out for this treatment?

1045 Look, even if you do not like this person, everybody knows who this person now is, even if you do not like this person, even if you do not like the Socialist Labour Party, even if you do not like me, if you have no affinity with the Socialist Labour Party or with the Liberal Party, even if you think reading the letter that something has gone wrong, which I will come to in a minute, none of that can be used to legally or intellectually justify what has been done in this part of the report by the former Principal Auditor. It is one thing and one thing only, ultra vires, any power his office has ever had and therefore, Madam Speaker, this part of the report is not within the power of the author to make it.

1050 It should be rejected in the same way as we should reject the part on housing allocations, because housing allocations also have nothing to do with the accounts of Gibraltar etc. None of them have anything to do with the public accounts of Gibraltar. And the Principal Auditor is not a meandering referee that can get into anything he likes and comment on, certainly not in relation to matters of policy as you have seen.

1055 There is a power, it is very clear, and it is very, very strong in relation to matters that relate to accounts. There is absolutely no power whatsoever in relation to these other matters. So, the Parliament has to consider what happens to these parts of the report.

1060 Rejection may not be enough in relation to these parts of the report. In particular, not just that it deals with political activity which is outside the ambit and jurisdiction of a Principal Auditor, the fact that it does it singling out only one person and her relationship with one political party because that goes even further, Madam Speaker.

1065 That is not just ultra vires. That starts to intrude on the fundamental constitutional right of the freedom of association which this officer and all of us enjoy. And this, Madam Speaker, will therefore be I think the most important part of everything I will say during the course of this debate because on that constitutional right, Madam Speaker, I have to ask the House to have regard to the protection that is afforded to all of us, and which has not been protected here.

1070 Paragraphs 4.3.27 to 4.3.30 of the report should offend everyone, whichever political party or no political party they support because this part of the report is so heinous that I am challenging it, Madam Speaker, not in defence of this individual, officer of the GDC, but in defence of a principle that underpins our democracy. The right to political belief and affiliation without fear of selective reprisal.

1075 Something that I know that if we were not in this debate and if we were not dealing with the party politics of Gibraltar today, the Leader of the Opposition would join me in defending. I have no doubt, however, that for reasons of party-political expedience, he will instead provide explanations on behalf of the author of the report, or purport to do so, and fail to stand up at this moment when actually individuals' constitutional rights have been put under attack. And they have been put under attack in this House by this report.

1080 And I will be damned, Madam Speaker, if I will not stand up to defend all of our democratic rights because, again, the report is completely silent on any officers who might be having an affinity with them and that asymmetry is not for us merely a matter of omission.

It is clear that this is a case of blatant discrimination because on top of that, no such review has ever been undertaken of any officer. No doubt because it is ultra vires.

But our view, Madam Speaker, on the part of the Government, is that the report is therefore party politically discriminating against this individual. Political belief is protected, Madam Speaker, under the Equal Opportunities Act as a philosophical belief and that is set out, Madam Speaker, in *Olivier v the Department of Work and Pensions*.

In that case, the Tribunal found that belief in democratic socialism, akin to the values of the GSLP that I proudly represent, was worthy of respect in a democratic society, and thus shielded from democratic treatment. Section 8 of the Gibraltar Equal Opportunities Act is identical to the section being interpreted in *Olivier v the Department of Work and Pensions* in the UK's Opportunities Act and it says this:

The meaning of discrimination on the ground of religion or belief, 8.1, a person A, discriminates against another person B, if on the grounds of religion or belief of B, or of any other person except A, whether or not it is also A's religion or belief, A treats B less favourably than A treats or would treat other persons.

A could stand for author. B could stand for the surname of this individual. And then subsection 2 says this in subsection 1:

A reference to a person's religion or belief includes a reference to a religion or belief which he is thought to belong or subscribe.

Subsection 3:

A person A, discriminates against another person B, if A applies to B a provision, criterion or practise, which A applies or would apply equally to persons not of B's religion, which puts persons of B's religion or belief at a disadvantage compared to some or others, which puts B at a disadvantage compared to some or all persons who are not of B's religion or belief, and which A cannot show to be an appropriate and necessary means of achieving a legitimate aim, because A, here the author, cannot say it is a legitimate aim to pursue these things in respect of General Orders because he has no constitutional or statutory power to do so.

And finally, subsection 4:

A comparison of the case of B with that of another person in the subsection 1 or 3 must be such that the relevant circumstances in the one case are the same or not materially different in the other.

That is exactly what has happened here. Textbook discrimination.

The Equalities Act is 2008, by the way. They were in Government when they made it. It was a directive requirement of the European Union.

No A, no author of a report, of a Principal Author's report, has ever done such an analysis of any public servant's political activity of compliance. Not least because they knew they did not have the power to do it. But additionally, Madam Speaker, when we make these considerations, we have to bear in mind *Redfern versus the United Kingdom* in the Court of Human Rights, where it was held that discrimination based on political affiliation, even with controversial parties, in that case the British National Party, violated Article 11 of the Convention.

So not just a breach of the statute, a breach of Article 11 of the European Convention of Human Rights, which is the Article on Freedom of Assembly and Association, and of course that Convention applies in Gibraltar, and we have our written Constitution also, and the equivalent section is Section 12, which is almost identical to the Convention. All of this, Madam Speaker, leads me to the very prosaic view that what is good for the goose must be good for the gander. And if an auditor were being fair, if he genuinely believed that he had the power, I do not know who advised him that he did, but let us just assume for one moment that he genuinely believed that he had the power under the Constitution or the Public Finance (Control and Audit) Act to carry out an audit of an individual officer's political activity, then he should have carried it out in respect of more than just one officer. Also, those who support hon. Members opposite, to ensure that they were complying with the Code. Why is there no section on the public servants who go

around with the GSD at election time plastering posters? Why not? At least to say that they have complied with the rules, if they have complied with the rules.

1140 Indeed, Madam Speaker, the reality is that the Principal Auditor should not be anywhere near this. This is only an issue for the Chief Secretary or the Head of Human Resources or the Secretary of the GDC, but not the Principal Auditor.

The author of the report has erred in law again. He has acted ultra vires again, and moreover now in a clearly discriminatory fashion, in another blatantly party-political manner, and in a way, Madam Speaker, that to take the Spanish colloquialism, we can see the author's duster.

1145 So, Madam Speaker, I am not asking this House to exonerate a failure to comply with rules on political activity. If there has been a failure, it must be addressed, but by the right authority. And indeed, when you look at the failure, Madam Speaker, it is less than minor.

The officer in question actually registered and was permitted to carry out the political activity. The complaint of the author of the report is that she did not renew that when she got a temporary promotion and went back to a rank where she could do this, and then says, well, with the new promotion, I think she should be covered under the provisions of no political activity, although she is not formally covered. So, I mean, the extrapolation of what is done wrong and how he is advising that things should be done in relation to something which is not the position is really quite remarkable.

1155 But what we have to do here, Madam Speaker, is ensure absolute fairness. People must be dealt with by the right authority if they must be dealt with. Scrutiny must be applied, but our civil and public servants, Madam Speaker, must be politically neutral.

They must not be politically neutered in how they act, which is what this report has attempted to do in respect of one individual, in respect of the support of one political party. And if these rules are going to be applied, as they are all the time, they must be applied evenly, as they are all the time, by the Chief Secretary, by the Secretary of the GDC and by the Human Resources Department. But if we pride ourselves, Madam Speaker, in this community on democratic maturity, we have to protect the rights of all citizens, regardless of party and that is just not the right of Freedom of Association and Assembly. It is also the right against selective censure. Not least, Madam Speaker, censure by an authority that has no authority at all in relation to this area.

1165 And I do not wish, Madam Speaker, to over dramatise this, but the officer that we are dealing with was held up for public opprobrium in the manner that the report carried these 12 pages about her. 12 pages about one officer. By the way, not 18 pages, as the National Broadcaster says in their story on this issue.

1170 It appears the National Broadcaster keeps getting the numbers wrong. It has recently published a poll that says that hon. Members opposite got eight into Parliament, first past the post, we got nine and they won the election. I will take that mathematics any time, Madam Speaker.

But the remarkable thing is that having named the officer in question, as a result of the abundance of information that makes her immediately identifiable in the report, as it does another officer that I will come to deal with, the National Broadcaster in its report ends saying this, having named her. Why was her political activism allowed? In fact, Madam Speaker, in my view, full investigative journalism might have led the National Broadcaster to say, or to ask, why is she being singled out?

1175 Is she the only person in the public service who is politically active? What power has the Principal Auditor to address these matters? Instead, the question that the National Broadcaster asks at the end of its report is, and why was her political activism allowed?

But let me answer that question directly that the National Broadcaster posed as a result of this report. Her political activism was allowed because she has a constitutional right to it, and a European Convention right to it, and an Equal Opportunities Act right to it, and we all do. And she did seek permission in 2011 to be politically active.

1185 And the issues that are raised in the report are just about her period of temporary promotion, and the question of whether, under her new terms and conditions, she should be included in the annex of people who are not permitted to be politically active, which she is not, but the author of

1190 the report is suggesting that maybe she should be added to the annex of. Because the only thing that the report says in the end is that she continued to be politically active whilst temporarily promoted. So, it is saying, perhaps she should seek permission again, or perhaps her new role should not be permitted, but it is all perhaps.

1195 And yet, despite that, Madam Speaker, what the report does in its 12 pages is serve up the scandal, nicely set up, designed to have the effect it had. Look, Madam Speaker, some people are popular, and some people are less popular. Some people are very popular with some and very unpopular with others.

1200 I should know it, Madam Speaker, that is what politics is about. But what is important here is that we should all be treated the same and not pretend to dispense one type of justice to one or another, in particular when you have not even got that power, and you assert it to yourself and try and dispense it. So, Madam Speaker, I am going to defend this officer and her right to political activism, and not to have been named in this report, or not to have been identified if not named in this report, not because she's a GSLP activist, but because I would have done it even if she was a GSD activist, a Together Gibraltar activist, or an activist of any party that was not of my affiliation, let alone a Liberal Party activist. Because otherwise, if we do not do that, and we just allow the
1205 report to lie, what will happen is that all our rights will be eroded, and it will be too late.

And it is perhaps a little too oft-quoted, Madam Speaker, but it is bang on to refer to Naimola's First They Came:

1210 First they came for the communists, and I did not speak out, because I was not a communist. Then they came for the socialists, and I did not speak out, because I was not a socialist,

he says.

1215 Then they came for the trade unionists, and I did not speak out, because I was not a trade unionist. And then they came for the Jews, and I did not speak out, because I was not a Jew. And then they came for me, and there was no one left to speak for me.

1220 That is the level to which things have gotten Gibraltar in respect of this report, and I will speak out for the communists, for the Jews, for the socialists, and for everyone. Because it is that level of fundamental attack on our democracy that this part of our report is responsible for, Madam Speaker. And it should be more than just rejected by this House, because it is entirely ultra vires, the power that the author has purported to ascribe to himself, and the manner in which he has set up this officer for public opprobrium.

1225 Things like this, the singling out illegally of one public servant, clearly because of their political belief, is bad for our democracy and I call out this section for what it is, Madam Speaker. Ultra vires, unconstitutional, illegal, discriminatory, and party political.

1230 It could not be worse, Madam Speaker. It denies the report any semblance of impartiality, and this section alone would lead a well-informed, impartial observer to the view that the report is biased. For that reason, Madam Speaker, the amendment that I will propose to make of the motion as drafted will include a reference to this part of the report, therefore being rejected by the House as ultra vires and unconstitutional.

Adjournment

1235 **Chief Minister (Hon. F R Picardo):** Finally, Madam Speaker, it is necessary for me to end my contribution for today on this issue. It is important that I should spend time now on other matters with Government colleagues. Next, I will address the specific payments that I referred to in the report to one officer's retirement, as well as matters related to payments to all whistleblowers.

1240 I will go through the report analysis of these payments in detail, and I move therefore now, Madam Speaker, that the House should adjourn to November 5th at 10.30 in the morning.

Madam Speaker: I now propose the question which is that this House do now adjourn to November 5th at 10.30 a.m. I now put the question which is that this House do now adjourn to November 5th at 10.30 a.m. Those in favour? (**Members:** Aye.) Those against? (**Members:** No) Passed.

This House will now adjourn to November 5th at 10.30 a.m.

The House adjourned at 12.29 p.m.