

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

CEREMONIAL OPENING OF
NINTH HOUSE OF ASSEMBLY
ON 23RD FEBRUARY, 2000

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The First Meeting of the First Session of the Ninth House of Assembly held in the House of Assembly Chamber on Wednesday the 23rd February, 2000, at 3.00 pm.

PRESENT:

Mr Speaker (In the Chair)
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister
The Hon K Azopardi - Minister for Trade, Industry and
Telecommunications
The Hon Dr B A Linares - Minister for Education, Training, Culture
and Health
The Hon J J Holliday - Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED - Minister for Public Services,
the Environment, Sport and Leisure
The Hon J J Netto - Minister for Housing
The Hon H A Corby - Minister for Employment and Consumer
Affairs
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R R Rhoda QC - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

ADMINISTRATION OF OATH OF ALLEGIANCE

The Speaker took the Oath of Allegiance and administered the Oath to the Hon P R Caruana, the Hon K Azopardi, the Hon Dr B A Linares, the Hon J J Holliday, the Hon Lt-Col E M Britto, the Hon J J Netto, the Hon H A Corby, the Hon Mrs Y Del Agua, the Hon R R Rhoda, the Hon T J Bristow, the Hon J J Bossano, the Hon Dr J J Garcia, the Hon J J Baldachino, the Hon Miss M I Montegriffo, the Hon Dr R G Valarino, the Hon J C Perez and the Hon S E Linares.

MOTION RE: CONFIRMATION OF APPOINTMENT OF THE SPEAKER OF THE HOUSE OF ASSEMBLY

HON CHIEF MINISTER:

I have the honour to move: "That the appointment of the Hon Judge John E Alcantara CBE as Speaker of the House of Assembly be confirmed". Mr Speaker, when I moved the confirmation of your appointment nearly four years ago now, I said that your experience as an ex-politician, as a Member of the City Council, as a Member of the Legislative Council; that your experience as a lawyer and, indeed, as a Judge equipped you admirably to discharge the functions of the Office of Speaker. I also said at that time that it was the preference of the then new Government of Gibraltar that the Office of Speaker should not be surrounded in political controversy of any sort. I hope that the Opposition Members will join me in agreeing that you have demonstrated, during the last four years, that the faith that the Members of the House placed on you at that time was indeed well-placed. I think that we can all agree across the floor of the House that you have been tough with us in equal measure and that you have been fair to us in equal measure and therefore, Mr Speaker, when you indicated that you were happy to continue in the Office of Speaker, it was certainly the Government's very

strong preference that you should continue to do so. The Office of Speaker is one of our important political and democratic institutions and I believe that you have discharged the Office of Speaker and for that matter the Office of Mayor not just in a way which has facilitated the good work and good nature of the way that that work is conducted in this House, but also in a way which ensures the continuing prestige of the Office of Speaker and Mayor in Gibraltar. I therefore commend the motion and hope that it will count with the support of all Members of the House.

The Clerk proposed the question.

HON J J BOSSANO:

Mr Speaker, we are delighted to be able to support the motion. As you know, on the occasion of your original appointment there was, as the Constitution provides, consultation by His Excellency the Governor with both sides of the House before the appointment was made. There has not been and, of course, there is no need for that to happen on this occasion since we are talking about continuing the Speakership with the person who has been admirably doing that job in the House of Assembly since 1996. We are very glad that you have decided to carry on and very glad to have an opportunity to endorse and subscribe to the sentiments that have been described on behalf of the Government and to say that we hope that you will be around in four years' time so that we can give you another extension if you still want to carry on.

The Clerk put the question. Carried unanimously.

MR SPEAKER:

I am embarrassed at what I have heard but I have loved it. Humility is not one of my cardinal sins. I think I have done it reasonably well. I hope that I am still young in mind to continue to do it well. My strongest fault in anything I have done is that I have always wanted to maintain and enhance the dignity of the House. I believe that in a true democracy it is necessary to have three

pillars. First, the overall responsibility of the Executive; secondly, the independence of the Judiciary; and thirdly, the dignity of the Legislature – and when I say one, two and three, in any order you wish. The visible head of the Executive is obviously the Chief Minister of the day, apart from the fact that we have got the Governor who is the representative of the Crown; the visible head of the Judiciary is the Chief Justice; and the visible head of the House happens to be the Speaker. I have referred to the above because in a democracy it is necessary to maintain a standard. I hope I have done so and I will continue to do so. Thank you very much, lovely. I have now got to adjourn to meet the representative of the Crown downstairs.

**ADDRESS BY HIS EXCELLENCY THE GOVERNOR,
THE RT HON SIR RICHARD LUCE, DL**

HIS EXCELLENCY THE GOVERNOR:

Mr Speaker, hon Members of the Assembly, it gives me great pleasure to be present to open the Ninth House of Assembly. I wish you every success in your further term as Speaker. I congratulate all hon Members on your election to this Assembly some of whom are here for the first time. I wish the Chief Minister, the Government and Opposition well in the important responsibilities that you face in the coming four years.

I have watched this last election in Gibraltar with a great sense of affinity with all the candidates, which stems, of course, from my own experience as a Member of Parliament for 21 years. I have experienced elation when successfully elected and disappointment on failure to be elected, but that is the cut and thrust of the democratic system. I have never forgotten the feeling of privilege that comes with being elected. It truly is a magical thing to be chosen by the people to represent them in Parliament. I therefore look forward to the day when the people of Gibraltar can participate in the elections, not only for the House of Assembly, but also for the European Parliament.

Mr Speaker, the election on the 10th February indicated that democracy is natural to Gibraltarians with your tolerance of diversity of opinion and belief. It is obvious that democracy flourishes in Gibraltar. A walk down Main Street bears out an Athenian-like intensity and sophistication of political debate. The calm and orderly way in which the elections were conducted also reinforces this point.

Mr Speaker, as you know, I leave Gibraltar on the 20th March at the conclusion of my time as Governor. I have had the privilege of being not only the first civilian Governor but of being with you at the Millennium. And before long you will be marking 300 years of British sovereignty.

You can enter this new century and celebrate this approaching anniversary with confidence, for I have great admiration for the way in which the people of Gibraltar grapple with adversity. You are creating a viable economy which is no longer dependent solely on defence. You have freedom and enterprise within a well-regulated system. Despite false allegations which are intended to undermine Gibraltar, we have given the highest priority here to law and order. No country can of course expect to be free of crime. The key is that we in Gibraltar are determined to combat it vigorously. The international reputation of the territory is stronger than ever and you are intent on building it up still further.

So it is possible for Gibraltar to contemplate the way forward against the background of solid achievement and the firm knowledge that the Preamble to the 1969 Constitution means that no change in sovereignty can take place without the consent of the people. It is that fundamental respect for the democratic wishes of the people that gives you the secure framework for the future. The Union Jack continues to fly for as long as you want.

Against that background, Gibraltar can aspire to a more secure future. I know that the Government and people of Gibraltar believe that stability and co-operation in the region could bring great benefits to Gibraltar, Britain and Spain. This needs the willingness of all sides to work together. As I have said before, the

Spanish policies of the last 30 years have been counter-productive and have alienated Gibraltarians. Spain needs to take a deep breath and think again. The policy of pressure must give way to the policy of friendship.

In my term of office I have always worked on the principle that there is no place for colonialism or paternalism. The British Empire is long gone. As you know, I have, therefore, approached my task as Governor with the view that there is a need for the British Government and the Government of Gibraltar to work in partnership. In that context the Governor can work as a kind of bridge between Her Majesty's Government and the Government of Gibraltar. I know that in the months ahead you will be debating ideas for constitutional change. I do not wish to prejudice that debate. Suffice it to say that Her Majesty's Government and the next Governor will, I am sure, listen to any ideas with an open mind.

Mr Speaker, I know that Rose and I will feel deep sadness at our forthcoming departure. But we will do so in the knowledge that in three years we have enjoyed living amongst Gibraltarians who have shown such friendliness, generosity of spirit, tolerance and family commitment. That is why it will give us such pleasure to announce just before our departure our lifelong commitment to help the children of Gibraltar, who hold the future of this Territory in their hands.

It means that we simply say "au revoir" for we have every desire and reason to follow developments in Gibraltar closely in the future and to keep in touch with you. My successor, David Durie, is fortunate to come here as Governor. I am sure that you will give him and his wife the same wonderful welcome that you gave us.

Mr Speaker, I have much pleasure in declaring open this First Session of the Ninth House of Assembly. I pray for God's blessing and guidance on your deliberations for the good of Gibraltar and the wellbeing of its people. Thank you.

HON CHIEF MINISTER:

Your Excellency, I am grateful to you for your kind and supportive words about Gibraltar, its people and our aspirations.

The next four years will be important in setting Gibraltar on its course for this first century of the new millennium. Gibraltar is part of a fast moving world and we must ensure that we move with it. Only in this way can we consolidate and enhance our social, economic prosperity and our political stability. Our aim is to ensure that our City and our society move forward in tandem with the rest of Europe, whilst at the same time preserving those values that we cherish and which make us unique and which because of our small size we are able to nurture, to protect and to promote what I like to call "the spirit of Gibraltar".

There are social, economic and political facets to this enterprise. At a social level, our programme of Government for the next four years includes many initiatives to ensure the continuation of our social development as an enlightened, caring but modern community, enjoying a good quality of life. Such things as a new hospital, a comprehensive plan of action to provide care services and financial support for our elderly to maximise their quality of life; wholesale renewal of our urban and housing fabric and investment in the quality of our physical living environment; projects to significantly enhance our cultural, sporting and leisure facilities with particular emphasis on our youth and also a new urban public transport system.

The economy too will see change and modernisation. We will work intensely in consultation with the industry to reposition our finance centre and our tax system to ensure its continuing prosperity in the face of the various international challenges facing all finance centres. There is a bright future but only for stable, reputable, well-regulated international finance centres and we will ensure that Gibraltar is one of them.

We will fully embrace the electronic revolution, exploiting the great opportunities that the internet and modern telecommunications

have to offer. We are determined that Gibraltar should carve out for itself a niche in this revolution. The necessary investment in technology will be made. The necessary legislation will be introduced quickly and the telecommunications industry will be liberalised also quickly. In addition, we will continue to invest in our port so that it makes an even greater contribution to our economy and in our tourism industries and in commerce generally. All of this will be accompanied by the necessary training schemes and opportunities to ensure that our own people are the principal beneficiaries of our evolving economy. The aim simply to ensure a diversified, sustainable and prosperous economy to underpin our social and political prosperity.

It is absolutely essential that the public service too recognises the vital role that it has to play in the economic advancement of Gibraltar through reform, quality of service and value for money. Every worker, whether in the public or private sector, has to be a producer and a net contributor to the creation of economic wealth in Gibraltar.

On the political front too we expect modernisation. We would expect to make substantial progress in the modernisation of our Constitution. The Constitutional Select Committee of this House will recommence its work soon. We seek to end Gibraltar's colonial status by a process of constitutional modernisation which, whilst preserving our British sovereignty, will leave us in a close but modern and non-colonial relationship with the United Kingdom. This does not mean that we seek to live with our backs turned to Spain. We will redouble our effort to extend the hand of modern, democratic friendship to Spain. I remain ready to engage the Spanish Government in dialogue at any time. In addition, we will continue to develop our already very good relations with neighbouring municipalities, the Cadiz provincial Government and the Junta de Andalucia.

It is also inevitable that sooner rather than later, we must see a solution to the EU aspects of our problems. On the one hand, and as we are all aware, EU partners are growing increasingly impatient at the impasse affecting a large and growing number of

EU matters that are blocked because of the Gibraltar factor. On the other hand, we are entitled to enjoy our EU rights and to have them respected and we are entitled also to have it seen to that Spain honours her EU obligations towards us.

During the last eight months or so, we have engaged with Her Majesty's Government in the United Kingdom, in discussions to explore for possible solutions to many such issues – recognition of the competence of our local authorities in EU measures; recognition of and respect for our Identity Cards; a formal and viable basis for police co-operation with Spain; and of course, the vital issue of Gibraltar's inclusion in UK participation in Schengen Agreement measures. Throughout these discussions our position has been and remains that to be acceptable to the Gibraltar Government, any solution to these problems must recognise our constitutional authorities and institutions and respect their exclusive competence in the implementation of EU obligations in Gibraltar in accordance with the political, administrative and jurisdictional autonomy that our Constitution bestows on us, albeit subject to the UK's overall treaty responsibilities as the Member State responsible for Gibraltar.

We have contributed and will continue to contribute, within those overriding parameters, a full measure to the search for reasonable, sensible and acceptable solutions to the various problems. We are interested in finding solutions but they must be consistent with our fundamental legal, constitutional and political rights. There can be no genuflection to longstanding Spanish ambitions to curtail our constitutional autonomy or to obtain a role in our affairs or to bilateralise as between the United Kingdom and Spain, Gibraltar's European Union and international rights and affairs.

Your Excellency leaves Gibraltar shortly. This is therefore an appropriate parliamentary opportunity for me to thank you for your work and efforts on behalf of Gibraltar. I know that during your time in Gibraltar you, and Lady Luce, have developed a deep affection for Gibraltar and that you have established a bond with

us that you will wish to keep. We very much hope that you will maintain a close contact and friendship with us.

Your Excellency will no doubt recall that when he first arrived in Gibraltar there was concern in some quarters that because he was a civilian, this signalled a retrograde step for Gibraltar in terms of the Governor's role. I am happy to testify to the exquisite sensitivity that you have shown to the fullest measure of democratic self-Government of Gibraltar by its elected Government. The role of the Governor in this respect in modern, democratic Gibraltar is, I believe, clearly understood by everyone. The Government wish you and Lady Luce every good luck and best wishes in the future and look forward to your joining the ranks of your predecessors as friends and supporters of Gibraltar and the aspirations of its people. Thank you.

HON J J BOSSANO:

Your Excellency, can I just start off by saying that on behalf of the Opposition I also associate myself with the sentiments of wishing you and Lady Luce all the best. You know that the Opposition had reservations about the wisdom of the appointment when you were appointed and, of course, not having been in Government I am not equipped to judge how exquisite you have been in the performance of your duties but I know that at a personal level there has always been a warm friendship between us and I am happy that your interest in Gibraltar's affairs will continue after you leave us and that you will support us as all previous Governors have done and I look forward to that continuing interest and I thank you for it on behalf of the Opposition.

As Your Excellency said, this is the Ninth House of Assembly since the introduction of the 1969 Constitution. I have been elected by our people to serve in eight of these. Throughout my 28 years in this House, I have spoken for those of us who reject the United Kingdom's Government position that our decolonisation is unlike that of any other British colony. That uniquely, in the whole history of the British Empire, we are the only colonial people whose fundamental right to self-

determination is curtailed by an archaic and anachronistic bilateral treaty with Spain signed in 1713. Indeed, when I first became involved in politics in 1965, 35 years ago, the view of the United Kingdom defended at the United Nations was the very opposite, namely, that there was no conflict between Utrecht and self-determination.

In the last House of Assembly we passed a resolution calling on UK to refer this question to the International Court of Justice for an advisory opinion. The priority for the Opposition will be to bring this about by working with the Gibraltar Government to press the UK Government for their agreement on this.

Even though this election campaign has been predominantly about domestic issues, there has been a vote by 605 persons for a candidate advocating a condominium with Spain. This is the first time since the 1967 Referendum when the electorate in Gibraltar was given the option to vote on the possibility of diluting British sovereignty of the Rock. If it were only a move from 44 to 605 in 33 years, it would take Spain the best part of this second millennium to gain a majority in Gibraltar. However, it is quite possible that there are those who voted for all the eight candidates of the party in Government who would have voted for the pro-settlement candidate as they did in the by-election a year ago, but for the fact that it might have produced a different election result. We, in the Opposition, believe that those who think a deal with Spain will bring us long-term prosperity are mistaken. We also think that it is not possible, for the time being, to achieve normal civilised European relations with Spain without concessions on sovereignty. And if I can refer to the point you made, Your Excellency, we think this business of urging Spain to change its tactics of harassment because they are counter-productive and alienates Gibraltarians, whether intended or not, seems to have implied in it that if they were nicer to us we would be more likely to want to be with them. Let me be quite clear that the Opposition certainly think it is wrong that they should be behaving in this prehistoric manner but that it does not either alienate us or makes us more friendly because the reason for not wanting to join Spain is much deeper, it goes into our 300-year

old association and really even if we had the most benevolent country on the planet on our doorstep, that position would not change.

We are not willing to pay the price that Spain wants of concessions on sovereignty. No Government have ever been willing to pay such a price in Gibraltar. Regrettably sometimes a less than 100 per cent clear message on this point has emerged by adopting positions which, in our judgement, are contradictory. We will support the Government in resisting any pressure for a deal with Spain and we will continue to seek to persuade them of the need to abandon support for the Brussels negotiating process once and for all.

A new Constitutional Committee, as the Chief Minister has said, will have to be approved by this House. The last one was due to meet on the 10th January and was dissolved before it could. It met twice. We want to move quickly and we want to engage the United Nations in the process. We want to see new proposals to decolonise Gibraltar put to UK this year, before the expiration of the UN target date for decolonisation, the end of the year 2000, a target date to which we, but regrettably, not the party in Government, have always been committed. We face a problem in the UN, it continues to treat Gibraltar's decolonisation differently from all the other 16 territories by continuing to support the bilateral negotiating process under the Brussels declaration as the only route open to us for decolonisation. A new Constitution that decolonises us will not stop Spain claiming Gibraltar, but it will change our international status, it will remove us from the UN list of territories requiring decolonisation and it will thus deprive Spain of this platform for the pursuit of its claim which has been the major weapon in its armoury, giving it the moral high ground since 1965. The UK has to come clean on its position on a decolonising Constitution. We will seek such clarification from UK and make it public. Relations with Spain are likely to be affected by whatever we do on the Constitution. We will certainly not support in a Referendum, Constitutional proposals which leave us with a more modern Constitution but, nonetheless, a colonial status which will still therefore leave us subject to annual UN resolutions calling for

negotiations with Spain to achieve our decolonisation. Decolonisation is about being self-sufficient as well as self-governing.

Although in 1987 the then Government party was already committed to free association and decolonisation, the Gibraltar economy and the public finances were far less strong than in 1996, the last year of the GSLP Government. In 1997, the most recent year in respect of which we have final audited accounts of the Government and information on earnings from employment and income from tourism, the picture is one of little change since 1996. In the financial year 1997, for example, the working population of Gibraltar earned four per cent more than in 1996, when it had also shown a four per cent increase over 1995. Information obtained in the House, in answer to questions, shows little change up to August 1999, the last month for which there is information. The impact of international betting shops in the last six months has by all accounts increased substantially the revenues from employment. We will therefore expect to see this reflected in the budget this year and therefore expect even larger surpluses than the level established under the GSLP of an average £15 million.

It is also clear that personal taxation in the last four years has been higher than between 1992 and 1996 because the effect of increased personal allowances have been wiped out by the exhaustion of the £10,000 home owners allowance and this makes it possible to do more on this front to reward and encourage home ownership. We shall therefore be seeking the implementation of our spending and tax reduction plans contained in our manifesto because they make financial and economic sense and are affordable within our present level of economic activity.

Given the fact that the only tangible new investment in the last four years has been the wine bottling plant, we do not expect to see any major development in this area. As an Opposition we strongly support increased inward investment and we will do everything possible to reassure international investors that

Gibraltar is a sound haven for their money. Clearly Spain will be seeking to do the very opposite not least by using its powers within the European Union to limit our access to EU markets. The power given to Spain by the Amsterdam Treaty has been a matter of debate between the two sides of the House since 1997. The debate has invariably finished with the Government saying that time will tell who is right. In this Ninth House of Assembly we are likely to see who is right and we sincerely hope we are not proved right.

Even without our becoming part of Schengen, Spain has, in our view, the power to block UK's participation in new measures under the Free Movement Chapter of the Treaty. It will seek to limit the territorial scope of such measures so that either Gibraltar is subject to an exclusion clause modelled on the 1987 Airport exclusion, or it is only allowed in by diluting our constitutional demarcation of defined domestic matters. This seems to be what is currently being explored under the smokescreen of "post-boxing". A concept not applicable in any other part of the European Union. Gibraltarian authorities apparently are going to be eliminated from the EU map and replaced by UK PO Box numbers for want of a better description.

If we are to suffer administrative integration with UK, the reverse of the process of decolonisation, then it can only be made compatible with decolonisation by allowing us the option of political integration with UK. If UK values relations with Spain so much that it will give ground to Spain's demands in matters which are purely bilateral as between Gibraltar and UK, then they should do the decent thing and stop denying us the right to integration as one of the decolonisation options. It is clear that in the Spanish dimension there are issues that we cannot ignore because it conditions UK's position even if it does not ours.

The new demand by former Spanish workers calling for an increase in their social security pensions raises once again a saga that took up the whole of the eight years of the GSLP Government and was a material cause of conflict between the two Governments in those eight years. The Opposition holds the UK

exclusively responsible for the pensions fiasco. The UK experts were wrong when they advised Gibraltar that the liability could not have been avoided in 1985. They were wrong again when they advised my Government in 1988 that the Pension Fund could be abolished after five years and the Spaniards paid off with a lump sum. These mistakes will have cost UK taxpayers £210 million and we, in Government, refused to put one penny of Gibraltar money towards meeting this bill. The UK insisted that the new pension arrangements agreed with us in 1996, just before the last general election, had to provide for frozen pensions for those being paid out of past contributions. If this is now to be tested once again in Europe, it remains to be seen whether the experts were wrong for the third time round. Should there be any further payment to Spanish workers who have already obtained more from UK than the whole of Gibraltar in the whole of the 16 years siege, it must be totally at the expense of UK. We are opposed to any Gibraltar money being provided for this or for the role of Community Care Limited to be altered or its finances diluted. We will support additional funding for Community Care Limited whenever the Government choose to provide extra funds from the Social Assistance Fund and we urge that, at the very least, the £3 million approved for April and May 1996, prior to the 1996 general election, should be included in this year's budget.

Our role in the House and in the Select Committee will be to put forward our ideas and seek to influence the policies of the elected Government.

Your Excellency, regrettably Gibraltar seems to thrive more on rumours than in evaluating policies and examining facts and figures, so let me wind up, given the fact that this is being broadcast and it is too good an opportunity to miss, to take this opportunity to kill a couple of the rumours that are currently doing the rounds.

No Member of the Opposition has the remotest intention of resigning his seat. I have every intention of standing, once again, for the position of the Leader of the GSLP at next month's Annual General Meeting and of offering myself as a candidate and to lead

the Alliance at the next general election whenever that may be. Thank you.

ADJOURNMENT

The House then adjourned.