

**REPORT OF THE PROCEEDINGS OF THE HOUSE OF  
ASSEMBLY**

The First Meeting of the First Session of the Tenth House of Assembly held in the House of Assembly Chamber on Thursday 18<sup>th</sup> December 2003, 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 J J Holliday - Minister for Trade, Industry and  
Communications  
The Hon Dr B A Linares - Minister for Education, Employment and  
Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and  
Sport  
The Hon F Vinet - Minister for the Environment, Roads and  
Utilities  
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 F R Picardo  
The Hon C A Bruzon  
The Hon S Linares  
The Hon Miss M I Montegriffo  
The Hon L A Randall

**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 J J Holliday, the Hon Dr B A Linares, the Hon Lt-Col E M Britto, the Hon J J Netto, the Hon Mrs Y Del Agua, the Hon C Beltran the Hon F Vinet, the Hon R R Rhoda, the Hon T J Bristow, the Hon J J Bossano, the Hon Dr J J Garcia, the Hon F R Picardo, the Hon C A Bruzon, the Hon S Linares, the Hon Miss M I Montegriffo, and the Hon L A Randall.

**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, it is a genuine pleasure for me to move the motion for the confirmation of your appointment once again. I think a Speaker must be doing it right when he gets under the skin of one side of the House and sometimes under the skin of the other side of the House. On other times under the skin of both sides of the House at the same time, but usually under the skin of neither side of the House and I think that the House has grown used to your style of ensuring not only that there is discipline in this place but also that all Members of the House have the maximum opportunity to hold the Government to account and to use the procedures of the House to their fullest potential. I believe that the motion will be passed unanimously and that should be a measure of the support that Mr speaker's reconfirmation enjoys in the House. I therefore commend the motion to the House.

**HON J J BOSSANO:**

Mr Speaker, we will indeed be voting in favour of the motion and therefore it will be unanimous. In fact, it has only been on one occasion regrettably when this has not happened in the House and I think it was recognised subsequently that it would have been preferable if that decision had been unanimous. We are delighted to see that you are back in the seat to try and discipline us over the next four years and I hope that you will be successful in keeping the Government in check because we do not need discipline we are very well behaved as you know. We are delighted to have you back.

The Clerk put the question. Carried unanimously.

**MR SPEAKER:**

To be asked to continue again as Speaker of this honourable House is a great honour for me and also a plus for my own esteem and self satisfaction. I am grateful

to all the Members of the House but particularly to the Leader of the Opposition and the Chief Minister for having given the right advice to His Excellency the Governor. I would like to share with the House my inner thoughts, at least one of them. I will stand down as Speaker on reaching my 80<sup>th</sup> birthday. I think that 80 is a right old age and the right age to start a new way of life in the state of contented anonymity. Thank you.

**ADDRESS BY HIS EXCELLENCY THE GOVERNOR**

**THE HONOURABLE SIR FRANCIS RICHARDS, KCMG, CVO**

**HIS EXCELLENCY THE GOVERNOR:**

Mr Speaker, hon Members of the Assembly, it gives me great pleasure formally to open the Tenth House of Assembly.

Each Governor of Gibraltar tends only to have the pleasure of doing this once. I feel very fortunate to have been able to experience a Gibraltar election so early in my term of office. As an ignorant newcomer to the running of elections, I have to say that I have been greatly impressed. First, by the engagement and political maturity of the electors to which the 78 per cent turnout to the polls bears witness and second, by the professionalism, dedication and good humour of all of those – the team of Civil Service helpers and workers from each of the political parties – who staffed the electoral process. Every constituency in which I have ever cast a vote has a good deal to learn from Gibraltar.

I should also like to congratulate warmly all of the hon Members on their success and in particular those who are here in that capacity for the first time but I would also like to salute the disappointed candidates whose energy and challenge added much to the vigour of the campaign.

You, all of you, are the Assembly which Gibraltarians have chosen to represent them as we prepare to celebrate 300 years of Gibraltar's relationship with the British Crown. You will enter it, I hope, with less of a sense of unease at Gibraltar's constitutional position than was evident when I arrived here six months ago. It must by now be understood in Madrid, as it is in London, that the guarantee in the Preamble to our Constitution means exactly what it says and that discussion of Gibraltar's future will therefore lead nowhere unless Gibraltarians are engaged fully throughout and the vision of their future reflects what they want for themselves.

I understand that the Chief Minister will be putting forward on behalf of both sides of this House your proposals for constitutional change in the days ahead. I cannot, of course, predict what the response of the UK Government will be. What I can however promise you is that I intend to work to the best of my ability to help to develop further a modern relationship between the Governor and Gibraltar's elected Government so that we can work together harmoniously and to the maximum effect in championing Gibraltar. As I have said before, it will always take hard work and constant effort to achieve a partnership which properly balances the legitimate interests in the relationship of both Gibraltar and Britain, a partnership of equals in worth, if not in size but that is what we have to achieve, and with determination on both sides I am convinced that we will succeed. I know that the Government have concerns over the protection of Gibraltar's interests in the new European Constitution currently being negotiated. The British Government have assured us that they are determined to achieve continuity in arrangements affecting Gibraltar but we and they will certainly need, as always, to be alert to ensure that those who may hope otherwise are disappointed.

We have a busy year ahead. You have much domestic business to attend to and we can rely on the outside world as the Aurora incident has recently reminded us to spring the odd unpleasant surprise on us; I am afraid we must not expect the Tercentenary year to be all balloons and fireworks but I know that all Gibraltarians will be determined, as I am, to make this Tercentenary year a year which our children will recall with pride

to their grandchildren. We shall all look forward with the greatest pleasure to welcoming Her Royal Highness the Princess Royal here in Spring and to showing her and through her the world, what Gibraltar has achieved in 300 years of partnership with Britain.

Mr Speaker, I have great pleasure in declaring this Tenth session of the House of Assembly to be open. I pray for God's blessing and guidance on your deliberations; I know that you will serve Gibraltar and all who live here well.

#### **HON CHIEF MINISTER:**

Your Excellency, welcome to this your first Ceremonial Opening of the House of Assembly in Gibraltar. I welcome also Lady Richards and our other distinguished guests to this important event.

Mr Speaker, congratulations on your reconfirmation in this House just a few moments ago. We all, I am sure, look forward to you continuing to dispense your effective brand of parliamentary summary justice and in your capacity as Mayor, Tercentenary Year promises to be a busy one for you, which I hope you will enjoy.

During Tercentenary Year Gibraltar will rightly commemorate and celebrate 300 years of our British sovereignty, of our relationship with the United Kingdom and of the many and much valued historical, political, cultural and institutional fruits of that relationship. I am sure that the whole House shares my delight of the announced visit by Her Royal Highness the Princess Royal. Much as we would have liked a visit by Her Majesty the Queen the Princess Royal is very welcome and I am sure will be made to feel so by the people of Gibraltar. Gibraltar is part of Her Majesty's realm and it is therefore wholly inappropriate and improper for foreigners to interfere with or to protest at such a visit. I believe that this House should formerly participate in the Tercentenary celebrations and I therefore intend to convene a

special meeting of the House on the 4<sup>th</sup> August 2004 for a Special Tercentenary ceremonial meeting. Next year I will consult with Mr Speaker and with the Leader of the Opposition on the format and content of that meeting which Government intends should include the passing of Tercentenary Freedom of the City motions upon which I will also consult with the Opposition.

I detect a growing, and I believe justified view that our parliamentary procedures have been outgrown by the vibrant and extensively self-governing community over which this House presides. I believe that our parliamentary procedures should better reflect the present day democratic reality, maturity and needs of Gibraltar and so I hope that hon Members will accept Government's invitation to activate a cross party Select Committee of this House to conduct a review of the manner in which we carry out our work with a view to its modernisation and to making early recommendations to the whole House.

Although I am assured that the number of people who were unable to vote at the recent elections due to not being included in the Register of Electors is no more than usual at all elections, I believe that we should modernise our electoral system to make it easier for citizens to ensure that they are included in the Register. I personally favour the UK system of an 'open Register' which ensures that once the voter is on the Register he remains there for life. An open Register enables citizens to check and get on to the Register and to change their details at any time between elections rather than our present system of organising a new Register for every election. The Government will be introducing legislation into this House to reform the present system in time for our next General Election.

Your Excellency, the Government believe that it is the right of every colonial people to enjoy progressive constitutional advancement to deliver the maximum possible level of self-Government and to achieve a modern non-colonial status. Gibraltar is not an exception to that on account of the fact that our neighbour persists with its anachronistic sovereignty claim or for any other reason.

During the next few days I shall be formally submitting our Constitutional Reform proposals to Her Majesty's Government in the United Kingdom. As Your Excellency knows, these proposals were elaborated by a cross party Select Committee of this House after a wide process of public consultation, participation and debate. They were unanimously adopted by this House, constituted, in terms of political parties and policies, exactly as it is now. The proposals therefore enjoy the support of both Her Majesty's Government in Gibraltar and of Her Majesty's loyal Opposition in Gibraltar. That support will be reconfirmed by a motion to that effect that I intend to move during our forthcoming first meeting. We therefore trust that the proposals will be afforded the consideration and seriousness that reflects those inescapable democratic facts and the impeccable democratic credentials and provenance of the proposals themselves.

There are, as Your Excellency knows, Constitutional advancement initiatives taking place in other Overseas Territories as well. Indeed the Overseas Territories White Paper encourages them. This has caused Her Majesty's Government in the United Kingdom recently to make some statements of apparent general application in relation to Constitutional change in the Overseas Territories. We believe that our proposals are squarely within those parameters. They do not seek a position where the United Kingdom has responsibility without power. They do seek however that those powers should be reflected in the Constitution in terms that are not colonial in nature and which reflect the purposes for which they must rightly exist.

We share the views of Her Majesty's Government in the UK that it has the right to expect high standards of probity and governance in the Overseas Territories. We regard our standards of probity and governance to be at least as high as those in the United Kingdom and this is not because the United Kingdom expects or demands it but because the people of Gibraltar expect it, demand it and deserve it and because, like elected politicians in the United Kingdom, it is our conviction. In a mature democracy such as ours, the people, in exercise of their democratic rights, are the most appropriate arbiters of the standards of Government

and the people of Gibraltar are no less able to do so than their counterparts in the United Kingdom.

We also share the view of Her Majesty's Government in the United Kingdom that it is important to ensure the independence of the civil service, the judiciary and the police, in the very same measure and manner as it is important to do so in the United Kingdom itself and in all democratic countries and so in the non-colonial climate that we would wish to exist these institutions in Gibraltar should be appropriately independent of everyone including the United Kingdom Government and the Governor and not just independent of the democratically elected local Government. Independence and colonialism must not be confused with each other.

The point that I am making is that the vitally important task of ensuring the independence of these bodies does not require colonial mechanisms because the same vitally important independence is achieved elsewhere, for example, in the United Kingdom itself by democratic means that are not colonial in nature. The independence of these institutions can be achieved by colonial or by non-colonial means. We favour non-colonial mechanisms for these important purposes in Gibraltar as well.

The UK also emphasises its responsibility to ensure that overseas territories comply with international obligations. We acknowledge this but the issue is not that simple. I have, in the past, at similar ceremonial occasions, questioned the practice of extending international obligations to overseas territories without their agreement and then demanding compliance because they have become international obligations. Indeed I believe that it is possible to question the United Kingdom's legal right to do so. Often these obligations are not in the interests of the Territory and place unaffordable financial strain on it or place huge constraints on its economic and social development. Sometimes the international measure serves the UK's own domestic policy interests at the expense of the interests of the Overseas Territories. I believe that it is morally wrong to impose these things on Overseas Territories and very probably legally

indefensible given amongst other things the nature of the United Kingdom's obligations to the territories under the Charter of the United Nations. We have first hand experience of this in the areas of the European Taxation of Savings Directive and the Mutual Legal Assistance Convention, amongst others.

And then, if the UK wants to exercise that which it regards as its right to contract international obligations on behalf of the territory and to police compliance with them in the name of its constitutional responsibility for international affairs, is there not an obvious moral and legal corollary to that, namely an obligation on the UK's part to ensure the protection of our international rights. And so I ask, why do we still have a telephone number shortage as a result of Spanish disrespect for our international rights? Why must we be excluded from European Single and Open Skies regimes and with the United Kingdom's consent and agreement? Why do we still suffer restrictions in air services to Gibraltar and problems with diverted flights? Why have our tax reform proposals still not been approved? Why have Gibraltar's EU rights in practice only justiciable when a Gibraltar plaintiff is able to initiate the Court proceedings? Why are the Gibraltar Government's concerns in relation to the proposed new EU Treaty not taken up by the United Kingdom in the negotiating process, so that our EU interests are placed on a sure footing and not left open to argument and to the vagaries of the Qualified Majority voting system or to unprecedented EU Commission legal action against Spain. If our future obligation to participate in certain measures is in the future to be automatic, then why is the corresponding right to participate in some such measures to be left for "a case by case" consideration?

HMG uses the phrase "*mutual or shared responsibilities and obligations*". We acknowledge that that must be so but it cuts both ways. Just as the UK rightly looks to us to discharge our responsibilities and obligations to the UK so too we are entitled to look in the same measure to the UK to discharge its responsibilities and obligations to us. In the case of Gibraltar, most objective observers would rightly conclude (as the Foreign Affairs Committee of the House of Commons has done) that

Gibraltar's compliance record in respect of its responsibilities to the UK is better than the UK's compliance record of its responsibilities towards Gibraltar.

Your Excellency, I conclude with one further thought. At the recent Overseas Territories Council, Foreign Office Minister Bill Rammell again pointed out to the Territories that, except in the case of Gibraltar, they enjoyed the right to independence which they were free to exercise if they did not like the terms upon which they could retain a relationship with the United Kingdom. That was not a new message. However, precisely because the United Kingdom Government denies that choice to Gibraltar, the UK must be open in the case of Gibraltar to Constitutional models which it might not be willing to contemplate for other Overseas Territories because otherwise unlike the other Overseas Territories we must remain inevitably stuck in a colonial status for all time and that cannot be right. I am sure that it is not necessary for me to remind HMG that the Treaty of Utrecht, whatever may or may not be its current impact, does not require Gibraltar to remain in a colonial status.

It is in this context and in the context of our desire for enduring British sovereignty and constitutional links with the United Kingdom that we present our Constitutional reform proposals.

Your Excellency, I think that your Governorship has got off to an excellent start and I believe that the people of Gibraltar share that view. I have much enjoyed working with you since your arrival here and I look forward to continuing to do so during the next four years.

#### **HON J J BOSSANO:**

Your Excellency, when you arrived I made the point when I spoke of suggesting that there was much that you could do to repair the damage that had been done to the relationship between Gibraltar and the United Kingdom because of the events related to the relaunch of Brussels in 2001. I am happy to say that all the

feedback we have had in Opposition is that you are doing an excellent job of that repair facility and I think that you have added to it today and I warmly congratulate you on the content of your speech to this House which reflects a level of sympathy and understanding of the views of the Gibraltarians which we think is an essential part of the dual function that Your Excellency has in Gibraltar, to make us fully aware of the views of Her Majesty's Government and make them fully aware of ours.

Twenty seven years ago, a Labour Government rejected Constitutional proposals which enjoyed the support of all the Members of this Assembly except myself. My position then was that the new Constitution for Gibraltar should result in our country's decolonisation and what was being put to the UK at the time failed to do this.

The UK Government at that time rejected any possible change to Gibraltar's status as a colony, either in the direction of greater self-Government or in the direction of closer integration with UK and argued that we had to retain the status quo and await developments in Spain.

My party was born out of the campaign to reverse the UK policy at that time and to demand our decolonisation. Today the UK does not have one single argument left to delay our decolonisation any longer. We have awaited developments in Spain now for 27 years not through choice but through the UK's delaying tactics. The only development in Spain has been to abuse its membership of the European Union since 1986 to pursue its sovereignty claim to our country.

The UK no longer supports retaining the status quo since it argued in 2001 that this was not sustainable. We have had a Select Committee of this House which has drafted a new Constitution that would decolonise Gibraltar and this draft has been unanimously approved by our Parliament almost two years ago and I can confirm that it will receive again the support of the Opposition Members when the motion is moved at the next

meeting of which we have been given notice by the Chief Minister.

The alternative to this route is clearly the Brussels decolonisation process which requires sovereignty concessions to be made to settle Spain's claim and enjoys the support of the UK, Spain, the European Union and the United Nations but not the people of Gibraltar. The United Kingdom tried to achieve a framework for such a deal in 2002 and for the first time since the agreement was implemented in 1985 and this has now been massively rejected in last year's referendum. For us the referendum result marks the end of all and any dialogue with the Government of Spain involving discussion on the issues of sovereignty and by definition the rejection of the agenda required under the Brussels Declaration. We believe that the debate on a possible deal to settle Spain's sovereignty claim is now over and done with and we have therefore now got to concentrate on a deal with the UK and the UK alone to settle Gibraltar's future.

In pursuing such a settlement, as I argued after the year 2000 elections the United Kingdom should not deny us the right to integration as one of the possible decolonisation options and our policy continues to be that the Integration With Britain Movement should be given the opportunity to pursue its case for integration alongside the Constitutional Proposals agreed by this House in the Constitutional talks that we hope and expect will commence next year.

Indeed we would hope that rapid progress can be made on achieving a suitable agreed formula between our country and UK so that our right to self-determination and our decolonisation can be exercised in a referendum that would be held within the life of this parliament and that the next general election would be for a new Government and a new parliament in a decolonised Gibraltar, what better way to celebrate the 300<sup>th</sup> anniversary of the ending of Spanish sovereignty than by starting a new era of British sovereignty in the ending of our colonial status and its replacement by a new permanent relationship giving us the

maximum possible level of self-government as required by the UN Charter and British sovereignty in perpetuity.

We also look forward to the opportunity of welcoming Her Royal Highness the Princess Royal to Gibraltar to join all of us in what is going to be our collective celebration of our 300 year link with the British crown and we see 2004 as a year for the whole of Gibraltar to celebrate and not just a series of Government led events.

The visit of Her Majesty in 1954 was a memorable occasion, some of us remember that, and the fact that Spain reacted by imposing restrictions merely served to strengthen our commitment and loyalty to the British crown.

Next year, of course, we will have to address other issues as well, and we urge that early in the legislative agenda of this House we should have the transposition of the EU framework directive on employment which was due to come into force this month and to which we are fully committed.

We look forward to supporting in this year's budget increased funding for the scholarship fund, to enable the ending of parental contributions for all students which we have been seeking since the 2000 elections and we shall pursue other objectives where agreement can be reached with the party in Government.

In keeping with the responsibility to our people that we have been elected to discharge we shall campaign for the improvements that are urgently required in many areas of domestic policy and in particular for the pursuit of a higher level of economic growth which we have been urging not just during the recent general elections but indeed repeatedly over the years. We have no doubt that such growth is capable of being achieved by Gibraltar.

## ADJOURNMENT

The House then adjourned.