

STATEMENT BY THE GSLP/LIBERAL OPPOSITION 99/2006
16 August 2006

The Opposition notes the public and press comments that have been made in relation to the section on the Judiciary in the new Constitution.

In their capacity as members of the negotiating Committee, both Opposition Leader Joe Bossano and Liberal Leader Joseph Garcia can confirm that they have received copies of representations addressed to the Chief Minister from the Gibraltar judiciary and the Commonwealth Magistrates' and Judges' Association on the subject.

Given that this matter is now in the public domain, the Opposition Members on the Committee that negotiated the new Constitution with the United Kingdom Government wish to clarify the following.

Following the first meeting in December 2004 and the second meeting in September 2005, all members of the delegation were provided with the minutes showing a record of the discussions that had taken place. However, this did not happen following the last meeting in March or since and therefore there is no record of the final negotiating session or a draft with the amendments introduced at that stage.

Mr Caruana disbanded the Gibraltar delegation at a meeting in Convent Place on 5 April. That meeting was convened for the purpose of informing the delegation of the reply of the United Kingdom Government to a number of outstanding points including the additional Preamble.

The constitutional text published by the Opposition, as it was entitled to do, on 2 June was a record based on the notes and recollections of Opposition Leader Joe Bossano and Liberal Party Leader Dr Joseph Garcia, since there was no other source of information available.

Therefore the first opportunity that the Opposition had to look at the final text agreed between the Gibraltar and United Kingdom Governments was at the same time as everyone else when the Gibraltar Government published it on the internet.

If the Judiciary, having now had a chance to study the final text, and having the necessary expertise in this matter, consider that it falls short of the standards expected of a new Constitution because it does not measure up to international criteria to ensure the independence of the Judiciary, then the Opposition view is that we should not proceed to implement a Constitution that seeks to decolonise Gibraltar which may be flawed in this respect.

Since the meeting in London was predominantly a question of considering the UK response to Gibraltar proposals to complete the draft, the Opposition considers that UK has a primary responsibility to ensure that the Constitution that Her Majesty promulgates for Gibraltar, if the people accept it in a referendum, enshrines and guarantees best international practice in upholding the independence of the Judiciary to which the Opposition is fully committed.

The Opposition therefore consider that the concerns of the Judiciary have to be taken seriously and that they have to be provided with satisfactory replies to their concerns and that this must come predominantly from the UK Government who is going to be responsible for defending our new Constitution internationally.

ENDS