

STATEMENT BY THE GSLP/LIBERAL OPPOSITION

103/2008

29 September 2008

The Opposition considers that the statements of the President of the Court of Appeal and the Attorney General which were supportive of the government at the opening of the legal year are political and partisan.

The remarks by Sir Murray Stuart Smith about the government's actions in respect of the Supreme Court are clearly partisan and supportive of the government position. Unsurprisingly, the government has not made any complaint about these partisan political remarks by Sir Smith. Conversely, when the Chief Justice made remarks that the government felt were critical of it in previous speeches on the Opening of the Legal Year, this was one of the matters which the government referred to in its submissions to have Mr Schofield removed from office.

Clearly, the government's position on the independence of the Judiciary is that the Judiciary should be free to praise the government but not to criticise it.

Sir Smith should take note, however, that he does his position as President of the Courts of Gibraltar no credit by taking such an enthusiastic, partisan position

on political issues in support of the government, which may be a litigant before him in the Court of Appeal.

Similarly, the statements by the Attorney General on whether the appointment of the President of the Court of Appeal as Head of the Judiciary of Gibraltar has worked or not is an expression of opinion by a civil servant on an issue which is the source of political differences between Government and Opposition and where the Opposition remains committed to reverse the existing situation. Civil servants are supposed to keep themselves outside the arena of party-political policies in order to maintain their independence in the public service and be able to serve whoever is in Government.

Presumably, if there were a different Government with the opposite policy the Attorney General would have to say that the Chief Justice as Head of the Judiciary has worked well, which should not be too difficult since it has worked well since time immemorial.

The Opposition remains of the view that the Head of the Gibraltarian Judiciary should be the Chief Justice of Gibraltar, whoever he or she may be. This is the Opposition's policy in particular given that the Chief Justice of Gibraltar is based in this country (not 1,500 miles away) and can, in the future, conceivably be a Gibraltarian.

Given the arguments advanced by the government in

the Tribunal against the Chief Justice, both the President of the Court of Appeal and the Attorney General should have avoided entirely any comments which drew them into the partisan political arena.

ENDS