

ADDRESS TO THE UN COMMITTEE OF 24 BY THE LEADER OF THE OPPOSITION

THE HON J J BOSSANO – 6 JUNE 2006

Mr Chairman

On the 16th October 1964 this Committee concluded that the provisions of the Decolonisation Declaration which applied to Colonial Countries and Peoples was equally fully applicable to the Territory of Gibraltar.

I then became actively involved in Gibraltar politics and have, ever since, participated in the campaign to achieve the decolonization of our country.

The question before this Committee today is, are we on the point of closing this chapter and achieving a full measure of self government, as required by the UN Charter, or are we, on the contrary, facing, yet again, the manipulation of the territory by the Administering Power, to perpetuate its status as a non self governing territory awaiting decolonization, however modern and mature the relationship between the territory and the Administering Power might be?

In order to explain the sequence of events that brings us to this point I must beg your indulgence, if this year I will require more than the 10 minutes I normally spend addressing you. This year's submission is probably the most important, in all the years you have kindly granted me an audience.

Following debate in 1997 on decolonisation, a Select Committee was set up in 1999. We joined it, but made clear, that if the end result was a Modern Constitution that failed to bring to an end our country's status as a Chapter XI territory, we would not support this and that if it went to a referendum, we would vote against.

We have maintained that position ever since.

At the start of negotiations with UK in November 2004 we made our position clear.

We were told that this would be a judgement to be exercised by UK at the end of the process. Ministers would then decide whether what had been agreed in the Constitution was sufficient for the UK to declare that we had obtained the fullest possible measure of self government.

In the negotiations, the UK position remained unchanged, but on February this year, Spanish press reports indicated pressure from Spain for the removal of the self determination Preamble, indeed some reports alleged UK had already told Gibraltar this, but in fact it did not materialise until the final session on the 16th of March.

UK said Ministers would not agree to the self determination reference in the Preamble approved by the House of Assembly in 2002 and which reads as follows:

“Whereas, the people of Gibraltar have accepted the Constitution annexed to this order in an act of self determination and Gibraltar can therefore be deemed to have attained the fullest possible measure of self government.”

This was followed by the citation creating the new Constitution.

An alternative text, having the same effect but without the specific mention of self determination, was proposed by me and was taken away for UK ministers to consider. (See annex A).

Spain publicly welcomed the outcome of the Constitutional talks in the knowledge that the self determination preamble had been removed.

On March 27th the territorial government issued a joint statement with UK agreeing the new Constitution and welcoming it. The following day there was an exchange of letters between Jack Straw and Miguel Moratinos, the two foreign ministers, and Jack Straw also wrote to the Chief Minister on the outstanding issue of the Preamble.

In his letter to Sr. Moratinos Jack Straw explained the effect of the new constitution in terms which suggested it brought about modernisation on the basis of the UK White Paper and little else.

Sr. Moratino's reply spelt out his understanding of the new Constitution.

1. It provided the modernisation of the relationship with Gibraltar in the framework of the modernisation of the relationship with Gibraltar.
2. Neither the referendum nor the text had any effect on the decolonization question.
3. The consultative poll was a mere expression of a democratic exercise to provide more efficient government.
4. The position at the General Assembly in December 2005, i.e. the Fourth Committee consensus, would continue unchanged under the New Constitution.

Spain's interpretation went down in Gibraltar like a lead balloon. The Territorial Government asked Jack Straw to send a second letter to his counterpart to clarify things.

On 31st March UK told Spain that

"The original letter had not said anything about changing Gibraltar's international status, nor linked it to the New Constitution, nor to the referendum, nor to decolonization."

After these exchanges UK's reply to the outstanding question of the Preamble was provided to the Opposition.

At this point we parted ways with the Gibraltar government. Since then Mr. Caruana has been supportive of the position adopted by the UK, whilst we have criticised it.

The UK's response made the following points;

1. It claimed it is inclined not to produce a preamble until after the referendum vote takes place.

Not true.

In St Helena's case recently the preamble was produced before the consultation took place. It included a reference to the exercise of the right to self-determination, and even then, the New Constitution was rejected by the People.

2. It says its policy is not to engage this Committee in the delisting of any of its 10 territories.

Not true.

In Anguilla in 2003 the UK welcomed your Committee's examination of the process of territory specific delisting.

In Papua New Guinea in 2004 the UK urged you not to make the delisting too costly.

In the Fourth Committee in 2005 the UK drew attention to their invitation to you to involve yourselves in Bermuda's delisting.

In April this year it approved your visit to the Turks and Caicos to assess the type of assistance the UN could give to the territory's self-determination process.

However, I have to say that the subsequent visit by Lord Triesman to the islands and his speech there, on April 24th, was quite astonishing. It makes one wonder how genuine is the commitment of the UK to this process.

Lord Triesman said that since UK had not voted for Resolution 1541, which sets out the decolonization options, it did not consider itself bound by it.

In 1960 the Decolonisation Resolutions were passed by 80 votes in favour, none against, and UK abstaining.

Mr Chairman, Resolution 1514 and 1541 of the 14th and 15th December 1960 are the corner stones of the decolonization process which has seen 80 million people emerge from colonial rule in the last 45 years.

In 1960 there was a conservative government in the UK led by Harold Macmillan, who earlier that year had made a keynote speech in South Africa which marked a turning point in the UK's approach to decolonization.

He said, "The wind of change is blowing through this continent, and whether we like it or not, this growth of national consciousness is a political fact. We must all accept it as a fact and our national policies must take account of it "

The wind of change that swept through Africa and crossed the Straits of Gibraltar must have lost its strength when it got to the Bay of Biscay, before it reached the White Cliffs of Dover. Forty six years later it still seems to have failed to convey its message to the corridors of Whitehall and Foreign Office Ministers. Even those like Lord Triesman, who have been former General Secretaries of the British Labour Party, or perhaps his speech was written by experts in the Foreign Office.

Perhaps for this reason the UK's reply to us, also in April, went on to list your shortcomings.

These have been explained to our People in Gibraltar by the Chief Minister. The UK's problem with you, it seems, is that your criteria are completely antiquated and completely old fashioned.

I am an old fashioned Socialist, Mr. Chairman, maybe that's why I don't find it so shocking.

On May 25th the Chief Minister stated publicly that he agreed with UK that your criteria are inadequate and out of date. For this and other reasons, he concluded that we should proceed as if we were exercising self-determination and implement the New Constitution.

This, he claims, is the method of de-facto decolonization that is safe and realistically achievable for Gibraltar.

This would happen even if, as seems likely, the UK does not recognise a Gibraltar referendum as an act of self-determination, and continues to report to the UN under Article 73E as if it were still a non self governing territory, but of course with a brand New Constitution giving us a modern and mature relationship with UK which Jack Straw feels it would be unfair to describe as being based on colonialism!

Frankly Mr Chairman, this is a new one to me. I've never heard of this defacto method of decolonisation before. The nearest to it, seems to be Ian Smith's UDI in Rhodesia, and that little experiment came to rather a sorry end.

Indeed, Mr Chairman, I was not even aware that your committee had invented its own set of criteria. My understanding is that the criteria are spelled out in Resolutions 1541 of 1960 and 2625 of 1970. The dates surely are not enough to make them too old fashioned. After all, the United Nations Charter dates from 1945 and the Human Rights Declaration, which we Gibraltarians constantly invoke in our favour, dates from 1948 .

The criteria in Principle II of Resolution 1541 is as valid today as it was in 1960.

A territory automatically ceases to be covered by the provisions of Article 73e of the Charter when it attains a full measure of self government and that is what our original Constitutional Proposals asked the UK to say in the Preamble. We want the UK to endorse the process in Gibraltar as the use of our inalienable right to freely determine our own future.

WHAT ON EARTH IS TOO OLD FASHIONED AND ANTIQUATED ABOUT THAT!

I have told you what Jack Straw did to clarify things for Miguel Moratinos. All he did was to say that his first letter had not confirmed Spain's interpretation of the result of the constitutional negotiations.

However, what he failed to do, was to refute Spain's interpretation of the nature of the referendum, or of the consequences of adopting the New Constitution.

He has not said, "Dear Miguel, the Referendum in Gibraltar is the use by Gibraltarians of the right to self-determination, and not as you think, a mere consultative poll.

It is not simply to bring about a more efficient and transparent local government to make our relationship modern and mature.

It is, dear Miguel, the achievement of a full measure of self-government, pursuant to Principle II of Resolution 1541 (XV) which automatically ceases the UK's obligation, as the former Administering Power, of a former non self governing territory, to submit annual reports to the Secretary General. "

If that was what the UK had agreed was taking place, the test of it would be, that come October, they could not submit jointly with Spain, a consensus text to the Fourth Committee.

Why? Because in that consensus UK subscribes to the view that a lasting solution to the question of Gibraltar's decolonization has to be found by negotiations with Spain, and, of

course, you cannot be negotiating with someone the possible decolonization of a territory that has already ceased to be a colony.

In October last year I said at the Fourth Committee that I did not agree with the UK position that, the decision as to when a territory had achieved a full measure of self-government, was a decision for the territory and its former colonial power, and not for the UN.

I added that, however, since to date the UN had shown, not the remotest interest in participating in Gibraltar's decolonization process, which I regret to say is true of your committee as well, Mr Chairman, I would settle for second best.

I said, when our current negotiations are finalised and we proceed with our Decolonisation Referendum, we shall hold the UK to its word and expect reports under Article 73e to cease. And that is where we are now and that, is where the UK has let us down.

Mr Chairman, in Government and in Opposition I have fully supported your objectives for the 1st and 2nd Decades for the Eradication of Colonialism and wanted your involvement in our decolonization process and so I turn to you once again.

If your committee considers that, in the light of the information that I have provided, the planned referendum is an act of self-determination, which is the only applicable principle in the decolonisation process. If you agree that there is something called de-facto decolonization triggered by a constitution that can be described as modern and mature, then I will bow to your greater wisdom.

Believe me, Mr Chairman, when I tell you that nothing would make me happier.

I joined this enterprise at the age of 25.

42 years is a long time to be defending a cause and no Gibraltarian would be happier than me, to have the opportunity to vote in a referendum to decolonize Gibraltar.

However, if on the other hand, as I honestly believe, the vote for the New Constitution, in the context that I have described, would not be to terminate the status of Gibraltar, as a non self governing territory, but the very opposite, to perpetuate our present status. If it would not be de-facto decolonization, but de-facto endorsement of a continuation of the colonial status, however old fashioned the word may sound, it would, in my judgement, amount to the endorsement of the Spanish line that there is only one option open to us. That our self-determination is not merely constrained by reference to independence. That in our case self-determination only means being able to accept integration with Spain and that unless and until we do that our status in International Law and under the Charter of the United Nations must remain unchanged.

This I will not accept and I will not remain silent, whilst the People of the territory are told they would be voting for something when in reality they would be voting for the opposite.

To do otherwise would be to betray the very cause I have defended in my 42 years in Gibraltar politics and to betray the trust of those of my fellow citizens that have voted for me as their elected representative in the last 34 years, and that I will not do.

I regret deeply that things have come to this pass but in conscience and in terms of political integrity there is no other stand that I can take.

Thank you for your patience Mr Chairman.

I will be happy to answer any questions your Committee may wish to put to me.

Annex A

Alternative Preamble tabled on 16th March 2006 by the Hon. The Leader of the Opposition, Joseph J. Bossano, at the Gibraltar UK negotiations on 16th March, 2006.

“And whereas the People of Gibraltar have in a referendum approved the new Constitution annex to this order, the said new Constitution by replacing the Gibraltar Constitution order 1969, thereby produces the emergence into the political status freely determined by the people and constitutes the attainment of the maximum measure of self government in the mould that gives due regard to the freely expressed will of the people.”