

In This Issue

Pg 1

- Constitution website now launched!

Pg 2

- Human Rights in the constitutional arrangements
- Constitution Booklet is deferred

Pg 3

- Constitutional Supplement – Our Constitutional History: Parts 5 & 6

Pg 5

- What is a Constitution in Modern Times? – Part 1

Pg 6

- 2001 Constitutional Modernization Checklist

Pg 7

- Teen Spot
 - Do you know the members of the Legislative Assembly?
 - Frequently Asked Questions (FAQs)
 - Answers to July's Issue

Pg 8

- Secretariat Profile
- What's Happening in the Region



Constitution News

VOLUME 1, ISSUE 3

AUGUST 2007

Constitution website now launched!



News items, articles, media coverage and more can now be accessed on the Constitutional Modernization Initiative website www.constitution.gov.ky. The website was launched on July 2, 2007 on our national Constitution Day holiday. With much to offer, the website gives exclusive access to a wide range of informational resources. The colourful home page provides immediate links to important documents such the Constitution, the 2002 Constitutional

Commissioners' Report and newspaper articles on past constitutional reviews. The News and Events page of the website gives users direct access to our monthly "Constitution News" newsletter and to our weekly newspaper articles "The Constitution and You" which are featured in every Friday's newspaper of the Caymanian Compass.

For amateur historians, clicking on our Resource Page will give you immediate access to a library of constitutional materials. Catering specifically to teens, the Secretariat has a dedicated page in every issue of its newsletter and on its website to challenging teenagers to familiarize themselves with interesting facts about our constitutional history and our government.

For users who want to find out more about the Constitutional Modernization Initiative, click on the Phases link. To keep up with what is going on, log on to www.constitution.gov.ky.

Let's start Shaping Our Future Together!

www.constitution.gov.ky

PROGRAMME ■ NEWSLETTERS ■ CALENDAR ■ GET INVOLVED ■ RESOURCES ■ THE CONSTITUTION ■ CONSTITUTIONAL SUPPLEMENT

Human Rights in the Constitutional arrangements

Extract taken from Issue 4 of the Human Rights Committee newsletter, Right On!

As the HRC's Deputy Chairman, Vaughan Carter, explained: "Human rights are a central component in any modern constitution. The constitution should not only identify which particular rights are recognized; but importantly, it should also provide a mechanism through which individuals can enforce these rights."

On the 10th December last year, as part of its recognition of International Human Rights Day, the HRC identified the final realization of human rights in the constitutional arrangements of the Cayman Islands as one of its primary goals for 2007.

The HRC fully endorses this reinvigoration of the constitutional review process and believes that this is a significant step towards the ultimate recognition of human rights.

The HRC was therefore pleased to accept an invitation from the Constitutional

Review Secretariat to provide input on human rights during the Constitutional Modernization Initiative.

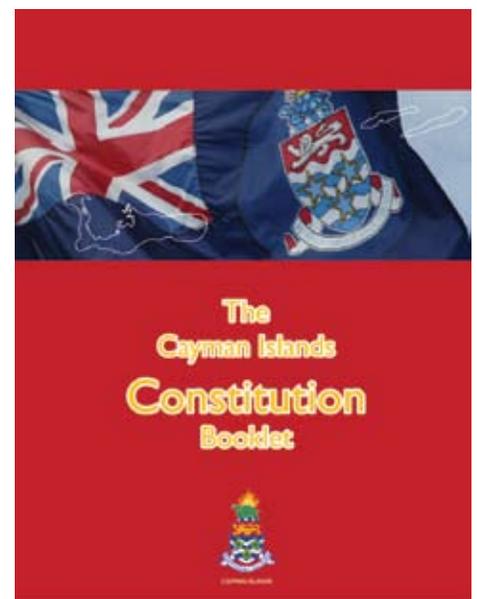
To this end, the HRC has formed a Constitutional Working Group, which is being headed by local attorney, Melanie McLaughlin. Subjects already under discussion include: the nature and content of the rights that ought to be included in the constitution; the desirability of including more novel concepts of human rights, such as the rights of children; the relationship between human rights and religion; the best mechanism for enforcing these rights; and whether the functions of a body akin to the HRC ought to be enshrined in the constitution. The HRC intends to publish its findings on these and other related issues prior to International Human Rights Day this year, so that it can be utilized for public discussion as part of the Constitutional Modernization Programme.



CAYMAN ISLANDS Human Rights Committee

Currently there are 73 members on our mailing list!
To join our mailing list, please submit your request to ConstitutionalReview@gov.ky

Constitution Booklet deferred



The launch of the Constitution Booklet could not be published as planned in July due to unexpected delays. The Secretariat will advise the public as soon as they become available.

To learn more about human rights please log on to:

www.humanrights.ky

This six part series is a chronology of our constitutional and political developments as a Territory of the United Kingdom from 1850 to 1972 taken primarily from the local history text "Founded Upon the Seas, A History of the Cayman Islands and Their People". The Constitutional Supplement is a weekly column of the Constitutional Review Secretariat which is published in every Friday edition of the Caymanian Compass.

Our Resolution to Remain British!

Part V

After the collapse of the West Indies Federation and with Jamaica taking its final steps towards independence, the Cayman Islands had to make a firm decision as to who it would follow, Jamaica or Britain.

The political parties of the day took centre stage in discussing the issue. The National Democratic Party, which was led by Mr. Ormond Panton and Warren Conolly campaigned for greater self government above all. Most of the party thought that greater self government could only be achieved if the Cayman Islands remained with Jamaica.

On the opposite side of the fence, were the leaders of the Christian Democratic Party. Party members such as Ducan Merren, Willie Farrington and Burns Ruddy, felt that the Cayman Islands should remain with Britain and thought that the islands' quest for greater self government could be achieved this way.

This issue received support on both sides and the competition was fierce. The issue became heated and as a result of this Governor Blackburne revisited Grand Cayman on January 17, 1962 to see if a consensus could be reached.

Upon his arrival to the meeting, the MLA members of the Sister Islands, Capt. Keith Tibbetts and Mr. Nolan Foster, presented Governor Blackburne with a petition signed by 345 of the 435 registered voters of Cayman Brac and Little Cayman. The Petition stated that "if Grand Cayman chose to remain with an independent Jamaica, the Sister Islands would seek separate Crown Colony status under Britain".

The issue was finally brought before the feet of the elected members of the Assembly where it was debated and voted upon. To the Governor Blackburne's surprise, a unanimous resolution had been reached. It was resolved by the Assembly members that

"It was the wish of the Cayman Islands 1. To continue their present association with Her Majesty's Government in the United Kingdom; 2. To negotiate with her Majesty's Government in the United Kingdom for internal self government taking into account the wishes of the people of the Cayman Islands as to timing."

With the overarching question of who to join, now settled, was the only thing left to negotiate internal self government for the Cayman Islands with the United Kingdom. Would it be achieved in the next round of constitutional changes?

The 1972 Constitution - A quest for internal self control?

Part VI

After the unanimous resolution in the Assembly for the Islands to remain a dependency of the United Kingdom, the legislature now attempted to fulfill its mandate to achieve internal self government.

During the 1960's the local legislature established select committees to consider constitutional change. A

British constitutional expert, the Earl of Oxford and Asquith was also appointed by the Foreign and Commonwealth Office to facilitate this process.

In conducting his work, the Earl of Oxford observed that the islanders desired greater participation by the elected representatives in government business and for the abolition of nominated members in both the Legislative Assembly and Executive Council.

After the Earl produced his report, a new constitution came into force in the Cayman Islands in August 22, 1972. Some of the changes that resulted from this new constitution were that the Administrator, who was the Chief Executive, was now changed to the Governor. The term of the Legislative Assembly was extended from three to four years and the system of nominated members was abolished. In its place was the appointment of the Chief Secretary, the Financial Secretary and the Attorney General who were official members.

The new constitution also made provision for the Legislative Assembly to be presided over by a Speaker. The appointment of a speaker did not take place until 1989 some 17 years after the 1972 constitution came into force with Ms. Sybil McLaughlin appointed as the first speaker of the Legislative Assembly.

The Governor remained as the Chief Executive of the Executive Council and the four elected members were officially assigned portfolios by the Governor pursuant to the 1972 constitution.

Whilst substantial constitutional developments were achieved through the 1972 Constitution, the longstanding request of the people of the Cayman Islands for greater participation by the elected membership seemed to remain elusive.

This was evidenced by the fact, that although the Executive Council were bound by “collective responsibility” to support all its decisions in the Assembly, the Governor was vested with special responsibilities and reserved powers which excluded him from being bound by the collective will.

The new Constitution vested the Governor with special responsibilities which did not require him to consult with elected members. Additionally, the Governor was vested with reserved powers which allowed him to go against the advice of Executive Council in special circumstances.

Whilst, the Cayman Islands have been fortunate that it has had benevolent Governors who have used their reserved powers sparingly, we see that the tension between the Governor and the elected representatives still remain. Here we are, some thirty five years after the fact, making the same request - Have the winds of change finally arrived?

FACT

**Between 1863
and 1865, the
Cayman Islands
was
recognized as a
full dependency
of Jamaica.**

**Our website has all
the information you
need to be a part of
the Constitutional
Modernization
Initiative. So log on to
www.constitution.gov.ky**

What is a Constitution in Modern Times? - Part 1



The Oxford Dictionary defines a Constitution as “the principles to which a country is organized”. This is in fact an accurate albeit basic definition.

In fact a cursory look at our constitution endorses the definition. The various parts of our constitution explain the roles of the Governor, the Legislative Assembly, the Executive, the role of the Attorney General and a number of other miscellaneous issues. This brings me to my first question, shouldn't a constitution reflect more?

In considering the question, my thoughts drift to my days as a junior attorney when I reviewed the constitutions and by-laws of churches, service clubs and other charities. In each case, I recall that the first thing my attention was drawn to was the objectives or aspirations of the organization. Some of them desired to make tangible changes, such as reducing the amount of litter in the street, whilst others were largely aspirational, such

as improving mankind. However, no matter how many applications crossed my desk the message was the same... an expression of what the organization hoped to achieve.

It is this analogy that brings me back to our constitution. Does it reflect the identity of the Caymanian people? Does it present our goals and aspirations to the world at large? Does it express our relationship with our elected representatives? Does it express how the United Kingdom as our administering power protects our interests?

The constitutions of many countries are introduced by setting out the hopes desires of a nation in its preamble. For example, our neighbour to the north, the United States of America begins its constitution with a preamble that states “We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare,

and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

Similarly, the constitution of our Caribbean neighbour and fellow British Overseas Territory, the British Virgin Islands, acknowledges the islands' unique cultural identity and the fact that the society is based on certain moral, spiritual and democratic values. The preamble also establishes the desire of the British Virgin Islanders wish to have increased control over the affairs of their country and the United Kingdom's desire to enter into a modern partnership with the Virgin Islands based on the principles of mutual respect and self determination.

Now that we have an opportunity to draft our own preamble, what do you think it should say? The draft 2003 Cayman Islands constitution contains a preamble. To see what was agreed in 2003 log onto www.constitution.gov.ky and go to the resources page, Constitutional Review 2002 link. To provide the secretariat with feedback on what you think our preamble should say, e-mail us at constitutionalreview@gov.ky or fax us at 946-4023 or make an appointment to see us by calling 244-3603. Let's Start Shaping Our Future Together!

Suzanne Bothwell
Director

2001 Constitutional Modernization Checklist

In the 1999 White Paper, “Partnership for Progress and Prosperity”, the United Kingdom restated its commitment to the defense of the Overseas Territories. In return, the United Kingdom stated that it expected high standards of probity, governance and adherence to the international agreements to which the United Kingdom and the Overseas territories are party and to minimize the extent to which the United Kingdom is exposed to contingent liabilities.

With respect to constitutional reform in the Overseas Territories, The United Kingdom recognized that “...each Overseas Territory is unique and needs a constitutional framework to suit its own circumstances”. It also stated that “...the governance of the territories must have a firm base. Democracy, human rights and the rule of law are all as relevant in the Overseas Territories as elsewhere [and] that there must be a balance of obligations and expectations, and that both should be clearly and explicitly set out”

In response to the White Paper, in 2001, His Excellency the Governor Mr. Peter J. Smith, CBE issued a statement regarding the constitutional review process that was being carried out in the Cayman Islands. In this statement, His Excellency presented Caymanians with a non – exhaustive 18 point checklist established by the United Kingdom which gave an indication of the standards which British Overseas Territories should seek to achieve in undergoing constitutional reform.

Today, in 2007, we are still involved in the constitutional review process and many of the following points of the checklist are still relevant to the present exercise:

- ✓ The proposals should be consistent with the UK’s international and treaty obligations.
- ✓ The proposals should promote more open, transparent and accountable government, and contribute to the fair and equitable exercise of power and delivery of public services.
- ✓ Consideration should be given to improvements to the operation and consumption of the legislature and the promotion of democratic process.
- ✓ The role of Executive Council and the exercise of collective responsibility by the

Ministers and Members of ExCo for government policy and decisions should be explained and endorsed within the constitution.

- ✓ Proposals for change should encourage respect for the rule of law, the constitution and high standards in public life, incorporating reference to Codes of Conduct for Elected Representatives and officials.
- ✓ Proposals should promote representative and participative government and help enable all sectors of the community to influence government policy and practice. They should indicate whether reforms are necessary to constituency boundaries, the electoral system and the franchise.
- ✓ Proposals should help to support effects to tackle and control international and domestic crime and corruption.
- ✓ Proposals should be consistent with the preservation and enhancement of the reputation of any international financial services industry for honest administration and probity, and should ensure the removal of any impediments to the efficient regulation of financial sectors including the exchange of information.
- ✓ Consideration should be given as to whether proposed constitutional changes are consistent with the requirement to establish Independent Regulatory Authorities in territories with financial services.
- ✓ Proposals should promote freedom of expression, opinion and association and the right to information, including improvements necessary for their delivery.
- ✓ Proposals should help to ensure high standards of justice and law enforcement and strengthen the delivery of an access to judicial services.
- ✓ Modern international standards of respect for human rights should be adopted consistent with the provisions of the European Convention on Human Rights (ECHR) enshrined in the Human Rights Act and other relevant International Conventions. There should be a machinery for the enforcement of these rights.
- ✓ Proposals should help improve procedures

for the administration and prudent management of government finance, including adequate independent audit.

- ✓ As sovereign power with ultimate responsibility for the United Kingdom Overseas Territories, HMG should have the powers necessary to discharge its responsibilities towards them, to implement the UK’s international obligations and to minimize the risk of contingent liabilities.
 - ✓ Consideration should be given to whether the executive or legislative powers held and exercised by the Governor are adequate in respect of:-
 - a) his responsibilities under the constitution;
 - b) the authorization of expenditure required to enable him to discharge his responsibilities;
 - c) finance;
 - d) good government;
 - e) periods of public emergency;
 - f) public order;
 - g) the passing or amendment of legislation, including the use of “a one line veto”;
 - h) appointments to public offices; and
 - i) where relevant, oversight of offshore financial industries.
 - ✓ Does the constitution provide for a Register of Interest of all members of the Legislature/ Executive Councils and holders of prescribed public office? Can sanctions be imposed for failure to comply? If not, should appropriate measures be included?
 - ✓ Does the constitution make provision for a Complaints Commissioner (Ombudsman) for individual complaints on mal-administration? If not, should there be provision?
 - ✓ Do the changes suggested by the OT government have the support of the majority of the population? What is the evidence for such support? Has there been extensive local consultation (with or without the assistance of a Constitutional Commissioner or Commission) followed by a debate in the legislature in which the suggested changes have been approved by motion.
- The 2001 Constitutional Modernization Checklist can also be found on our website under Resources. Please log on to www.constitution.gov.ky

Do you Know the Members of the Legislative Assembly (MLAs)?



- a.** Mrs. Julianna O'Connor-Connolly JP
1st elected member for Cayman Brac and Little Cayman
- b.** Mr. Osbourne Bodden
3rd elected member for Bodden Town
- c.** Hon Alfonso Wright
4th elected member for George Town
- d.** Hon McKeeva Bush OBE, JP
1st elected member for West Bay
- e.** Mr. Rolston Anglin
2nd elected member for West Bay
- f.** Hon Alden McLaughlin Jr
2nd elected member for George Town
- g.** Hon Ken Jefferson
3rd official member, Financial Secretary
- h.** Ms. Lucille Seymour
3rd elected member for George Town
- i.** Mr. Moses Kirkconnell
2nd elected Member for Cayman Brac and Little Cayman
- j.** Hon George S. McCarthy OBE, JP, CPA
1st official member, Chief Secretary
- k.** Hon Charles Clifford JP
2nd elected member for Bodden Town
- l.** Hon Edna Moyle JP
Member for North Side and Speaker of the House
- m.** Hon Kurt Tibbetts JP
1st elected member for George Town
- n.** Hon Samuel Bulgin JP
2nd official member, Attorney General
- o.** Hon Anthony S. Eden OBE, JP
1st elected member for Bodden Town
- p.** Capt. A. Eugene Ebanks
4th elected member for West Bay
- q.** Mr. Cline Glidden Jr
3rd elected member for West Bay
- r.** Hon Arden McLean
Member for East End

Answers available in our next issue of Constitution News

To Contact Secretariat:

Constitutional Review Secretariat

Elizabethan Square, 2nd Floor, Phase 3
George Town, Grand Cayman
Tel: 244-3603 • Fax: 946-4023
E-mail: ConstitutionalReview@gov.ky
Website: www.constitution.gov.ky



Frequently Asked Questions (FAQS)

Q: Where do I have to go to register to vote?

A: If you are qualified to vote under the current Cayman Islands Constitution Order 1972 you may contact the Elections Office which is located on the 4th Floor, Kirk House George Town. Tel: (345) 949-8074 or E-mail: electionsoffice@electionsoffice.ky.

Q: If I have any questions on Constitution issues, who do I contact?

A: If you have any questions on Constitution issues please contact the office of the Constitutional Review Secretariat which is located on 2nd Floor, Phase 3 of Elizabethan Square, George Town. Tel: (345) 244-3603. E-mail: constitutionalreview@gov.ky.

Answers for July's issue:

Constitution Word Search

- Dependency
- Vessels
- Vestrymen
- Trade
- Proposal
- Justices

G	K	J	U	S	T	I	C	E	S	L	Y
F	F	J	V	E	S	S	E	J	Z	C	V
L	X	B	Y	N	S	H	F	L	N	L	E
A	V	J	K	U	E	W	Y	E	T	K	S
S	R	Y	M	X	T	K	D	C	R	Y	T
O	Z	A	Q	L	J	N	H	K	A	U	R
P	X	N	G	T	E	B	C	L	D	P	Y
O	L	Z	R	P	G	K	Y	R	E	E	M
R	M	V	E	C	R	U	S	H	J	U	E
P	S	L	E	S	S	E	V	K	Y	L	N
D	E	P	E	N	D	E	N	C	Y	F	P

CONSTITUTION QUIZ: 1-c, 2-b, 3-a, 4-(correct answer is 6), 5-b, 6-d, 7-c

Secretariat Profile

Our Next Issue

Look out for the next issue in September 2007!

- What is a Constitution in Modern Times? - Part 2
- Constitutional Modernization Initiative launch in Cayman Brac
- Teen Spot
 - Who are the Members of the Cabinet
 - Frequently Asked Questions (FAQs)
 - Answers to August's issue
- Fact of the month
- Secretariat Profile
 - Director, Mrs. Suzanne Bothwell
- What's Happening in the Region



Ms. Yvette Cacho is a young Caymanian who has recently joined The Secretariat team as a Research Officer. She is a recent graduate of Florida International University where she obtained a Bachelors degree in Business Administration with a double major in Marketing and Management. Ms. Cacho's main responsibilities are to coordinate the Public Relations activities of The Secretariat which include the

publication of the monthly Constitution News newsletter, organize upcoming public consultation events and facilitate the activities of the programme.

When asked why young Caymanians like herself should become involved in the Constitutional Modernization Review process, her response was "I feel that the Constitution of the Cayman Islands serves as basic legislation for its people, thus all of our people should take an interest in its review. However, it is particularly important that young people become involved in the Constitutional Modernization Review process because today's young people are tomorrow's leaders and through our involvement we can all become familiar with and, more importantly, understand what our Constitution is all about. The Constitution has an impact on our daily lives; therefore it is essential that we young people participate in this process. It is OUR Country, OUR Constitution."

What's Happening in the Region

- **In Bermuda, politicians have been blaming the Governor for 25 years** – June 29, 2007. For more details please log on to www.bermudasun.bm
- **In Bermuda, dozens of students march against corruption** – June 29, 2007. For more details please log on to www.bermudasun.bm.
- **NDP rejects Opposition Leader's characterization of BVI as a "banana republic"** – July 11, 2007. For more details please log on to www.bvinews.com
- **In Anguilla, Chief Minister: "No politics in Constitutional Reform". Concern over public's disinterest** – April 20, 2007. For more details please log on to www.anguillian.com
- **The New Constitution: Negotiating Team Takes Stance on Constitutional Status** – July 20, 2007. For more details please log on to www.anguillian.com
- **History continues to unfold in Anguilla – Hundreds deliver petition to the Governor** – July 20, 2007. For more details please log on to www.anguillian.com - For other related articles please log on to: http://corruptionfreeanguilla.blogspot.com/2007_07_01_archive.html
- **Breaking News: August 20, 2007 is the date for the General Elections in the British Virgin Islands** – June 29, 2007. For more details please log on to www.bvinews.com
- **BVI legislators unanimously pass final draft of constitution** – May 9, 2007. For more details please log on to www.bvinews.com
- **Foreign Affairs Committee: Press Notice, Announcement of new inquiry: Overseas Territories** – July 5, 2007. For more details please log on to www.parliament.uk
- **Panday loses battle to regain seat in Parliament** – July 29, 2007. For more details please log on to www.jamaica-gleaner.com

Constitutional Review Secretariat
Elizabethan Square
2nd Floor, Phase 3
George Town, Grand Cayman
Ph: 244-3603 Fax: 946-4023
E-Mail: ConstitutionalReview@gov.ky
Website: www.constitution.gov.ky