



Constitutional Modernization Initiative

*Verbatim Transcript
of*

**Public Consultation Meeting
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Savannah Church

**Grand Cayman
Cayman Islands**

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MONDAY
04 FEBRUARY 2008
CONSTITUTIONAL MODERNIZATION MEETING
SAVANNAH CHURCH HALL
GRAND CAYMAN

WELCOME

Hon. D. Kurt Tibbetts (Leader of Government Business): Good evening and a special welcome to all of you to attend this the third in our series of public meetings with the Constitutional Modernization process, and being in the second phase where we are interacting with the public telling you all of the things that we can about what the options are. And, as I said just a few minutes ago, most importantly to hear your views on the various issues that we will be dealing with.

Most of you (if not all) will have by now either seen or have copies of the two documents that the Secretariat has produced, the main document being entitled *The Cayman Islands Constitution: A Reflection of Who We are*, and the explanatory notes which accompany that document, holding the *Summary of Proposals*.

I have to reiterate folks—because otherwise is being said—the two documents that have been prepared are simply the starting point for the discussion. They are the result of the Government having received the benefit of expert advice from the constitutional consultant and also us having had the benefit of the previous exercise which was started but never completed; and, not to be forgotten, us having the benefit of the other three Overseas Territories who in recent times have completed their modernization process with the UK—those three Territories being the Turks & Caicos Islands, the British Virgin Islands, and Gibraltar.

Now, I say starting point to make sure that we understand that what is contained in the two books that have been prepared while it may be or considered initial views, that is simply just to get your mind going. Once you know what the options are you can look at what has been prepared to begin to formulate in your minds what you agree with and if there are things that you would like to see us look at differently, then please . . . the object of the exercise is for you to tell us that simply because it is absolutely important at the end of the day that whatever negotiations take place with the United Kingdom that everyone is satisfied that the negotiating team is negotiating on behalf of the majority of the people of the Cayman Islands, and what they are negotiating for as the new framework for a governance model is reflective of the wishes and aspirations of the majority of the people.

So, while we will do our very best based on our own experiences, based on our knowledge base and everything else, we certainly do not

claim that what is contained in these documents is what the end result should be or will be. It is simply (I repeat) a starting point.

Having said that, it is important for us to also recognise, folks, that at the end of this exercise where there is interaction and hearing the views of the public, doing the best that we can to give you an informed position, there will be a referendum.

Now, the purpose of that referendum is simply to be able to prove from the checklist of the 1999 White Paper, entitled *Partnership for Progress and Prosperity*, the checklist that was in there, one of the requirements for constitutional modernization (once we get to the negotiating table) is that there is clear evidence that what we are negotiating reflects the views of the people. As a Government, before we became the Government, we committed to the country that we would go through the exercise of having a referendum simply to ensure that that that part of the checklist can be ticked off.

So, please, I have to implore you, do not listen to the unfounded allegations that you may be hearing—and I don't want to get into the politics. I want you to use your own mind, your own discretion, your own thought process. Please do not listen to I guess a kind word is rhetoric regarding the process . . . and what's the new slogan, Minister McLaughlin?

Can't remember it? Neither can I; it's not worthy repeating! Thank you.

But just to say that all we need to do, you as the citizens of the country and us as the facilitators, is to go through this exercise to make sure that we know what we want, we know what the options are, and to be able to discuss the various issues to get to the point where consensus can be gained so that we know the way forward.

Remember that when it's all over, whatever we go to negotiate, we cannot guarantee that the United Kingdom is going to agree with every single desire that we express. We don't know that. What we do know from our own experiences and from the exercises that have been completed is more or less in broad terms where the line is drawn on the various issues.

So, like all good, sensible, negotiators we would perhaps go seeking a little bit more in a few areas than we might expect the end result to be, but that is what negotiations are all about. What we need to be able to do when we get to that point is to be confident and be able to look these people in eye and say '*Listen, this is what the people of the Cayman Islands want.*' And that's really what they want to hear more than anything else because they too . . . first of all, let me make sure it's clearly understood.

They have said to us without any mix-up, they have said it with pure clarity: they are anxious for their Overseas Territories to complete the modernization process as was started by the White Paper of 1999

when they reiterated through that they wanted self-determination for their Overseas Territories.

Now, insofar as self-determination goes, we will seek self-determination to the point that they are comfortable. As has been expressed by the vast majority of the citizens of the country, as has been said by this Government and, in some instances, previous governments, there is no desire for the Cayman Islands to be seeking to become an independent territory. It is simply understood both by Britain and the people of the Cayman Islands that the Constitution that we have has served us very well thus far.

But so many years have passed since the last Constitution. In fact, I believe it's probably, outside of the small changes that have occurred, over 30 years since our last Constitution. In fact, probably 35 years since we have had a major overhaul of the Constitution and simply too much time has passed for us to continue to operate with the framework that exists. The country has changed. The whole atmosphere has changed, and the needs for the elected arm of government and, in fact, for the civil service arm of the government to operate properly called for changes and, perhaps the most appropriate word, for modernization of the Constitution. So, in a nutshell, that is basically what the whole exercise is all about.

We have with us tonight the members from the Secretariat. Unfortunately, Mrs. Suzanne Bothwell who heads up the Secretariat is ill. I think she has the flu. And I guess with the best of intentions if she were here you wouldn't hear her, whether she had a microphone in front of her or not. So, Christian Suckoo, who works along with her, is going to be your facilitator tonight. He will run you through the various issues, show you the various options and speak to the facts. We are only here to answer questions that you may have to ask and we will do our best to give you all of the answers we know and to engage in the dialogue that we need so that we as your representatives can get a good feel for what your desires are.

Without any further ado I want to say a special thank you again for coming out this evening. I am glad to see that we have a decent crowd from Savannah which shows a fair amount of interest and I will hand the microphone over to Christian.

Thank you sir.

Mr. Christian Suckoo: (Deputy Director of Constitutional Review Secretariat): Good evening.

It is fitting that we are meeting tonight in the sanctuary of a church. Let us begin with prayer.

PRAYER

Mr. Christian Suckoo: *Almighty God, search us. Come to an understanding with us Lord for the path that you would have us take.*

Lord, where we are confused give us clarity. Where we believe that we have the answer and we don't, open our eyes.

Lord, hold our hands as we go through this process so that at the end of the day we can be truly joyful with the result.

In Jesus' name, amen.

Mr. Christian Suckoo: Let me just speak about the presentation format for a little bit. I am going to go through the presentation with assistance where necessary from the panel. We will have a question time. I ask that you leave your questions until the end. If we don't get to all of your questions, we will have sheets in the back. You can actually write the questions down and we will be sure to get answers to them for you.

We ask you at this time to please turn off your cell phones or place them on vibrate.

[pause]

INTRODUCTION

Mr. Christian Suckoo: Okay. Change of plan.

What we will do is after each segment we will take one or two questions—just to break up the presentation a little bit—and then we will have the remaining questions at the end.

Please remember that this is being recorded for Radio Cayman, so you need the microphone to speak. Hilmae [PHONETIC] is around and she has the cordless mic. Raise your hand and she will bring the mic to you.

The Constitution reform process is being carried out using many sources. There are sources for this presentation in particular listed on the screen including the White Paper, Cayman Islands Constitution . . . sorry, the White Paper, the Paper being presented by the PPM Government, which is *The Cayman Islands Constitution: A Reflection of Who We Are*, the *Summary of Proposals* document; the Constitutional Commissioners Report; the 2004 Official *Hansard*, the 2003 Parliamentary Opposition Paper and the 2003 UDP Paper.

In addition we have also used as sources the constitutions of the other Overseas Territories that have gone through this process and the original reports done in 1991 and 2002.

Why go through this process?

Obviously we are here to talk about our new constitution. The reason for drawing up a new constitution is to speak about relationships.

The constitution will define the important relationships in governance of this country. And in these relationships are included that between the local Government and the UK, the local Government and the Governor, the Official Members in the LA and Cabinet, and of course the most important, we the people and the local Government.

The constitution is going to set out for us what is available to us, what rights we have, how we can effect change in our country, how we can make sure that governance is being done in such a way that we are happy with. And it's going to be a stopgap measure to prevent any of the fears that we have from being realized.

As the Leader has pointed out, there is strong agreement that the Cayman Islands should remain an Overseas Territory. There are few dissents; however, the vast majority of the people in the country believe that the best thing for us is to remain an Overseas Territory. Now, remaining an Overseas Territory does not mean that we remain exactly where we are. That is one option. However, we have options to take steps toward greater autonomy without becoming independent.

As you can see on the slide, the Constitutional Commissioners Report in 2003 supported this move, and both parties in 2003 were also in agreement with it. And we believe that this is the current state of affairs as well.

ONE PERSON, ONE VOTE

Mr. Christian Suckoo: One person, one vote.

During the process it has become evident that there is a push to reinvent the way that we handle elections, the way that our constituencies are drawn up. The vast majority of people have been in agreement with this and recommendations have been made. The recommendation here is for a full implementation of one person, one vote, which means that Grand Cayman would be drawn up into 16 constituencies each having similar size population, each returning one member to the Legislative Assembly, which means that each person in the country would have a vote for one individual.

The situation would be the same on Cayman Brac and Little Cayman, except that they will return two members to the Legislative Assembly. So, therefore, the people who get the two highest returns in terms of number of votes would go into the LA.

In 2003, the Constitutional Commissioners recommended that we should go to a one person, one vote and as you can see this resulted in the Electoral Boundaries Commission drawing up the 17 constituencies. This process would obviously have to be done again because the population has shifted in Cayman, especially in Savannah where the population has exploded in the last few years. So the boundaries would have to be redrawn.

In 2003, the parties differed as to whether one person, one vote should be implemented full scale or if it should be brought in over time. As you can see, the UDP thought at the time that it should be brought in over time; that it should be phased in.

Let me say for the record right now that the 2004 *Hansard* houses Hon. Mr. McKeever Bush's statements to the House at that time. Currently the UDP is drawing up a new position paper. We don't know yet what is going to change and what is going to stay the same. So we are using the 2004 *Hansard* for historical context. It does not mean that is the position today, and at the appropriate time the UDP will let us know what their plans are.

The current Constitution does not have any provisions to introduce the single-member constituencies, one person, one vote. So one of the things you will be asked to discuss, to think about, and to speak on through the referendum is your agreement as to whether or not the Cayman Islands should introduce this system, whether we should remain the same, or whether we should implement another system that you think would be better.

FULL MINISTERIAL GOVERNMENT

Mr. Christian Suckoo: There is a proposal to go to a full ministerial government. This is a question of basic democracy. At present, there are three Official Members who make up the Cabinet and the Legislative Assembly, being the Chief Secretary, the Financial Secretary and the Attorney General. These people are not elected officials. So, while they have a hand in voting on legislation in running the country, they were not placed there by the electors of the country—you and I. So, in order to have a full democracy in the LA, in the Cabinet, we would actually need for those three members to be elected members.

There is also a need to re-examine the relationship between the local Government, the UK and the Governor. An example of this is in international treaties. Right now, the UK has the ability to sign us up to international treaties without our knowing about it, without our consenting to it.

Some of these treaties may actually create great cost to the Government in implementation. In order to ensure that we are kept fully aware of what is happening that affects this country internationally, the relationship between the elected officials and the Governor and the UK would have to be redefined in such a way that greater autonomy is given to us, that greater notice is given to us, and that greater ability to make our own decisions as it relates to international treaties and the like.

The 2003 Constitutional Commissioners Report highlighted . . . it's a very good report; I suggest that you read it. It highlighted many suggestions. One of these was for the Chief Minister to advise the Governor on

the appointment of the elected Ministers to form Cabinet. Currently the Governor selects the Chief Minister, and he also selects the other members of Cabinet. So what is being proposed here is that . . . excuse me.

I'm sorry, correction.

The Ministers are elected from the LA. What is being proposed then is that the Chief Minister would be able to pick the Cabinet.

If the Financial Secretary and the Chief Secretary are removed from Cabinet, the option is that they would be replaced by two Ministers. The Minister replacing the Financial Secretary would be known as the Finance Minister, or something similar.

Do we have a suggested name for the replacement of the Chief Secretary?

[pause]

Mr. Christian Suckoo: Some of the functions of the Chief Secretary would be housed in a Minister of Foreign Affairs, for example, or Home Affairs. However, the responsibilities of particular areas would remain with the new form of Chief Secretary, which would be the Deputy Governor.

One example of this is the Civil Service, as it is very important to leave a line of separation between the elected officials and the Civil Service. So, responsibility for the civil service would remain with the Deputy Governor.

Currently, the Chief Secretary sits and votes in both the LA and in Cabinet. As stated before, he is unelected and a public official. The recommendation that is being made is that this position be changed to the Deputy Governor position, that he not be a member of the Cabinet or the LA, that he attend the Cabinet and the LA in an advisory capacity and that he is a Caymanian.

So, once again, these are things that we are asking you to think about and to weigh in on. Do you think that the Deputy Governor should be a Caymanian? Do you think that the Governor should be removed from Cabinet, or should be present in a non-voting capacity? These are all the options that are available and these are what we would like to hear from you on.

As alluded to before, international agreements that affect the local policy, what is being proposed is that the Governor would consult the Cabinet on any treaty that has effect in the Cayman Islands and the UK would similarly do the same on international treaties.

The Cabinet would negotiate international treaties that do not affect the interest of the UK. Basically what that means is that for any treaty that does not directly affect the UK, is inconsequential to the UK, the proposal there is that we be able to engage in those international treaties and engage in negotiations on them.

There is a report presently out by the National Audit Office of the UK. The basis of the report is to determine the management of risk in the Overseas Territories as maintained by the Foreign and Commonwealth Office. The gist of the report is that in many areas the UK Audit Office is recommending to the Foreign and Commonwealth Office that greater autonomy needs to be given to local government in many areas of government. As you can see here, one of these areas is foreign affairs. Another area is internal security.

This slide is actually showing the importance that we maintain a strong presence in any international organization and strong conversation with any international organization that has the ability to affect the country, especially our economy. This is what I had previously discussed.

PREMIER

Mr. Christian Suckoo: In the present Constitution we have the head of Government known as the Leader of Government Business. However, the Leader of Government Business does not have specific constitutional responsibilities. The same goes for the Leader of the Opposition.

The proposal is that specific constitutional responsibilities be outlined for the Leader of Government Business (by whatever name that person will be called). As you can see here one of these responsibilities would be to recommend a member to the Electoral Boundaries Commission that is going to redraw the boundaries of the 17 constituencies.

In 2003, the UDP Government proposed that the Leader of Government Business title be changed to Chief Minister, and that this post would be established constitutionally. As you see here, the position would be formalized and official appointed by the Governor.

The 2003 PPM position paper also asked for the head of government to be called the Chief Minister and the post be assigned constitutional responsibilities. Currently, the PPM Government has proposed . . . the wording in the document is Premier, and they have also placed the Chief Minister option in the document. As you can see here, the breakdown of Caribbean Overseas Territories, the Leader of Government Business title is being used by the Cayman Islands solely. The Chief Minister is being used by Montserrat, Gibraltar and Anguilla. The Premier is being used by Bermuda, Turks & Caicos and BVI. So this, again, is one of the areas that we are asking you to weigh in on.

Do you feel that we should keep the Leader of Government Business because it's a unique title? Or do you think that we should go to, for example, the Premier in order to effect a relationship with the Mother country?

I will give you my personal view on this one, which I don't normally do, but I believe that we should go to the Premier because it allows us to be seen on the same playing field as everyone else. If you have Premiers

talking to Premiers I think that's a stronger negotiation point than a Premier speaking to a Leader of Government Business. But you are asked to weigh in on it. You are asked to give your opinions on it.

As alluded to earlier, the Constitution does not create offices of the Deputy Leader of Government Business or the Deputy Leader of the Opposition. They are recognized in the Constitution as existing posts, but they do not have assigned responsibilities. This is something we are asked to speak about.

The 2003 UDP position paper introduced the idea of deputy leaders being Deputy Leader of the Opposition and Deputy Leader of Government Business, or Deputy Premier. In order to facilitate a full democratic and ministerial style of government, one of the important aspects of this is continuity. What happens if, God forbid, something happens to the Leader of Government Business? There should be a set policy and guideline determining how the responsibilities of that post are handed over. If you have a Deputy Premier position then, naturally, that would fall to the Deputy Premier. There would be no disputing the person who holds that office.

Before I go into the role of Cabinet, do we have any questions so far?

We will just get the mic for you.

A Member of the public [Question #1]: Good evening.

I would just like to say first that I think it's a good initiative to try to have public discussion over the draft proposals that the PPM Government has suggested. But just having the relevant documents in place we take for example the Draft 2002 Constitution has over 80 pages. The proposal is 12. The explanatory notes are between 20 and 30 pages. Do you think it's sufficient time to have a referendum in May, without yet having the position from the UDP presented?

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Let me just say this and offer some perspective, then you can decide. Because that is what we have to decide as a community really.

This process started in 1999 with the UK's White Paper, *Partnership in Progressive and Prosperity*. The process actually started in Cayman in 2001. I think everyone knows what transpired then. We had the then Government and the then Governor, Peter Smith, determining that within weeks of the report that was prepared by the Constitutional Commissioners which, in fairness, had taken nearly a year to complete and which had been the result of extensive meetings, that that should be debated in the Legislative Assembly and with no further consultation with the public and then that Constitution would come into affect.

But we know how the country responded to that, and certainly how this body now, the Government, responded to that. We felt that

more consultation was necessary but we needed to understand what the views of the people were.

So, we did get some more consultation. We did come to an agreement of sorts with the UDP Government at the time. We went to London in December 2002. We sat around the table and we hammered out the document which is the 2003 Draft Constitution, which is available.

Subsequently, the UDP decided that because they changed their minds, to be truthful, on the question of single-member constituencies that they were going to derail the process. And they stopped constitutional discussions. That must have been about July of 2003, something like that.

It got to where we were just before what was supposed to have been the last elections which would have happened in November 2004, they then produced a statement which Christian has been referring to as the *Hansard* Report, July 29, 2004, which set out their position because everybody was proceeding on the basis that the elections were to be in November. Now, everyone knows what happened to the elections.

We restarted the process. We didn't start from scratch; we started based on all of those consultations that had taken place and the various documents that had been produced. We brought on board Professor Jowell, who is an internationally renowned constitutional lawyer, to help advise with the process. We also had the benefit of what had happened in Turks & Caicos, what had happened in Gibraltar, what had happened in the BVI, so we know, essentially, what the UK will accept in terms of new constitutional proposals.

Now, the position that is reflected in the *Summary of Proposals* and explanatory notes . . . you will find as we go through this process this evening that they do not vary in many instances materially from what was proposed by the UDP back in 2003, and what was proposed by us, for that matter, back then as well. There are a number of instances where there are changes. And you will see also, when you take the time to see what has been done in Turks & Caicos, Gibraltar and BVI, that in many instances they mirror what is there.

I give you all of that to say to you that we are not starting from scratch, and anyone who is suggesting to you that we are starting from scratch is misleading you. A whole lot of this ground has been covered before.

Now, the country has been going through this process for seven years. I think by now most of us are suffering from constitutional fatigue. The difference in approach between what we are doing and what has been done in the past is that a) we are committed to the consultation process; and b) we are saying to you the people of the country, you have to weigh in because if you don't give us a mandate to go and negotiate in these broad terms we won't be able to do so.

The specter of not enough time as raised by the Opposition, that may or may not be real. What I would suggest is that we have 17 of these

public meetings planned in addition to meetings with various other members of the private sector, the Chamber of Commerce, actually, et cetera, is that we take this time between now and closer to May, hear what is being said, ask your questions, do your research, and make a judgment yourself as to whether or not you feel you know enough, you feel whether or not there is enough time.

If the consensus is, or if the feeling is—and I don't mean the feeling as what is stated by the Opposition, I mean genuine feeling of the people in the country—that they don't know enough, that you don't know enough, that there needs to be more time, this Government will listen to what you have to say.

We are not on any campaign to ram through anything. But we honestly feel that to delay this process or, I should say, to create an open-ended process again and for this country to go on for another year or two years talking about the same issues is not in the country's best interest and is not going to get us any nearer a new constitution.

As I said, this process started nine years ago in the UK, seven years ago in Grand Cayman. There has to be a point when we decide as a people that this is what we want, whatever that is.

Because we are going to referendum we have every interest in ensuring that . . . or in trying to determine that what you feel as a people is what we are putting forward for you to vote on in the referendum, otherwise we know what the result is going to be.

So let no one leave here . . . let no one within the sound of my voice believe that we are on any mission—regardless of what other people say or any campaign to ram anything through—unless and until we are satisfied that we have what we believe is the majority view on these matters, then the process really cannot proceed beyond a certain point. But I would ask us to sort of defer judgment about whether or not there is enough time until you have been through this process and you can say to yourself, *'No. I really don't understand that. No. I don't agree.'* Let's not make that judgment into the second week of this exercise that we are going through. We still have quite a few months.

As I said, the Government is prepared to listen to you. If we feel, if we honestly feel that the public sentiment is that there isn't enough time we will reconsider the position we have taken.

I hope that helps.

A Member of the public [Question # 2]: Yes, Thanks for that answer.

You know, given that timeline if there was just a simple clarification for the Constitution or maybe greater checks and balances to the Constitution then a shortened timeframe for the referendum would be fine. But where you are having substantial changes to the Constitution such as creating all these additional commissions, creating additional powers that will be bestowed to the Premier, making the actions of the Governor subject to judicial review, it requires a lot more thought and re-

view to provide substantive comments rather than a general yes or no on a referendum.

Just to add that this is not a point of view from the Opposition; it's an independent perspective.

I think that if you look at the recommendations, there is a question to raise as to the economic feasibility. If you look at the additional commissions that will be set up, you have additional persons being appointed, you have two additional Cabinet Ministers, you will have a Deputy Governor, Deputy Premier, Chief Minister, you'll have a Public Prosecution Commission, you'll have a National Security Council, you'll have this International Treaty Committee to negotiate on behalf of the Cayman Islands in instances where it's not specifically related to the United Kingdom. My main concern is that the government, first of all, might not have the wherewithal to substantiate these committees and posts with sufficient personnel.

Secondly, where will all these commissions be funded from if you have a net surplus of \$30 million and there's not much projected growth for revenue in the next, say two to three years, where will you fund these additional commissions? Where will you fund these additional posts that will be created? It may just be seen to add to the current high cost of the Civil Service, which represents roughly 60% to 70% of our budget.

Hon. Alden M. McLaughlin, Jr.: All I'd say about that is that very little in these proposals are new.

These issues, most of them, have been around for the last seven years as proposals, both from . . . well not both, from the Constitutional Commissioners Report, from the UDP Government's position paper and from our position paper. So, this is essentially the fourth iteration of most of these proposed posts or offices.

I would also say that they would be funded in the usual way from general revenue. It is part of the price of good governance. I don't think there is much more I can say about that.

Mr. Leader?

Hon. D. Kurt Tibbetts: Thank you Minister.

Let's get a few facts straight. It is not between 60% and 70% of recurrent revenue that it costs for personal emoluments. Not at this point in time. I am not saying it's not high; but I am saying that it is not quite between 60% and 70%. But I take your point.

But if you look at the makeup of these commissions, you will notice that many of them are existing posts either within the Civil Service or within the Judiciary or other government employees. So you need to bear in mind that it is not that you are hiring full time people to be part and parcel of these commissions. So, while I can understand your apprehension, sir, and your point about additional costs, I do not believe that

those additional costs are going to be exorbitant to any degree whatsoever.

I just wanted to add that, Minister, because just looking at it brand new one could easily think what you are thinking, and I respect that. But I am saying that if you look into it carefully you will find that many of the commissions comprise people that are already either, like I said, in the judiciary or in the Civil Service or other agency post. So it is not like you are having a whole slew of new people hired into the Civil Service to form these commissions.

Hon. Alden M. McLaughlin, Jr.: I guess I just beg you and everyone else here, not to close your mind at this stage. We are four months, at least four months away from the expected date of the referendum. Let us go through the education exercise, the consultation exercise, weigh in on it, and let's make a judgment closer to time.

I would hate to believe that minds have been made up already and the whole purpose of participating is to essentially keep the process from going ahead.

Ms. Andrea Bryan [Question #3]: Gentlemen, good evening. I am Andrea Bryan, retired civil servant for over two years.

I would like to say that I appreciate the opportunity for the public consultation and the documents that I received prior to attending the meeting. They have been helpful to me.

Notwithstanding that, I have a concern about the finished product, the Constitution that will be this country's once the negotiations with the United Kingdom have been completed. I am not quite sure what happens after the negotiations have taken place. However, our initial signal to the Government of the day will be at the referendum. Given that I don't know the content, the form, or anything, I am not certain at this point in time what I will be saying Aye or Nay to, other than I have the assurance from the Government that coming out of these various meetings the feedback will inform the Government and that will be condensed into whatever form the referendum will take. And I as an elector will have the opportunity to have my say. However, I am wondering whether we have put the cart before the horse.

For me, I would rather say Aye or Nay to the finished product. For me, that would give me the assurance that when I say Aye or Nay it is from an informed position about what the final Constitution will be.

Now, is it possible that there could be a referendum again following the negotiations? Or would it be better if the referendum were not held initially, but held after the completion of the negotiations?

By your own acknowledgement, Mr. Leader, you have said that while you have a pretty good idea of the UK's position in many things, you are going to try to push the envelope a little further to see just how much the UK would agree. But to me, we are not there; we will not be

there, and we will have no say in the negotiations and the finished product. So why am I being asked to vote in a referendum before the negotiations take place?

That's my question.

Hon. Alden M. McLaughlin, Jr.: That's a very good question. Let me try to go through a little bit of our thinking and our advice on this matter.

The last time around, which was in 2002, basically what they outline is what happened except there was no referendum contemplated at any point. In other words, there was some public consultation. There were positions taken by the Government and the then Opposition. We went around the table; we advanced our respective positions to the UK. They accepted some from the UDP. They accepted some from us. They accepted some that we had agreed on. And then they rejected others. Then they produced a document and sent it back and said *this is your Draft Constitution, decide whether you want it or not.*

This time around, we were committed to a referendum from the time we were in the Opposition. When we took office and we started the process, we knew that part of our mandate required us to go to the people for referendum.

Now, we did not feel that we could properly go and sit down around the table with the United Kingdom without having a fairly good mandate from the people as to what it was we were negotiating for and what they said they want. Now, we are not a sovereign nation and we are not negotiating for a constitution post independence. So, it really is not within the gift of the Government to say this is what we are going to deliver to you. All that we can do is ask you to do the research and get the advice—which we have done—and say to you, *This is what we think our new Constitution should look like. What do you think? And here are the other options, here are the other positions that have been taken, or that might be taken.*

If you give us the mandate . . . and it has to be in necessarily broad terms because we have to have the ability to negotiate with the United Kingdom, but you accept the parameters. In other words you say, *You are not to go beyond here. Or, These are the limits. No, we don't want you to go negotiate for a Premier, we think he should be the Chief Minister.* As a sort of elementary example.

Those are the terms within which we are allowed to negotiate. The UK may very well say, *Sorry, we think that's too much; or Sorry we think it should be the other way.* But as long as we have a constitutional relationship with the UK, ultimately, it is for them to agree or not agree to what is being put forward.

Obviously, if we have a mandate from the people indicated by a referendum in favour of what we are negotiating for, we are in a stronger

position to negotiate because we can say this is what our people want. Otherwise, it's simply a matter of seeking to persuade them and to come back.

Now, I would not suggest that it is impossible that a referendum could be held. We certainly did not contemplate one and do not contemplate one following the negotiations with the UK; but I would have thought that that would really only be necessary if it what we agreed with the UK was materially different from what you authorized us to do because then we would really be in trouble. I don't think any government would really go out on that sort of limb. If they did they would be very shortsighted, shall I say.

But the advice that we have had, and like I said we have tried to get the best we could, was that the way to do it was to get the mandate from the people before we go to London rather than subsequently. Otherwise we might wind up negotiating with the UK things which the local people just didn't agree at all. So the process would be fundamentally flawed from the start.

I hope that helps.

Hon. D. Kurt Tibbetts: And Andrea, just to add to what Minister McLaughlin has explained, the last time the plan was when we got to the point of negotiations with the UK Government and we agreed as far as we could agree, and they sent the Draft Constitution down, it was intended that everybody would have a look at that and if there were any really, really, really sticking points in that document there was room for us to go back to them to talk to them about it. I just wanted you to know that. And I suspect we will have that same opportunity if the need arises again.

While I hear all that you have said, and I listened very carefully, the difficulty is when we start to negotiate with them we are much better off if there is some clear empirical evidence that we are expressing the wishes and desires of the people of the country.

The second time around when you speak to a second referendum, as Minister McLaughlin said, that is something that we could talk about; but the fact of the matter is that when you've gone that far with Britain, if we get to the point where we go through the entire process, we do all of the negotiations the best way and in good faith, and we end up with a document that is the best that can be had, given the considerations on their part, plus the considerations on our part, then if a referendum was done and the people were to reject that, we are right back where we started. I am not so sure that that could be the best result that we would seek.

Don't forget now . . . no, no, let me finish.

[inaudible]

Hon. D. Kurt Tibbetts: Yes, I understand, but let me finish.

Don't forget now, I mean some practical things . . . and I hear all you are saying. But some practical things have to come into play with your considerations that you have expressed.

As Minister McLaughlin said, no government is going to purposely because of their own whims, fancies, or desires, go down a road with something that is very unpopular with the people of the country because that government, simply by way of the existing Constitution that we have, will be short lived.

So, while you could have this go wrong and the next thing go wrong and a perfect world may not exist, but Utopia is something that you read about rather than live, the fact of the matter is that once we accept that we have to negotiate with Great Britain, and I am sure that you like most others are aware that their biggest stake in this whole affair is that they have no problem with self-determination of their territories to appoint; they simply need to have the mechanisms in place that they can ensure they have certain control over first and foremost contingent liabilities. They are very, very jealous of the separation of powers, which we all respect; and they speak to good governance, human rights and other issues as we go down the line in order of importance.

But the fact of the matter is (and I said this at another meeting), I truly believe at the end of the day that there are going to be very few issues where we are divided. The vast majority of the issues . . . when the young man was speaking awhile ago and he was speaking of difference in the size of the documents. The fact of the matter is that if we sat down for two hours and made comparisons to what we have now and what we are seeking and what London would agree to, I am totally convinced that you could grab on with one hand the issues that we are going to be back and forth negotiating about because the vast majority of them are things that we are just going to be able to take off and agree on, not only by our own experiences, but by the experiences of the other Territories who now have their own new constitutions.

So, let us not be fearful of whether or not we are going to get back something that is totally alien to what our expectations were. I am absolutely certain that will not happen.

I hear what you are saying from a point of view of theory; but from a practical standpoint we simply have to go to them in good faith. And rest assured now, you know, any negotiating team which will comprise both Government and Opposition . . . you have your own checks and balances right there. Somebody is going to watchdog somebody else, or vice versa, when you are negotiating!

So, if there is anything that is far too unacceptable to the point where we know the people will not want that, then we back off from that moment. So, I am just saying to you if you look practically at how the process will work, the risk is not high of the country ending up with something that we don't want. I am just saying that.

It would be very nice if you could textbook-style craft the methodology that would give every assurance in the world, it's just that once you mention the word "negotiations" you can't have a Utopia. That's all I'm saying.

But your thought is well expressed. It's just that it's not quite practical to be able to do it as you would think to give all the safety nets you are looking. And I understand what you are saying. I hope that helps in addition to what Minister McLaughlin said.

You can ask another one if you wish; or you can continue on.

Hon. V. Arden McLean (Minister of Communications, Work & Infrastructure): If I may, Miss Andrea, I think many of us have forgotten, or it may have slipped our minds it's been so long, in 2002 the infamous checklist that the Opposition insisted that we have, which was what England had sent along with the requirement to start the modernization process. And a former Minister is here, Gilbert McLean . . . and I am sure where maybe my two colleagues here it may have slipped them, but one of the I think it was 15 things that was required of us before going to negotiate the Constitution. And one of the first things on there (must be number 2 or number 3) was that we had to prove that the majority of the people, the citizens of this country, had approved the changes that we were going to negotiate.

I believe that through the process of the referendum prior to going there will give us that position, that mandate, that England so required in the constitutional checklist.

Ms. Andrea Bryan: Thank you sir. I know that time is passing, and I don't want to prolong this, simply to say that I have no difficulty with the proposed referendum in May. And I am somewhat reassured by the responses to my question. As to the outcome of the negotiation with the United Kingdom and

[inaudible]

Ms. Andrea Bryan: I'd be happy to go. Sign me up right now!

[laughter]

Ms. Andrea Bryan: But I am looking forward to the opportunity before our new constitution is adopted, finalized, whatever we call it, to see it, ruminate on it and give the Government feedback before it becomes final. That's the assurance I would like to have.

[applause]

Hon. D. Kurt Tibbetts: Andrea, as I said before, that was the plan last time. We have no . . . but let me finish.

[inaudible]

Hon. D. Kurt Tibbetts: Let me finish.

We have no intention of changing that.

In fact, there will be debate in the Legislative Assembly—

[inaudible]

Hon. D. Kurt Tibbetts: Yeah. Yeah, yeah. There will be debate in the Legislative Assembly for the final document to be accepted and for it to be enacted into law I mean as a constitution with a date of enactment and all like that. So it's not something they are just going to send it, end of story.

Forgive me. I didn't know that's where you were going. You should have come right out and asked!

Thank you very much.

[laughter]

THE PROCESS

Hon. Alden M. McLaughlin, Jr.: Let me take this opportunity to talk a little bit about the process because that thought is in my mind. We haven't explained that this evening, although we did at the other two meetings.

This process which is unfolding now, this is the public consultation stage. When this is through, we will have a debate in the Legislative Assembly in advance of us producing a document ourselves which will form the basis for the referendum questions. So that when you go to vote at the referendum you will have a document which hopefully presents the view of the majority of the people of the country because you have ventilated all of the issues, we would have taken on board what the Opposition says, what the general public says; we would have had a debate in the Legislative Assembly, and coming out of all that would be the document on which you would vote whether or not the Government is entitled . . . not the Government, the team is entitled to negotiate with the UK in these broad terms.

So in our plan there is to be no shortage of debate and discussion and public input because, as I said, the greatest comfort the public can take in this whole exercise is that ultimately the Government knows that if we get it wrong the referendum is going to be voted . . . well, the vote is going to be no. Then we will have no mandate to go and negotiate and

that will be the end of the process at least until it is restarted probably following the next elections. It certainly would not be before that.

So we understand how important it is that we get, as I said before, the temperature of the water right, and we understand as best we can what the public sentiment is in relation to these matters.

A Member of the public [Question #4]: Thank you.

Mr. McLaughlin, based on your response to Andrea with regard to the people giving you the parameters, what I understand the vote will be up or down a yes or no vote at the end. What if people like 90% of what you have done and maybe don't like 10%? How is it going to work?

Hon. Alden M. McLaughlin, Jr.: Well, we would fail then, wouldn't we? I mean that quite seriously.

Again, we have spent a lot of time thinking about this and being advised on it. The gentlemen said there were 79 pages, I think he is right. If we were to take each and every issue and not just the ones we are going through this evening (because we are going through what I call the big issues) and try to write them down on a piece of paper for them to form the referendum questions, we'd wind up with a whole lot of questions. Then you wind up having to make a judgment yourself, that is, the Government, trying to say, *Well, is this an important enough issue to ask them to vote on? Or do we think there is already consensus on this?* So you get into this sort of judgment on the part of the Government about what it is that the people regard as important or not important.

Once you start doing that sort of analysis you realise that it's an impossible exercise. And the advice that we have had and that we have looked at the way referendum questions have been framed in a number of other places, New Zealand, Australia, the United Kingdom, and even some of the US ones, and we have concluded and we have been advised that essentially maybe you could go to two questions if it came out, for instance, something about the Bill of Rights or something, if we wanted to deal with that separately. Perhaps you could do it like that.

But generally it has to be a, *Yes, you guys can go ahead on these broad terms, or you can't* Otherwise, it becomes too complicated, you require too much of the electorate, you require too much of the drafters to try to determine what should go into the questions and whatnot.

We understand that. I want you to know we are painfully aware of the risks inherent in us not getting this right in terms of what the majority of the electorate feels it wants. But we believe that it is an important enough subject that the public should have the ability to participate and to weigh in.

It's the first time this has ever been done in this country. So, understandably everybody is a bit concerned and nervous. We are too. But we believe it is important to democracy that we do go through this exercise. And there's always a first time.

Hon. D. Kurt Tibbetts: Just before Christian continues, Mark, if you don't mind let him continue for a little while and then we will ask some more questions. We need to get through otherwise wives are going to be calling and babies are going to wake up and start crying.

I didn't mean that for you, sorry!

Just to . . . see, you made me forget what I was going to say!

Oh. That's right. Edmund, sorry, just putting it in perspective, going through the exercise, going through the debate in the Legislative Assembly, producing a document for public dissemination again so that the public will understand, after all of the exercise, okay, with our best judgment, with all that we have heard from you, the public, this is what we understand that you want for us to go to negotiate and you look at the document knowing full well there is going to be a referendum, knowing full well that in your life that nothing is perfect, including the pair of shoes you got on, and you go through that document. And by and large it reflects just about everything you would wish to see in the Constitution, but out of all of the items you see two that you are not 100% sure of. What would you vote?

Do you take my point?

I am saying to you from a practical standpoint that is why I mentioned the word "Utopia". We need to appreciate throughout the entire exercise that this is just like life. Every one of us with the best of intentions will do it the best way we know how, but the fact of the matter is that everybody is different from the next person. If you look to the left where you wife is, as long as she has lived with you she has some different ways.

I am saying that we just need to look at it from that perspective. By and large most things you will get that are common in the thread throughout everyone, but you will find some things . . . someone will like it this way, somebody will like it that way, somebody will like it the other way and you can't get it all the ways. I am only saying that that is how we need to look at it.

But by and large the whole exercise is, at the end of the day when you look, that you are going to vote on that referendum from an informed position and you look at what we say that we are going to negotiate based on all of the discussions and the knowledge base that you have either had before or built on, you will simply make the judgment call. If an exam, did it get an A? Did it get a B? Did it get a C? Did it get a D? Where is failing? And that's how it is going to be.

You cannot produce a document, even a finished product, that everyone is going to say that everything in it is what I agree with. And that's what we have to appreciate. I'm only trying to make just that point. Okay?

EXECUTIVE RESPONSIBILITIES

Mr. Christian Suckoo: Okay, moving on. Executive Responsibilities and assignment of constitutional responsibilities to the Premier. We are looking at the role of Cabinet.

The role of Cabinet is to direct the implementation of Government policy, except those areas which are the special responsibilities of the Governor. In other words, the role of Cabinet is to implement the executive responsibilities of the Government which are housed in the various ministries, departments, statutory boards, et cetera.

The special responsibilities of the Governor are defence, external affairs, internal security, the police, appointment of civil servants, and appointment of the judiciary.

We also have a note here, the Civil Service has responsibility for implementing the policy which is being directed by Cabinet. And, basically, what the PPM Government is saying is that although the Civil Service must remain independent, we have a responsibility to serve the government of the day loyally in implementing their plans. Not in a political manner, but in a way that shows we are committed to joining with them in providing services to the public.

Implementing policies, yes sir.

Currently, the Governor presides over Cabinet and sets the agenda. One of the ways that is being proposed for creating greater autonomy for local government is that the Chief Minister, or the Premier, would actually preside over the Cabinet and would have the responsibility of setting the agenda. Currently Ministers can place items for the agenda, can hand them to the Governor, ask the Governor to put them on the agenda, but the Governor does not have to do it, and has the right to say, *No this item is not going to go on the agenda*. So, again, it comes back to a question of democracy. If our elected officials believe that there is a question or an issue that needs to be discussed, they should be able to have it placed on the agenda to have it properly discussed and play itself out. If they are not given the opportunity to do that, then it flies in the face of democratically elected officials.

The proposal that is being made is that the Governor would continue to sit in the Cabinet, although he would sit in a non-voting and advisory capacity.

[inaudible comments]

Mr. Christian Suckoo: The question that was placed was, Would the Deputy Governor sit in Cabinet as well? The answer is no.

[pause]

Hon. Alden M. McLaughlin, Jr.: Since this seems to be a pregnant pause here, just to explain to you that essentially the situation now is that the UK determines what your Ministers can even talk about, let alone decide. In practice, it doesn't cause that big an issue—most of the time. But there have been instances in the past (not necessarily with this Governor, I am not being critical of him) where papers never get to Cabinet. We never get to discuss it because the Governor will not let it be placed on the agenda.

Not only is that undemocratic, but it also means that essentially control about what your Ministers can put forward as policy is determined by the UK representative. And in modern day Cayman that really is I think quite unacceptable. The only reason why it hasn't caused a major storm is because I think the UK and, by extension their representatives, understand that if they were truly unreasonable in that regard, that it would cause a major problem.

But it means, in terms of how it works in practice, it actually means that if your paper is laid, because the Governor determines when papers have to be submitted by, the Governor can say, and often says, *No, I am not going to have it considered by Cabinet because I think it's too late.* And on the other hand, if it is a paper that he thinks needs to be before Cabinet because it's put forward by one of the Official Members, often, and this is the reality of today in Cabinet, we get to Cabinet is when we see the paper, because he thinks it's sufficiently important to be there.

So, what this proposal is essentially saying is that the democratically elected government should be the ones that determine what are the matters that are discussed in Cabinet and decided upon in Cabinet, not Her Majesty's representative.

That might sound like a very radical move, but in the day to day operations of the business of Government it is very, very important.

Mr. Christian Suckoo: The composition of the Cabinet would then be seven Ministers including the Premier, the Governor and it would remove the Official Members from the Legislative Assembly and the Cabinet, and the Attorney General would advise the Cabinet. This, again, I will give my personal . . . well, I will reserve my personal opinion on this one, but I will state my concern as a civil servant. The Chief Secretary currently is the number one ranking civil servant. As a civil servant I would like to have as much protection as possible through having a Chief Secretary remain as a voting member. That is one of the concerns that I have. I would ask the Government to speak on in terms of allaying my fears as representative of the Civil Service.

Hon. Alden M. McLaughlin, Jr.: Well, the fundamental problem with the Deputy Governor sitting in Cabinet is that he is unelected. Therefore,

he has no mandate for saying anything that he says and really should have no role in deciding what the policy of the Government is.

Insofar as he's there to protect the Civil Service, I don't see that as an issue. The Chief Secretary or Deputy Governor only holds that responsibility because it's been delegated to him by the Governor. In our proposal the Governor would still sit in Cabinet although he would be there in an advisory role.

The elected government would have no responsibility for the Civil Service, would be able to make (as is the case now) no decisions in relation to the Civil Service, have no role in appointment, remuneration, discipline or anything to do with the Civil Service. That is a matter completely outside our responsibility. As far as the Civil Service is concerned our role would be limited to voting funds which is the case now.

So, I really don't see that as a major issue. But, obviously, everybody has their own view and I can understand the natural concerns of civil servants about that. But independence of the Civil Service is crucial and is something that we recognize in our document. We wouldn't suggest anything otherwise.

THE GOVERNOR'S RESPONSIBILITIES

Mr. Christian Suckoo: Thank you sir.

As it states here, and as we've spoken about before, the Chief Minister would preside and chair Cabinet in place of the Governor. The Chief Minister would set the agenda. And, as we've stated before, the Governor's role would be in an advisory and non-voting capacity.

The proposal is that the Governor would continue to maintain responsibility over certain areas, which include his special responsibilities. And as we've touched on the Civil Service is one of those areas that the Government is asking not to be involved in. Another area is that of defence for obvious reasons. We don't have a defence force so we are dependent on the UK for defence against external threat.

However, the proposal is that the Governor should be able to delegate the special responsibility for the other areas. And for reference I will repeat them for you: external affairs, internal security and the police.

INTERNAL SECURITY AND THE POLICE

Mr. Christian Suckoo: The 2007 UK National Audit Office Report that I spoke about earlier specifically spoke about the need to create greater accountability and liaison between local government and the UK in matters of internal security and the police. The UK Audit Office report, the Auditor General felt that the only way to maintain high security and ensure that the police force is working with full efficiency is that if local

government is involved in policy setting and in matters relating to police and security.

This would not extend to operational issues of the police force. It would only be at the policy level. The operations of the police force would still fall under the Governor.

The same would apply to personnel matters, which would also remain under the Governor.

There is a proposal being made by the PPM Government that we create a National Security Council to formulate policy. I can give you the makeup of the Council. The proposal is that the Council would consist of the Governor, the Leader of the Government, the Attorney General, the Commissioner of Police and two other Ministers appointed by the Governor. Those two other members would be appointed on the advice of the Leader of the Government or the Premier. I do have some statistics on this one.

Currently in other Overseas Territories (just for reference) Anguilla does not have a national security council. Bermuda does not have one; however, there is a Governor's council that deals with all of the Governor's special responsibilities.

St. Helena does not have one. And we don't have one. However, the Virgin Islands has a National Security Council. So does Turks & Caicos. Those are the two that have it and those are the two that are seen to be most progressive in this area.

[inaudible]

Mr. Christian Suckoo: I will repeat.

Your statement is that the Leader of the Opposition . . .

A Member of the public [Question #5]: [inaudible] National Security Council. Since the roles and responsibilities of the Leader of the Opposition and the Deputy Leader of the Opposition isn't clarified yet, maybe that would be an intricate role for the Leader of the Opposition or his/her deputy to be a part of the National Security Council.

THE GOVERNOR'S EXERCISE OF POWERS

Mr. Christian Suckoo: Thank you.

Yes sir.

The Governor's exercise of powers. The proposal is being made that the Governor should communicate his reasons for actions to the Premier. Currently the Governor does not have to communicate with the Premier reasons for his actions. He can take actions on his own and he does not have to be held accountable for it. He doesn't have to explain them to anyone. So the proposal being made is that the Governor be made to

state reasons for the actions that he takes, especially when they go against advice being given by the Cabinet.

And in addition to this proposal, the Governor's actions should be subject to judicial review, i.e., scrutiny by the Courts thereby highlighting the principle that no person is above the law and that we should all be held accountable for breaking laws of the country.

Just to expand on this point, the Governor should not be able to override democratically elected leaders or retain total control over domestic policy. As long as the Governor is able to completely override democratically elected leaders, then our ability to control the country through electing persons to office is hindered. And the proposal being made is that the Governor should recognize that . . . or the Constitution (sorry) should recognize that the will of the people must be paramount in local government. In most cases the Governor should only act after consulting with government bodies, i.e., receiving their recommendations and their approval.

CHECKS AND BALANCES ON EXECUTIVE POWER

Mr. Christian Suckoo: In order to increase the checks and balances in government, there are several recommendations being made. They are on page 6 of the *Summary of Proposals* document. Among these checks and balances is that the person who is elected as head of the government should only be able to sit as head of government for two terms. As you see here, this will mitigate against the creation of the autocratic and dynastic type of leader, which is deeply feared. Autocratic being tyrannical type leader; and dynastic meaning that that person who would sit in office for more than the elected people would like to have that person in office.

The other checks and balances include limits on government spending, provisions for government debt, the Public Management and Finance Law actually stipulates the amount of debt that the government can carry. And the PPM Government is proposing that that level is actually enshrined in the Constitution to prevent governments from carrying too much debt.

And there must be a clear rule that Ministers and public officials must exercise their powers in the interest of the country and not for their private interests or benefits. As well under checks and balances we also have people-initiated referendums which we will get to shortly.

In the past, the views on term limits were that . . . according to the 2004 *Hansard* Report the UDP Government felt that no term limits were necessary for Chief Minister and the reason that position was put forward was that the electorate should have the right to choose the number of times that any individual may serve as Chief Minister, which is the

situation in Bermuda. However, as I have said earlier, the UDP will clarify their current position at the appropriate time.

As alluded to, again, the limits on public debt, there should be constitutional backing for existing rules in the Public Management and Finance Law, limits on borrowing and maintaining a budget surplus.

As Government goes through its reform process, we are revamping laws and creating laws and one of the new laws that have been created is the Freedom of Information Law. And the PPM Government is proposing that there be constitutional backing for specific provisions in the Freedom of Information Law. And there should also be implementation of oversight bodies including the two that you see on the screen, the Human Rights Commission to monitor human rights breaches by the government against the individual, and the Standards of Public Life Commission to monitor corruption and conflicts of interest of Ministers and senior public officials.

Again, these are issues that we are asked to weigh in on. Would you like to see, I think pretty much we are all there for the Human Rights Commission? Would you like to see a Standard in Public Life Commission? What do you think the makeup of this commission should be? How far do you think they should be able to go in exercising their authority? And what authority should they have?

These are questions that we all must think about and give our opinions on.

[inaudible]

Mr. Christian Suckoo: They can be.

Yes, that's correct. You can create laws, separate laws to govern each commission.

[inaudible]

Hon. Alden M. McLaughlin, Jr.: Yes, the legislation itself would not be wrapped up in the Constitution. But the existence of these commissions would have Constitutional backing and, therefore, a strength and authority which otherwise they would not have. No new government that came in could just change them at will because the Constitution takes a whole lot of effort—as we are going through now!—to actually change. So that's the importance of giving it constitutional backing.

ATTORNEY GENERAL

Mr. Christian Suckoo: The Attorney General.

There was division as to the role of the Attorney General. The reason there is division is because the Attorney General carries with it the

supposed conflicts of interest and at the time there was some support that the AG be chosen by elected members of the LA. There was support that the AG be the chief legal advisor and should remain as an ex-officio member. And the recommendation of the Commissioners in 2003 was that the AG be an elected member, that some of the responsibilities should fall to the Solicitor General. So we would be basically going to elect our elected members and the AG would be one of those positions.

Currently, the Attorney General is the chief legal advisor to the Cabinet. Sorry, this is the proposal being made by the PPM, that the Attorney General be the chief legal advisor to the Cabinet. As we have seen in the Commission of Enquiry situation, we ended up in a situation where the elected government did not have in-house legal advice because the AG in his interpretation of his role thought that he should be giving advice to the Governor. So, when the Commission for Enquiry topic came up, the elected members were left without in-house legal advice. Now, is this something that should continue to happen? Or should we ensure that the elected government officials always have in-house legal advice?

The proposal from the PPM is that the AG be the chief legal advisor to the Cabinet, that he should not be a member of Cabinet or the LA, but should attend sessions as the legal advisor. And that the Governor should make the appointment on the advice of the Primer.

At this time I would also like to read a submission that was done by former Chief Justice Harre on this topic. This submission was actually done to the Foreign Affairs Committee in the UK House of Commons.

“The arrival of a formal political party system in the Cayman Islands has magnified a problem which has always existed in relation to an attorney general who is a civil servant and continues in office notwithstanding a change of government. He is a member of Cabinet and the Legislative Assembly and the principal legal adviser to Government. He is also sometimes used as adviser to the Governor. Under the new draft Constitution the power to make appointments to the office of attorney general is vested in the Governor acting after consultation with the Chief Minister. That same Chief Minister could be the Leader of the Opposition upon a change of government. In that event the new administration would inherit as its principal legal adviser an individual who a) was appointed after consultation with its principal opponent; b) advised and was party to previous Cabinet decisions; and c) may as a member of the of the Legislative Assembly, be called upon to explain his involvement in measures to overthrow those decisions. Surely that situation should be professionally intolerable to any legal advisor as well as to the other parties involved. Conflicts of interest abound. An attorney general should vacate office on a change of government, I can see no alternative.”

Mr. Christian Suckoo: Now this is the opinion of former Chief Justice Harre and, again, we are looking for your opinion in a matter. Chief Justice Harre is one opinion, and every single person in this room and in this country has their own opinion and your opinion must be stated on these issues.

Going back to the PPM proposal, there is a proposal . . . I'm sorry. Excuse me.

We'll take that question.

A Member of the public [Question #6]: Mr. Suckoo, if you can go back to the last window that you had open there . . . I have several, or numerous questions that I wanted to ask, but obviously the microphone never came to me until now. I will probably save those till later because I will keep everyone here until 12.00 in the morning. But there is an ambiguous statement that you all, that I understand.

You said that the AG is going to be one of those persons that we as the electorate are going to vote on. However, in the *Summary of Proposals* and the last point there "the Governor will make the appointment on the advice of the Premier."

To me that is very vague and very ambiguous because if he is going to be an elected member, why should that even be in the proposals?

Furthermore, given the—

Mr. Christian Suckoo: Sorry. Let me just interrupt you.

The recommendation in the document is not that the AG be an elected member. This was one of the recommendations put forward in the Constitutional Commissioners Report in 2003. The PPM Government is not recommending that the AG be elected, but that he be removed from Cabinet and the LA as in voting capacity, but be present to give legal advice.

A Member of the public [Question #7]: All right.

Well, can I ask some other questions on the premier? Because I wanted to ask those before.

In my opinion, this is once again as a gentleman said earlier, an independent prospective. This is no party politics because I really am not part of anything at the moment. But given the broad parameters that the premier is going to have, should that post not be a post that is going to be elected island wide? Because, as far as I am concerned, it is a post that is really going to relegate the Governor to nothing. And the concern that I have is that you all are talking that the Governor right now uses his clout in his manner to create the agenda, to omit things from the agenda, which is kind of leaving the Government impotent. That is my understanding from Mr. McLaughlin.

What are the checks and balances to say, given the broad scope that this premier is going to have that he is not going to be an egomaniac

and do the same kind of bidding as the Governor? Those are the things that concern me because this post and this position in its configuration and its presentation to me is bothersome, it's disconcerting, and I think that it needs to be really in essence clarified some more and as Miss Bryan said, for one, as a person who is going to vote on this coming in May, I am not sure what we are discussing or voting on at the moment.

Are we going to have after these initial consultations another meeting that is going to have a final proposal of what we are going to be seeing on the day in May?

Frankly, to me this is a futile exercise.

Hon. Alden M. McLaughlin, Jr.: Let me deal with the last point first if I could.

I will go back over what I went over with Miss Bryan about the process. This is the public consultation stage. What you are doing is exactly what we had hoped you would do—raise questions, concerns, so that hopefully we can address them and everyone can be comfortable with the process.

When this exercise is through, when we have had these discussions publically and the more private ones, when the matter has been debated in the Legislative Assembly, and your elected representatives say what they think about the proposals and what they think the Constitution should contain itself, we will produce another document. And that will be made generally available to the public as well.

Assuming that that document we believe meets with the general approval, that will form the basis for the referendum questions. There will be no shortage of opportunities for debate and discussion on these various issues.

As to your point about the premier, it is really a question of democracy and how much democracy we feel this country should have, whether we feel the United Kingdom should continue to have really significant control over domestic affairs, or whether we believe that we are grown up enough as a people to take control of our destiny.

As to whether or not the premier should be voted on nationally, that has a certain superficial attraction to it. It's sort of presidential style election process. But with the development of the party system as we have now, we pretty much know who the premier or chief minister will be in advance of the outcome of the elections, because if we saw it the last time around. You knew that if you voted PPM and they were elected, that Kurt Tibbetts was going to be the leader. If you voted UDP and they were elected, McKeeva Bush would have been the leader. That's the way the system works throughout the Westminster, or throughout all the countries that have a Westminster style of government.

As far as checks and balances on the power of the premier, understand that the premier only holds that office at the will of his elected col-

leagues, because if the premier loses the confidence of his elected colleagues he won't be there very long.

So, those are the checks and balances that are built into the Westminster system of government. What we have said, and what we have accepted, is that although there have been some representations in the past for a move away from the Westminster system of government to a more sort of republic style system modeled on the US, we don't believe there is any real support for that. And we do believe that the system of government that we have—which has been tried and tested for hundreds of years in much bigger places than ours, and is prevalent throughout the region, all of the former British Colonies—is one that we can build upon, improve upon, make adjustments to, and develop a system that suits the Cayman Islands best. And that's what these efforts are all about. And your interventions and input will hopefully help shape the document that we eventually agree upon.

Mr. Christian Suckoo: Can we have Mr. Rosworth McLaughlin's question and then Mr. Mark Scotland?

Mr. Rosworth McLaughlin [Question #8]: I want to ask a question on the Official Members.

You mentioned awhile ago that the position of the PPM Government is to remove the three Official Members from Cabinet. You also mentioned, and I agree, that they do not have a mandate from the people. But I was wondering if we are talking about going with a Minister of Finance, in my mind it is not impossible for us to conclude an election process and there is no one elected with any sort of financial or accounting background.

I am just wondering if, for that purpose, it might not be wise to keep the Official Member in the capacity of the financial secretary in an advisory capacity. Because I am sure that the Minister of Finance job or responsibility would involve providing financial advice to the Cabinet on matters that are being contemplated by the Government in Cabinet.

So, I am just thinking that in a situation where we may not have gotten someone elected with any sort of financial or accounting background then we would be covering our grounds by merely having the advice—not voting, but merely the advice—of the Financial Secretary in Cabinet.

Hon. Alden M. McLaughlin, Jr.: Thank you Rosworth.

Let me see where I can start with this.

The UK indicated to us, and I think they did to all the Overseas Territories way back in 2002, maybe a bit earlier than that actually, that they were anxious for there to be a Minister of Finance in all of the Overseas Territories because the situation with the Financial Secretary being an appointed person, being held responsible for something (shall I say)

as politically hot-potato as the budget was in their view really untenable. So this is one, not only the case of us pushing an open door, but one that they are actually insisting upon; that is, the creation of Minister of Finance.

It is, as you say, quite possible that we could wind up at the end of an election with no one who has an accounting degree. That happens all across the region. In many instances, in fact in most instances, the Minister of Finance is also the Prime Minister. And very few Prime Ministers in the independent countries are happy to give responsibility for that portfolio to anyone else but themselves. I am not suggesting that should be the case.

But our proposal is not to do away with the office of Financial Secretary or the Chief Secretary for that matter. Those two posts . . . well, the Chief Secretary would become the Deputy Governor. But in the case of the Financial Secretary, he/she would continue in that role as the head, essentially the Permanent Secretary of that particular portfolio, reporting to the Minister of Finance.

As to whether or not the Minister of Finance actually needs an accounting degree or something like that, all I can say to you is that I don't know how much experience I have, I certainly know I have no degrees in education. But I have responsibility for that and a number of other subjects. So, in that regard, the Minister of Finance would really be little different from any of the other Ministers who have portfolios based on life experience and passion and . . . I'm listening to my colleagues here, sorry.

You take your technical advice from people who have it. That's why you have a Financial Secretary who has those qualifications, degrees and experience. And it is a matter for you to determine what the policy is, but based on the advice you receive. It is the same in every other instance. It becomes a question of judgment for the elected government.

I don't know if that satisfies you, but that is our thinking and that's the advice that we have had.

Mr. Christian Suckoo: Mr. Mark Scotland, please.

Just raise your hand so she can see you.

Mr. Mark Scotland: I was beginning to think I had to wait until after the referendum to ask my question!

[laughter]

Mr. Mark Scotland [Question # 9]: My comment is generally about the process. I raised my hand when we were talking about the whole process.

Minister McLaughlin said awhile ago that there will be no shortage of opportunity to be involved in the process. I think shortage is the key word. I want to concur with Mr. Watler there in that I do think the proc-

ess is too condensed for what is expected of the electors given that period.

Hon. Alden M. McLaughlin, Jr.: Mark, if I can just ask this, and Sean as well, what do you think would be a satisfactory period then?

Mr. Mark Scotland: Let me just . . . I am not saying that I can say what is a satisfactory period. I am just saying that I believe that we as electors are being asked over the next three months to absorb what is in the position document or *Summary of Proposals*, seek advice as has already been sought by you all who put forward this position, formulate our positions on it, deliver that to you from which you then prepare what I understand will be a draft document for us to digest again, and then vote on a position in May. That's only three months from now. February, March April. I didn't know [?] . . . well, almost four months. Because it's the 4th of February now.

But, anyway, that is still a very condensed period to do what I just explained which I think is a huge exercise.

Hon. Alden M. McLaughlin, Jr.: Well, that's why I am asking you how much time do you think you need? Because that will help guide our decision making.

As I said, it's been seven years since we started this process. If we leave it as an open-ended period I promise you that five years from now we will still—

Mr. Mark Scotland: I agree with that entirely. But the other point I would make is that you all rightfully said that this was one of the mandates given you when you were elected in 2005. This is 2008 and we are just starting the process now.

Hon. Alden M. McLaughlin, Jr.: Let me thank you for that opportunity to say this: We got elected six, seven months after Ivan. I promise you, if this new elected government, with the shape that Cayman and, in particular, Bodden Town, was in after the hurricane of 2004, if we had come to the people six months after we were elected and said we wanted to talk about the Constitution, I don't really believe that everybody would be engaged in the process.

So, we took a policy decision that the most important thing was to get the country back on track—rebuild homes and lives and businesses, and get the affairs of government, which were in a mess, in some semblance of order. We have spent one year, a little over a year ourselves, working with our constitutional advisor developing this *Summary of Proposals*, and doing the necessary research. So that is why the process has started as late as it has.

Now, we released the documents on, I think it was the 11th of January . . . 12th of January. And, as I said, if it is felt by the majority of the people that a referendum in May is too early, the Government is prepared to reconsider that. But we need some indication—not necessarily tonight—as to when, how much more time we would need so that everybody can be satisfied that they had every opportunity for education, input to inform themselves, so that we can get to the referendum process.

But what the Government is not prepared to do is to simply say it's an open-ended process. If it happens a year from now, okay; if it's two years from now . . . because that's the attitude that's been adopted in the past and it's been seven years. We have to reach finality at some point.

Can you imagine . . . and I am going to say this now. It will be a travesty; it will be an absolute travesty if the electorate of this country is deprived of the opportunity to participate in decision-making about what their constitution should look like because there never is a referendum.

And I can tell you this based on my experience in the politics of this Island. We had a situation where the last Government tried to ram through a proposal without any public input or consultation. This Government has come with a mandate fully committed to consultation and public participation to be judged by a referendum. If we never get to the referendum process because the nay-sayers successfully derail this process, in my lifetime we will never, ever have this opportunity again. The public will never have an opportunity to vote by referendum because no Government—this one, if we are re-elected, the UDP if they are elected, or some other one—is ever going to run the risk of that happening again.

So, I urge everyone not to say that it necessarily has to be me, but let's not derail the referendum process. If you decide that what is put forward you don't want and vote no, that's a different matter. That's a democratic result. So be it. But to deprive the country of the opportunity to actually participate in the process by derailing the plans for a referendum which is part of the campaign that is underway by the UDP would be a travesty.

We should not deny ourselves the opportunity to decide whether this is what we want or this is what we don't want. That's all I am saying. If we need another month or two months, three months, whatever it is, then let's talk about that. But let's not approach the thing on the basis that we vote no, or we derail the whole process which has been set up. This country has never had a referendum before. Let's not throw away the opportunity to have it.

Mr. Mark Scotland: I hope it wasn't inferred by anything that I said that I was hoping to derail the process.

Hon. Alden M. McLaughlin, Jr.: No, no, no, no. I wasn't referring to you specifically; but what I am saying to you is let's not go down the road

of saying we shouldn't have a referendum. If we need more time, let's talk about that. And not necessarily tonight, but let's not derail the process.

ATTORNEY GENERAL (*continuing*)

Mr. Christian Suckoo: Okay, folks, it's twenty past ten if my eyes serve me right. I think what I will ask you to do is hold your questions now until the end so that we can get through the rest of the presentation and have enough time for everyone to get their questions in at the end.

Attorney General: Part of the proposal by the PPM is that there be created a Judicial and Legal Services Commission which would act independently and have responsibility for assessing the appointee to the Attorney General post in terms of his qualifications, his independence and his suitability to the job. This commission would also have other duties to do with the judiciary.

Currently, the Attorney General presides over criminal prosecutions in the country. The proposal is that this role would be taken up by a new position, the Director of Public Prosecutions.

[inaudible comment]

Mr. Christian Suckoo: The Director of Public Prosecutions?

That role would basically replace the Solicitor General's role.

ELIGIBILITY TO VOTE

Mr. Christian Suckoo: Eligibility to vote.

The Constitutional Commissioners held a view that was rejected as being too narrow of a proposal and the PPM Government has come with a proposal that is the same as the 2003 Draft Constitution, thereby adopting what was put forward in that draft.

I will ask Mr. McLaughlin to just expand on eligibility to vote.

Hon. Alden M. McLaughlin, Jr.: Whenever we reach this point in the evening's proceedings, whoever is sitting in that chair always says I must make this part of the presentation—because it's controversial, I guess!

We have had quite a great deal of debate about these proposals, that is, the eligibility to stand for elections and the eligibility to vote in elections in these Islands. I want to give you a little bit of background before I actually go through what the current situation is in the Constitution and what we proposed.

When we were doing the rounds back in 2002, what we thought the majority of people felt was that we needed to expand, or we needed to liberalize (is probably a better word), be less restrictive in the provisions qualifying people to first vote in elections and, secondly, to stand for elec-

tions. In a country where more than 50% of the people were not born here, it was felt that the provisions as they currently stand in the Constitution were too restricted. So, we developed a new set of qualifications which are contained in our position paper which was circulated in 2002 and which formed the basis of our representations in London.

The UDP, who were around the table at the same time, did not support those proposals. They wanted the position to remain as it is, essentially as it is in the present Constitution, with a few minor adjustments. And the UK actually accepted the proposals that we made and they are contained in the Draft document which came back from London in January/February 2003, the Draft Constitution which you see.

Presently, to be able to vote in elections in Cayman you have to have Caymanian Status, be 18 years old, be a British Dependent Territory Citizen, or a British Overseas Territory Citizen it's now called, by virtue of a connection with Cayman. Be domiciled and resident in Cayman at the date you are registered as a voter and have either one of your parents or grandparents born in Cayman, and that you have been living in Cayman for 2 out of the 3 years immediately prior to registration, or have been resident in the Cayman Islands for 7 out of the 9 years immediately prior to the date you registered. And in the 3 years before being registered, you haven't been out of the country for more than 300 days at one time.

Rather complicated, convoluted formula.

So, we tried to simplify that and to make it less restrictive. I am going to read what it is that we propose: That the individual has Caymanian Status, be 18 years old, be a British Overseas Territory Citizen by virtue of a connection with Cayman, or is a British citizen by virtue of a connection with the Cayman Islands. (That came about because of the changes in the legislation which made all of us British citizens back in 2002/2003.) And if you are resident in Cayman at the date you registered as a voter and you have been resident in Cayman for two out of the four years immediately prior to the date you are registered.

In terms of eligibility to stand in elections—and this is the bit that has proven to be very controversial. I say that up front. In fact at virtually all of the meetings—at all of them, the two that we've had—there has been real debate about this. I can say to you the majority of people, the feedback that we are getting is that what we proposed back in 2002 and what we are proposing now is not acceptable to the majority of people, certainly that have spoken to us about it. So I say that right up front.

But the current situation is that a person can qualify to stand for public office if they have Caymanian Status, are 21 years old, domiciled and resident in Cayman at the date of nomination, and is what is called a "qualified citizen" and was either born in Cayman, do not possess and are not pursuing any claim to another citizenship, and has resided here for the 7 years prior to the date of being nominated and has not been absent from the country for more than 400 days during those 7 years; or, if

you were born outside the Cayman Islands, if you have at least one parent or grandparent who was born in Cayman and who possesses Caymanian Status; have no other citizenship except that connected with the country of your birth; and you resided here for 15 of the 20 years immediately prior to the date you are nominated and have not been absent from the country for more than 400 days during those 7 years immediately prior to the nomination date.

You thought the first one was convoluted? Try to figure out the second one!

So we tried to simplify those provisions and let me just say what the effect is of that as complicated as all that sounds. Basically what it boils down to is that to be able to stand for elections you have to be a second generation Caymanian because you have to have a parent or grandparent with a connection to the Islands. So, a first generation Caymanian won't work. After all of that legalese is cut through, that's basically what it means.

Our proposal, which as I said has met with considerable controversy and opposition, would permit a first generation Caymanian in certain circumstances to be able to stand for election. I will just read that so you understand what that says: We propose that a person who is standing for election should have Caymanian Status, be 21 (at least) years old be domiciled and resident in Cayman at the date they are nominated, and either one of their parents is Caymanian and they resided in the Cayman Islands for 5 out of the 7 years immediately prior to the date they were nominated, or, if they don't have Caymanian parents, but they have been a Caymanian for 25 years and have resided in the Cayman Islands for 20 out of the 25 years immediately prior to the date they were nominated, they would qualify.

So, let's bring that down to terms that I think most people will be able to appreciate. If a child was born in Cayman, but at the time he was born his parents did not have Caymanian Status (that's a fairly common occurrence), but they subsequently got Caymanian Status and then the child subsequently got Caymanian Status, 25 years after that child got Caymanian Status, he would then qualify under this proposal to stand for election. So, it was that kind of scenario that we had in mind, where the child is actually Caymanian born but not Caymanian because . . . I shouldn't say "Caymanian born"—is born in Cayman, but at the time of his birth he isn't Caymanian because his parents are not Caymanian, that we had in mind when we developed this proposal.

As I said it has met with great controversy and opposition from just about everybody this time around. People didn't raise an issue with it the last time around. I guess the circumstances, or people's minds were focusing on other things back in 2002. But certainly every time it's been raised it has met with controversy.

[inaudible comment]

Hon. Alden M. McLaughlin, Jr.: But it isn't limited to that, you see. That is the problem we recognise with our own proposal.

As I said, it was developed to deal with that scenario which I pointed out, but it could also apply to someone who was born somewhere else of parents who are not Caymanian.

But the person grows up here and subsequently gets Caymanian status. So 25 years after that point he/she would then qualify to run under this proposal.

A Member of the public (Mr. Myles) [Comment]: [inaudible]. . . so the person could become Caymanian at age 18 or above. Yeah, if he is granted status before. If the person is born in the Cayman Islands they can then say I am born and raised here. And with all the other requirements it will be 25 years and they can still be eligible if they are born here. If they are not born here then they have connectivity with elsewhere. I think that is the sticking point.

Hon. Alden M. McLaughlin, Jr.: So, if you come here . . . let's just explore this because this is . . . if you come here at age two weeks would that make a difference?

A Member of the public (Mr. Myles) : You would get naturalization of where you were born because a young person was born on a Cayman Airways plane and got status elsewhere.

Hon. Alden M. McLaughlin, Jr.: But the fact that you are born in Cayman of English parents would give you the right to claim British citizenship. So, what I am saying is the fact that you were born somewhere else doesn't really make a great deal of difference as to what nationality you can claim.

A Member of the public (Mr. Myles): Okay.

Hon. Alden M. McLaughlin, Jr.: I mean, it's a policy decision, really, for us as a country is whether or not we believe you need that historical connection to Cayman—

A Member of the public (Mr. Myles): I think so.

Hon. Alden M. McLaughlin, Jr.: —to be able to stand for election. That's the decision we have to make.

A Member of the public (Mr. Myles): I think to represent the people of this country you need to be of the people of this country. While the person might be born in the Cayman Islands of parents that are from elsewhere, they need to know here as home. They can even travel to England

once or twice for the year if their parents are English, but when they are tired of the [?] and cares of elsewhere they say “I need to come home.” And if here is home, then here is where they can represent.

Hon. V. Arden McLean: But right now you realize that that person who is born here of foreign parentage is not Caymanian. He/she still has to be registered in the homeland of those parents who are on work permits.

A Member of the public (Mr. Myles): Okay.

Hon. V. Arden McLean: So he is not Caymanian. So he cannot come back.

The only time he can claim to come back to Cayman after the scenario you went through is if his parents happen to get Caymanian status before he is 18 and he claims as a result of them getting it.

A Member of the public (Mr. Myles): Okay.

Hon. V. Arden McLean: Okay?

So, you have to think about that one because—

A Member of the public (Mr. Myles): Mm.

Hon. V. Arden McLean: —Minister McLaughlin talked about this two-week old child coming here with the parents—

A Member of the public (Mr. Myles): Yes.

Hon. V. Arden McLean: —who was born Jamaica, America, England, wherever—

A Member of the public (Mr. Myles): Right.

Hon. V. Arden McLean: He was registered there before coming here. He is not entitled to it. Same scenario. His parents are not entitled to it. So they have stayed here 8 years with him, they get the key employee, they get residency, so 10 years. Then they become—he’s still not—then they become Caymanian after another 5, so that’s 15 of being here—

A Member of the public (Mr. Myles): Right.

Hon. V. Arden McLean: —obviously they were of childbearing age before they got here, in their late 20s or whatever, 30s or whatever. He then, after they become Caymanian, claims from them, which is 15 years after they got here.

A Member of the public (Mr. Myles): Okay.

Hon. V. Arden McLean: Remember that.

Then he has to spend 25 years to be able to run.

A Member of the public (Mr. Myles): Okay.

Hon. V. Arden McLean: If he was born here, the same scenario plays out. If he was born here at year 8—

A Member of the public (Mr. Myles): Yes.

Hon. V. Arden McLean: Okay?

He then has to wait. He will be 5 years old when his parents get Cayman status. He will then be able to apply from that. He was born now, remember that, and you just talked about he is entitled to being here.

A Member of the public (Mr. Myles): Right.

Hon. V. Arden McLean: He then has 5 years to wait before he can be a Caymanian. Okay?

A Member of the public (Mr. Myles): Okay.

Hon. V. Arden McLean: At 5 they can apply for him. He then has to wait 25 years before he can run for office in Cayman. So he is, what, at that time?

A Member of the public (Mr. Myles): Thirty.

Hon. V. Arden McLean: About 30, yes.

[inaudible comments and laughter]

[applause]

A Member of the public (Mr. Charlie Watler) [Comment]: Good evening.

I just wanted to correct you in saying that a person born in the Cayman Islands and continued to live here for 10 years can claim status after year 10. This is what has been done. This is in the law.

[inaudible]

Mr. Charlie Watler: No, someone born here remained here for 10 years can claim status.

[inaudible comments]

Mr. Charlie Watler: And after 25 years then he can be eligible.

I think that going back on the history of these Islands, our people went to sea, things got rough, they had to stay to sea for a number of years. I think the indigenous Caymanian will look after our people, look after the affairs of these islands better than an expatriate who is coming here and working. He is going to look after his businesses. I don't think when it comes to looking after Cayman Brac or some situation in North Side or East End that he will take the interest of an indigenous Caymanian. I think that that part of the law should be omitted.

[applause]

Hon. V. Arden McLean: Mr. Charlie, I want you to understand that this is a proposal, eh? And your position is well taken. I was merely trying to explain to Mr. Myles . . . and we do, we will eventually have situations in this country—and I can say it, and we all know it—where Mr. Myles was talking about these kids that were born here; they will never, never, be able to play any part in the affairs of this country. You have to remember that. But their children will. That person will go through their entire life . . . they were born here. By all accounts—when you hear them talk, they got an East End twang. [?] What have you and . . . are you going to allow it? Or where are you going to end it?

But they will never, never, ever, play an active role in the development, politically, that is, of this country. Never.

But their children will, who are born after—they have to be born after they receive status. Now remember that. Because there will be another generation whose parents were not Caymanian at the time of their birth. So, if that one person who was born here to foreign parents missed that opportunity and has children prior to his becoming Caymanian, they will never be able to do it either. You have to remember that. And you will have had three generations in this country and part of one of those generations would be entitled to participate and the other part would not. We have to remember that.

Just an explanation, that's all.

A Member of the public [Question #10]: Thanks.

I feel that I may be going against what is popular opinion, but I do think that that provision is only fair and just. I did wonder, however, what is the thinking behind the 25 year period after acquiring Caymanian status before being eligible to be elected. Why 25 years?

Hon. V. Arden McLean: It could have been 40. It could have been 30.

[inaudible comment and laughter]

Hon. V. Arden McLean: But you can appreciate that most people come to this country, foreigners, come to work. Therefore, they are in somewhere up in their 20s. Let's call them 25 after they finish their education. Let's call them 25.

Fifteen on top of that is 40. And 25 on top of that . . .

Now you can believe, I hope . . . well, I don't know who would want to be going into politics at, how much that is? Sixty-five? I really don't know.

[inaudible comments]

Hon. V. Arden McLean: No, not everybody will be in the same category. We are talking about the adults who come here. But we have kids who, like Mr. Myles said, born during that period that those people are here in their childbearing age that by all accounts, if you listen to them . . . they come from West Bay, or George Town or East End.

A Member of the public [Question #11]: Can I just ask a question? More out of morbid curiosity than anything else.

How do you feel about the scenario where I leave Cayman and I go to live in the States and I have a child in the States. He grows up in the States, does not come back to Cayman, and then he has a child in the States and that child grows up in the States, and comes to Cayman for the first time when he's 25 years old. How do you feel about that person running for office?

[inaudible comments]

Mr. Christian Suckoo: That's correct. That person is currently eligible to run for office.

A Member of the public: One of his grandparents was Caymanian at the time of his birth. Even if they were dead he would have claim [inaudible]

[laughter]

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Christian Suckoo: Moving on. The Speaker of the Legislative Assembly.

The Constitutional Commissioners felt that the Speaker of the Legislative Assembly should not come from the membership of the LA, but should be appointed from outside. But it should be a person who meets the qualifications to become an elected representative.

The proposal set forward by the PPM was that . . . I understand that you are agreeing with that proposal, gentlemen?

Yes, the PPM has agreed with that proposal set forth in the 2003 Constitutional Commissioners Report.

PEOPLE-INITIATED REFERENDUM

Mr. Christian Suckoo: The second to last topic is People-initiated Referendum.

To me, this is one of the cornerstones of a true democracy, that the people can bring any topic that they deem to be in the public interest to the forefront by forcing government to address it through a referendum.

The PPM has agreed, or in their proposals, to have the provision for people-initiated referendum. The provision that they have put forward is that the referendum would require a petition signed by not less than 20% of the electorate. And then, once the referendum is held, in order for the referendum to be binding it would require a positive vote by more than 50% of the electorate. And a vote of less than 50% of the electorate would be seen to be advisory.

So, again, these are issues that we are being asked to weigh in on. Do you agree with 20% petition to call a referendum? Do you agree that 50% should be set as the majority? Some countries use 67%. Some countries use 75%. And, for reference, I believe the number of electors in the country right now is 13,000, so 20% would be 2,600 people.

FUTURE CONSTITUTIONAL CHANGES

Mr. Christian Suckoo: Future constitutional changes.

The PPM has proposed that future constitutional changes should take place by referendum unless the changes are deemed to be minor and inconsequential by both the Leader of the Opposition and the Leader of Government. If that is the case, then the changes would be made via the parties in the LA. If the changes are major changes it would be taken to a referendum vote.

I'm sorry, it would be recommended by the Leader of the Opposition and Leader of the Government so that changes can be made by the UK Government through an order in Council.

So, again, this is something we are being asked to weigh in on. Do you think that constitutional amendments, further amendments to our

Constitution, should be done by referendum only? Do you think they should be done by the referendum in ordinary circumstances but then allow the minor changes when they are non-controversial? Or, do you have another way of doing it?

THE JUDICIARY

Mr. Christian Suckoo: The Judiciary.

The independence of the judiciary is paramount to democracy. The three arms of Government must remain separate and independent. The proposal is being made that the creation of a Judicial and Legal Services Commission be enacted. The Commission would oversee the appointment of the judiciary and would also deal with issues of discipline and (sorry, one second)

[pause]

Mr. Christian Suckoo: I'm sorry.

The appointment of . . . the Commission would handle the appointment of judges and magistrates and divisions of the courts of the country. The proposal is that the Commission would be made up of the Chief Justice, the President of the Court of Appeals, one member nominated by the Law Society, one member nominated by the Bar Association, one non-lawyer member nominated by the Premier, and one non-lawyer member nominated by the Leader of the Opposition.

A question that has been put forth, gentlemen, that I said I would raise is, Would the member nominated by the Law Society and the member nominated by the Bar Association be a currently practicing lawyer? Or would it be someone who was retired?

[pause]

Mr. Christian Suckoo: Okay. The PPM has had in mind a practicing lawyer. However, again this is an issue that we must weigh in on and give our opinions on it.

A Member of the public [Question #12]: I would just like clarity on something here when we are looking at the Judiciary and Legal Services Commission.

It states on page 11 of your explanatory notes that it would be headed by the Chief Justice. Okay?

Now, it seems here to be dealing mainly with the appointment of judges and of the bodies. What about . . . I mean disciplinary matters, I think you mentioned just now that it would also deal with that.

In the event somewhere down the road, I mean this is going to be in our Constitution, should we have a chief justice who decides to misbehave himself, who is going to discipline that person? I mean if this body is headed by the CJ, he can hardly discipline himself. I just wanted clarity to know how that would work.

Hon. Alden M. McLaughlin, Jr.: Thanks Cheryl.

We spent quite a bit of time talking about how this would be set up. We were satisfied, and that's the advice we actually got from Professor Jowell, that in those circumstances, obviously the chief justice would not be able to sit. If there was a complaint against him, he would have to recuse himself and somebody else would take the chair because, as you quite correctly said, he couldn't investigate a matter relating to a complaint about himself. But it is, so we've been advised, a not uncommon practice for it to be structured in this way.

[pause]

Hon. Alden M. McLaughlin, Jr.: Just so I can say this: One of the problems with the current system, and if you talk to people who work the system and even to some people who don't necessarily work in the system, but appointment of judges now is a matter for the Governor himself. That can't be right. That can't be right.

The creation of this Judicial and Legal Services Commission is an attempt to get more input from a broader cross-section so that there is some other perspective brought to bear, rather than simply what the UK wants because that's essentially what happens now.

[inaudible]

Hon. Alden M. McLaughlin, Jr.: No, but it's a legitimate one; and one that worries us as well.

THE STYLE OF GOVERNMENT

Mr. Christian Suckoo: The style of government.

It is being proposed that we should explore having a bicameral government, having the Legislative Assembly and a Senate. That proposal was not made by the PPM. It was made by the UDP Government in the 2004 *Hansard* Report. The 2008 proposal being made by the PPM does not support the creation of this body. The PPM is suggesting that we remain with the current form and style of government that we have.

If you want to see an explanation of the Senate that was proposed by the UDP at that time, you can take a look at the ¹2004 *Hansard*. But,

¹ 2004/5 *Official Hansard Report*, p. 283

basically, what was proposed was that the Senate would be made up of nine people, not elected but appointed by the Premier or the Chief Minister. And . . .

[inaudible]

Mr. Christian Suckoo: I'm sorry.

[inaudible]

Mr. Christian Suckoo: For clarification, there was a comment from the audience that said that the person should be elected.

I will reiterate that this was the 2004 position of the UDP. Again, they will state their opinion when the time is right.

HUMAN RIGHTS

Mr. Christian Suckoo: Human rights. Much talk is being had on human rights and the inclusion of a Bill of Rights in the Constitution, whether or not it should be included in a Bill of Rights in the Constitution or if it should be enshrined in law only. The PPM is proposing that the Bill of Rights be enshrined in the Constitution. They are also stating that this is an opportunity for us to Caymanise our rights in terms of human rights.

For instance, we are all very fond of the ocean, I would imagine, and the environment. There are ways that we can enshrine . . .

[inaudible comment & laughter]

Mr. Christian Suckoo: I stand corrected. By the sea!

[laughter and inaudible comments]

Mr. Christian Suckoo: I will give you a free plug—write it right!

[laughter]

Mr. Christian Suckoo: Yes. So you know, preservation of the environment is something that we can look at.

I will give you an example of something someone submitted to us in terms of preserving the environment, in looking at direct impact to human life. It was proposed by a member of the public that we should investigate the towers that we use for cell phone service. The person said that they were concerned about possible radiation coming off these tow-

ers and that we should have provisions for how close a tower should be placed to residential areas. And he didn't know whether there was a problem or not, but if there is a problem, then he said he would like to see something enshrined in the Bill of Rights that would protect Caymanians from being exposed to this type of radiation.

Ladies and gentlemen, that is the end of the drooling presentation.

We now have question time, as you can see by the . . . "question time is for one hour only. Meeting ends at 9.30 pm." It's now five minutes to 11!

Do we have any other question?

Okay, this young lady was first, then—

QUESTION TIME

A Member of the public: I have been holding my hand up for quite awhile.

Mr. Christian Suckoo: I'm sorry. I do apologize. Mr. Warren actually had his hand up awhile ago.

Mr. Warren [Question #13]: Regarding the Governor being subject to judicial review, I think the days are long gone in which anyone is above the law. I actually find it offensive that some people could feel that they can't be questioned. For example, in the Commission of Enquiry where the past Governor basically said he didn't want to be cross-examined. I think those days are long gone and I think we should really stop worshipping people.

The term "Leader of the Opposition" to me is a very divisive phrase. I think perhaps a better style to use would be "Minority Leader" who could on some occasions oppose, but he shouldn't be perceived or thought of as "opposition".

Hon. Alden M. McLaughlin, Jr.: They use that in the United States. Do you think that makes the process any less divisive?

Mr. Warren [Question #14]: that is true, but I think that if you label someone in that way it doesn't help.

I take your point. But I don't think it helps.

Bill of Rights: A few minutes ago mention was made about an order in Council when it comes to amending the Constitution. I wonder if we enshrine a Bill of Rights in the Constitution who will be able to amend what our rights are? Will the UK have any sort of unilateral authority to amend those rights? Or will it require our approval before any amendments could be made to what we call fundamental rights?

And secondly, when it comes to amending the Constitution the idea of having a minor amendment is something that is worrying to me. I believe that in a situation where you have these notions of minor amendments that there should be a period of time, let's say three months or whatever, after the Government has notified the public that it would like to make such an amendment, that the public can choose if they want to challenge that. And if the public chooses not to challenge it, then it could move forward.

Hon. Alden M. McLaughlin, Jr.: In relation to your second point, which is the concerns about leaving it to the Leader of the Opposition and the Premier to decide what is minor and what isn't in terms of amendments is a very valid point. I think the suggestion about a period of publication for the public to decide whether or not they want to challenge it is one that is certainly acceptable to the Government. We will have to look at how it can be crafted to make it work, but I am sure it can. It's just a matter of working it out. I think that's an excellent suggestion.

In relation to the other point, which is whether other changes can be made, how would changes be made to the Bill of Rights? Would the UK require our approval, so forth and so on?

The same principle that applies to the rest of the Constitution would apply to that. And one of the points that we put forward and we are going to urge, assuming we have a mandate from the people, quite strongly is that any changes or any agreements to sign up to conventions and treaties and so forth which affect the Cayman Islands ought to at a minimum be subject to consultation with us. I doubt, quite seriously whether the UK would ever say that they couldn't do it unless we agree, and I say that based on some six, seven years experience with dealing with them.

This whole question of matters that affects their international obligations is a huge point with them. I have to tell you quite frankly, I don't think they will ever agree to a situation where we would actually have to sign off before they could do anything. So, we aren't seeking in our document to say that we have to give the UK agreement to do these things, but that there should be extensive consultation and discussions with us about these matters so that they can have the benefit of our input.

What happens now, what has happened in the past is that often they sign on to agreements, conventions, treaties, the like, and no one ever considers the impact on the Cayman Islands. I mean, Meg Munn,

when she was here recently, said as much to us. That one of her big tasks is to educate her colleague ministers about when they enter into agreements the ramifications it could have for Overseas Territories.

[inaudible]

Hon. Alden M. McLaughlin, Jr.: Yeah. But what I am saying to you is that provisions in relation to the Bill of Rights, when there are changes to human rights as a result of amendments to human rights conventions and so forth, the UK would expect them to apply to us. What we need to be able to do is to weigh in on the discussions before they actually sign on—not once they have signed on—whether they then extend them to Cayman, because in the majority of instances, that is going to be almost automatic.

So, if we can get to a Constitution which essentially changes the culture of the relationship between us and the UK where we are consulted regularly in relation to any of these matters that impact us, we would have done the country tremendous service. Because that is not what obtains now. It's usually an afterthought.

Even though we get very upset often, because we think the UK is trying to do us something bad, most of the times I don't think that's the case. They just haven't considered us at all. It's just like, *Oh, we did that to them? We didn't realize that.* I mean, that's what happens most of the time.

As I said, it's about changing the relationship between us and the UK. And a constitutional document can have that impact.

A Member of the public [Question #15]: A quick one sir.

Twenty percent of the people for the referendum, isn't that quite a low figure? Referendums can be very expensive. If you have 20% of the people each time coming back and saying we want a referendum and they stop it, want a referendum on that topic . . . I can see abuse taking place in the future with a very small percentage of the population.

Secondly, with regard to the two terms, the term limits as mentioned in Westminster, what I am not sure if this is normal in the Commonwealth. I know the Americans have the restriction. But if people like the Leader and want to keep putting him back in, why should you necessarily follow the American system rather than the British system or what's used throughout the rest of the Commonwealth?

And lastly, another quick one with regard to . . . you have made quite a few proposed changes to the powers of the Governor. I guess I would call it major changes. How did that go with regard to the other recent territories? I'm referring to the BVI and Turks & Caicos. Did they put those controls on their governor too?

Hon. Alden M. McLaughlin, Jr.: It's always easier to start with the last question.

There have been significant changes in both the Turks & Caicos and the BVI Constitutions. But it's fair to say that none of them go quite as far as some of the things that we have proposed, like the Premier taking the chair. They have gone in those instances to setting the agenda, that the agenda has to be set in consultation with the Premier, but not that the Premier actually takes the chair.

I don't have the documents in front of me. It's been a while since I read them. But that is one that occurs to me. But they have (if you want to use this term) eroded considerable powers of the Governor in those two advances and in the one in Gibraltar as well. But it's fair to say, certainly in the case of TCI and BVI that they haven't gone quite as far as we have in some respects.

One of the changes, sort of fundamental changes to approach that we've done which they haven't done is this: If you look at our current Constitution, all executive power is vested in the Governor. And he then delegates it as he sees fit in accordance with the Constitution. On the basis of the advice we've had we have actually turned that on its head so that executive power really isn't vested in the Governor any more, it's shared between the Premier, the Cabinet, and the Governor with each having their particular carve out. So it's not a matter for the Governor any more to decide if he is going to delegate this, or he's going to delegate that. Except in the case of his special responsibilities that constitutionally are Cabinet's role, Premier's role is actually carved out which is a change. It might seem subtle, but it's a real change in approach because underlying that premise is that executive authority isn't vested in the Governor anymore, it's shared.

And there was another . . . oh, your 20% point.

We thought, and again it's not carved in stone, but we thought that because the higher the number goes for a trigger, the higher the percentage goes, arguably the less democratic the provision is. Based on research that we did, we thought 20% was a fair figure to trigger a referendum—not to win it, but to trigger it. The 50% of the electorate creating voting in favor of it actually binding the government and a lesser figure being advisory in nature.

But there is no real magic in those figures. If people feel that we need a higher figure for reasons that you put forward, which are justifiable . . . they are expensive as you are essentially wrapping up the whole election machinery to have a vote on such a matter. Then we are prepared to listen to that. But we put forward 20%.

Did I get all the questions? That's three. I thought you said four. But I can't remember the other one.

[inaudible]

Hon. Alden M. McLaughlin, Jr.: Oh, two terms.

One of the big concerns, and if you give Benny [PHONETIC] a mic he will talk for half an hour on this! One of the big concerns about the Westminster system of government is in its purest form it is designed to keep the government in power for as long as it possibly can. And there aren't sufficient checks and balances on its operations. So we have been trying these five years, almost six years now, by researching by looking at other things, by having our own experiences, to find ways which reduce the sort of possibilities of people staying on in government forever and ever. Something seems to happen to you when you get in government for long periods of time—and that's not something good either!

[laughter]

Hon. Alden M. McLaughlin, Jr.: So one of the suggestions we had, and this goes all the way back to 2002, was to put a limit. Some argue we should have term limits on everyone. But we determined in a population as small as Cayman is to put term limits on all the elected representatives would be to possibly deprive the country of good representation because you are taking out all of the really experienced people after a particular period. But a sort of compromise was to limit the length of time that the actual Leader could hold that particular office in one run.

So our proposal is that it be limited two terms. But if he takes a break he could come, obviously all of the politics have to be right, but he could come back and do it again.

As you said, it's uncommon, but it's not unheard of. And it is just one of our proposals to try to create a more democratic, less autocratic, less problematic system of government.

The UDP did not agree. And I don't know whether they will change their position. For the reasons that you put forward as well, that the population should be able to . . . the electorate should be able to determine how long you stay. But we also know how that system works, especially in a party system.

A Member of the public [Question #16]: A main concern of mine on the explanatory notes on page 6. You guys have that it is the right to protect our environment, our heritage, our oceans, our wildlife, and biodiversity of our Island. Such a right, of course, would be subject to a social and economic development.

I understand that. But to me . . . my main concern is like how you said you want to save our heritage and our culture. Like, for instance, the Bayshore Mall down by the waterfront. The Kirkconnells got that big entire mall there when there were two Cayman style homes that were originally there . . . to me, I feel as if you are not trying to protect our environment because in my case, I see George Town turning to be like Miami the second. That's how I feel about it.

I would understand the building of roads so that the traffic can be less hectic and whatnot, but you also have to realize that you are pulling down trees which is definitely are coming out of the global warming which, to me is making Cayman much hotter. That is how I feel.

Hon. Alden M. McLaughlin, Jr.: It's always that tension, that challenge between development and protecting the environment. What is being proposed here is or being asked to be given consideration here is the question of creating an environmental right. In other words, in your Bill of Rights, the right to an environment, or an obligation on the part of government to look after the environment properly would be placed in your Bill of Rights. The impact of that and the power of that is that it gives to you and every single citizen in Cayman the ability to challenge the government on the basis that this particular right is being infringed, that they are not looking after the environment in the way that they ought to.

So, we are not talking right now about the issues that you raised about the overdevelopment in George Town and the cutting down of Caymanian buildings and so forth. That is not this particular discussion. But it's a very good example that you raised because having that particular right, that is environmental rights, in your Constitution, will give you and every citizen the ability to challenge any government when they think that its over developing, that it isn't having proper regard to the environment, to global warming issues and all of those things.

So, what we are saying . . . in most constitutions, in most Bills of Rights you don't have those sorts of provisions. Only the more progressive ones have what are called the second and third generation rights. Some of the African nations, New Zealand I think now has some, where progressive countries are looking beyond the sort of basic human rights like the right not to be enslaved and freedom of speech, the traditional rights. They are looking beyond that to things like the right to clean air, clean water, that sort of stuff, environmental rights.

That is what we are suggesting, that in terms of Caymanising our Bill of Rights, that we look at developing these sorts of rights as part of the Bill of Rights that would be attached to this particular Constitution.

Thanks for raising that.

A Member of the public [Question #17]: Would the referendum on the constitution be decided by a simple majority or 60% vote? Or what would you recommend?

Hon. Alden M. McLaughlin, Jr.: We haven't proposed at this stage any distinction between what the vote would be on that or any other matter, principally because we believe that what we propose in terms of a figure is quite high, which is 50% of the electorate. Not necessarily 50% of those who vote. So, if you get a 70% turnout to vote, it's still 50% of your electorate—which is a pretty high number—to change anything.

But, as I said, it is not carved in stone. These are our suggestions at this stage.

Mr. Christian Suckoo: We will take one more question for the night. Sorry, two more questions for the night.

A Member of the public [Comment]: Well, a couple of comments and then maybe one or two questions.

On the issue of the timeframe, yes a referendum in May feels tight; but we've been at this for seven years so can we get on with it please and try to finish it up? We are supposed to be an intelligent society. If this is an important issue to us we will make the time and invest the time necessary to make the decisions.

On the issue of one person, one vote, can we hurry up and get to that please too? It's been a long time coming.

On the matter of oversight bodies, just a personal concern of who watches the watchdogs. Because we have a watchdog now and in principle I support that. I don't have a problem with that.

But when it comes to reporting to Parliament, I have a concern that the watchdog could feed too much and get too fat if you follow my analogy.

Yes sir.

There are some things going on there that really and truly concern me, although the principle behind the existence I support.

[Question #18] On the judiciary, your proposal suggests that the revised constitution should require the Cabinet to provide adequate financial support to the judicial administration. Does that also include some basic guidelines? Because there are some things that have happened financially in the judiciary that the rest of the public service, the civil service has not been privy to, have not enjoyed and that is a dissension that I would not like to see continue in the civil service because at the end of the day, the civil service as a whole is what supports the infrastructure of this country and helps us move on.

Yes sir.

So those are just my couple of questions and my comments.

Thank you.

Member of the panel: Thank you and if that's it we have one last question for the night.

Hon. Alden M. McLaughlin, Jr.: If I might just respond very quickly to the thing about the financial provision for the judiciary. The reason for the necessity of a provision such as that is that if you get a really bad government who doesn't like decisions that the court is handing down and you don't have a constitutionally guaranteed basis for funding for the judiciary they can essentially starve the judiciary to death. Because

they are unhappy with the decisions that they are making. So that's why you need that sort of constitutional backing for those things.

But I know your concerns about the pension issue and equity there.

A Member of the public (Mrs. Ward) [Question #19]: A quick question. What is the rationale behind saying to the populace that at 18 you are wise enough and intelligent enough to choose your representatives, but you can't be one until 21?

And before you respond, an apology for the Youth Flex crew [PHONETIC]. I don't see many 18-year olds, or even 21-year olds for that matter who are usually in a position to represent the country well, but I would like to think that in the future we may have exceptions. And as the government who is going to bequeath to us a world-class education system, you know, you never know what's coming!

I just think it's a double standard. I don't know what the rationale is. But I am eager to hear it.

Hon. Alden M. McLaughlin, Jr.: Well, the 18 and the 21 distinction is something that has been in the Constitution and the Law for I guess as long as it's been around. We haven't proposed changing it.

I mean, there is all sorts of research going on into when in terms of judgment and so forth when young people actually mature. But it isn't 21 either. So that's not really a basis for this. It's much higher. It's like 25, 26. But I suppose it's traditional. That's the way it has been. We haven't proposed changing it.

I haven't heard any clamor really that it ought to be revised downward, but if there is a case for it, then we will listen.

Hon. D. Kurt Tibbetts: Just to add to that, Mrs. Ward, I think the thinking from not eons ago, but close to that, was simply a matter of . . . it's not responsibility. There was a word I had it in my mind here . . . but it's like the various levels of the decision making process in a person's life that simply deciding on who you would wish to vote for, the threshold is a little bit higher when you would like to decide that you would wish to represent the people.

Now, as Minister McLaughlin said, there is no fixation or anything like that. But you asked the question and it is not because I wish to do you an injustice, but it seems like you don't believe that that should be the case. If you don't, would you tell me why?

A Member of the public (Mrs. Ward): [inaudible] A young man I teach right now who just turned 17 last month because of where he lived before Cayman (and he's Caymanian), before he moved to Cayman, he has a very profound, very mature understanding of the way society works and should work. And—

Hon. D. Kurt Tibbetts: You mentioned education. Forgive me darling, I just thought of it . . . I knew what I wanted to say. You mentioned world-class education . . . I knew what I wanted to say Judy it just hit me.

You mentioned world-class education. Would you like to finish that before I get into that old nasty thing called politics?

A Member of the public (Mrs. Ward): Yeah, yeah. I am just saying that we have to open ourselves to exceptional beings. They don't come often, but if they were to come they would have to wait until 21 and maybe the cycle of the election they might be 22 or 23 when it comes and you'd be denying the country a good representative. But it's not that I feel that the average 18 or even 21 year old is—

Hon. D. Kurt Tibbetts: I'm with you.

Maybe when that exception shows we will change it.

[laughter]

Hon. D. Kurt Tibbetts: But I do take your point.

Mr. Christian Suckoo: Okay, we'll have the last question for the evening.

A Member of the public [Question #20]: Yeah, I am not too sure if you addressed this point, but it's a thing that is just bothering me and a couple of other young people.

Is there a certain amount of, like, young Caymanians that are recruited in a certain organization that, say, that they have a position, right, and then you have like this key employee and then you are interested in that field and everything and you want a career in that field or whatever like that, and you have, like, where you keep them on for the long, would they be like employed for a period of time until you know they can be like trained or whatever to get into that position?

You know? The key employee that we are talking about and, oh, how they are key employee we need them or whatever like that. I just think that if you have like a certain amount of Caymanians employed in a certain organization for a certain position that you have somebody that would train them to take over that key employee position. Then I think that would be a good thing because I know a friend of mine who has been working in an organization for a very long time, ever since she was, like, a teenager, and she went away to school and whatever. She came back. But now, like just awhile back or whatever like that they had like this woman from, a foreigner then, she came over and she worked for, like she had a two-year contract or whatever like that, but she was manager. And this other woman that she was there, been working there for a long while or whatever like that and I don't understand how come . . .

But now the two-year contract woman, she's gone away. I don't understand how come she never trained her to take over her position.

Now, I think they say they are going to get another person to take over that, you know, position. The manager position. While she can be doing that, while that person before that could have trained her to be in that, to be manager. You understand what I am saying?

And then I think I remember one time when she had to turn around and show the manager how you do this and how you do that. I don't think that's right. So . . . And then I think about the young Caymanians think that they should have a right to a certain position in an organization for example, government, or whatever like that. I think they should have a right over a foreigner then.

I would understand, because just awhile back I was in an organization, government, and I applied for a job, but I went there as a summer student, as a summer intern, and I was there for like two months and then I got extended for another two months. And on that period of time when I was there I learned like how you do like . . . I learned, like basically the system and how you run it and whatever like that. And I applied and they couldn't [?] no more, so I applied for the position when they had, right? And I didn't receive no calls for the longest while, and I was like wondering and I was calling and calling and nobody would answer.

So, it's like when I called them and I finally reached them they are going to say about how they got somebody else. Foreigner, you know. And on the application they said that interviews might have to take place in Jamaica or whatever you want to call it. I don't think that's right. I don't think that's right at all.

[inaudible]

A Member of the public: Yes, that was the government. And I can tell you that burned me real bad!

Yeah, that's all I had to say. Thank you.

Mr. Christian Suckoo: So, basically you were advocating for succession planning of Caymanians to be enshrined in the Constitution?

A Member of the public: [inaudible] can't find a job in Cayman because I mean if you think about it, jobs are supposed to provide training. You can't expect children coming out of, students coming out of high school to have 5, 10 years experience. It is impossible. And not all of our parents can afford to send us overseas to college or university. So it is very hard.

I find that in like [?] said, because I was with her at the government place where we were working and me and her were really interested in the position where we were at. But the manager for our section decided he was going to put a foreigner there instead. So, to me it is really

bad that Caymanians, or young Caymanian adults can't find a position in government.

Mr. Christian Suckoo: So, in addition to succession planning for Caymanians you touched on the right to tertiary education for Caymanians.

Very good.

Thank you very much.

As a member of the Civil Service Association, you have my word that that will make part of our proposal to this process.

[inaudible]

Mr. Christian Suckoo: Thank you everyone for coming out. If there is any food left, please partake.