



Constitutional Modernization Initiative Public Consultation Meeting

Held on

Thursday, 31 January, 2008

Boatswain's Beach

**Grand Cayman
Cayman Islands**

TABLE OF CONTENTS

INTRODUCTION TO THE CONSTITUTIONAL REVIEW PROCESS	5
<i>Hon. Alden M. McLaughlin, Jr.</i>	<i>5</i>
INTRODUCTION TO THE CONSTITUTIONAL MODERNIZATION REVIEW PRESENTATION	8
<i>Mrs. Suzanne Bothwell</i>	<i>8</i>
One Person, One Vote.....	10
<i>Mrs. Suzanne Bothwell</i>	<i>10</i>
Full Ministerial Government.....	11
<i>Mrs. Suzanne Bothwell</i>	<i>11</i>
External Affairs	13
<i>Mrs. Suzanne Bothwell</i>	<i>13</i>
Executive Responsibilities of the Governor	17
<i>Mrs. Suzanne Bothwell.....</i>	<i>17</i>
Proposal for Head of Legislative Assembly to Sit as Chair of Cabinet.....	18
<i>Mrs. Suzanne Bothwell</i>	<i>18</i>
Governor’s Special Responsibilities.....	19
<i>Mrs. Suzanne Bothwell</i>	<i>19</i>
Imposing Limits on Public Debt	21
<i>Mrs. Suzanne Bothwell</i>	<i>21</i>
Role of the Attorney General	22
<i>Mrs. Suzanne Bothwell</i>	<i>22</i>
Eligibility to Vote	25
<i>Mrs. Suzanne Bothwell</i>	<i>25</i>
<i>Hon. Alden M. McLaughlin, Jr.</i>	<i>26</i>
Speaker of the Legislative Assembly	32
<i>Mrs. Suzanne Bothwell</i>	<i>32</i>
QUESTIONS	35
Question #1	35

<i>Hon. Alden M. McLaughlin, Jr.</i>	35
Question #2	36
<i>Hon. Alden M. McLaughlin, Jr.</i>	37
<i>Member of the public</i>	37
<i>Hon. Alden M. McLaughlin, Jr.</i>	37
<i>Mr. Franz Manderson</i>	38
<i>Hon. Alden M. McLaughlin, Jr.</i>	39
Question #3	39
<i>Hon. Alden M. McLaughlin, Jr.</i>	39
Qualifications for Electoral Candidates	40
<i>Mr. Cadian Ebanks</i>	40
<i>Hon. Alden M. McLaughlin, Jr.</i>	40
United Democratic Party’s Position on Who Can Stand for Election	40
<i>Hon. W. McKeeva Bush, OBE</i>	40
<i>Hon. Alden M. McLaughlin, Jr.</i>	40
<i>Hon. W. McKeeva Bush, OBE</i>	40
<i>Hon. Alden M. McLaughlin, Jr.</i>	41
Who is Eligible to Vote / Official Members	41
<i>Member of the public</i>	41
<i>Hon. Alden M. McLaughlin, Jr.</i>	42
National Oversight Council	43
<i>Member of the public</i>	43
<i>Hon. Alden M. McLaughlin, Jr.</i>	43
What Makes You a Caymanian?	43
<i>Member of the public</i>	43
<i>Hon. Alden M. McLaughlin, Jr.</i>	43
<i>Member of the public</i>	44
<i>Hon. Alden M. McLaughlin, Jr.</i>	44
<i>Member of the public</i>	44
<i>Hon. Alden M. McLaughlin, Jr.</i>	44
<i>Mr. Franz Manderson</i>	44
25-Year Term on Eligibility to Vote	45
<i>Member of the public</i>	45
<i>Hon. Alden M. McLaughlin, Jr.</i>	46
<i>Member of the public</i>	46
<i>Hon. Alden M. McLaughlin, Jr.</i>	47

Question #4 - Captain A. Eugene Ebanks	47
<i>Mrs. Suzanne Bothwell</i>	47
<i>Hon. Alden M. McLaughlin, Jr.</i>	47
<i>Captain A. Eugene Ebanks</i>	47
<i>Hon. Alden M. McLaughlin, Jr.</i>	47
<i>Captain A. Eugene Ebanks</i>	48
Main Issues for Caymanians: Who Can Vote, Who Can Run For Office	48
<i>Member of the public</i>	48
Question #5	48
<i>Hon. Alden M. McLaughlin, Jr.</i>	49
<i>Mr. Stacey Eden Hurlston</i>	49
<i>Hon. Alden M. McLaughlin, Jr.</i>	49
Question #6	50
<i>Hon. Alden M. McLaughlin, Jr.</i>	50
Question #7	51
<i>Hon. Alden M. McLaughlin, Jr.</i>	51
Question #8	52
<i>Mrs. Suzanne Bothwell</i>	53
<i>Member of the public</i>	53
<i>Mrs. Suzanne Bothwell</i>	54
Question #9 -	56
<i>Hon. Alden M. McLaughlin, Jr.</i>	56
A Child Born in Cayman	56
<i>Member of the public</i>	56
<i>Hon. Alden M. McLaughlin, Jr.</i>	57
<i>Member of the public</i>	57
Protection and the Bill of Rights	57
<i>Hon. W. McKeeva Bush</i>	57
<i>Mrs. Suzanne Bothwell</i>	57
Question #10 - Hon. W. McKeeva Bush	59
<i>Mrs. Suzanne Bothwell</i>	60
Single-Member Constituencies / Leader of Government Business / Changing our Constitution	60
<i>Member of the public</i>	60
<i>Mrs. Suzanne Bothwell</i>	61

THANK YOU.....61
Mrs. Suzanne Bothwell..... 61

THURSDAY, 31 JANUARY 2008
CONSTITUTIONAL REVIEW SECRETARIAT MEETING
BOATSWAIN'S BEACH

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Good evening. We're going to start. I would like to begin by asking the honourable Minister Alden McLaughlin to say a few words.

Thank you.

INTRODUCTION TO THE CONSTITUTIONAL REVIEW PROCESS

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Thank you, Suzanne. Good evening everyone. It's good to be here and it's good to see those of you who are here this evening to talk about this very important issue.

I just want to give a little bit by way of background to where we are — to how we got to where we are today, and to say something to you about the process and what you can expect in the run up to the referendum.

It is now almost — well, it is now nine years since this process was actually initiated by the United Kingdom back in 1999, the process of what they call “modernizing” the constitutions of their Overseas Territories.

It is now almost exactly seven years since our Constitutional Commissioners — Mr. Benson Ebanks, Mr. Leonard Ebanks and Mr. Arthur Hunter — actually produced the Constitutional Commissioners Report back in 2002.

I won't go into all of the details of what caused — who caused what and what prevented this from happening, but to say to you that we have been on a long and hard, difficult road over the course of the past seven years, trying to hammer out for this country the best possible constitution that we can get. The process that has gone on in the past, while difficult and in some instances unhelpful, has actually made sure that a lot of the issues have already been ventilated; that we know — we know what the position of the last government was on most of the issues; we know what the position of what is the current government now — was on most of the issues.

And I say all of that to say to you that this is not — much of what you hear tonight, much of what you will see tonight is not new. And I should also say to you that there aren't a great deal of differences between what we are proposing now as a government and what has been proposed either by ourselves or by the now Opposition in the past. In some instances, we are proposing to go further or to do things a little

differently, and you will see as Suzanne makes the presentation where those differences lie.

There is . . . there is now some difference, if I may call it, between our views and those of the now Opposition on a number of matters. I don't think that that is — is a bad thing, nor do I think that it is — it should in any way delay us as a country coming to a view about what the Constitution should be.

One of the significant differences in approach between what this Government is doing and what has been done in the past is that we have prepared a *Summary of Proposals* which sets out in some detail what our positions are on all of the critical issues in the proposed Constitution. There's an accompanying document called *Explanatory Notes* which sets out in — more extensively and explains the basis of those proposals. But those are a starting point.

We are not coming to the country and saying this is the Constitution that you must have. We are saying after taking advice, after considering the matter having had the benefit of some nine years' experience in hammering this — this thing through, both here and in the United Kingdom, this is what we think our new constitution should look like. But we are certainly not saying to you that this is what we must have.

And the best guarantee of that is the fact that we have decided and we have said that, ultimately, the parameters of the new constitution which we will be entitled to negotiate with the United Kingdom must be agreed by you, the people of this country, the electorate of this country, by way of a referendum. So that is your best guarantee that it is what — ultimately what the majority of the people in this country want that will be reflected in the Constitution that you get, not necessarily what this Government wants, and not necessarily what the Opposition wants.

But the differences in view between us, I think, to the extent that there are any real differences, will help to highlight the issues and give you, we hope, a better education, more information about — about the implications of some, if not all, of the proposed changes.

The other point I want to — to make — well, let me just finish the process.

So the process that we are on now is a series of public meetings, 16 in total which in we will present what the Government's views are. We'll hear your feedback, we'll discuss the issues, and we'll do our best to record what — what your concerns are.

There will be other public promotional events, such as the talk show, such as, perhaps, meetings with the Chamber and the Lions Club and Rotary and various other community-based organizations, to try to ascertain as best we can what the public attitude, sentiment is about these things, and probably even — or as importantly, to do our best to educate people about what is being proposed and the implications of it.

When that process is over in another couple of months, we will then have a debate in the Legislative Assembly on these issues, and so your elected representatives would have the opportunity to articulate their views and say what they think about these various matters.

With the benefit of all of that we will produce another document which we hope will be reflective of the majority view of the electorate in the country; and it is that subsequent document that will actually form the basis for the referendum so that you as the electorate will be asked whether this package, in broad strokes, is what you would like to see the Constitution look like.

And the reason I use that sort of vague, imprecise language is because we all must recognize that ultimately the decision about what goes into the Constitution is not ours to make; that is a matter for Her Majesty's government. It is our job to persuade them, to negotiate with them, and to be as hardnosed as we can to get the Constitution that most closely resembles what we believe the majority of the people in this country, of the electorate of this country want to have. But it really is not within our gift to say that this is precisely what the people of the country want and this is it and the UK will just sign off. We know from experience that that is not the way the system works.

We have some experience in dealing with this because in December of 2002 a team made of the opposition and the government, and some private-sector people from the Chamber of Commerce and from — people for referendum, were a part of the team that negotiated the Draft Constitution which you all should have a copy of (it's the smaller of the documents you have) which actually came back to Cayman in February of 2003. But, ultimately, it didn't — it didn't go on because the then government decided to abort the constitutional discussions and the process, and then we wound up with Ivan and then with elections. So, the process that we are in now is the restarted process.

So — but we know from the experiences that we had there that we have a fair idea what the United Kingdom will accept, what they won't accept. But beyond that the United Kingdom has agreed three subsequent constitutions with the Overseas Territories since then — Gibraltar, Turks and Caicos, and the British Virgin Islands — so we do have a — a good feel for what the UK will — will accept and what they won't.

So, for us it is important that when we go to the table with the United Kingdom — and I should say that — that our plan is beyond the referendum, assuming we get the mandate to go, the team would again be made up of not just government members but opposition members as well because they're representatives of the people just as much as the members of the government are.

So — but what we — what we say to the UK when we go, as I said, assuming we do get the mandate following the referendum to go, must be what the majority of the people want. We must be able to say to them

this matter has been carefully ventilated, we've had discussions — broad, wide-ranging discussions with the entire community, and they have given us the mandate to negotiate for a constitution which contains these provisions which gives — gives this degree of — of responsibility, autonomy and authority to the elected government.

So, I hope that that sort of helps you understand where we've come from, what the process is and where we're trying to go. Our — it is our aim and our objective to be able to deliver to the country a constitution that's been agreed by you, or the broad terms which have been agreed by you, signed off by the UK in advance of the elections in May of next year. So that is — that is sort of the schedule that we're working towards.

I hope that helps. And I'll now ask Suzanne to go ahead and outline to you the provisions that are contained in the *Summary of Proposals*. We can take questions; we'll do our best to — to answer those concerns and record them, so that ultimately the document that we produce we hope will reflect widespread public sentiment.

Thank you.

INTRODUCTION TO THE CONSTITUTIONAL MODERNIZATION REVIEW PRESENTATION

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Thank you, Mr. Minister McLaughlin.

I'd first like to introduce myself. My name is Suzanne Bothwell. Others of you may know me as Suzanne Lookloy, but I'm now — now married, so my name is now Bothwell. And I'd just like to take this time to welcome in particular everyone here tonight for coming out to discuss these issues, in particular, Member of the Legislative Mr. Captain Eugene Ebanks, and also Member of the Legislative Assembly Mr. Alfonso Wright. Thank you for coming.

Just to put into context what the presentation tonight is going to be about, it's — the basis of it is going to rest on the *Summary of Proposals* that everyone should have a copy of. If you don't have a copy please put up your hand and my staff will make sure to give you a copy. And we will be going through particularly the major issues in the document, and in doing so I'll be discussing it in particular from an historical context.

As Minister McLaughlin has said, we've been going through this process for at least nine years now, and over those nine years a number of issues have emerged, constitutional points, I would say, whereby we know that the Commissioner's Report identified a number of these issues, made particular statements about them. There were debates in the House — the House of the Legislative Assembly and we also obtained the Draft Constitution.

So, I really want to take you through, you know, the proposals here, where they are coming from, what some of the positions or views were and why we are here today. And the ultimate reason is we are here today to continue the discussion on constitutional reform and to find out what your views are today, but doing so, of course, from an informed perspective.

So, as you see here I have some sources of information. The first one is, of course, the pink — the blue document; second one some of you may have — I don't have enough copies, but some of you may have the Constitutional Commissioners' Report which I'm not going to ask you to go through, this is just for reference material; an Official *Hansard* Report — that is the official record of the Legislative Assembly — 2004, and — well, not provided but referenced very briefly our — the parliamentary opposition papers, position papers in 2003 which were in response to the Commissioners' Report.

I'd just like to start off by saying what is this all about? What is constitutional reform all about in Cayman? And what it is, is to give the Cayman Islands a stronger constitutional presence. And the reason I've said that is because we have a 1972 Constitution which we've been operating with for a number of decades. It has undergone extensive amendments over the decades, but the question is: does it actually in a holistic and complete manner reflect what it is we want as a country?

And if it doesn't, if the answer is no, some of the constitutional issues that are relevant are examining the relationship between the local government and the United Kingdom. Alternatively, examining the relationship between the local government here and the Governor, who is the local representative of the Queen; and also examining the relationship between the citizen, which is each and every one of you here tonight and your local government. So it's all about examining relationships and putting them in a constitutional context.

Now, one of the things that the Secretariat did prepare is a *Companion Guide* to our existing Constitution; and the reason why we felt it was necessary to produce this document is because entering into this process we were aware that a number of people didn't even possess a copy of the Constitution. They never — they never — some people didn't know we had a Constitution, some people didn't know where to find a copy of it, they didn't know what it looked like, and they certainly hadn't read it.

So, we felt it was necessary to make a copy of the highest law of our land right now accessible to everyone, and not only just do that, but to also create a question-and-answer guide so that if you had particular questions about the Constitution and the way government is run, you may be able to find the answer in here by looking at the questions and so forth.

Now, I'll just go to page [2] of the *Summary of Proposals* and you see here we have remaining an Overseas Territory. If we are going to talk

about the relationship between the Cayman Islands and the United Kingdom, the first question — or the first issue is: what is our relationship with the UK and where do we see it going in the future? And the *Summary of Proposals* recommends, which is the view of the Government, is that we remain an Overseas Territory. We are a territory of the United Kingdom, and the position is that we remain a territory.

In 2003 when we were undergoing our pass constitutional review the findings of the Constitutional Commissioners endorsed this particular finding right now. They were also in agreement that the majority of the Cayman population agreed that we should remain an Overseas Territory; and we see through the historical debates that that has been the position by pretty much all of our political parties, right up until today.

Now, speaking of the government, one of the functions or the reasons why we have a government is because we have to elect persons to act on our behalf. They are our representatives so that they can take care of the country. And the current electoral system that we have was an issue raised in the 2003 — 2002 Constitutional Review.

One Person, One Vote

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Now, the *Summary of Proposals* that are presented here recommend that there should be a full implementation of one person, one vote, which we commonly know as one man, one vote but I've termed it one person, one vote.

Now, we all know where this issue has arisen from. It's not something new; it's something we've been discussing from the past. So in the present proposals it is that we fully implement one person, one vote. However, there's a recommendation that Cayman Brac and Little Cayman remain one constituency, and one of the reasons was provided in an earlier debate, was because of a small voting population.

Now, when this issue was raised in 2003 by the Constitution Commissioners they had also recommended there be a one person, one vote system of — electoral system, and they had recommended that there be 17 electoral districts in the Cayman Islands. As a result, as many of you all may recall and some of you all may have attended, the Electoral Boundary Commission was created. After that report changes were made to the Constitution, the Electoral Boundary Commission was created, and then there was an establishment of boundaries. However, we have not yet reached that stage where we have actually implemented the electoral — that particular electoral system.

Now, in 2003, when the Constitutional Commissioners raised the issue of one person, one vote, a number of views were put forward. Some

were they were in full agreement with carrying through with that, and as we see here in 2003 the United Democratic Party position paper had indicated at that time that they supported the concept of modernizing the electoral system which meant that they supported the whole constituency-based type of electoral system. However, they felt that the division of the Cayman Islands into 17 electoral districts was premature and they supported gradual phasing in of this concept.

So, here you see there were two opinions about how to go about implementing the — this new electoral system. Do we put it in at one time so in the next election or the election after that everybody is voting in, in this system? Or do you phase it in gradually throughout the Islands?

Now, the current state of affairs is that we have — we don't have those changes, so we're still operating the way we've been used to doing so for quite some time. And the question that's being asked of you during this constitutional process is: what are your views? And that would include: do you think we should remain the way we are? Do you think that we should gradually move towards a single-member, one man, one vote principle. Or, do we abandon the way we are and move fully into this new electoral system?

So these are the things that — these are the kind of issues that are being generated, the kind of questions that we would like you to ask yourselves as we continue to undergo constitutional reform and we're engaging in conversation amongst ourselves about what we want as a country.

Full Ministerial Government

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Now, the second proposal that was made on page [5] of the *Summary of Proposals* is a move towards full ministerial government, and what has been suggested is that this move is a question of basic democracy. They feel that in order for an elected representatives to effectively represent their constituents that they should be able to do so without interference, without the involvement of persons in Cabinet who have not been voted in like they were. So, one of the recommendations is that Official Members should not be Members of the Legislative Assembly and Cabinet.

Now, for some of you who may not know who the Official Members are they are: the Chief Secretary, who is the head of the civil service; the Attorney General; and the Financial Secretary, who is in charge of the finances of the government. And, effectively, the proposal or the submission is, is that these persons are sitting in the executive arm of government — this is where all the major decisions of government are

made between the Governor and those that we've elected — and the question is: should civil servants or public officials who have not been elected by you, should they be voting Members in our Legislative Assembly, and should they be voting Members in our Cabinet? And the question is — it goes even beyond that. Should they even be present as members of those bodies?

Now — and then also moving to a full ministerial government, it would naturally require re-examining the relationship between the local government and the United Kingdom, the local government and the Governor. And that is because if it — our elected representatives are to really be able to function fully there needs to be a re-examination of their ability to function in government, you know, rules that kind of sets out what they — what they can do, what they can't do, you know, what level of dialogue the Governor is required to have with them in the decisions that he makes day to day.

Effectively, at present there are areas in which our elected representatives really have no involvement, they are not debriefed, they are not aware of particular issues. And the question is: should that really exist in this day and age in Cayman? Even though we have a Queen's representative who is here to act on her behalf and to run — administer our government, should there be a disconnect between the Governor and elected representatives?

Now, when this — when these issues were raised in 2002 during the public consultation period, the Constitutional Commissioners in their report said that the outcomes of public discussion to advance to a full ministerial system found support for a number of things. So, for example, way back in 2002 they had recommended that there was support for a Chief Minister who we don't have in the name of a Chief Minister right now, but all that means is the head of the Legislative Assembly. So we have a Leader of Government Business who under our constitution is the head of the Legislative Assembly, so you would substitute that for Chief Minister. So a head of the Legislative Assembly to advise the Governor on the appointment of other elected ministers to form Cabinet.

So, obviously, back in 2002 the responsibility of selecting who was to be other Ministers, there seem to have been some issue with that — with who could say what, who can direct what. And what they are saying that the Chief Minister should be able to advise the Governor on who to make a Minister, or who should be a Minister of the Cabinet.

And then the Constitutional Commissioners also said that there was a recommendation overall through their public feedback that there should be — the Financial Secretary should be replaced by an elected Minister who would be responsible for the Portfolio of Finance. And at that time they had also suggested that the Chief Secretary should also be replaced by an elected Minister.

So what some of the recommendations were was that some of these public officials who sit in Cabinet that they would be replaced by persons who were elected representatives during elections, and they would have been elevated to the position of Minister, and you wouldn't have those officials in Cabinet any longer.

Now, still on that topic, for example, the Chief Secretary. His present status as we all know who the Chief Secretary is, he now sits and votes in both the Legislative Assembly and Cabinet, and he is an unelected — he's unelected and he's a public official.

Two thousand and eight recommendations in the *Summary of Proposals* suggests or recommends that you have the abolition or the removal of the position of Chief Secretary, and instead you implement a position called the Deputy Governor's Office.

Now, we all know that the Chief Secretary oftentimes sits as a Deputy — an Acting Governor or Deputy Governor, but that's a temporary position. What they're proposing is that we have a permanent position of Deputy Governor who would be able to sit as the Governor when the Governor is away, when he's ill, if for particular reasons he can't perform his functions, and that this person be a Caymanian. And ordinarily this person would not sit as a Member of Cabinet or the Legislative Assembly because he would not be an elected person. He would be appointed by the Governor and he would be a Caymanian.

The second issue regarding why it is we feel that we need to go to full ministerial government, or the government feels that way is — is looking at the relationship between the UK and the — the United Kingdom and the Cayman Islands.

External Affairs

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): And I have here on a topic called External Affairs and you can find that on page [7] of your *Summary of Proposals*. And, basically, what it says here is that the Governor should in all cases consult the Cabinet in advance of any international agreement and to require the approval of Cabinet if the agreement would affect internal policy or require implementation by legislation.

Now, what that means is that because we are an Overseas Territory of the UK, the United Kingdom as our — as an independent country is a member of a number of international organizations, like the United Nations or the European Union, et cetera. And the UK signs on to quite a few agreements whereby they have undertaken to have international obligation on a particular issue.

However, in some circumstances what the UK does is that they will extend the obligations of — under that convention to its Overseas Territories.

So off the hat I can name one.

I work in the area of child abduction here in Cayman, and we are — we are signed on to a treaty through the United Kingdom. Part of our obligation is to make sure that when there are issues of parental child abduction that we deal with them locally. So we have international obligations to satisfy. But these international obligations may at times come with a cost and, of course, we have to set up an office sometimes.

If the person comes to Cayman seeking haven, our legal aid laws would apply to them. So they can qualify for legal aid when their case is being contested locally.

So this is but one example of some of the obligations that are placed on Cayman through these international agreements. And there are many of them and they take the various forms. For example, a lot of our responsibilities are in anti-money laundering measures and that involves a lot of training, it involves a lot of, you know, infrastructure, placement, employment of people. And these are good initiatives, but at the same time they are costly.

So what is being asked is that when it is that the UK is extending to its territories like the Cayman Islands these international obligations that as a matter of course it should engage in dialogue with us so that we can discuss with them (a) whether yes, we think we can do this or we think it's a good idea or a bad idea; (2) whether we can afford it, you know, so we can prepare for it because all of these things have implications.

So that is one of the recommendations, is that we improve our relationship between the UK and the Cayman Islands when they are doing things on our behalf that will affect us, but we are not included in the conversation.

The second thing that is being asked is that the Cayman Islands government should be allowed to engage in direct discussions with other countries so that we can enhance our country. And oftentimes internationally this takes the form of agreements between two countries, maybe agreements between a number of countries, maybe it's part of joining an organization or something like that.

And the recommendation or the proposal is, is that we be allowed to do that if it is going to enhance and better our jurisdiction and, of course, it will not affect the interests of the United Kingdom.

Now, the reason I say this is because — I — and I can be corrected if I'm wrong, but either all or most of the treaty arrangements or agreements that Cayman has, nobody from our government, our elected government, can actually sign those. Sometimes you actually have to get permission from the Foreign and Commonwealth Office (FCO) to actually even begin an engage in dialogue with another country. So there are lots

of barriers towards us actually being able to — to, you know, operate in a prudent and in a forward-thinking way, you know, being part of the international arena. So that is one of the recommendations.

Now, is this a new issue? No, it's not. The issue of Cayman wanting to have greater control of our foreign affairs was presented in a 2004 *Hansard* Report which is a official debate in the House, and it was felt by the then Leader of Government Business, Honourable McKeeva Bush, that this was a good idea.

The question is: today do you think this is a good idea? This is something that's being now proposed by the Government, it's been proposed a long time ago, but how do you feel? Do you think that Cayman should have more dialogue with the UK when they're making arrangements and agreements that impact us? And do you think that we should have the freedom to engage in discussions and agreements with other countries if our elected representatives feel it is for the benefit of our country?

Now, part of that examination of the relationship is looking at the relationship between the local government, our elected representatives and the Governor. And one may ask why should we look at that? The Governor is here, the local representatives are here, so everything should be okay. And I'm sure if you ask any politician over the last ten years I'm sure they're gonna say it's not all perfect. The issues pop up either every other day or every other month. You know, as you go along things change and you need to really revisit your relationship. And that is what is being raised here — revisiting the relationship between the Governor and the local government.

Now, the *Summary of Proposals* recommends a signing of constitutional responsibilities to the head of the Legislative Assembly, the Leader of Government Business, the Premier, the Chief Minister, whatever you feel like calling him. And what our present Constitution actually says is that, okay, we have a constitutional position called the Leader of Government Business. So you look in the Constitution to find out, well, what's his responsibilities because his position is in there. Well, when you look there's really nothing said about what his responsibilities are.

What it says is that the Governor can assign ministerial subjects to him. So, for example, right now the Leader of Government Business is in charge of District Administration, Agriculture . . .

Well, you — what? Okay.

So — and then it says that he can recommend a member of the Electoral Boundary Commission. So when we had the last Electoral Boundary Commission the Governor, I think, was able to choose a chairman under the constitutional provision. And then the Leader of Government Business can select a member to that Boundary Commission, and the Leader of Opposition can also select a member. But

is there anything else beyond that? I'm sure there is but it's not stated in the Constitution.

So, we see that this discussion was relevant from a long time ago. And we see there were two positions — the two — when in a discussion we see on the one hand we wanted to have a head of government called the Chief Minister, which is fine because you will see of our Overseas Territories Cayman is the only country that has the Leader of Government Business. But some Territories like Montserrat, I think Anguilla, they have a Chief Minister. And then we find that Bermuda has a Premier and those constitutions that were actually modified after 2003, a lot of them chose — their leaders chose to be called Premiers. So you will find that the British Virgin Islands has a Premier, the Turks and Caicos has a Premier, and I think Gibraltar decided to remain a Chief Minister. So they really decided what they wanted to be called.

But then there is also a call at that time to ensure that if we're going to recognize that there is an elected representative who is to be the head of the Legislative Assembly, that he should have some constitutional responsibilities and powers. It really cannot be that you just name him and there you go. So, the recommendation then was, you know, we need to really look at this position carefully. And there we have some of the names that have been used by the other Overseas Territories.

Now, also suggested in the past which is also a live issue today is that if we have the Leader of Government Business and the Leader of the Opposition, that these positions should actually have deputies because these persons have been elected to be the — the head of the Opposition or the head of the Government. But what happens if they fall ill? What happens if they have to travel? Same thing with the Governor. When the Governor is ill, when he travels, when he's absent from the Island there's someone to fill his place, there's someone designated to fill his place. So the same argument has been applied and raised is that like these positions are also positions of importance and they should — they carry out important business, so there should be persons there who are designated and identified as their official deputies.

And this is something that, you know, even though some may feel is a housekeeping matter is one of those sort of, you know, administrative things. This is an important issue. Do you feel the same? Do you feel the same way? Would you like to know that if something happened to the most — the head of the Assembly or the head of the Opposition that there was, you know, no one there to fill their shoes. I'm sure that there are a number of candidates who are elected representatives who will eventually be asked to take over, but would you feel comfort in the fact that there's already someone identified, someone who has been working closely with these leaders and someone who is able to make sure that government functions properly even if something

happens? Now — and that was also supported in the 2003 Position Paper by the Honourable McKeeva Bush and the UDP Government.

And this is an issue, I think, that really has not had any particular debate. I don't know if it's something that is going to be — continue to be a live issue now, but historically I think that the Government has recognized there's a need to secure these issues.

Now, relationship between local government and the Governor.

Executive Responsibilities of the Governor

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): And one of the issues is the executive responsibilities of the Governor. And the Governor being able to assign responsibilities — or the Constitution, really, assigning responsibilities to the Premier. And one of those that it has been proposed is that the Premier should — the Cabinet should be able to direct the implementation of government policy except those areas where — which are the special responsibilities of the Governor.

Now, direct implementation of policy, what does that mean? In a nutshell — and I'm trying not to be too vague or oversimplify the issue, but we have to look at elections and government in order.

Why do we elect someone — and maybe someone from the audience can answer that for me. Why do we elect someone? [pause] So that they can — you know, we elect them on a ticket. We elect them on their message, right? Because they said that, you know, they think the government — their country should be run this way and they think that, you know, this is how I can do it better and I can do it this way. And they have convinced people to support them and to put them in.

So, if that is the case, then how do we expect them to actually carry out their promises? It's through the civil service. It's through their positions as Ministers in Cabinet.

So that is why the proposal is being made that the Cabinet, the Ministers and the Governor who sit in Cabinet should — their roles should be — its role should be to direct, create the policy and create how it should be implemented and that alternatively, or with this is that the civil servants receiving that direction must then carry out the policy, implement it.

And this perhaps brings controversial issues. Some may say, oh, it's interfering in the independence of the civil service, or they're trying to tell the civil servants what to do. But the question is: what is a civil servant there for? They are there to serve the public.

So is it that by implementing the policy of the Ministers that they're actually serving the public because the public elected the Ministers to carry out that mandate? It's a very circular argument.

So that is what is being proposed is that in our new Constitution, if we agree that the — there should be a statement in our Constitution which says that the Cabinet who consists of Ministers should be able to sit down on a weekly basis as they do on Tuesdays and direct government policy and direct its implementation.

Proposal for Head of Legislative Assembly to Sit as Chair of Cabinet

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Then there's a question of who should chair Cabinet. Right now under our Constitution the Governor chairs Cabinet. He sits as the head of Cabinet, the head of the executive body, and he also prepares the agenda. He says what's going to be discussed and when it's going to be discussed.

And what is being proposed is that if we are moving to a full ministerial government where the Ministers sit in Cabinet, recognizing the Governor should be there because the Queen has him in Cayman to administer local government, make sure our affairs are run properly. But if it is that elected Ministers are there to set the agenda, are being there to direct policy, that bodies there to direct policy, then is it rational, is it appropriate to think that the head of the Legislative Assembly should sit as a chair of Cabinet. Is it? That is a question you have to ask yourself. Is it a logical, a natural transition, or is it going too far, or you're not sure about it? These are questions you have to ask yourself.

And then who should set the agenda? If government — if Ministers and elected representatives are supposed to be carrying out their mandate, their promises to people, setting policy, making policy decisions on this, then should they be in control of the agenda when Cabinet meets to decide these issues? So these are issues for you to think about and consider.

And what is being — the position of the Government in the *Summary of Proposals* is that yes, their position is that yes the — the Premier should sit as a chair of government, he should be able to set the agenda and of course the Governor would continue to sit, it wouldn't be that he will not be there, but he will be part of that body but he will not be the head.

So here we see also the composition of Cabinet which is being proposed: seven Ministers because we're moving to — the recommendation is moving to a full ministerial government; the Premier; the Governor; and of course no longer will there be the Official Members in the Cabinet.

And historical reports which is raised in our Legislative Assembly, debates over our last constitutional review, indicated similar sentiments and, of course, these sentiments may change now, but of course this is

not a new issue, this issue has been discussed before. And there had been discussions in the House of Assembly, in our Legislative Assembly that — and recommendations at our last constitutional reform that a Chief Minister should preside or chair Cabinet in place of the Governor; and at that time it was felt that the Governor's role in Cabinet should have been advisory and not voting.

But you see, we are all here to revisit these issues. Do we — how do we feel about them? We are being asked to reconsider them. Do you agree with these proposals? Do you agree with what is being raised now? Do you agree with what had been raised back then? Do you think there's a new position out there that you would like to hear or you can think of and you think will work better? Or do you feel that we should just stay the way we are? So these are all issues you have to think about and we're asking you to think about during this process.

Governor's Special Responsibilities

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Then we're looking at the Governor's special responsibilities, and one may ask: what are the Governor's special responsibilities?

Well, under the Constitution there's a particular section which sets out the powers of the Governor, the responsibilities of the Governor that the Queen has given him. And he is not allowed to — to have anything with — he cannot have any discussions with the Ministers about them; he's not allowed to give them responsibilities primarily over these issues.

And some of these include Internal Security and that goes, for example: prisons; immigration; all of those areas of Internal Security; border control; they include the police; defence, — defence would include if, for example, in times of war the United Kingdom or somebody has to come in and protect the Cayman Islands; and they include appointments of the civil service, although we do have a Public Service Management Law which has handed over a lot of that responsibility and power to the Chief Secretary and civil servants and the appointment of judges.

And last year there was an audit on the Foreign and Commonwealth Office, so the FCO in England is the office that's in charge of managing and overseeing the affairs of all its Overseas Territories including the Cayman. And there was an audit, a review of their operations, and one of the outcomes of that review was that there should be greater lines of accountability and coordination between the Governor, the Commissioner of Police and Cabinet. And the reason they said this is that because the whole assessment was about risk management.

At present the Governor has sole responsibility for Internal Security and police, so that means that there is pretty much very minimal involvement of local government in understanding what are the issues of police, what kind of strategies are being taken to — to deal with Internal Security issues, issues concerning the police. I mean, we do give them a budget every year, but I think short of that there's no involvement.

And what the UK audit office has encouraged and what we see has happened in a number of the Overseas Territories is that there is greater dialogue and discussion between the Governor and the local government about how to approach issues of Internal Security and issues of the police. And this does not mean — this does not mean that you — they all of a sudden take over the job of Mr. Franz Manderson or the Commissioner of Police. No, it is about policy.

So if there, for example, are major border control issues that Mr. Manderson is facing, it would not only necessarily be him dialoguing with the Governor alone, but there will have to be dialogue with the whole government because it's a country issue.

So, one of the recommendations therefore is that we also establish a National Security Council, and this council will consist of a number — if you read the red document you will see it would consist of a number of — a number of positions. For example, the Governor will sit there, the Attorney General would sit there, the Commissioner of Police would sit, and I believe a few Ministers would sit and the Leader of Government Business. So, those are some of the recommendations.

When we started the public consultation period one of the immediate reactions that people were concerned about was, oh, we're giving all this power to our elected representatives. And, you know, I would like us to sit down if we're going to really discuss the issues logically, sit down and think about is it that we're just handing over power for no reason, or is it that we are vesting our local government with increased ability to function properly for particular reasons and think about each and every one of those reasons.

But it is a matter of truth and fact that with increased power comes increased risk for maladministration or . . . not necessarily operating in the best way. Now that doesn't say it will happen, but it says it can happen and how do we protect ourselves against that? How do we create a balance?

And one of the proposals put forward is that term limits be imposed on the office of the Premier, and this recommendation was made in particular that the person who holds right now the position of Leader of Government Business or Premier should only be allowed to sit for two consecutive terms which would be eight years. It would mean that as a citizen he can run for office as many times as he would — he can or he wishes to do so, but in terms of holding that specific position that he only be allowed to hold it for a limited period in time on one go. So he

can't hold it for — he can hold it for eight years but then after four years he can't — he gets in as an MLA, he can't get — have that position again. But after that four years he will be eligible to sit in the office of the Premier. So it's just like, for example, in the United States. I think the President can only sit for eight years maximum, he cannot run for a third term.

And one of the reasons given in earlier discussions in 2003 — this was raised quite a while ago, and one of the reasons was that they felt this would help mitigate against the creation of autocratic and dynastic type of leader which is feared. And we do see a lot of examples of that in our — in other countries today.

Now, another position that was put forward was that, you know, we don't necessarily agree with that recommendation that was preferred years ago, and this was actually raised in 2004. The issue was discussed about term limits. It was raised in the Commissioner's Report and some people felt we support term limits. And here we see in the *Hansard* Reports that there was argument against it. They felt that no term limit should be — should be imposed on a Member of the Legislative Assembly and that they should be able to serve as Chief Minister as often as they want. And the reasoning for that was that the electorate should have the right to choose a number of times that any one individual may serve as Chief Minister very much like that situation in Bermuda.

So, this is a question for you to consider when we are going through this exercise. Do we feel that given — if you're going to give constitutional responsibilities to our leader of the Assembly or head of the Assembly, do we wish for him to be able to sit — the same person to become leader as often as they want for many, many years, maybe decades, or do we wish for there to be a break in a person being able to sit in that position?

Imposing Limits on Public Debt

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Another recommendation that has been made to make sure that we — we sort of have those checks and balances, make sure power is not taken too far is to impose constitutional limits on public debt.

Now, at present we have a — a Public Management and Finance Law and that gives you the rules. It sets out the rules for government about its limits on borrowing and maintaining a budget surplus, and the question is, or the issue, the recommendation is in this proposal document here is that there should be limits on public debt.

And I'd just like to draw your attention specifically to page [6] of the *Summary of Proposals*, and you can see there about seven separate

recommendations that have been made to ensure that the government does not become too powerful. And I'll just quickly run through them.

One is that there should be a clear constitutional rule that Ministers and public officials exercise their powers in the interest of the country and not for their private interest or benefits.

(b) We just spoke about the term limits.

(c) We spoke about public debt, limits on the public debt, and there should be constitutional backing for these limits.

I will go to (e) — I'll skip (d) for a second — public access to information. The Freedom of Information Law should have constitutional backing so that its key features including whistle-blowing provisions cannot simply be changed by the government of the day; people-initiated referendums; Human Rights that may not be invaded by the government.

So we see here quite a number of recommendations that have been made so that what these — the purpose of these recommendations are that they keep government in check. So, for example, the Freedom of Information Law that we know will be coming into force in January 2009, the recommendation is that this is such an important law that it should not be a law that the government should be able to change at will.

One of the issues that has been raised is that of whistle blowing. That is a common feature in many developed countries. Is this a provision that should be — have constitutional backing? Is the principle or freedom of information something that should have constitutional backing, because freedom of information is the public's freedom to obtain information that is housed in the walls of the Government. So that is what it is.

Role of the Attorney General

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Now, one of the — and I'm wrapping up, I promise. One of the other major issues that has been raised over the years is looking at the role of the Attorney General.

Now, in 2003 the Constitutional Commissioners acknowledged that there was great division as to what the role of the Attorney General should be. Some people said that there was — the Attorney General should be chosen by elected Members from the LA, some said that the AG, as a chief legal advisor, should just be an official member, and there were recommendations of the Commissioners that — was that the AG — if the AG was an elected Member that some of his responsibilities should fall to another office, and at that time it was the office of the Solicitor General.

Now, in the present *Summary of Proposals*, and if you look on page — page [8] where it has officers — blue document — officers, the

Attorney General, some of the major statements that have been made is that the Attorney General is currently appointed by the Governor in his own discretion. So that means that officially or constitutionally there is no other person or body that can dialogue with the Governor about who the suitable — most suitable person should be as Attorney General.

It is also being put forward that the Attorney General has a multiplicity of many potentially conflicting roles, and they go on to state what these are. They say he presently sits as a voting Member of both the Legislative Assembly and Cabinet, and he presently is the principal legal advisor to the government — so that's two — and he's responsible for criminal prosecutions.

So we say where is the conflict? Well, if you have to advise somebody, the question in your mind has to be is it appropriate that if I advise someone that I should now sit down as part of that body that I advise and I vote with them, because that is what it is. The Attorney General is a lawyer, he provides legal advice, or he advises them generally. But then at the same time he takes off his advisor hat, he goes and sits down and puts on his Cabinet Member hat, and in dealing with the issue that he may have advised upon, he also votes or arrives at a consensus or disagreement on the particular issue. So that is one of the — yes, that is one of the conflicting roles.

Then there's another role that if he advises Cabinet — Ministers and the Governor — what happens when there is a need for legal advice in the government but you need to have two separate legal advice: one to the Cabinet which the Governor sits as part of, so the Governor and the Ministers; but then advice to only the Governor alone, he takes off his Cabinet hat, puts on his Governor's hat alone, and when he needs legal advice what happens to the Attorney General at that point in time?

Is it — can he constitutionally and practically provide legal advice to both person of the Governor and the Cabinet at the same time especially in circumstances when there may be conflicting issues? So that is one of the — of the issues.

And this is a very serious issue because I have recently had an opportunity to speak with the past — immediate past Attorney General of Bermuda, and I — I was curious just to find out — I am a lawyer. I just wanted to find out: how did you deal with this in your system? And he said it was problematic because his — his colleagues did not appreciate or understand that he had to provide advice to both parties and he himself felt challenged. So therein lies the conflict; therein lies the problem; therein lies the concern.

And then, of course, if the Attorney General sits as a legal advisor to the government, should he also be in charge of public prosecutions? And the reason why this is an issue is because democracy in and of itself is basically separated into sections. You have the administrative section which is the civil service, the administration of government; you have the judicial section where is the administration of justice; and then you have

the political section; and the rule of law is that each of these sections should not interact with each other, they should remain separate.

So, if the Attorney General is a quasi political figure in that he sits in the executive body of the political arm of government, he advises the political arm of government, should he be involved in criminal prosecutions which deal separately with the affairs, the relationship between the citizen and justice of the country? And in many countries this has been separated, it's been taken from an Attorney General. And oftentimes you see in a separate office called the Director of Public Prosecutions. I'm sure many of you have heard that. For example, in Jamaica and a couple other — I think in the United Kingdom there's a (DPP) they call it and so forth. So that is one of the issues with the Attorney General.

Now, what is being recommended is that, first of all, we're looking at his appointment; that, you know, there should be some dialogue between the government, whether it's through the Premier or otherwise, about who the Attorney General should be, who their legal advisor should be, and there should be some dialogue between them and the Governor about this person.

Then there is his suitability. They've recommended that we establish a Judicial and Legal Services Commission which would be responsible for appointing judges, disciplining judges and removing judges. So, the recommendation is that even with the Governor and the Premier being in dialogue about the appointment of the Attorney General, that to ensure that there's credibility of his person is not in question this independent body should at least be able to give his endorsement to say yes, we feel that this — that person you have selected to this high office is a person who is qualified, a person who is independent, and a person who is suitable.

Now, one of the other questions that has been raised, I think last year there was a Foreign Affairs Committee (FAC) meeting in the United Kingdom and representatives from our government went up. And it was interesting to note that there was a — a recommendation or issue raised by one of the past Chief Justices who used to reside and live in the Caymans for quite a while. And one of the things that he had highlighted that — was that the arrival of a formal political party system in the Cayman Islands has magnified a problem which has always existed in relation to the — 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 advisor to the government. He's also sometimes used as advisor 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. The 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 advisor an individual who:

- (a) was appointed after consultation with its principal opponent;
- (b) advised and was party to previous Cabinet decisions;
- (c) may as a Member of the Legislative Assembly be called upon to explain his involvement in measures to overthrow those decisions.

And it was raised by this particular Chief Justice that: **Surely, that situation should be professionally intolerable to any legal advisor as well to other parties involved. Conflicts of interest abound, an Attorney General should vacate office on a change of government. I can see no alternative.**

So this is a — was actually a submission made by a — Chief Justice Harry. I'm sure a lot of you will recall him. This is something he actually made last year regarding the role of the Attorney General and the Foreign Affairs Committee hearing which is, I think, instituted by the House of Commons in the United Kingdom government, and it was raising questions to a lot of the Overseas Territories.

So, we see there — there's a real issue with the role of the Attorney General. We recognized it in 2003, and it's still an issue that's on the table today and the question is: what is the best solution? I'm not sure if we're going to have a perfect solution, but a lot of things have been put out there. Should he remain a civil servant? Should he sit in these Legislative Assembly, in Cabinet? Should he change when governments change? All of these are relevant issues that we are asking you to think about and consider and especially when we — we continue having major dialogue on the issues where you are asked to provide your feedback.

Eligibility to Vote

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Now, I'm going to move — move to the whole issue of eligibility to vote, and this of course is an issue that has been raised in this proposal, this document.

And I would like to perhaps give my voice a break and I'd like to direct you to page . . . page [10] of the *Proposals*.

And perhaps I would like perhaps for the Minister McLaughlin to sit down and explain to you the proposals, the rationale behind them, and whether these are things that they are just putting out there, and whether these are things that have been discussed previously, and why they feel it is necessary for us to have frank and open dialogue about it.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Thank you, Suzanne. You always give me the easy ones, the non-controversial ones.

The — the whole question of who's eligible to vote and, a little ways on, who's eligible to stand for election is a — these are very, very important issues because they go to the heart, really, of who's allowed to participate in our electorate process.

Now, the present — and maybe I should ask Suzanne to go through that with you, because I don't think you can really appreciate what the changes that are proposed are without first understanding what the current arrangements are. I don't have them handy.

So if you don't mind, Suzanne, just going through what the current arrangements are, and then we can talk a little bit about what the proposals for change are.

This is an area that's always been controversial. I don't expect it will be any different tonight than it has been when they've been raised in the past.

As they're written in — as they're written in the present Constitution, certainly the arrangements in relation to standing for election are somewhat complicated. I'll do my best to explain them, but we'll start first with the right to vote.

Under the present arrangement a person can vote:

- if they have Caymanian status;
- if they are 18 years old; if
- they are a British Overseas Territory citizen by virtue of a connection to Cayman — that is, they are naturalized or they have — or they have Caymanian parentage;
- that the person is domiciled and resident in the Cayman Islands at the date they're registered to vote and either they or one of their parents or grandparents was born in the Cayman Islands and they've been living here for two out of the three years immediately prior to being registered to vote.
- or — no, *and* not *or*, *and* — no, it's *or* — or they have been resident in the Cayman Islands for seven out of nine years immediately prior to the date they are registered, and in the three years they have been registered they have not been absent from the country for more than 300 days.

So there are basically two categories. Every — first:

- everybody has to be Caymanian;
- everybody has to be 18 years old;
- everybody has to be British — a British Dependent Territories citizen by virtue of connection to Cayman; and
- everybody has to be domiciled and resident in Cayman at the date they're registered as a voter.

Now, you either have to have one of your parents or one of your grandparents being Caymanian, and in that case, you have to be living here two out of three years before you were registered. Or, if you don't have a Caymanian or parent or grandparent but you meet all of the other requirements, the most important which is that you're Caymanian, and you've been resident here for seven out of nine years prior to the date of registration and in the three years before being registered you weren't out of the country for more than 300 days. So you understand what I'm saying? It's kind of complicated. You almost gotta go to a lawyer to figure out whether you can [laughter] whether you can vote or not.

We are — we proposed back in 2002 when the initial discussions began, we proposed a simpler qualification criteria based on the discussions we then had around the various districts of Grand Cayman and Cayman Brac. There was no easy or simple proposal put because people have different views on this depending on their standpoint. There's many sort of Caymanians with — with really historical connection to Cayman — that is, with grandparents and parents — feel differently about those things than someone who is essentially a first-generation Caymanian or someone who, in fact, got Caymanian status when they were grown here.

So we proposed back then — and if you look in one of the documents that is available to you — it's called the *Position Paper of the Parliamentary Opposition*, you may not have that but it's up on the website — we proposed that back then . . . and that is repeated in these proposals that are here this evening. It is also reflected in the Draft Constitution which came back from London because we put that position to the FCO when we were there and the government were there at the same time. They put forward some different proposals; the proposals the UK accepted were those that we made

And those proposals are — were and still are that in order to vote you have to:

- be Caymanian;
- be 18 years old;
- you're a British Dependent Territories citizen, So there's no difference up to that point;
- that you're resident in the Cayman Islands at the date of registration, still no difference, but that you've been resident in Cayman for two out of four years immediately prior to the date of registration.

So we did away with whether you had to have a grandparent or a parent, and we did away with the 300 days out of — the three years and not out of the country for more than 300 days. That complicated the formula.

So, essentially:

- you had to be Caymanian;
- you had to be 18;
- you had to have British Overseas Territories citizenship;
- you gotta be domiciled, you got — you have to be resident here and you have to be resident here for two out of the four years prior to the date of registration.

So that is — that is what we proposed.

I should tell you that the UK even gave some resistance to that because — I'm just trying to give you a flavour of what the attitude of the UK was, and I suspect it hasn't changed much in this regard, is they felt that with a population of — which is — has about 50 percent or thereabouts of people who — who are foreigners, even a higher percentage of people who don't have Caymanian status, that limiting voting to persons who are Caymanian was unduly restrictive.

And we had — we had quite a tussle with them, and members of the opposition who were then in the government are here — Mr. Bush here I see, and Mr. Rolston was here but he's gone. But both of them were present at these discussions so they can say what their recollection is.

But they — they felt that limiting it to just people with Caymanian status was — was too restrictive. But we battled with them about that, explaining to them that we couldn't afford to lose control of the country to people who didn't have any real connection here except that they were working here at the time and that it would really be disastrous if people could — who came here on a transient basis were able to — to actually vote and change the government, and that there was great concern then because requirements for Caymanian status were very restrictive. There was a moratorium in place and very few people had been granted Cayman status for a very long period of time. And we had people here who had been 15, 20 years and so forth who hadn't — who didn't have Caymanian status. But we explained to them, both the government and the opposition at the time, that there was a new immigration law being proposed and that these issues would be addressed and people who had been here for long periods of time would be treated fairly. And so, really, on that basis they accepted this particular proposal and you'll see it in the Draft Constitution.

Now, the more difficult, and no doubt more controversial, issue is the question about who should be allowed to stand in elections. This formula is even more complicated than the first one, but again, I'll do my best to try to — to explain it.

The present provisions in the Constitution are that in order to stand for public office, a candidate must be:

- someone who has Caymanian status;

- is 21 years old, or at least 21 years old;
- is domiciled and resident in the Cayman Islands at the time of nomination for election; and
- is what they call a “qualified citizen”;

and either:

- he was born in the Cayman Islands;
- does not possess and is not pursuing claim to any other citizenship;
- has resided in Cayman for the seven years prior to being nominated and has not been absent from the country for more than 400 days during those seven years; or
- he was born outside of the Cayman Islands;
- he has at least one parent or grandparent who was born in the Islands and possesses no other status;
- has no other citizenship except that connected with the country of his birth — and that is to deal with people who, for instance, were born in the United States who, because of the laws in the United States and you were born an American citizen, it doesn’t matter what you do, you’re an American citizen unless you renounce that American citizenship; and
- you’ve resided here for 15 out of the 20 years immediately prior to the date of nomination, and you have not been absent from the country for more than 400 days during those seven years immediately prior to nomination.

So, essentially, this is complicated but what it — what it — what it attempts, I think, successfully to do is to ensure that really only second-generation Caymanians are able to — to stand for election, so that if you — if you are — if you are Caymanian, even if you were born here — because I think all of us understand what — how this system works in Cayman. You can have parents who have a child here, and at the time that they have the child they don’t have Caymanian status so the child would not have Caymanian status when he or she was born.

The parents may ultimately get Caymanian status and the child might also — will almost inevitably, ultimately get Caymanian status as well. So the child may have been born here, may have grown up here, may have gone to school here, and may be Caymanian. But under this provision — that is, the current Constitution — that child would not be able to stand for elections in Cayman because they didn’t have a parent or grandparent who was Caymanian at the time they were born. Even though their parents subsequently get it, it wouldn’t affect their eligibility. So, that’s — those are the current provisions.

We felt — that is the then parliamentary opposition — based on discussions we had and instances such as the one I've just described to you that it was unfair to exclude from the — the ability to stand for election a child who is — is Caymanian in every respect except the fact that the parents weren't Caymanian born. But they were born here, they grew up here, they live here, they're culturally Caymanian, but simply because their parents didn't have a Caymanian connection they would be excluded from the electoral process.

So, the proposal which is in the parliamentary opposition position paper from 2002, and is reflected in the Draft Constitution, the 2003 one, and the one that is in the *Summary of Proposals* here attempts to — to develop a formula which would allow that kind of a person to be able to stand for election. In other words, allow first-generation Caymanians to stand.

Now, I acknowledge even before I read it that this a controversial issue, and it is one that requires careful thought and consideration because it essentially is a policy decision. We have to decide as a country whether we want to exclude first-generation Caymanians from standing for election. If that is the policy — if that is the view of the majority of the people of the country, then so be it.

I'll tell you personally because I never have a problem with telling people how I personally feel. I don't — there may be people in this country who are as patriotic as I am, but I don't believe there is anybody more so or more passionate about this place than I am. But I feel it — I personally feel it grossly unfair to exclude a person who was born here who's Caymanian, who grew up here, from being able to participate in a process simply because at the time they were born their parents didn't have Caymanian status.

Now, I accept that there may be many people who don't share that view, and it is not my view that will prevail or ought to prevail, it is the view of the majority of the people. But I never have a problem with telling people what I think and how I feel about these matters.

So, what is — what is proposed in the *Summary* is this:

- that the criteria enabling a person to stand for public office be changed to allow for someone who has Caymanian status;
- who is 21 years old;
- who's domiciled and resident in Cayman at the date he is nominated;
- either one of his parents is Caymanian; and
- he has resided in the Cayman Islands for five out of the seven years immediately prior to the date he was nominated; or
- if he doesn't have a Caymanian parent but he has been a Caymanian for 25 years and has resided in the

Cayman Islands for 20 out of the 25 years immediately prior to the date he was nominated he would be — he would be eligible.

So, let me just repeat that:

- if you have one parent who's Caymanian at the time of your birth — whenever I says it's at the time of your birth, so there is a Caymanian connection then;
- the residency requirement would be 5 out of 7 years before being nominated;
- you have to be Caymanian;
- you have to be at least 21;
- you have to reside here for five out of the seven years before you could be nominated.

If you didn't have a Caymanian parent at the time of your birth but you have been Caymanian for 25 years, so in other words — and this is another scenario. A child comes here of Jamaican parents, comes here when he's 5 years old. His parents don't have Caymanian status until some 10 years later. So the child gets Caymanian status at the age of 15. It would have to be 25 years after he was 15 that he would become eligible to stand for elections, if you can understand how the scenario would work. If the child was born here, then obviously, it would depend on when the child got Caymanian status, it would be 25 years from that point.

Or, if the person — and just so we can talk about all of the possible scenarios. Some of the concerns raised with us at the last meeting and even subsequent to us having the public meetings was, well, I think the Leader of the Opposition raised it at one of his meetings about — about a certain individual, like the chairman of our party he said. It might make him be able to run.

Well, if you came here at age 25 or age 22 and you stayed here for — it'll take — these days it'll take about — between 12 and 15 years to get status. So you — you go through all the hoops and you get status, you came here at 25 and you get status at 40, you would theoretically be able to — to run — stand for election, which is a concern for people, but you'd be 65 at that point.

But — but — but it is theoretically possible for that kind of person to qualify which has given most people that that have raised the concern their reason for concern. And it's a legitimate concern, but I just want to put the scenarios that have been raised out there for your consideration because, ultimately, it is a policy decision for the country about — about this very, very important issue because it's talking about standing for the highest elected office in the land. We appreciate that. So — but this is what's on the table for discussion.

Sorry for being so long but it's rather complicated and I tried to explain it the best I could. I hope I got through to everyone.

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Okay, thank you.

Moving along, one of the other constitutional issues that was raised from 2003 and that is still a relevant issue is the Speaker of the Legislative Assembly.

Speaker of the Legislative Assembly

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Now, in 2003 the Constitutional Commissioners recommended that the Speaker should not come from the membership of the LA, and the person should be a person who meets the qualifications of an elected representative. So, what they're basically saying is that unlike the position that obtains presently, the Speaker should be someone who is not an elected Member of the Legislative Assembly. And as Minister McLaughlin read out the qualifications for someone who can stand for elections, that person must be able to qualify for that in order to be eligible to become the Speaker of the Assembly.

Now, this actually was the recommendation of the Constitutional Commissioners. I think it is the recommendation outlined in the *Summary of Proposals*, and this is something for you to consider whether this is — you agree that the Speaker of the Legislative Assembly should remain as is, being taken from the MLA pool, or do you think that person should come from outside that body?

Now, I did mention very early on about, you know, part of a constitutional reform is about revisiting or examining relationships, and we spent all afternoon talking about examining the relationship between the Governor and the local government, the UK and the local government. But here we've reached the third part of the relationship, or the other piece or — to the puzzle, which is the relationship between local government and the citizens. And one of the recommendations that has been made on page [11] is that there should be — the revised Constitution should provide for people-initiated referendum.

And what this means is that if the citizenry feel that there is an issue of national importance that they feel needs to be brought to the government and to cause the government to be directed to act in a particular way, that we should be able to petition the government through the referendum process. And this means that of course a petition would have to be — to be — to go around amongst elected members of the society, and there would have to be a trigger percentage

endorsing that issue which would then cause the government to take on board the issue and to move forward with a national referendum.

Now, what has been proposed in the *Summary of Proposals* is that the trigger percentage to require the government to form — ensure that a referendum takes place on a particular issue is 20 percent. So what you are asked to consider is: (1) Do you think that there should be a people-initiated referendum? The second question you're asked to consider is: Should there be a trigger percentage and also should it be 20 percent or should it be lower or should it be higher? Because this is — would be the percentage that would allow the country to go into a national referendum, which is the same scale and cost of a national elections.

So the question is how many referendums do — would we like to see go through? Do we think we must signal that it is really important, through that signal it is indicated to the trigger percentage?

And then, thirdly, we have to — we're asking you to consider the recommendation that if such a petition is successful and a referendum is held, so the citizenry has voted and given the government the mandate, that if the mandate is yes, we agree with this and it's 50 percent or more that it should bind the government in making sure that it moves forward the mandate of the people. Or if it is less than 50 percent that it is not binding but it's one that the government can of course consider, take on board and decide whether in the particular circumstances it is — it is appropriate to move forward or not.

And, of course, this would be in relation to issues of — of local government. Now — so that is something that we're asking — they're asking that you consider.

What they're also asking is, finally, future constitutional changes. If we as a country agree holistically to move forward and we can successfully arrive at a package of constitutional reforms that we're comfortable with, they're successfully negotiated and we do finally put in place a constitution; if we reach that point and the question is how then do we approach future constitutional reform:

Should it be the way it's done now where there's really little involvement or knowledge of members of the public or — and it's just between the government and the United Kingdom?

Or should it be that we signal that changing our Constitution is very serious business and we're signaling to the United Kingdom that it cannot just change our Constitution so that if they have positions that they would like to see in our Constitution that they should bring it to us first as a country and also our local elected representatives? And if there are issues that they see as important they should bring it to the local — to the citizenry.

But of course there's a caveat in there, and the caveat is that if the constitutional change is minor and uncontroversial that it should only require the agreement of both the Leader of the Opposition and the

Leader of the Government Business to — have it take effect — the Premier as suggested, to have it take effect.

So the question is: Do you agree with this proposal? Do you think it should be a two-tier system where if there are some major issues it should come to the people, or if it is minor issues it can be negotiated through the — our representatives?

And I just want to reiterate that the referendum itself will not say that this the constitutional change that will take place. The referendum — it'll be giving a mandate, because remember, any constitutional change that occurs in our Constitution has to be negotiated by our government and the United Kingdom government. So, that is one of the last issues.

Another issue that has been an issue throughout the years, this is not something that — this is something that is mentioned in the *Summary of Proposals* in an introductory way, but it is the issue of the Westminster system. And as you will see here on page [2] of the *Summary of Proposals* it was recommended or suggested that we should retain the current system of just the Legislative Assembly and the Cabinet, and not to engage in other systems of government.

And historically we have seen and the Constitutional Commissioners have made their positions known on that, the proposal has made its position known on it, but there are other positions that have been raised in relation to the Senate or a different style of government, and one that has been suggested is a senate.

And I do have — you do have before you the 2004 *Hansard* which quite clearly sets out the positive features identified as a senate and the reason why some feel that it is something that's beneficial to Cayman.

So, at the end of the day, there's a very heavy burden as being requested of the members of the public, but I think a very important one, and that is, you know, not that we take a glossy look of our Constitution and what we think should be there and what should not be there. But we really look at each component and decide what we agree with, what we think it should look like.

And I'll just set out here in the *Summary of Proposals* some ideas that have been put forth, the position — this has been the position of the PPM Government, this is what they feel very strongly about. But at the same time, because we operate in a democracy, they are putting forward the issues to you so that we — you can just look at it, you can decide whether or not these are viable — you feel they are viable, realistic, good, not so good, what your opinion is. But what's important is that you provide my office and to the Government your opinions because that is what public consultation and feedback is all about and that's the only way we are going to gauge how people feel about particular issues.

QUESTIONS

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Thank you for your patience, and I would like to take this time to move right into the Question Time.

Now, I just want to ask that we observe a few rules. If you have a question, please place your hand up and our staff will be identifying the persons. I'm asking to — one question per person simply because there are about 60 or 70 people in the room, and I would like to give as much opportunity as possible to each person.

And if you have other questions that you were not able to ask today, please put them in our question box at the entrance, because part of what this — the Secretariat will be doing is we'll be taking time to look at some of the questions people have and see if we can provide responses to you that we'll be publishing throughout the public consultation process. So, thank you very much.

So, any questions?

Mr. Locksley, I see. . .

Thank you.

Question #1 - Member of the public: The question I'm going to ask may have been answered before I got here, but what will be the format of this referendum? We've covered a myriad of questions and a myriad of information here tonight. You look at the two or three draft constitutions, got 79 pages of important information.

Now, how are we going to digest all of that and make a decision come referendum time? I mean is there a simple formula you all have, if you could maybe give us a little explanation on that?

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Thank you, Mr. Locksley. I did address it but not in the detail which you have asked for which is good.

What the referendum — the outcome of the referendum will give the government, or not give the government as the case may be, the mandate to go and negotiate the new constitution of these Islands with the United Kingdom.

As you pointed out, the Constitution is a very detailed document. It would be impossible to ask the general public electorate to vote on each and every single issue. Then you start asking yourself, well, should we ask them to vote on the big issues? Then who decides what the big issues are?

So, based on — on a great deal of thought on our part, great deal of research and the best advice we could buy internationally on how these things are run, the — the way that we are approaching this is we

will go through this process that we've just gone through, the public discussion, we will have as many outings into the — into the community as we can, we will use the talk shows. And based on feedback that we get we might even use a survey, based on the feedback we get the country — the Government will make an assessment of what we think public sentiment is in broad terms. Because there's another factor which I mentioned earlier, is that you can give us a mandate to go do anything, but ultimately the UK have to agree to the proposals. So the mandate that we have must be broad enough in terms to enable us to make — to negotiate.

So the document that we will produce following this exercise and following the debate in the Legislative Assembly would form the basis for the referendum question so you would get — the electorate would have a document like this which would set out in broad terms what we believe the country is saying to us: you can go and negotiate in those terms. You might not get all of that, but — but that is essentially the — the limits or the — we've placed the restrictions on what you can do.

And so the question will be simple. It'll be a yes or no question whether you support in broad terms what is proposed or not so that everybody should be able to make that judgment.

We took a long time to get there, I mean months, because we — but at the end of the day we have concluded and the advice is that that's the only way to do it.

There is significant political risk in that for us and we understand that, but it's a risk that we are prepared to take because we are committed to not only consultation but public participation in this important exercise. And if at the end of the day we — we read it wrong and we get the temperature — we conclude that — wrongly that the temperature of the water is what it is not, then the country will have said to us no, that's not the constitution we want. And while some will say that that is a failure on our part, it would also be a huge signal about — about the democracy that we have, because we wouldn't be able to go ahead and the process would have to be restarted probably after the next elections.

But I'm optimistic that we're going to get it right, but I'm just saying to you that that is a reality that — that we could get it wrong.

Question #2 – Member of the public: I just have a question in regard to the right to vote. I just want to understand this and I'd like to give a scenario and if I'm wrong I'd like you to let me know.

If somebody has a child here and they attain Caymanian status prior to the child being born and the child is born, therefore acquiring Caymanian status of their parent, that Caymanian status that the parent was granted, they were never Caymanian prior, yes? So they came and they met the requirements, they attain status, they have a child, they get the naturalization and so forth. Can they apply for the UK passport?

If they can, can they then go to the UK to stay and leave and take the child and raise the child over there but never give up their Caymanian status and then come back here — let's say the child comes back here at 25, meets the minimum requirement to be here resident five years prior to election and want to run. Do you consider them eligible to run if they weren't even raised here but they held Caymanian status, because of the time of birth here their parent held Caymanian status but they weren't raised here because they went through the other process: took the UK passport, went away and stayed but they didn't really raise —

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Hold on a second.

Member of the public: [laughter] I just — I just want to understand if they still — they should meet more term requirement for living here and experiencing life and really being Caymanian rather than just holding the paperwork.

[applause]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): You're right but that would also apply to — to a born Caymanian who took their child away and came back in exactly the same — same circumstances.

Member of the public: But their parentage would have been Caymanian, their parent would have been here, their grandfather would have raised it — he would have went to sea and the mother would have stayed home and raised the children. So they have some form of heritage, they have some right to be Caymanian.

But I'm saying when you don't go through all of that and you didn't get the birthright and you didn't have all of the challenges that the old people had and so forth . . . you know, you can acquire heritage too and acquire your culture through birth and through teachings and so forth and all of that.

But I'm saying if they do it that way, do we still consider them Caymanian because at the time of their birth they acquired it through birth because their parent had it, but their parents in fact are not Caymanian? They don't experience Caymanian culture and they don't experience Caymanian history except for the fact that they obtained it via birth.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): You mean the parents

weren't Caymanian born? But the parents would be Caymanian at the time they were born?

See, it becomes almost impossible to distinguish between — to create categories of — or classes of Caymanian because that's what your proposal will call for. Because the child — understand when the child is born the child's parents will be Caymanian. So now you're saying, well, because your parents weren't Caymanian born you're not as Caymanian as I am.

[inaudible comment]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Yeah. No, I understand what you're saying, but I'm saying this is — this is very difficult territory into which we're getting.

[inaudible comment]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): And I would like to hear the Chief Immigration Officer's view on that.

[laughter]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): But you understand how difficult it is?

[inaudible comments]

Mr. Franz Manderson (Chief Immigration Officer): It's all too complicated for me.

I think you're — you're asking if a child was born here and at the time of their birth both of the parents were Caymanian. That child — it would be very, very difficult for that child to lose their status; they would have acquired it automatically. They could go away, they could obtain their British passport, and yes, they could do exactly the things that you said they could do.

I'm not aware of any provisions that would require us to take away that — that person's right to be Caymanian (we don't call it status anymore).

We can revoke the right to be Caymanian, but that's normally where it was granted by a board as a result of a discretionary act. In other words, someone lived here for a period of time and then got their right to be Caymanian. Those people can lose their right to be

Caymanian if they have been resident outside the Island for — for five years.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): While — while we're on this subject, it would really be helpful to us to get some kind of feedback, some kind of — maybe not consensus but some kind of — of view from as many of you as possible on — on that big question talking about the eligibility to stand for — for public office, whether you feel that the one-generation test is — is too easy, whether we should stick to what is essentially the — the two-generation provision which is currently in the present Constitution or — or not. That will be very, very helpful to us so that if as many of you as — as could or would say something, please do so because we're trying to get feedback.

Question #3 - Member of the public: Good evening. I'd like to make a quick comment and one question.

The first comment is as it refers to the Governor's powers. I'd like to say that I feel that anything that we have to pay for we should have a say in it.

And the question is, whether going to the UK with this proposal for a constitution, whether it is a matter of having to negotiate down to an agreement. Because if you have a proposal and you go to the UK with that, is that the final position of the delegation that goes, or is it — does it become a matter where you have to go negotiate point by point and make point — negotiate down to where you find agreement?

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Well, my experience is you have to negotiate it point by point. You know, the —

[inaudible interjection]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Well, I wouldn't want to — to concede it would be far different because whoever your delegation is — and the delegation would be made up of both government and opposition — would have to exercise some judgment and the UK would also be aware of what the mandate that we have is.

We couldn't go outside the mandate, and it might well be that if what the UK offers on a fundamental issue is so significantly below what the public of — of this country have said to us that they want, particularly in terms of the government, that we might have to say I'm sorry, we can't proceed with these negotiations because — beyond this point because what you are proposing is something that our people will not accept.

That's just — that's just the reality of any negotiations — negotiations when you have parameters in which to — in which to negotiate. Otherwise, you're breaking the faith that you have with the nation, and that's the way I view it.

Qualifications for Electoral Candidates

Mr. Cadian Ebanks (Member of the public): Mr. McLaughlin? Mr. McLaughlin? Mr. McLaughlin and Suzanne, good afternoon. Cadian — Cadian.

I noticed that when you're talking about who may run for government, you don't have any indications of qualifications, you don't have any — anything on qualifications, who may run, because I see a lot of druggies along the corner and you didn't make any exemptions.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Thank you, Mr. Cadian. But, ultimately — ultimately who's elected is a matter for the people who vote, and I think we can always trust the good judgment of our people to determine whether a certain individual qualifies in that sense to stand for — to be elected or not.

United Democratic Party's Position on Who Can Stand for Election

Hon. W. McKeever Bush, OBE (Leader of the Opposition): Mrs. Bothwell and Mr. McLaughlin.

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Yes, sir.

Hon. W. McKeever Bush, OBE (Leader of the Opposition): Thank you.

I certainly would have liked to have seen our position on this matter highlighted on the screen. It was not but it is contained in the draft proposal.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Mac, which matter just so we're clear?

Hon. W. McKeever Bush, OBE (Leader of the Opposition): The one in regards to who can stand for election.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Okay, good.

Hon. W. McKeeva Bush, OBE (Leader of the Opposition): And the UDP would retain the provisions of the current Constitution in relation to the qualifications of persons who can stand for elections.

And our current Constitution says that at least one parent have to be Caymanian and we haven't changed and I don't propose to change my view on that matter.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Thank you, sir. That's helpful.

Who is Eligible to Vote / Official Members

Member of the public: Good evening.

Yeah, my concern really, Mr. McLaughlin and Mrs. Bothwell, Mr. Suckoo, is that you mentioned that the British government seemed to have had a problem with who was eligible to vote, or who would be eligible to vote, seeing that our population is somewhat small and how many Caymanians there are in — in relation to non-Caymanians. That's quite a concern of mine.

You know, just take for example if someone who is — who wants to stand for election has been here resident long enough, is eligible according to what's being proposed there, but then you have so many individuals who are now eligible to vote who are not necessarily Caymanian by way of birth or by any relationship — parent, grandparents, nothing.

You know the situation which we found ourselves with some years ago with the amount of status grants that were given that that puts us in a very serious position, whereby, say someone from Jamaica or some other country — England, per se if you want to say that — if those individuals were eligible to vote under these less stringent conditions, it means that all these other people who are basically with no real ties to Cayman can get in there and vote that individual in. In fact, they could vote a number of individuals in, and this country could probably be — be governed by basically non-Caymanians.

So maybe I am not seeing this fully, but I have a concern there.

The second thing, and I'll make it quick, and that is that I personally think that those people who are now Official Members, although I agree with you that certain other responsibilities which are now held by the Attorney General, I like what's being proposed there as

regards the Solicitor General and so on, public prosecution and so on. That I agree with.

But as far as the Official Members are concerned, I am not sure that one can guarantee that in any election, any one election you're going to have people who are qualified and have the experience.

Say, for instance, as the Financial Secretary. He's not there because he was elected, so the government decided that — the government of the day decided here's the person we want as the Financial Secretary.

You may not have even one person who wins in an election year who is fully qualified or certainly as qualified as someone who is a civil servant.

What their voting privileges are or anything else I don't know, but I think the Chief Secretary and the Financial Secretary, those two positions I think are important, particularly the Financial Secretary. You get the wrong government in there and you don't have somebody else who's not handled like — by a string with the Premier or whoever's in charge, basically doing what he says has to be done, then we're in trouble.

So I think that — I have some concerns along those lines and I thank you.

[applause]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Miss Daphne, just so that everybody is clear on what is being proposed in regard to those two offices, it is not being proposed that we abolish the offices of Financial Secretary or — well, Chief Secretary would be converted to Deputy Governor under our proposal so — but essentially the same — many of the same functions will continue.

What is being proposed is that Cabinet would have increased from five elected ministers to seven to replace those two offices and that you would have a minister of finance and perhaps — it could be another name, minister for home affairs; that's the way it is in most — most jurisdictions that have a Westminster system of government.

They would be no — whoever occupied those offices would be no different than those of us who occupy these offices. What qualifies me to be Minister of Education, I don't — I don't have a single teaching degree, I've never taught school. My responsibility is policy, the technical details are — you hire the right staff to do those things.

The UK is pretty much insisting on a minister of finance because they want an elected member who is responsible for financial policy, not for the details of how it works.

So, those two offices would still — the Financial Secretary's office would still continue, he would be — or she would be head of what is now

the Portfolio of Finance and Economics, but he'd have a minister above him sitting in Cabinet and similarly with — with whoever it is that is responsible for Internal Affairs and so forth.

So it's not proposing that those offices would be abolished, it's just that they wouldn't be Cabinet positions anymore and you'd have a minister above them. Okay?

National Oversight Council

Member of the public: Yeah, I've been listening around tonight for quite some time, I'm taking some notes and observing what is taking place.

This is nothing to do with the specific present Government; but for the last 35, 40 years what I see and now presently as an antiquated system that we're working under, which we might want to call the "chosen few", the elected members.

I have strong reasons to believe that the majority people in these Islands would like to see an oversight council formed by committees from each district which would be able to deal whether you're Cabinet, whether you're Chief Minister, your powers would be limited to the national oversight council which would be made up of specifically vast majority genuine original Caymanians.

What we're seeing right now we're making circles about who should be what and their amount of power. With all due respect, while I appreciate what is coming forward, I think if you are able to listen to the general public I think the time has come to look at what I would call an antiquated system in getting the more modern system like we would desire to have, calling it a national oversight council.

Thank you.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Thank you, sir. Duly noted.

What Makes You a Caymanian?

Member of the public: Hello. I just listened to all the explanations of everything about being a Caymanian. I'm still more confused now than when I walked in here as to what is a Caymanian or who is a Caymanian. I just want one simple explanation as to what makes you a Caymanian.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): There — Franz is ducking so I'm gonna try — I'm gonna try my best. [laughter]

But, essentially, you can — you can be Caymanian in two ways under our present system: (1) you are born of Caymanian parents either within or without the Cayman Islands; or you acquire status by a grant. In other words, you — what we call status is now the right to be Caymanian, the new expression in the present law by a board.

So, you got — you got what we call born Caymanians and you got what we used to call status holders.

[inaudible comment]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): They've always been except in the regard that Franz mentioned earlier, is if you get status by way of grant except if you got it through Cabinet under the old law, which no longer exists, it can be revoked, whereas if you are born Caymanian they can't take that away.

[inaudible comment]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): No, under none of the proposals would you be able to run for office.

Member of the public: Okay, so status holders —

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Because —

Member of the public: — can't hold office?

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat): Mr. Manderson, can you —

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): The reason I'm hesitating is because I think I'm wrong in what I just answered you. Just let me check one second.

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat): Mr. Manderson will address this question.

[laughter]

Mr. Franz Manderson (Chief Immigration Officer): I think it's important for all of us to realize that we all became Caymanian as a result of the — of one immigration law or another.

The first immigration law that we had was the Caymanian Protection Law which was in 1971. So, basically, I became a Caymanian because I was born here.

Up until the 27th March, 1977 everyone who was born in the Cayman Islands regardless of where their parents were from was a Caymanian. So all of us who was born prior to that date was a Caymanian.

Going forward then, there was a new set of rules which as the Minister stated if you were born here, at least one of your parents must have been a Caymanian. And then we moved on to setting quotas for people who could obtain status as a result of residence to where we are today.

So, like the Minister said, there are basically two types: there are persons who got it by virtue of their birth whether prior to '77 simply by being born here; after that time by being born here and having a Caymanian parent; or it being granted by a board as a result of tenure.

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat):

Thank you, Mr. Manderson. I hope that clarified the point, sir.

Mr. Bush.

25-Year Term on Eligibility to Vote

Member of the public: Okay, Mr. Banks asked a very . . . that was the first — I heard you say we're only allowed one question, but he covered my first question, and your answer gave me a little concern. And you were open enough and you were very open when you said two things: one you said this is my opinion on this about the 25 years and what it is and so forth. Mr. Bush, in the back there, stated the Opposition's position. I was in a board meeting today where four PPM members all said they didn't like the 25 years.

You were very open and honest when you said you were hoping you get the right temperature when you make some of these decisions. I want to say one thing on that issue.

The fact what Miss Daphne said about the amount of other people who are going to be eligible to vote, if the aim that they're eligible for 2009, 2013 — and we all know but we don't like to admit to it that one set of people in this country that don't stick together are Caymanians. That's a fact. Regardless of who don't like it, that's a fact.

This is the one that we must make sure, Mr. Minister, that we get right. Do not go any loopholes. Try to go as factual as you can on this one, please. And I do say 25 years is not enough. I'll tell you that straight up now.

Mrs. Hilmae Bodden (Member of the Constitutional Review Secretariat): Thank you.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): What I would like you to go on to say, though, is whether you think that we should stick to the two-generation requirement — I mean two-generation Caymanian.

[inaudible comment]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): That's what I'm trying to — that's what I'm trying to assess.

[inaudible comment]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): That's what — yes, they're saying stay with the Constitution as it currently is.

[inaudible comment]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): That provision, yeah. Yeah. Yeah.

[inaudible comment]

Mr. Christen Suckoo (Member of Constitutional Review Secretariat): Sorry, one second.

Ladies and gentlemen, please remember that we're actually recording this, so we need for you to actually have the microphone when you're making your comments and questions. Hilmae, can you just pass the microphone back to Bernie one sec?

Member of the public: Thank you very much. And, Mr. Minister, I must say, since — and I admire you standing there and saying what you said just now because I know it's risky as a Member of Parliament saying that.

But if it's one section that we may have to hold on to is that because since the day at — you all kicked off this thing at the Pedro Castle, I've yet to hear anybody — I've even heard people who are first-generation Caymanians say look, I've been here enough to know, I kinda agree, you all don't change that. It knocks me out of the window, but for the good — those are people who genuinely love the country and not here just — not to collect a salary or whatever. Because what that lady said

right there, as much as we sit down and we worry about people that got papers and so forth, believe you me, a lot of them — and thank God so — are moving on to England and so forth. When they get their Cayman papers they're claiming their English papers and moving out, which is maybe a blessing in disguise.

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat): Thank you, sir. Captain Eugene Ebanks.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): That's very helpful. That's what this whole exercise is about really, getting that kind of feedback. So I'm very grateful for that.

Question #4 - Captain A. Eugene Ebanks (Member of the Opposition – Fourth Elected Member for the District of West Bay): Thank you, Suzanne and Alden.

In going through your proposals, I see that it must be a Caymanian to hold the post of Deputy Premier, but then it is possible for a non-Caymanian to be Premier. Can you explain the rationale behind that?

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Mr. Captain Eugene, can you just refer us to the page, please, just for expediency?

[inaudible comment]

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): I think there was definitely that the Deputy Governor must be a Caymanian. I just want to make sure that I find this section.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Cap, can you refer me to the page?

Captain A. Eugene Ebanks (Member of the Opposition – Fourth Elected Member for the District of West Bay): I'll have to look it up but —

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): I think you might be mistaken. I don't think there's any provision — provision like that in relation to the Deputy Premier because to get elect — to get to be the Deputy Premier you would have had to have been elected in the first place so you would have had to be Caymanian. I think you're referring to

the Deputy *Governor* position which is on page [7] of the *Summary of Proposals*.

Captain A. Eugene Ebanks (Member of the Opposition – Fourth Elected Member for the District of West Bay): Okay. Yeah, I apologize, the Deputy Governor. I'm sorry.

Main Issues for Caymanians: Who Can Vote, Who Can Run For Office

Member of the public: Good evening, everybody.

Mister — Mr. McLaughlin, first of all, congratulations being Cayman Man of the Year.

The two things that you can tell is most relevant to most Caymanians here tonight is issues about elections, who can be elected and who can run. And as you can see the response when we said about at least two-generation Caymanians.

I mean, I don't have long enough time to be here to see 'X' is Premier of Cayman Islands and we say who he is, another Caymanian and as far down as you can reach, there's no connection. I don't think we want to hear that.

And about those that can run for office, can vote the two to four years is like opening up a floodgate I think. Those things should be considered and I think invoke more passion than any other issue.

Thank you.

[applause]

Mr. Stacey Eden Hurlston (Member of the public): Good evening. My name is Stacey Eden Hurlston. Lots of what I would have said I won't say because time has taken —

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Can I ask if you can just raise your voice? Thanks. Okay. Thanks.

Question #5 - Mr. Stacey Eden Hurlston (Member of the public): I don't really need the mike.

There is one option that I know most people don't want to speak about. But it's like death, I guess, we know it most likely will happen or it might happen.

I'd just like to know if you're all prepared for talk about independence. Before you go up to present your proposals, since it is possible that we may have to consider every option or talk about free

association, so forth, but that most important option, are we prepared to talk about it?

I know it's an unpopular topic or subject, but since we have never, ever had a referendum saying whether the people, the majority of people — we're assuming that most people do not want to go independent, but are you prepared to talk and sort of give details about that option before you go up to give your final proposals or your final commitment to the British government, or to the European Union since we're part of them?

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat): Thank you, sir.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Mickey, the UK government has said to us — they said so in 1999, they've said so at every time that I've sat down around the table with them, as recently as when Mrs. Meg Munn was here a couple — was it earlier this month, I've forgotten now the time flies so quickly, December, whenever it was — is that the UK is quite prepared to consider independence for any of its territories if it is satisfied that the people of those territories want that to happen.

My read, this Government's read and I think the Opposition's read of — of the attitude of the majority of people in this country is that that is not something we want to consider at this time.

Now, if you — if you're moving around, the community tells you different, then you will have to tell us that you have a different feeling. But I believe that we are all sufficiently connected to this community to understand that that is not a sentiment that the majority of people share at this point.

Mr. Stacey Eden Hurlston (Member of the public): My point is not that you're going to go to the United Kingdom and say that the general consensus on — is a feeling of independence. My point is, are you willing to explain what it entails to the public, what would be the ramifications of independence, sort of a general idea of that would give — before you go up there. You see what I'm saying?

I'm not saying that you're deciding that this is the opinion of the people or the general opinion, the general feeling, but are you prepared to discuss the ramifications of it like how you're talking about this constitutional proposals, what you propose are the — maybe the people for referendum may talk about this free association? Do you understand what I'm saying now? To discuss something about the ramifications of independence.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Well, as a government we haven't spent any time really talking about the ramifications of

independence. I mean — so — because we don't — we don't believe — nothing indicates to us that is a road down which we should travel right now and, quite frankly, we don't believe we're ready as a country and as a people for all that that entails at this stage.

But I suppose some of the more obvious ramifications are that we'd have to assume all responsibility for the fears of this country, including and in particular, responsibility for External Affairs, relationships with other countries, the creation of a defence force, embassies, all of the things that — that go along with that. Those are sort of the obvious ones that come to me quickly.

I mean, I suppose ultimately independence is perhaps inevitable but I don't see it — I don't see it any time soon.

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat): Does that answer your question, sir?

Mr. Stacey Eden Hurlston (Member of the public): Yes, it does in a way. In a way.

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat): Thank you, Mr. Minister.

Question #6 - Member of the public: Good evening. My question is — with the role that is going to be given to the — to the Premier, the powers that are going to be given to the Premier, pretty much what he said, how close does this put us to independence?

The reason I ask is the — the role of the Attorney gentleman — the Attorney General will be selected pretty much on the advice of the Premier and not solely on that of the Governor. Now, I believe that the Governor should select the Attorney General and not the Premier because what is the Governor here for? That's my question.

[applause]

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Well, the reason — and the Opposition will share this view. We have, I think, enough bad experiences with — with the role of the Attorney General for us to have come to this conclusion.

When Suzanne was doing her presentation she talked about the conflicts. It's a basic question of loyalty. Who is the Attorney General loyal to? Is he loyal to the government of the Cayman Islands, or is he loyal to Her Majesty's government, and by extension, the Governor of these — of these Islands? That is why we wound up with the situation of David Ballantyne. That is why we have the current situation that is going on now.

And it doesn't matter where the person comes from, it's who they're appointed by, where — in connection with this whole controversy with the Commissioner of Inquiry, the Attorney General felt bound to advise the Governor. And to this day Cabinet has had no advice from him. We've had to go and seek legal advice elsewhere, but he's being paid by the Cayman Islands government, but the Cayman Islands government isn't getting advice from him.

So that — that is the reason why — and if you asked — if you asked the Leader of the Opposition, if you ask anybody who's been in government they're going to tell you the same thing: the government needs good quality legal advice available to it where it doesn't have to worry about — about that advice being compromised because there is a split loyalty to the Governor or to the United Kingdom. That's the reason for that proposal.

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat):

Thank you, sir.

Question #7 - Member of the public: Good evening, panel.

I'm actually very pleased to see and hear actually much discussion about the culture of Cayman Islands. On page [3] of your *Proposal* you have here section B, Human Rights. Second paragraph says, "**Having these rights in our own Constitution has the advantage of 'Caymanizing' our rights.**" What in particular are you talking about or you refer to or propose to when you're talking about Caymanising?

I don't — I don't hear much talking about our Christian values, our Christian culture. As we know we're very capitalistic today but nothing's talked about how we must retain our Christian values that our forefathers built these Islands on.

What exactly are you proposing?

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): I couldn't hear you very well, so if I get the answer wrong you'll have to correct me. I was struggling but — there but I didn't hear you very well.

What we're talking about here, the — let me just see if I can quickly sum things up. The basic Bill of Rights which is — which is attached to the 2003 Draft was essentially the document sent to us by the UK back in — in 1999, 2000, which they basic — they said to us these are the basic fundamental rights of the individual, the sort of minimum standard which any developed country must have because — they come out of the European Convention and Human Rights which came about after World War II and the terrible things that happened during that war.

What we are proposing, or what we are saying that we ought to consider as a people are what are called some of the second- and third-

generations rights, many which have been developed as African nations have become independent, which go beyond those basic rights which were developed 50 odd years ago so that in places — some African states you have . . . you have provisions which relate to protection of the environment, the right to good government, protection of some aspects of — of your heritage.

We haven't developed a Bill of Rights to show to you. What we are saying is that we — we believe that — that these are important enough issues.

Let's take the right — or to protection of environment, how critically that — how important that is to the long-term survival and quality of life in these Islands. Our entire tourist industry is built on having a good, solid, sound, healthy environment. The kind of life and recreation that we enjoy from our marine environment, in particular, is something that we believe ought to be protected.

To write that sort of stuff in our Constitution means that if the government is going down a road destroying the environment, you would have a legal recourse to challenge what the government is doing in that regard. So — so it gives the individual the ability to take government to task about these sorts of issues. That's what putting it in the Constitution creating it as an individual right means.

Question #8 - Member of the public: Thank you, Minister.

In particular, if you look at page [19] of what's being proposed in this little white . . . page [19] section 10, the — page [19] section 10(2). As you read under the bottom it says — actually I'll read it for you. It says: **Except with his consent . . . except with his consent or his — or if he is a person who has not attained the age of 18 years, [the] consent of his guardian, no person attending any place of education shall be required to receive religious instructions or take part in any religious such activities.**

Now, in particular, we've been hearing over the years about the lack of our Christian values in schools, you know, we should — we should practice more Christian ethics and values and morals and sing the National Anthem and such. But your proposal negates that; it certainly just goes over that and doesn't even touch anything on that.

So that's specifically what I'm getting at. How do we retain and improve our Christian values and our culture? We're talking about our culture and this is a big thing I think Mr. Orrett has raised and other members of the committee have raised.

How do we retain our culture? We're getting some Afghans coming in here at some point, they get Caymanised and in, you know, 15 years runs for office, has no culture or heritage of Cayman. This is exactly what we're speaking of.

Thank you, sir.

[applause]

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Thank you.

I think one — the purpose of this provision is not to prevent people from receiving religion instruction but not to impose religious instruction on people. I think that is a — a very clear distinction that we need to make.

So, for example, the current situation in our schools is that — that it's in the government school — the school cannot impose instruction on a child.

Let us say, for example, I come from the St. Ignatius School; that is the Catholic school that I attended; I am Catholic. However, at the same time, that school was put in the Cayman Islands to serve the Caymanian children. A large percentage of the — the students of that school come from different faiths.

So, the question is: that child who has — already has his denomination, his faith, should the values, the Christian values of the Catholic faith be imposed on him whilst he is free to receive such education?

And that is a choice — that's — what I'm saying is that the provision of freedom of religion is not necessarily to say that I cannot receive instruction because I am infringing someone's rights. It's saying that I cannot impose it on another person who does not want to have it imposed on them.

And that has been obtaining since I was in high school, whereby, you know, if you were of a different faith, you could not attend that part of the session, that was a freedom. Unless of course I didn't hear you right.

[inaudible comment]

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Hold on. We do need to have the mike because the recording will not pick you up if — if you're not on the mike.

Member of the public: You did hear me right. Thank you, Mrs. McLaughlin — Mrs. Bothwell.

And what I'm getting specifically is all schools privately — all private schools in particular are getting subsidies from government which we are paying for. So, again, it goes back to the Caymanian people. If we are paying our schools to teach people whatever they want to, then where's our culture going to advance here?

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): I'm not hearing you. Sorry. Maybe, Hilmae, if you give him the mike maybe it will help.

Member of the public: What I'm saying is that your rebuttal to me was that you can't enforce — and I appreciate you can't just tell somebody they have to adhere to what I believe in. But what I believe in is what I've been raised up in Cayman to believe in: Christianity; Christian values; good morals.

If you're coming to my country — and the United States have a big problem with this now — anyone comes to the back door, they want to instill what they want to instill, this is what they believe. At some point the majority will overrule the minority, and we are already the minority.

So we've got to stand up and set good concrete foundations for our culture, and I go back to culture because it's a big thing that identifies what we are and who we are.

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): I agree but at the — but what is to be noted at this point in time, this document is a draft document, and the reason why the statement was made is that we need to Caymanise our rights is because right now what do we have in place in our country besides our culture and our heritage? What sort of legal standing do we have that we can look at to say we are afforded these protections to protect our society and our culture? They are notably absent and that is why we need to I think as a society really begin to understand some of the issues regarding Human Rights.

What is important here in this discussion is that we do discuss some of the concerns because you want to make sure that whatever Bill of Rights that we agree to is something that holistically reflects us as a society. But I really would like to caution members of our society into thinking that by not having a Bill of Rights we are protected, by not having a Bill of Rights, by not actually finding a place that you can look at as a citizen to say, well, you cannot do this to me.

And remember now, Bill of Rights is really against the government, you know? It's really to protect the citizen from the government. So we have to look at not just the whole package of Bill of Rights and say, oh, I don't want this. You need to look at the individual provisions in there because they're in there for a reason.

I think Minister McLaughlin alluded to the fact that the Bill of — establishing a written code of Human Rights emerged because of the atrocities of World War II. And we have to acknowledge as a society — and I am sure there are many members in this room tonight who lived through World War II. We celebrate as a nation veterans who fought in World War II, and we have to ask ourselves why did they fight.

The fought because they were trying to protect people, people who were not in Cayman but people who were away so that those kinds of atrocities would not come our way. So they were born for a particular reason.

And I would like to encourage people to attend the Human Rights meetings, they're having a series of public lectures, because this is where we as Caymanians need to come and talk about the issues.

What is important, of course, not to just accept a document *carte blanche*, but to find — look at that document, look at the things you think are absolutely necessary, look at the areas that are of concern to you, and that is part of the mandate that Minister McLaughlin is talking about.

You know, so if, for example, when the UK asks, well, we've reached the Human Rights section, it would be imprudent for him to say we don't want it because the very likelihood is that this is something they're going to stress him about and not find acceptable. But I think a more constructive way of dealing with the issue is for him — is for our leaders to be able to go to the United Kingdom and say, okay, we're talking about the Bill of Rights, these are the areas that we need to talk about.

And so, that is part of the Cayman, the Caymanising of the rights, to say where is it in these — these — these convention rights that we think are acting contrary, are going to undermine some of the core values?

And remember now, when these convention rights are put in place, part of that package was to encourage countries themselves to take the convention principles and to put it in their domestic law. And they weren't just saying that because it sounded like a good idea, they were saying that because they recognized that each country is unique. So therefore, the package of rights should reflect what is unique to that society.

So, this is not necessarily just about, you know . . . you know, taking away, taking away. It is actually supposed to — the premise, the foundation of the Bill of Rights is supposed to be about giving, vesting a right in a human being.

So whilst we sit here today and we are of the view that we have all the rights in the world, one of the questions that I'm asking you to think about is: what is it that makes me feel that I have these rights, and if it is because we operate in a good and benevolent society today, is that enough of a guarantee for you down the road and for your children? So these are some of, I think, the fundamental core issues that we do have to consider.

Mr. Bush, I'm going to ask that Mr. Cardinal's question be asked first and then yours. I think he's been waiting for a long time.

Thank you.

Question #9 - Member of the public: Thank you.

Just a scenario here.

Let's say that a couple came to Grand Cayman 15 or 20 years ago and they brought a child with them, was only 6 months old, and under some special circumstances the child is — the government can issue status for those parents. How soon after, in other words, that they're granted status that the child can be considered for status?

When you answer that I want to carry on unless I can — unless I can make it that — make this — make this query in two — in two sections.

In other words, then, if he's granted status at a young age, then around 28, 22 years or so he can run — he can run for office? That's what I want to know.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Well, in that —

Member of the public: And if that — if that's the case that they can run for office at such a younger age, then this 25 years and 20 years issue we got should be stepped up between 25 and 30 years in order — in order that — in order for that person to prove to us that he really has Cayman by heart and he's a Caymanian as such.

Thank you.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): You're — you're right. We take that on board.

A Child Born in Cayman

Member of the public: I — I wanted to comment on the child being born in the Cayman Islands.

I have always held the view that that is really what makes us what we are and that a child right to be born has nothing to do with where he's born or to who he's born to. Therefore, I believe to take the child right away is wrong.

When I say that, it doesn't matter where the parents come from, the child bears no responsibility for it being born when or where. And if that child is born in the Cayman Islands, grows up in the Cayman Islands, regardless of where the parents is from, I believe that child should be considered a Caymanian. That — that is my opinion for the night.

Mrs. Hilmae Bodden (Member of Constitutional Review Secretariat): Thank you, Mr. Banks.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Just so we get it right, we have the right to stand for elections?

Member of the public: Repeat that, Mr. McLaughlin.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): I'm saying — you said if they were born in Cayman they should be — they should have the right to be Caymanian. I'm asking and do you mean that then they should also have the right to stand for elections?

Member of the public: Yes.

Hon. Alden M. McLaughlin, Jr. (Minister of Education, Training, Employment, Youth, Sports and Culture): Okay.

Protection and the Bill of Rights

Hon. W. McKeeva Bush (Leader of the Opposition): Mrs. Bothwell, in regards to the Bill of Rights, I listened intently to your explanations. I think from what I have gathered people have been concerned about is exactly whether by having a Bill of Rights they understand some of the protections. However, they are concerned about other matters of life that will be introduced because you have that Bill of Rights. And where our cultural morals will be infringed is where I think people are having a problem.

I don't think — I think all of us understands that these are rights that have been passed down from Europe and pertains, to a wide degree, on many of the things that happen in — in Europe.

Now, we have been signed up to a convention — I think Mr. McLaughlin could answer that because I think at least he announced it — and so we would be affected already. There again is a concern and perhaps he could answer some of it.

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Thank you, Mr. Bush.

That is correct that the Bill of Rights implementation carte blanche for Bill of Rights would raise concerns to any country. And I think it does endorse the view that if we are going to be implementing something like that our domestic constitution that we need to localize it.

What presently obtains in Cayman is that we are signed on to at least six or seven Human Rights conventions, and I think if you recall at the very beginning stages of my discussions about how the United Kingdom can sign us on to treaties and the implications that can have for us as a society. So we have for some time been signed on to about six to seven various Human Rights conventions.

Now, the issue that Cayman faces is that if there are breaches in Cayman in relation to those convention rights, there's an issue with enforcement of those rights here. That means a person who is aggrieved or who has been offended will have problems receiving a remedy here.

However, what that does, that has I suppose for some positive implication because that means a person really can't protect their right effectively here, but it also has a negative implication in that because we are now signed on to the European Court of Human Rights and there is a direct right to petition, that person, if he cannot receive an effective remedy here or — and allow our local courts to deal with the issue appropriately, he can then go and have direct access to a court that has probably no idea where Cayman is on the map.

So that is why I think that we cannot oversimplify the issue of Human Rights. I think we have to look at the whole issue of what are Human Rights. We have to look at the issue of enforceability because this is about protection of my rights as a citizen and each and every one of your rights sitting down here, not only rights of people who come here to work on a work permit, it's about everybody's rights including yours. And the question that you have to ask yourself is whether you're willing to sacrifice your rights, all of your rights.

One of the things that we definitely need to — to think about is I said localizing it. And we did — I think Minister McLaughlin mentioned that there has been a tremendous movement in the developing world, not only to — to look at those areas of just civil and political rights, but those areas that involve society as a whole, the various aspects of society.

For example, the whole issue of the aged in Cayman is a serious one. The issue of disabled persons is a serious one. How do we ensure that they are treated as equal citizens in our country? Do we rely on the type of Minister who has, for example, some softness in his heart or some affiliation to those groups and therefore moves forward? Should we have to rely on the personality or should we rely on the principle that irrespective of the government of the day that these types of persons are treated equally?

There's movement — there are different constitutions which actually go into protecting the rights of these vulnerable groups because these are groups in Cayman that cannot speak for themselves sometimes. They rely on other — the rest of society to look after them.

Similarly with the right of children we — we sign on to the Human Convention on the Rights of the Child. We've been signed on to that for quite a while. And I'll probably get in trouble for this, but I'll say it

anyway because of my deep connection and experience in the juvenile justice system in Cayman, but the needs of our children have been totally, absolutely neglected.

[applause]

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): And part and parcel of protecting rights is protecting the rights of a child, too.

Ireland is actually moving to — a lot of the older constitutions are actually looking to make amendments in their constitutions to ensure that their protections for these vulnerable groups. And we have a children's law, we have children here who, you know, the issues of the rights of the child — the right to shelter, no child in this country should not have a place to rest their head. The right to be — to be able to go to school, no child in this country should be denied, whether through an inefficient system or whether through parents who are, you know, for whatever reason won't allow them, they should have the same rights as us as adults.

And so, I do think that it's good that we are beginning to have dialogue on Human Rights. I think that this is part and parcel what this whole experience is about. I do think that in particular on the issue of Human Rights that we need as a society to really develop a grassroots understanding of the — of the issues and implications, both of having a Bill of Rights and equally continuing not having one, and not only the implications domestically but the implications of what it means when a court from Strasburg can make a decision on us. We should be able to equip our local courts to be able to deal with the matter here.

I'd just like to say at this time that we're running late. I would like to take one more question from Brother John, and then I'd like that if there are any other questions if we can please fill out the question box, fill out the questions and put them in the box.

Thank you very much.

Question #10 - Hon. W. McKeeva Bush (Leader of the Opposition): I have a question, an —

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Okay. Sure.

Hon. W. McKeeva Bush (Leader of the Opposition): — observation which concerns with the Bill of Rights is what will happen to our Christian schools? Because localizing it as you were saying, I don't think that gonna help to that extent. And that — if you can answer, fine, but I don't want to take away from anyone else's question so I say it's an observation.

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): Mr. Bush, thank you for that because that is exactly some of these issues that we need to get out in the air: the issue of our ability to continue to function as we do as a society.

And I do believe — I do agree that when we go to discuss a Bill of Rights we must have very clear in our minds exactly what it is we feel should be contained, the necessary protections in the Bill of Rights to ensure there are not these erosions of our culture and our belief systems. And that is exactly what other territories, other countries have done.

I know in the BVI if you look at their constitution they have tailored certain provisions that could be tailored to really reflect the sentiment of their citizens. I won't go into detail, but some of them relate to burial. I'm not sure what the issue is they have with burial that is non-discriminating — that there can be discrimination in that, meaning they are obviously protecting some local interests that they have here; the whole issue of marriage that we know had been touched on last year and continues to be a concern. In their constitution, their Bill of Rights and constitution, and even in ours, the one that — the 2003 Draft, it was a statement in there that marriage is between a man and a woman. That's what's in the 2003 Draft.

In the BVI what they have done, recognizing these particular concerns of their citizens, is they have said that marriage is to be defined according to their marriage law which leaves it to their elected representatives to provide a definition of marriage.

So there is some room for flexibility but not in relation to everything, and I think we need to at least start exploring the issues about Human Rights.

Single-Member Constituencies / Leader of Government Business / Changing our Constitution

Member of the public: I want to — want to support the single-member constituent. I also want to say that when a member is elected by the public and you choose whether you call him the Chief Minister or the Leader of Government Business or what, I think that he being an elected member of the public that he needs to be able to have flexibility and need to be respected as a leader. And I think that it's time that we move out of that area and the member should be able to set the agenda. I don't see any reason why it shouldn't be.

I don't see how the Governor can — can do things without consulting, you know, that might be how our Constitution— our Constitution operates at present. But if we're going to change, we

certainly need to change it in the benefit of our country and our own people.

And then you talk about the protection. Sunday or — you said the right to religion; to marriage between members of the opposite sex; to family life; and privacy of one's home; and correspondence. Well, I think that would cover a lot of our problems but I think that's a strong thing. When we talk about our heritage we shouldn't be afraid to tell anybody about our heritage and we shouldn't apologize to nobody about that. I wouldn't, I'll tell you that much right now.

Thank you very much for the opportunity.

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): You're welcome — you're welcome, Brother John.

THANK YOU

Mrs. Suzanne Bothwell (Director of Constitutional Review Secretariat): This — thank you very much for coming. I hope that you will continue to listen to the discussions both by the Leader of Government Business and the Leader of the Opposition. I know that Mr. Bush has announced that he will be providing their proposals or their positions on constitutional reform.

We are in the first stages of public feedback. I really do encourage you to get all the facts, listen to all the positions, but most importantly, at the end of the day, to formulate your own opinion and give your mandate to the government so they know what the limits are that they will be able to negotiate any sort of constitutional reform in the future.

Thank you very much and I hope you come back to more meetings. Thank you.

[applause]