



Constitutional Modernization Initiative Public Consultation Meeting

Held on

Monday, 18 February 2008

Family Life Centre

**Grand Cayman
Cayman Islands**

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>> MRS. SUZANNE BOTHWELL: All right. I think we're ready to start.

I would just like to welcome everyone for taking the time out of your busy schedule to come out tonight and be a part of the constitutional discussion that's taking place today.

My name is Suzanne Bothwell, I'm the director of the Constitutional Review Secretariat. Some of you I have seen you at other meetings and I'm glad to see that you're coming out if you have other questions.

I would also like to make special mention and recognize especially those members of the Triple C School, which I don't mean to embarrass you, but I am very encouraged to see that younger members of our community are taking part in the process because this is something that inevitably is about them when they become of age to be -- have equal voice and for them to stand up as standing members of our community because this is all about them. They are equal participants in the process.

I would like to open by inviting my colleague, Mr. Christen Suckoo, to say a prayer, which will be followed by a welcome by the Leader of Government Business, Mr. Kurt Tibbetts.

>> MR. CHRISTEN SUCKOO: Let us pray.

Gracious and heavenly Father we present ourselves before you once again, Lord. We ask you, Lord, to search our hearts, we ask you, Lord, to quiet any murmurings in our minds that we can truly hear your voice. Father God we ask you to join us in the presence of the Holy Spirit in this process to guide us through this process, to ensure that the product that we have at the end of the day is something that is to your glory, Lord, and not to ours. Be with us now and forever more, Lord. Amen.

>> HON. D. KURT TIBBETTS: Hello everyone. It is good to see all of you here this evening for this, I think Suzanne, our 6th meeting -- yes, this is the 6th meeting and this is as good a turn out as we've had at all of the others.

Just so that you -- for those of you who haven't been to any of the meetings

before, you will notice when you came in, you had access to three documents that have been produced. We have the 1972 Constitution and the Companion Guide for everyone's benefit that they can have a document which basically tells them what obtains now in our Constitution. And then we have produced the Cayman Islands Constitution, a reflection of who we are, the Summary of Proposals and also the Explanatory Notes.

Now, I've explained this before, but, again, I think we need to keep repeating it to make sure everybody fully understands. The Summary of Proposals which we launched on the 12th of January at Pedro's Castle is simply a document that we thought and still believe was the best thing to do producing a starting point for the discussions. We are now in phase 2, which is the public -- period of public discussion, public education, and we produced the Summary of Proposals and the Explanatory Notes simply as a starting point for the discussion because we've gone through a fair amount of discussions regarding Constitution modernization prior to this, but we recognize that not quite but almost four years have passed since we have gone through that process. So we recognize that not necessarily everything that we thought to be the wishes and aspirations of the majority of the public at that time would remain the same for now.

But nevertheless we didn't think that we should be starting the process over from the very beginning, so we produced the Summary of Proposals and its accompanying Explanatory Notes, folks, just to give you all something to start from, something to evoke the thought process, something where you all could be looking at comparisons as to what obtains now, what some of these proposals might be. And at the end of the day, from the input that we get from you all and all of the other meeting and meetings with NGOs and other private sector organizations that we can come up with what we believe to be the end product of the majority wishes.

Now, already there are -- or there is at least one specific item in that Summary of Proposals where at every meeting it seems like we've had the majority of those who attended those meetings say to us that that is not the way that we would like and we will

talk through that specific issue tonight also because we need to hear from you all.

But I use that as an example to say to you that once we are all satisfied that the majority of the electorate in the Cayman Islands wish for it to be different, then certainly that will change. And as we move through the various phases of the modernization process and we get to the point where we will produce another document based on all of the input, that is the document when that is produced that the public will be voting on a referendum to say that this is what we want you to go to London and negotiate.

So contrary to what you may hear otherwise, and I'm being very careful with my choice of words tonight, folks, because it is important for us not to get crossed up between this exercise and the politics of it. This is not about the politics of it, this is about making sure that through this mechanism we have the ability to glean from you all what the wishes of the public are when it comes to what positions we should take to London to negotiate for.

So once we get through the process of having all of the public meetings and the Secretariat has, as they are now and will be during the course of tonight, collected all of the various information and all of the various positions that people expound on regarding the issues, then they will be able to pull in what the majority views are.

So it is important that not only do you attend meeting tonight, and we are very grateful that you have taken the time to show the interest that you have, but also speak to your friends about it. Sit and talk about it. Take the documents and make sure that people buy in to the process because it's important. This is not about us as politicians, it certainly isn't about me. I am kind of over the hill now. But it is about the framework for a governance model for the future, for us, for our children, for our grandchildren and perhaps further on. And it is all about us making sure that we know what you believe. So that's the purpose of the whole exercise tonight.

And again, I want to stress to you all while this document is the starting point, we did not for one minute believe that this would be the end result. This is a result of us, the government, taking advice from various quarters, from expertise that was made

available to us, and from our own experiences with the last process, and also with negotiating in London where we ended up with a Draft 2003 Constitution. So we have picked it up from there, produced this document and now we're going through this phase of public interaction. So if you all, when the presentation is completed tonight, will be able to understand what the proposals are compared to what obtains; but then you all can add to that next by saying, well, we like this one, we think we should tweak it a little bit, or we don't like this and we tell you why we don't like this and here's what we would like to see.

I think that pretty well covers the whole exercise tonight, Suzanne. And I know that presentation takes a little while so we may as well get into it.

I want to again say a very special thank you for all of you who have taken the time out to come out tonight. And Minister McLaughlin and myself are only here to give our opinions based on the document. The Secretariat, headed by Suzanne Bothwell, will be making the presentation and doing all of the explanations and we'll have your interaction as we go along.

Once again, thanks for coming out tonight and over to you, Suzanne.

>> MRS. SUZANNE BOTHWELL: Thank you, Leader of Government Business.

I will ask that if people have cell phones on, if you could please put them on vibrate or turn them off. We are recording this for Radio Cayman. Usually the programs are played at a later date. Later on in the public consultation period, they will be aired live, but we would like to at least keep the background noise to a minimum.

The approach that we're going to take today is really for me to begin talking about the process, explaining various aspects of the proposal. But I think that what we found out in some of the meetings is that if persons have a particular question relating to that topic at hand, please feel free to put up your hand so that our staff members, we have: Hilmae Bodden; Jason Webster from my office; Yvette Cacho; Doralyn Stewart; and my colleague to my right, Mr. Christen Suckoo.

We are here to serve you, but in particular, if have you a question that relates to

the topic we're discussing now, please raise your hand so that my colleagues may provide you with a microphone so that you can ask your question and make your comment. And it's important that those comments are made through the microphone, because if they are not, they are not going to be received by Radio Cayman in their recording. Thank you.

We will start by perhaps explaining why are we going through this process. And I have here a heading which says: Is to give Cayman Islands a stronger Constitutional footing. I think in discussions I had with other people, one of the best things we've said is to protect our own interests, to protect the interest of the Cayman Islands in the best of times and the worst of times. So really and truly, that's what it's about.

We are going through this process because in 1999 the United Kingdom Foreign and Commonwealth Office prepared a white paper discussing its relationship with the overseas territories and dealing with various aspects: economy, politics, Constitution, (inaudible) managing risk, et cetera.

And in relation to constitutional reform, the United Kingdom said they are looking for --

(VERY LOUD CONTINUOUS NOISE ON TAPE - SPEECH VERY DIFFICULT TO HEAR).

>> MRS. SUZANNE BOTHWELL: The Caribbean overseas territories, having gone through this process, naming Turks and Caicos, I think completed their process in 2005 or 6, 2006 December. Last April, the British Virgin Islands successfully negotiated a Constitution for their community. And now we are still on this process since 2001.

And recently, I don't know how many of you read the newspapers, I believe that the Parliamentary and the Secretary (inaudible) was in Cayman and some of her comments that was reported by the Journal and the Compass was specifically on that constitutional reform in the Cayman Islands.

And she expressed that there is an expectation of the United Kingdom that the Cayman Islands will deal with the constitutional issue so that they will have discussions

with us at some point in time sooner rather than later. They are not saying that we must rush the job, but I believe they're saying perhaps since 2001, they would not like to see our Constitution position continue (inaudible).

One of the first items for discussion is examining relationships. And especially when we looked at the issue of full ministerial government, which we'll find on page 5 of the Summary of Proposals, that is the blue book on page 5. Actually from page 5, 7 in particular, you will see a number of comments made relating to the executive and the government's responsibilities. And I will go into this because the discussions that take place in this summative proposals relating to that topic deals with the issue of full ministerial government, it deals specifically with three major issues: one, the relationship between the local government and the United Kingdom, the issue of full ministerial government, what should the executive look like, the composition of the executive and Legislative Assembly, and also the citizen and the local government.

And I have the last one in there because the citizen is always a key component in this. No matter what we look at in constitutional form, we must come back in some way to the citizen and that especially relates to checks and balances when looking at full ministerial government, how do we show our citizens that our representatives are acting on our behalf, acting appropriately, and what can we do to ensure that if things go wrong, if they are fallen off the path, then we can bring them back in line.

The remaining is overseas territory. Some -- there's been discussion about questions, general questions, like if we're undergoing constitutional reform and we're changing our existing Constitution, is this a question of independence? Are we moving toward independence? And I will perhaps at this time like for one of our panel members to probably discuss this with you specifically because it is in the Summary Proposals that we intend to remain an overseas territory, however we do want to engage in discussions with the United Kingdom in terms of changing certain things in our Constitution.

>> MINISTER McLAUGHLIN: Good evening, everyone. I would like to echo my

colleagues' sentiments, it's great to see so many of you here and so many new faces. This is a critical and important issue. A whole lot of things are being said which will have little basis on fact, so it is very helpful, very useful that you are here this evening that we can actually talk about the facts.

The Leader was at some pains to say to you that this is a discussion document. And absolutely that is the case. Let me just say as a matter of logic, we have committed to a process which involves a public focal referendum on whether or not we are even allowed to go to the United Kingdom to negotiate the terms of the Constitution. So we would not only be absolutely stupid if we went down, of course, while knowing full well that we are in your hands (inaudible) which the majority of people in the country disagreed. So it is our job -- it is our objective to do everything we can to ascertain what the view is -- the majority view is on the critical issues so that when we do produce the document at the end of this discussions stage of the process, that document will -- or will endeavor to ensure that it reflects what the majority of people in the country want. Because if it doesn't, we will feel (inaudible) the referendum itself and we will wind up with no mandate to go to the United Kingdom and that process will have failed.

So the public can take comfort in the fact that the government is committed to a process which ultimately leaves the decision making in the hands to where it belongs, we believe, in the hands of the electorate, those who vote.

We know that there are inherit risks, that from our perspective, but there are risks which we always felt need to be taken -- ought to be taken because what is important is not necessarily what the government thinks, but what is important is that the people of this country feel that the Constitution framework which the government operates which protects their rights is something that they're happy with. So I just wanted to say that.

This issue of independence I'm not sure -- I know where it comes from, but I am not sure what the basis of it is given what I just said. The Leader of the Opposition is maintaining that because of some of the proposed changes, advances that we are making in this document, that that will commit Cayman to a path which will lead to

independence. Mr. Truman Bodden, Mr. John McCain have said similar things that beyond this (inaudible) independence would be (inaudible) the referendum away.

I would like to be charitable, but all I can say is that all of that is absolutely nonsense. And the reason I say that, I am not just asking you to believe what we say, but if we examine what has happened in recent times around the region in terms of political advancement, we've had Gibraltar, Turks and Caicos, Gibraltar is not a region, but (inaudible) recently had a new Constitution -- a new Constitution agreed, Turks and Caicos and British Virgin Islands. You will see that virtually all of the proposals we are making particularly in relation to a rebalancing of the powers between the Governor and the elected government are mirrored in what they have done.

I haven't heard anyone say that Turks and Caicos is independent or the British Virgin Islands or Gibraltar for that matter. So the mere fact that you go to the United Kingdom with these proposals does not -- even if the U.K. were not to agree, because, and I say this quite frankly, not everything that we propose even if we have a mandate from you do we necessarily expect that United Kingdom is just going to sign up or to agree. We've been through this process, the Leader and myself, back in 2002. We sat around the table with the then Leader of Government Business and his team and our team, Mr. Billy Adam was there as well, so he can vouch for what I'm saying.

(VERY LOUD CONTINUOUS NOISE ON TAPE GONE)

>> MINISTER McLAUGHLIN: And who else was there? Oh, yes, Pastor Alex started the trip, but tragic reasons which I think everybody is aware of, he didn't actually get to the meeting.

But Billy was there, so Billy can -- as a sort of non-politician can verify what I am saying is that there were a number of proposals which were put to the United Kingdom by both sides and we discussed them, they kicked them around. Sometimes they said to us, well, if you want that, you have to go independent. So that's not on the table. We're not going to discuss that because we know you don't want to go independent.

So that's the kind of dialogue, the kind of discussion, negotiation that transpires.

The U.K. may say, we think you're going too far because we want to retain -- or we need to retain, is how they used to put it, this power because we have to be concerned about our international obligations, we have to be concerned about contingent liabilities, we have to be concerned about good governance. Those are usually the reasons they put forward as to why they don't think the particular proposal that you're making can be agreed to.

But this -- this is really regrettable that the Leader of the Opposition in particular is going down this path of scare mongering because what it does is it keeps some people, hopefully not the majority of people, from even engaging in the process because the minute they hear the specter of independence being raised, they sort of withdraw from the process or become afraid to take the matter forward.

Let me just explain to you how the current Constitution operates and it was pretty much the same for all of the other overseas territories.

All executive responsibility vests in how much is delegated to His Excellency the Governor, so that if you look at our current Constitution, it says the Governor with the advice and the consent of the Legislative Assembly may make laws for the Cayman Islands.

So despite the way that we operate and by convention have operated for many years, actually it is not the Legislative Assembly that makes laws, it's the Governor who makes laws with her advice and consent.

One of our -- one of the sort of fundamental shifts in the way our new Constitution -- what we propose for our new Constitution is that we do away with that sort of colonial approach to the business of government and that the Constitution actually sets out the sharing of powers between the elected government and Her Majesty's representative. And we make no bones about the fact that in this day and age at this level of maturity for the Cayman Islands that the elected government ought to have a greater share of those responsibilities and that Her Majesty's government's ability to legislate for us, to chair our Cabinet, to set our agenda are things which really don't sit well in modern-day

Cayman.

And essentially, it is a matter of democracy because it is the people whom you elect that are charged -- and you feel are charged with the responsibility for the direction of this country. And we ought not at this stage to have -- to still be at a point where the Governor decides what it is that Cabinet talks about, let alone decides, at a stage where official members who are civil servants who have no mandate and who are not accountable to you are able to make and to be part of making critical decisions about the way the country is run.

So essentially, that is what the rebalancing of powers is all about. We concede, we accept that as long as there is a constitutional link between us and the United Kingdom, as long as we are an overseas territory that the U.K. must have ultimate decision making power when it is called for. If there are situations of emergency, if there are good governance issues, if things are going awry, definitely nobody on this side is trying to say that the U.K. must not ultimately have that decision making power.

That is part and parcel, as uncomfortable as it might seem for some people, as long as we retain the constitutional link, the U.K. is ultimately the decision maker when, as I say, when there are those exceptional circumstances. But in the daily run of things, it ought to be your elected government that decides on the fate and future of the country.

If they're not doing it right, electorate of this country can be relied on to do what they have done for generations, change them. But you can't change your Attorney General no matter how bad he is, your Chief Secretary or your Financial Secretary. Yet, they make decisions on a daily basis, Cabinet, the Legislative Assembly and obviously in relation to their own portfolios for which they are only accountable to the Governor.

So those are some of the points that I contained in this document, some of the proposed changes that we are making. There is nothing particularly extraordinary or unusual or radical about them. Most, if not all of these changes have been made in all

of the other overseas territories who have moved their Constitutions forward.

Cayman Islands has the most constitutionally backward administrative document, we call it Constitution, of all of the overseas territories. And quite frankly, anyone who has been close to or been involved in working in the business of government will understand that we have long since overgrown the particular framework that we have. The only reason things don't -- things aren't more tense than they are in terms of relationship between elected government and the Governor is that some conventions (inaudible) over time and generally speaking the Governor -- whoever the Governor is, I'm not talking necessarily about this one, understands that he must (inaudible) the elected government to get on with the affairs of the country.

But from time to time stresses and strains and tensions come to the floor when the views of the Governor don't accord with those of the elected government. When there are situations involving the management of police as an example, one which has reared its head before and which seems likely to rear its head again because the elected government is held accountable and responsible by the electorate. My constituents, all our constituents come to us and say, what is happening with crime? Why is it that we have three unsolved murders? What are you guys doing about it? The answer is there isn't much the elected government can do about it except complain. Because under our present constitutional constraints, we have absolutely no power, no input into the decision making in relation to such things.

So it is addressed those and other issues like them that we believe, and our colleagues in other overseas territories have believed, a rebalancing of the power between the elected government and the Governor is necessary.

I hope that sort of helps to explain this whole issue or concern about whether or not the path that we are on now as I (inaudible) is going to take us down the road to independence.

Whether we go to independence or not will be a matter of the people of the country. The U.K. have told us that. They told us that in 2002. They've told us that

more recently. And the U.K. would want to be very satisfied that any government who is proposing independence (inaudible) overseas territories must (a) be ready, that is the country who is ready for independence ,and (b) the move to independence had the support of the majority of the people in it.

So that is a fear which I hope that you can put to rest. It is one I think that is being employed to try to derail the process of which we are. And since I'm just talking about this, I want to say to you that this government is committed to a referendum because we want public participation of this most critical of exercises.

If we don't have the opportunity as a people to vote on this matter by way of referendum, it will be a travesty. This will be the first time this country has ever had that level of public participation on a matter as important as the Constitution. And I'll say this, if we don't -- if the process doesn't allow to take its course and the country to vote "yes" or "no", whether it's in May or whether it's June or July, August or September, if the public feels that they need more time, we are prepared to consider that, if people think -- really feel that we need more time.

But don't let anybody persuade you not to engage in this very important process. It is -- it will probably be the greatest demonstration of democracy that this country has ever seen to have the public vote, not just at a general election, but on a specific issue as to whether or not your Constitution should be negotiated on these terms or not.

So I'm glad you hear that, that's an indication that you are prepared to engage in the process, but I want you to spread the word. As I said, if it is genuinely felt that you need more -- we need -- as the people need more time, the government is prepared to consider that. But let's not buy into a campaign to derail the process because that is -- that would be -- have the result of cheating you, the electorate, of an opportunity to participate in something as critical as deciding on the framework of the Constitution.

>> MRS. SUZANNE BOTHWELL: Thank you, Minister McLaughlin.

Now, I was speaking of the fact that part of our ministerial government means looking at relationships, examining relationships. And the first relationship I would like

to look at is that between the Cayman Islands itself and the United Kingdom directly. And I would like to draw your attention to page 7 of the Summary of Proposals under the subheading "External Affairs".

Now, in that statement, it was made in the proposal, the government, when we are looking at constitutional reform it's being proposed: The Governor should in all cases consult the Cabinet in advance of any international agreement and should require the approval of Cabinet the agreement would affect internal policy or acquire implementation by legislation.

The statement also says that: We should seek corresponding assurances from the United Kingdom. Furthermore provision should be made for giving Cabinet power and responsibility over external affairs in which the interests of the United Kingdom are not significantly affected.

Now, if some of you are wondering, well, why are we discussing the issue of external affairs and establishing assures in our Constitution that there's dialogue between the Cayman Islands and the United Kingdom, dialogue between the Cayman Islands and the Governor when dealing with external affairs?

And the answer is simply because in our Constitution -- and for those of you who have a Companion Guide and who want to make notes for later on, section 7 of our Constitution sets out those responsibilities that are the Governor's special responsibilities. And what that means is that under the Constitution when we hold an election, and members of a Legislative Assembly are successful and they're going to form the executive of government and ministers are assigned responsibilities, the Governor assigns responsibilities.

So we see we have here the Leader of Government Business who as a minister has assigned to him the portfolios of agriculture, district administration, et cetera. Likewise Minister McLaughlin has had assigned to him from the Governor the portfolios of education, sports, culture and I think the list is quite a long one.

But then there are those responsibilities that vest with the Governor that it cannot

be assigned or delegated to an elected minister. And also, the level of dialogue or input from the local government is upset. What is being proposed is that in these areas where the Governor still retains exclusive or sole responsibility, there should either be some level of partnership or some level of accountability in relation to these areas because these are all areas that affect the Cayman Islands.

And I just list out for you the areas in which the Governor has special responsibility: one is defense; one is external affairs, the topic they were discussing now; one is internal security, police, the appointment of civil servants and elsewhere in the Constitution the appointment of judges. And what we are dealing with is external affairs.

So the Cayman Islands being an overseas territory of the United Kingdom has had extended to it over the decades a number of international agreements that the United Kingdom has endorsed and signed on to. In terms of human rights alone, just to give you an example, there are at least 7 of these (inaudible) and conventions.

There are those in relation to children's issues, woman's issues, business issues, anti-money laundering, drug trafficking, all of those things that as a nation you are there to be part of the global international community. The United Kingdom has signed on to many of these areas that they believe politically they should endorse. And some of these areas, some of these conventions they had extended to it, had extended these conventions to their British overseas territories which would include the Cayman Islands.

Now, if that is the case, the question is perhaps so why should there be dialogue with the local government and the United Kingdom or the Governor before we are signed on to any other treaty?

Well, the question is does the United Kingdom when they are extending these treaty conventions to us do they know our situation? Do they know our capacity to handle these things to take on these international obligations, because many times it is not just that you sign on to a treaty for good faith, but there is legitimate expectation by

the global community and those treaty members that you are going to implement this policy in your local legislation.

And in often times in the legislation these conventions, there are areas in which you can have reservations meaning that particular sections would not apply because of the specific issues of the state or interest of the state.

Sometimes there are issues of infrastructure and capital resources that would have to be applied and assigned to ensure that you can meet the treaty obligations. And sometimes, for example, they may be issues that the Cayman Islands community feels that it is actually opposing the position of the Cayman Islands.

I know one of the areas that was mentioned in one of my earlier meetings with the Seamen's Association is that of dealing with refugees, dealing with the Cuban refugees that cross Cayman Brac. And this issue keeps on popping up about the restrictions on being able to assist these refugees. The fact that if you assist them, you are creating an offense, you are breaching convention. And the complaint that these are human beings, I should have a right to be able to assist this individual in their hour of need and not have to allow them to pass by me knowing full well that they may be led to their death.

But potentially, that level of assistance you want to give may be in conflict with some of our treaty obligations in relation to dealing with refugees, but if they are in need that they may have to be landed here, processed here, dealing with the issue of being to claim asylum and so forth. And this is just one of those issues that we are battling with.

There's other that I am familiar with in my work as a government lawyer is that of child abduction. In that if an individual comes to the Cayman Islands and seeks -- uses the Cayman Islands as a haven to abduct their child that our government must fund -- we have to fund their litigation. So we have an international obligation to establish a central authority whereby the aggrieved parent can make a complaint. That aggrieved parent finds out that the child is in Cayman, that aggrieved parent is another jurisdiction,

the person who has come here has no ties to the Island, but yet our government is responsible for providing the financial resources of the individual who has actually offended international convention.

Now, some jurisdictions may be able to have reservations in relation to that. I know in other areas there are reservations. So we see that when we look at external affairs, we as a country need to examine for the first time or maybe not for the first time or to revisit the issue of when decisions are being made on our behalf outside of the Cayman Islands on issues that will have a direct impact on the Cayman Islands. The issue is whether or not we should at least be approached so that our opinion could be sought, so that we may be able to put forward our views so that they can be taken into consideration before any decision is made to impose obligations on us.

And this is something in the realm of an overseas territory that we can very well raise and ask. The other issue is as local government, we expect them to take care of various initiatives whether relating to our local industry or not; but sometimes they have to negotiate with third parties whether they are countries, yes, sometimes they are in other countries if it was in relation to our financial services sector, if it's in relation to our tourism industry, if it's in relation, for example, that of child maintenance.

And there's another example that I know our country often times we have been approached by different jurisdictions, different states in the U.S. and Canada trying to ensure that we observe the convention principles of allowing a person to ensure their child receives maintenance no matter where that parent is in the world. But for us to enter into a lot of these negotiations sometimes we need to receive the permissions from either the Governor or even the United Kingdom. The Cayman Islands for the most part cannot enter into any negotiation or discussion treaty bilateral arrangement agreement with a third party country without being given permission by the United Kingdom. And at the end of the day, the agreement is not between the Cayman Islands and that country, but the United Kingdom and that country which would apply to the Cayman Islands.

So the question is do we wish to allow the Cayman Islands to have some flexibility in negotiating with their partners around the world for the purposes of -- of infrastructure or industry, but issues that pertain solely to our jurisdiction and not that that would affect the United Kingdom. Because we must always keep in mind that issue of contingent liability. I think that is the phrase that Minister McLaughlin has used.

And what that means is that in any discussion about constitutional reform, the United Kingdom has to look at its interests, at its obligations. And to ensure that any proposal that is being made, any negotiation between itself and an overseas territory that it does not offend their ability to protect their interests or to protect their interests globally by being able to make certain decisions directly on the Island.

And what we have seen is that in the British Virgin Islands, for example, in their Constitution, that they negotiated successfully last year April with the United Kingdom is that that territory felt that in order for them to be competitive in a global market to maintain the industry, to maintain negotiations between themselves and other countries partnerships, be having a presence whether regionally or internationally, they were able to successfully negotiate that a minister, the Governor by direction writing could delegate to the premiere or any other minister designated by the Governor on the advice of the premier responsibility for the conduct of external affairs as they relate to any matters that fall under the portfolios of ministers, including the Caribbean community, Caribbean Regional Affairs, relationship between the Virgin Islands and the United States, tourism and tourism-related matters, taxation and regulation of finance and the financial services, the European Union matters directly affecting the interests of the Virgin Islands.

We see that these are issues that have been identified by other overseas territories...

(TAPE #1, SIDE A ENDS)

(TAPE #1, SIDE B)

>> **MRS. SUZANNE BOTHWELL:** (Cont'd) ...to help them develop as a country.

And the question at hand today is is this something in the Cayman Islands that we feel is needed because at present the issue of external affairs and all of the permutations of external affairs and all the issues related to that are vested solely with the Governor. There's no mechanism in our Constitution for the elected government to even begin to have dialogue with him or the United Kingdom on those areas.

So -- and I believe that we and the Cayman Islands have already experienced issues relating to European Union issues relating to taxation in our financial services industry. I believe that our Leader of the Opposition, the Honorable McKeeva Bush, made representations and had, I think, a court case, I think it was, in relation -- I stand to be corrected, but some of the provisions, the impositions the European Union wanted to carry out in the Cayman Islands and other overseas territories, you know, what standing did we have to speak to them directly because this is where the issue lies.

The U.K. is a part of the European Union. The United Kingdom's opinions and view was on particular issues for the most part either should or ought to fall in line with that of the European Union, and sometimes those views and positions are in conflict with us in the Cayman Islands.

So the issue of our financial industry was one that arose a few years ago, whereby our position was different from that of our administering country. So what constitutional mechanism do we have in place to ensure that in those instances we are protected?

And that is why I started off this afternoon by saying that our Constitution should be there to serve us in the Cayman Islands not only in the best of times, but also in the worst of times. We must also have in place those things that will protect us and protect our own interests when we are the only one looking after our interest.

Do we have any questions on the issue of external affairs? Any questions or comments in that particular area? We do have one at the back. Please keep your hand up, thank you, and the microphone will come to you. We do need a microphone because we are being recorded. Thank you very much.

>> MR. RUPERT: My question is -- and I imagine you have seen the International Agreement that we have with the Cubans or with the Cuban government. As far as I may understand, it was an agreement made that in 21 days they would be repatriated, they are nationals. Some of them have remained here up until five months. I would like someone give me an answer to that.

>> PANEL MEMBER: Mr. Rupert, how are you?

>> MR. RUPERT: (inaudible)

>> PANEL MEMBER: Good to see you. I think you are speaking about the memorandum of understanding.

>> MR. RUPERT: Yes.

>> PANEL MEMBER: That was negotiated by the government of the Cayman Islands through the British High Commission in Cuba with the Cuban government.

The unfortunate problem that obtains lies with the Cuban authorities. It doesn't serve us any good to have to pay to keep them here, even though there is a cost attached to the plane ride, and even though each of them has to be accompanied by proper security. The fact of the matter is any extended stay that they may have here costs more than that. So once we go through the process, which you will know from your own experiences that you have to go through to ensure that they have fair and just process completed to determine whether they are seeking political asylum or it's just -- what's the other one, economic asylum? I think that's how it is. Once that determination is made and that's done fairly quickly nowadays because I have -- and I think you are aware of this, the Chief Immigration Officer is on top of things. Once that is done, then they are ready to go. But until the Cuban authorities okay the Cayman Islands to send them, we just have to keep battling back and forth with them and sometimes it takes an extended amount of time.

We are actually now in the process of trying to renegotiate that memorandum of understanding in order to be able to expedite the matter. But I can assure you that I'm not just defending the Immigration Department in that regard because I have had

firsthand knowledge, although you will also appreciate that immigration is a subject dealt with under the delegated powers of the Governor to the Chief Secretary. As a matter of policy, we the elected members of Cabinet participate at that level, and that's the answer.

>> **MR. RUPERT:** Thank you. The reason I asked is because I imagine we are taking up the tab.

>> **PANEL MEMBER:** Absolutely, sir.

>> **MR. RUPERT:** And that is one of the things --

>> **PANEL MEMBER:** Forgive me, but you said it right "we" because it is all of us at the end of the day.

>> **MR. RUPERT:** That is why I think you guys are right when you are talking about trimming the wings of the all powerful and having some of the power vested in yourselves or any of our elected members of Cabinet.

>> **PANEL MEMBER:** Yes. And I think -- I hear what you're saying. I appreciate the point you're making using that as an example because the fact of the matter is we cannot, as a government, participate in any discussions directly with the Cuban authorities about that same matter. We have to be going through His Excellency, the Governor, who then deals with the British High Commission in Cuba.

>> **MR. RUPERT:** Thank you.

>> **MRS. SUZANNE BOTHWELL:** Thank you, sir.

>> **HON. D. KURT TIBBETTS:** Mr. McLaughlin reminded me that if we were dealing with it, we probably would be able to sort it out a little bit faster.

>> **MRS. SUZANNE BOTHWELL:** And if you're wondering whether this is the first time. This issue has come out, there have been historical views in the last -- since the last constitutional review, which have reflected the fact that that, you know, looking at the practical implications, the practical situations that the Cayman Islands government, the government that has been elected by the people, should play a greater role in the foreign affairs. And somebody said that senior members of Cabinet should be able to

engage in those international bodies. And we've seen this suggestion -- this actually come to -- as a reality in our other overseas territories that they have, in fact, because they have asked for this. They have identified it as a national issue and they have asked for it. They have obtained such ability or flexibility in their Constitution.

So where we are right now is for us as a community to identify what is important to us, what is relevant to us. What would put us in the best possible situation. And make up our own mind about this.

And you either give your government the mandate to go ahead, "yes, I want you to go ahead with this", or "no", or if you have other recommendations this is the time in which we are asking you to raise these issues because this is where we are now.

I would just like to say that every constitutional issue is one of almost equal importance. Some may be discussed more, some may be more controversial, but individually they are important because when the Cayman Islands government receives a mandate from the people, no matter what that mandate is, they have to negotiate each and every single issue. And nothing will be agreed in the Constitution until everything is agreed.

So that is why if you have views on a particular issue, if you feel that you agree with it, it is important for you to say yes, you do. If you feel that you disagree with it, it is important for you to say you don't agree with it. If you believe that there is an alternative, it is important for you to raise that alternative because at the end of the day, the Cayman Islands government has to demonstrate to the United Kingdom that each and every one of those constitutional proposals at the end of the day has the endorsement from the people of the Cayman Islands.

I believe Minister Tibbetts has something to say.

>> HON. D. KURT TIBBETTS: Thank you, Suzanne. I just wanted to follow up on Mr. Rupert's point. I do apologize, I failed to recognize the former speaker who is here with us tonight, Mr. Linford Pierson, and I apologize for that, sir. And I'm very happy that you have graced us with your presence. But seeing you reminded me of

something and I know that you can personally vouch for that.

One of the problems that we have faced especially when it comes to our financial services industry and all of the initiatives that have come down on us over the last, I would say, perhaps, 8 years, maybe 10, starting about that time, that is FATF, OECD, the IMF, and all of the other initiatives. Mr. Pierson can vouch that what obtained during all of those tense negotiations when we were blacklisted unnecessarily and unfairly on more than one occasion, we had to have the British alongside us and using them to negotiate because we were not able to speak directly in the meetings with the various other territories. Am I correct, sir?

And that really puts us in a very -- in almost, I would think, untenable circumstances because if that individual or even if London's position is one that does not look out for our best interests, then we really are at a very serious disadvantage and we have been on the receiving end of that on more than one occasion.

Because I remember, Mr. Pierson, you were part of the team that went with those negotiations. And if you would like to speak to that for a minute, I would appreciate that.

>> MRS. SUZANNE BOTHWELL: Can we have a microphone, please, to the front of the room.

>> LINFORD PIERSON: Thank you so much, Mr. Tibbetts. I actually came here tonight to listen and not to say very much and I am taking a microphone because as a former politician sometimes I don't (inaudible) and let it go.

I must say congratulations to Miss Suzanne Bothwell and her Secretariat, a wonderful job you're doing. I had the pleasure two nights ago to (inaudible) in Cayman Brac and I thought it was so well conducted.

Before I get to the point you mentioned, I warn you, Mr. Tibbetts, that you shouldn't give me the mic. But before I get to the point you mentioned, I want to say that the question of certain individuals trying to derail this process, I don't feel that you should allow that to happen and I think that that would be a travesty, indeed, if the people of these Islands allow that to happen. I'm hearing that the process is being

rushed, but I'm well aware that we have been at this now for over seven years. And I believe that if we allow others to derail this process, we could be another seven years before we gain and successfully negotiate a Constitution.

We are the most backward of the British overseas territories. I've heard that said and it's the truth. Yet we are the most successfully financially and otherwise. I believe it's time that we should move ahead. We should move ahead with caution, but we should nonetheless move ahead.

With regard to what Mr. Tibbetts said about negotiations, he's perfectly correct. Many times we are given very little opportunity to say anything. I was involved in negotiations in regards to OECD, FATF, and others. These were held in London, sometimes in Paris, and otherwise in Belgium. And at all times we had the U.K. protecting their interests and the Cayman Islands' interests was secondary.

And I am not saying this in a very bad light because I recognize that by the very understanding of our relationship with the United Kingdom as a British overseas territory, that we are indeed are the child and not the parent. That being the case, nonetheless, I feel that we have grown up quite a bit and it's time now that we should be given a little bit more latitude than we have been given in the past. I am not here as any sort of partisan individual, as most of you know, I speak independently.

I would, nonetheless, recommend whilst I am on my feet that it might not be a bad idea for the Secretariat and other interested individuals to take a very close look, as I understand they're doing, at the Turks and Caicos Constitution, the B.V.I. Constitution that was successfully negotiated, and see what are the major differences, if any, that exist between our proposals and what the U.K. has already agreed that they have. Because as an overseas territory, we have to appreciate that many of the international agreements and conventions will be done through the U.K. because we are citizens of the U.K. I would like to stress that. We are now citizens of the U.K. and what the U.K. enter into as an agreement will no doubt directly affect us.

So in negotiating, we must bear in mind that we are not able to negotiate things

as an independent country would. But nonetheless, we should put forward our views and have them strongly supported by our people.

I know, as I mentioned, that there are efforts afoot to slow the process down. But as I mentioned earlier, we have been at this now seven years. We had a draft Constitution back in 2003 that was -- that received the bipartisan agreement of the Legislative Assembly and is now just for us to add bits and pieces that would bring that Constitution up to date.

I have had the opportunity of reading the proposal as well as explanatory notes and really most of the documents that have already been distributed, with the exception of one or two issues which I will discuss, perhaps, with the Secretariat. I believe we are on the right path.

But in regards to the Governor's power, I would like to say that in discussing this, let us not talk about this present Governor as I heard sort of alluded to in the Brac meeting. I think we are talking about our Constitution and it doesn't matter which Governor is in place. It is the Constitution that is backward. It is the Constitution that is over 30 years old. It is the Constitution that is almost irrelevant.

We have had seven amendments to the Constitution and it is time now that we upgrade that Constitution and get something that is in keeping with the development in the Cayman Islands. Thank you.

(APPLAUSE)

>> MRS. SUZANNE BOTHWELL: Thank you, Mr. Pierson. Absolutely well said.

Just to jump off on that, if you want to know how many Constitution amendments we've actually had since 1972, I would invite those of you who have a copy of our Companion Guide, our current Constitution, to look at page 54 and 55.

We have had constitutional amendments dating back to -- I have here 1984, 1987, 1992, 1993 we had a first slate of amendments, 2003, 2004. And also we see we had a draft 2003 Constitution.

So at the end of the day, what we're looking at is our Constitution is a living and

breathing document. It's supposed to keep up with the times. With Cayman's development over the decades, you know, we have been able to tailor things to allow us to be productive, to be leaders internationally, regionally, in particular industries.

One of the things that the Constitution needs to do or is supposed to do is to allow the political development, the social development of the country to follow suit. And I would just like to say that -- that our office is open in terms of looking at what other overseas territories have done, this has formed part and parcel of the Secretariat's assessment before this proposal document came out. Because one of the things that had to be considered is whether or not the proposals that are being made are viable, whether there is a chance for success.

At the very least, we would like to think that most of the things there's a chance of success, we can measure that by looking at what has happened before. These are things that we felt or the government felt were things that they thought were in the best interests of the Cayman Islands is they felt it was necessary to put forward to you. They have done so, not only because they believe that it is a good area to discuss and to propose, but also because they believe for the most part that there's a chance for success, whether through history or whether through what they think they know may happen.

But there are those areas whereby they are looking at the particular needs of the Cayman Islands that may not be present in other Constitutions. And they may be charting in blind waters in some areas, but at the end of the day, if it's an area that the Cayman community feels is relevant and important, then we should be able to carve out our own ideas and our own views just like how other overseas territories have done. Because at some point in time in their Constitution developments they were charting into unknown waters too.

We now have the benefit with 20/20 hindsight to see that in some things they have been successful. But when they were going through these discussions and negotiations, they perhaps did not have that benefit to say well, somebody else did this.

They actually -- we can get success in this area, like our colleagues in Turks and Caicos, Gibraltar and B.V.I.

Now, moving on to full ministerial government very quickly, we spoke about -- oh, sorry, we do have two other questions or comments. My apologies.

>> MEMBER OF THE PUBLIC: Madam Chair, before you move on to the next point, you did ask the question that anybody in favour -- we were talking external affairs, say "yes" or "no". I only heard Mr. Marksom (phon) say that he was in favour. I heard no one say that they were against. I just would like to stand up and say that I am in favour of the recommendations made you outlined shortly before external affairs. I am not sure if anybody else here is willing to stand and say they are in agreement, but I certainly am. Thank you.

>> MRS. SUZANNE BOTHWELL: Thank you, sir.

But I would like to say to the members of the community that at the end of the public consultation process, a final document has to be put forward, which is supposed to reflect the majority view. And the only way the government will be able to assess whether or not a particular constitutional proposal is accepted is if there's some answer to the question -- to the proposal, some feedback. So whilst if you are not prepared at this point in time to give your opinions because we are still in the early months of the public consultation process, your view does count at the end of the day and it's not necessarily going to be only at the referendum time, it actually counts before the referendum. It counts when we have wrapped up the public consultation process.

Thank you. We do have one more question or comment.

>> MR. BILLY: Thank you very much, ma'am.

Miss Bothwell, you said some very inspiring words. Our own ideas and our own views cannot be botched in any way, shape or form is what we're thinking. And I know that the U.K. has a way of intimidating and, you know, my good friend there, Mr. McLaughlin, indicated that in some instances we feel that the U.K. a few years ago said "no, no" too, but that doesn't mean that we don't continue knocking at the door and

saying, "I hear what you're saying, but I just don't understand the meaning of the word no."

And I frankly -- if it's a democratic move, don't give two hoots. If it is democratic and if it means participation of the people, which is what they have in their checklist because they have the ability of saying things and not really meaning what they're saying and we just accept it. And there's no self-determination for our own future, our own lives. It is my personal opinion that when it comes to -- you take international treaties, you are dealing with bureaucrats, unelected, the European Union headquarters in Brussels working out some of these European Union treaties, they are no friends of ours. The City of London is no friend of ours. They are looking out for their financial industry. They require us to do things.

Mr. Pierson mentioned and alluded that he was there a part of some of these negotiations. They were not looking out for our interest at all. We know this. Bermuda, their rights agreements, all these different things have been done.

An article just pointed out just recently here, the case with the fishing grounds off South America that our people go to. U.K. didn't inform us that the International Court was going to settle that. They should have.

Now, when it comes to these international treaties, in some countries of the world, they are now moving to where an international treaty has two things, one is a sunset clause. In other words, a country will do it for five years or ten years, but it has an end to it. And you renew it if it makes sense. If the rest of the parties are abiding by the treaty or whether they are ignoring it or using it to our disadvantage. This is common in many jurisdictions, sunset laws and sunset treaties.

And in many of -- not many, but quite a few, they are moving to where the people of the country have to understand what the benefit is.

You take (inaudible) or an associate member, okay, what does that really mean? We know their freedom that they want to do for immigration throughout the Caribbean. Would we want to know that we have open borders for immigration and the various

other things. We need to really understand what's the cost, what's the benefit. You alluded to that. Very, very important issues.

And therefore, I think we need to even be considering that you group these things together. They don't have to be signed tomorrow. The proposals go out. And at the cycle of referendum, the people vote that they want to be part of this grouping under this particular item or not, once we understand the costs and the benefit.

And I suggest that it should be the people. You've started on a road of what you're asking for in the proposal, but that should be nowhere near the end because consult -- I can consult with people in various things and they say, okay, I heard what you said, now let's move on, I'm going to do what I want. And that's a lot of their attitude the way it's been, they use that word "consult". A promise is a comfort to a fool and all that is is a promise that they are going to consult with us, not that they are going to follow our wishes. We need to watch these words that really mean nothing except for some sort of nebulous comfort.

Thank you, anyway, though. I love those words, "our own ideas and our own views" and that's really where we need to go as long as it's democratic.

(APPLAUSE)

>> **MRS. SUZANNE BOTHWELL:** Thank you very much, Mr. Billy.

Now, in looking at the other relationship where we look at full ministerial government, I mentioned before the relationship between the Cayman Islands and the United Kingdom. I would like to now move on to looking at the relationship between the Governor, who is Her Majesty's representative on Island and the local government.

And in the Summary of Proposal it recommends -- sorry. It recommends on page 5, we look at executive -- the executive, and it speaks in particularly the premier and executive responsibilities. And a number of proposals have been made. One being that they should have a premier who would be like a Leader of Government Business, but the name may change, who should be able to choose other ministers from among the M.P.s. That person should be able to allocate portfolios rather than as at present

the Leader of Government Business who officially under the Constitution has no powers or responsibilities. The premier should be the M.P. who has the support of the majority of the Members of Parliament in the winning party or if there is no winning party a majority of all Members of Parliament. And that latter provision is very important.

And then you see there is a proposal that there should be particular executive responsibilities outlined in our Constitution which speaks to the role of Cabinet. And one is that the Cabinet has responsibility for formulating and directing the implementation of government policy in all areas, except for those which the Constitution gives responsibility to the Governor.

Now, under the Constitution, the Legislative Assembly's responsibilities are outlined. It says it has -- the members of the L.A. have the power to make laws. The Governor makes laws, he assents the laws, but the Legislative Assembly's responsibilities outlined.

But then we also have Executive Council. Well, what was Executive Council is now termed Cabinet. And this is the body of government whereby members of the L.A. are elected to be ministers and they sit with the Governor right now and official members directing the policy of what should happen in government.

So I think every Tuesday they meet. Every Tuesday they meet and they have their meetings and agendas there and they discuss what should be done in government. They make the decisions of what should happen in government, what's going on.

And what is being proposed is that our Constitution should reflect the responsibility of that body. Namely, that that body has the responsibility of formulating and directing the implementation of policy, government policy. It is also recommending that the premier has the responsibility of summoning and chairing Cabinet meetings and setting the agenda.

It says at present it is the Governor who chairs Cabinet meetings and sets the agenda. The Governor should be entitled to attend Cabinet meetings.

And I will perhaps take this time and ask one of our panel members to talk about why it is they feel under a new Constitution that there should be a shift from the Governor being able to chair Cabinet, the Governor setting the agenda of Cabinet, what does that mean? What does that mean for the elected representatives who are saying that they should be involved in this process or it should be handed over to them. Because if Cabinet performs a certain function, which is to formulate and implement -- formulate the implementation of policy, then who should be in charge of seeing what gets on that agenda for government and when Cabinet should meet?

So I would like to perhaps hand over to our panel members to deal with this specific issue and to perhaps provide some explanation for our listeners today.

>> PANEL MEMBER: Thank you, Suzanne. I alluded to some of this when I spoke earlier. I will try to be quite brief.

As I said, this is a basic question of democracy, who should determine what it is that your government discusses let alone decides.

Under the current arrangement, the Governor assigns the various portfolios to us and we have constitutional responsibility to ensure that their policies and programs to move forward those respective responsibilities is done.

But under the arrangement that we have now -- let me just use myself, I can't get -- discuss any matter in relation to education unless the Governor says I can. And by that I mean, unless he agrees to put my proposal, my issue on the agenda of the Cabinet meeting, we don't even get to discuss it. Forget about what the decision actually is, we don't even get to discuss it unless the Governor agrees that the matter will go on the agenda.

He may say to a paper -- matters get before Cabinet by what are called papers. So each minister or each member has to put together a paper which says this is the issue, this is the background to it, this is why I believe that we should make this decision and then it finishes up with a recommendation to Cabinet members that they advise His Excellency to accept the recommendation as the case may be.

And so that's how it becomes policy, that's how decisions are made, whether it is the purchase of a piece of property or to build a new high school or increase the salaries of teachers or whatever the case may be, that's how it happens.

But if the Governor decides -- and this has happened in the past, not with this Governor, I'm just talking just generally, that he doesn't want the matter discussed, it just doesn't get discussed because he's in control of the agenda.

If your paper is late, he says, well, I don't think the paper is that important, so we will have to deal with it next week. Or if he doesn't think the paper set out the matter clearly enough, he says, I think the paper is unclear and it doesn't get on the agenda. The whole point is that at this stage of our majority when we have these constitutions, responsibilities as ministers for our respective subjects and when you, the electorate, hold us responsible, as you quite correctly should, we actually can't even get it to be discussed unless the Governor agrees.

So we believe that the expectation of the electorate quite properly is that the people whom they have elected have responsibility for the respective portfolios which they have and they must get on with the business of government. And if they don't or if they don't do it properly, they should be able to hold the elected government responsible.

The reality is that the electorate does hold us responsible. But we really aren't -- we, the elected ministers, we aren't in control of what actually gets to Cabinet. Once it gets to Cabinet, obviously the five elected ministers outnumber the three official members, so on matters which are within our responsibility, the Governor General has to take our advice. If he doesn't, he must report to Her Majesty's Secretary of the State.

But our proposal is, as the proposal that some of the other overseas territories, is that the Governor should still have the ability to come to Cabinet because he is Her Majesty's representative, and they will want to make sure that what is being done is being done according to the law and Constitution and not prejudiced in the interests of the United Kingdom. We understand that we are an overseas territory. But that he

shouldn't be in control of the agenda and he shouldn't share the meetings. If he wants to make a suggestion or proposal, fine. No one is suggesting on our side that he shouldn't have some input, but he ought not -- the United Kingdom ought not be in control of the Cayman Islands Cabinet and the agenda and what gets talked about and what gets decided.

I will leave that for Suzanne. The Leader was asking what the arrangements are in Turks and Caicos and the British Virgin Islands, so I will let Suzanne deal with those aspects. But that is the reason for our proposal and the reason we feel that we be doing.

>> MRS. SUZANNE BOTHWELL: Thank you. Well, in relation to the British Virgin Islands, just taking the most recent document, for persons who are interested in looking this up, it is on our website. If you look at section 46 or chapter 4 of their Constitution, they actually -- they also have a statement in their Constitution, it says that they -- it is the responsibility of Cabinet to formulate policy.

And what they have chosen to do is to actually set up a steering group which could consist of the Cabinet's Secretary, the premier and the Governor. And it is that steering group that would be responsible for setting the agenda in the British Virgin Islands.

So that is one of the other territories whereby they have made their own decision as to what would obtain.

I think we do have someone who wishes to ask a question. And I believe after that, Mr. Burns.

>> MEMBER OF THE PUBLIC: Just a short question. Has that situation arisen very frequently, where the Governor is refusing to put something on the agendas?

>> PANEL MEMBER: Not in our term. We've had issues about what goes on the agenda and issues with delays and issues with papers being turned back and so forth, but ultimately we always manage to get on the agenda what we wanted. But I am aware of instances in the past when -- well, the Leader can better speak to that because

he has personal experience with that.

>> HON. D. KURT TIBBETTS: Thank you. Just quickly to say to you all, the problem with assisting, and I think Mr. Pierson alluded to it earlier on, not every Governor is going to have the same disposition. Not every one of them will have the same patience, the same level of patience. And some people can get crass. So what we are really saying is that it is best for us to have clarity in the role of the Governor rather than to depend on his goodwill at any point in time for matters to get done. And that's just adding to what Minister McLaughlin said.

Specifically, I have -- when I was in a previous Cabinet, although that was for a short period of time, during that time, the then Governor refused more than one paper going on the agenda because in his mind we weren't ready to discuss that yet. Not in our minds, in his mind, in solo, we weren't ready to discuss it yet. Seven months after I wasn't there, he instigated another minister to bring the same paper.

>> MRS. SUZANNE BOTHWELL: I would just like to say that I think one of the issues -- one of the issues we have to look at from our constitutional standpoint is we are not looking at personalities, we're not looking at the personality of Mr. Tibbetts as Leader of Government Business or the Honorable Leader of the Opposition, Mr. Bush, or the current Governor, His Excellency, Governor Jack. We are looking at the offices because these persons hold offices for different periods of time and that person may change. But what needs to be clarified is the role of the office, so that whoever enters that position can look in black and white and understand exactly what his or her role is. They go away with a set of rules that is unequivocal and not reliant, as Mr. Tibbetts said may be on the personality of the day.

Thank you. Go ahead.

>> MEMBER OF THE PUBLIC: Good evening, Honorable Panel. This is one of the points that I think I would like some clarification. If the premier can decide on this, on the Cabinet, set the agenda, the Governor can or cannot visit and would like to be outvoted and there would be no official members, how does the U.K. maintain their

good governance which we understand is the ultimate of the day? How do they maintain that with this scenario?

>> PANEL MEMBER: The Governor would retain what are called special responsibilities, which include, I think the U.K.'s phrase for generations has been peace, order and good governance, so he would still have that ultimate power under this proposal and he would be entitled to attend Cabinet to see and hear and make suggestions as to what happens in Cabinet.

So he would continue to be both the conduit to the FCO for information and so forth. But ultimately still have those decide-making powers which he would exercise in the event that they were good governance issues in the same way he does now or can now.

Understand that what happens in Cabinet generally don't have anything to do with the good governance issues, it's about policy making, building schools and roads and deciding on laws and so forth and so on.

>> MRS. SUZANNE BOTHWELL: Let's wait for the microphone, please.

>> MEMBER OF THE PUBLIC: Sorry, not to prolong this, but my question is what is the mechanism that a Governor would use, therefore, if a policy is being made locally in Cabinet that is contrary to the U.K.'s position? How does the Governor give an impact or stop that policy being generated under this scenario? I'm just trying to find a mechanism that is actually the Governor still holding the powers that we claim that he will hold?

>> PANEL MEMBER: I am not sure there would be a great -- I'm not sure that in practice there would be a great deal of difference between much of what obtains now in relation to domestic policy. Because the way the system works now is on matters that essentially involve domestic policy. The Governor is supposed to accept the advice of the Cabinet, unless there are reasons -- I don't have the Constitution in front of me now, but unless he determines that they would prejudice being addressed to the United Kingdom or something like that.

So in practice, there wouldn't be -- and if that's the case, he wouldn't accept the advice. If he doesn't accept our advice on matters relating to domestic policy, generally he has to -- he just can't make the decision himself, he has to refer the matter to the Foreign Common Wealth Office in any event.

And he continues to retain -- I mean, even in our proposal....

(TAPE #1, SIDE B ENDS)

FAMILY LIFE CENTRE - 18/02/08 - TAPE #2

>> **PANEL MEMBER:** (Cont'd) ...urgency powers and so and so forth would still remain in tact.

So if he was aware that something was going on in Cabinet, which he thought was completely wrong and contrary to good governance, he could exercise his special responsibilities. He wouldn't exercise them in Cabinet, but he would exercise them -- because he doesn't do that anyhow, generally, he exercises them after consultation with FCO and they would take whatever steps that they needed to take and in accordance with the provisions of the Constitution.

>> **MRS. SUZANNE BOTHWELL:** If I may provide some assistance to the question. If we look at our present Section 38 of the Constitution, and this is actually a section that is separate and outside of that dealing with the affairs much Cabinet. It does give the governor the responsibility -- the constitutional responsibility. But in the interest of public order, public faith or good government, which expression (inaudible) without prejudice generality include (inaudible) defense as a territory within the Common Wealth and it goes on.

It does allow the Governor to introduce bills, motions proposed by the Assembly. And even if things are not going the way he wishes it to go and he feels that it goes to the heart of good governance in the Islands, he can put into effect legislation that will set the matters, put them in line with what he feels would promote good governance on the Islands and this has nothing to do with Cabinet. As a matter of fact, our present Constitution does not go beyond stating that the Governor presides over Cabinet and sets the agenda.

And my understanding of the way Cabinet operates is not that there's a voting system where everybody casts a vote, but it's one of consensus or collective agreement.

So outside of the functioning of Cabinet, the Governor will always have his reserved power to create laws, to make decisions that he believes are in the best

interest of our country and that will promote public order, public faith and good government. And I don't think that there has been a suggestion that this type of provision in the Constitution should be removed.

Perhaps what may be suggested globally is that if he is going to operate contrary to the views of the elected government that he should perhaps give reasons for doing so. Because at the end of the day, when a Governor goes against the views or the position of a democratically elected body, I think that there perhaps is room for him to discuss with that body and the community at large his reasons for doing so.

But under the present Constitution, there is provision for him, there is a reserved power for him to take control of situations in the event that Cayman is at risk internally.

I don't know if Leader of Government Business wanted to comment on that further?

>> HON. D. KURT TIBBETTS: Thank you, Suzanne.

Burns, just to say to you, I hear exactly what your question is when it comes to the actual (inaudible).

But don't forget now, he will have access to the agenda at all times. He will also have access to the decisions, which would include extracts, if he were not to attend for instance, if he chose not to attend. And at that point in time if there is anything that is counter to what he considers the interest of the U.K. government, then certainly he would refer back to the premier or chief minister or whatever that person is called outlining that circumstance for it to be dealt with.

So while he would not be chairing the meeting, he would still have the very same access at all times to air the view that he would while chairing the meeting in Cabinet, which the only difference is that he wouldn't be airing it as the president of the Cabinet. That's really the only difference. Nothing else would vary.

You see, and I am going to do my best not to be repetitious, but the whole point behind this is not to question his authority in certain regards because he will retain that authority at the end of the day with what is proposed in a new Constitution. The only

difference is on a day-to-day basis when the elected government is deciding on policy, it is not for him to guide that affair. That's really the only difference. It doesn't take away his ability. He would still be assenting to the laws, for instance. Which means that any of our domestic legislation, the U.K. would still through him retain the authority to ensure that our own legislation is not counter to what their international obligations are or not exposing them to any contingent liability beyond the level that is acceptable to them, if you see what I'm saying. Okay?

>> MRS. SUZANNE BOTHWELL: We do have a few more comments and questions. We do have a lady in the back on the other side afterwards, thank you.

>> MEMBER OF THE PUBLIC: Thank you so much. I just wanted to comment briefly on the point raised by Burns, which was one of two areas of the proposals that I plan to call Mrs. Bothwell on to express my views on that. I appreciate the comments made by the Leader in regards to difficulties in Cabinet sometimes in getting your issues dealt with properly. I had the pleasure, perhaps, having one of the best governors to deal with, which was Alan Scott, and you can just imagine some of the problems we had there. So this one probably pails in significance, Mr. Tibbetts.

But the point that Mr. Burns raised is a very valid point, actually, because I believe in looking at the B.V.I. and Turks and Caicos Constitution, I just had a cursory glance at them, I don't believe that either one of those territories had the premier chairing Cabinet. And I don't think that we should be beating on an issue that might be a breaking point.

This, you have asked for feedback from the congregation, from the audience, and if that is an issue that seem to be a sticking point, perhaps we could make a note of this and have another look at it and see how we might further address that issue.

I think there are too many good things in these proposals for us to have an issue with maybe one or two small areas, because from my experience of being in Cabinet some seven years I spent in Cabinet, I don't recall a Governor really having the guts to throw out any issue raised by a Cabinet member. If he did, he wouldn't remain

Governor long because he would be asked to be recalled.

But if this is a sticking point -- and I can see the relevance and significance of why this was raised by Burns, then maybe we should revisit this because having the Governor not really being the premier person or chairing executive council or Cabinet as it's now called is a major shift and we might want to revisit that issue. Thank you very much.

>> **HON. D. KURT TIBBETTS:** Mr. Pierson, just to comment on what you said, totally appreciate exactly what you said, I was only explaining to Burns the logic that brought us to that position. But certainly if people would wish for that not to be the case and maybe go up the ladder a few steps less than what that's proposing, then all we need to note that's what the people want. So I do take your point, sir.

>> **MRS. SUZANNE BOTHWELL:** And I would just like to say that this is why we are here because the proposals have been put forward. And as I said at the beginning of the meeting, it's for you to assess how you feel about them. And as Mr. Pierson has indicated, you know, this is where we are at. And for example, in the B.V.I. they do not have the premier chairing Cabinet; but as it relates to setting the agenda, they have made significant changes to their old way of doing things in that there's more dialogue, the premier has more say and more control over the setting of the Cabinet agenda.

We do have a lady with a comment or question, thank you.

>> **MEMBER OF THE PUBLIC:** My question, really -- I see some benefit in doing -- in making the changes that you've recommended, but my question is really insofar as whether or not the Governor can protect the U.K. is one thing. What I want to know is what are the potential risks of Cayman of rolling the Financial Secretary, the Auditor General, sorry, the Attorney General, the Chief Secretary potentially every four years because of a change in government or a change in ruling party making significant changes and where are the checks and balancing protecting us inside the country and not necessarily what's good for the U.K.?

>> **MRS. SUZANNE BOTHWELL:** Well, the proposals themselves have not

recommended that those positions become political positions. I am not sure if I understood.

>> MEMBER OF THE PUBLIC: Appointed by the Governor, recommended by the premier, if the premier changes every election, they may not let the -- and there's a change -- not that I think there's going to necessarily be a change, but if there was a change in government, maybe a bunch of women would get in because apparently everybody in this document is male, the Governor, the Attorney General, everybody else. But if there was a change in government, they could potentially, the premier, whoever that happens to be, could decide to appoint somebody else or recommend that the appointment be changed.

>> MRS. SUZANNE BOTHWELL: Okay. Before we have anybody from the panel respond to that, I would just like to say first and foremost that we need to look at the official members separately and look at the roles they play. The Chief Secretary is that official member who is in charge of mainly issues of internal external affair -- internal affairs on behalf of the Governor.

So for example issues of immigration, issue of prisons, et cetera. Civil service, that's his responsibility.

Now, no proposal has been made to interfering in the Governor's responsibility relating to the civil service because they do acknowledge that we have to keep those roles, the political and administrative roles separate.

But there will be some submissions made in relation to the government's involvement in relation to issues of internal security and affairs in this country. Because that goes right back down to government policy and who that policy should be coming from.

In relation to the Financial Secretary whose role is as an official member in Cabinet, that, there's no recommendation that that office that there is any discussion about the premier recommending a person or to the Governor. That position of Financial Secretary would remain in some shape or form because at the end of the day

that individual is a public officer, a civil servant.

But what there has been made is a suggestion that when you increase the size of the legislative assembly, the size of Cabinet, that you have a Minister of Finance.

Now where the issue comes in relation to whether or not there are serious conflicts of interest is that issue with the Attorney General. And you made the suggestion that what happens every four years -- if a premier is involved in the selection of the Attorney General, what happens every four years? And although I will not go into much detail about it, we have to look at -- before we discuss what happens to the position, we have to look at what is the role of that position. What is the constitutional role of the Attorney General. And this constitutional role is to be legal advisor to the government.

And the question that is presently being discussed is who is the government. Who comprises the government? So if he is to be legal advisor to the government, one of the questions or proposals that has been raised is that shouldn't the government be able to have some level of say in who their legal advisor is because they must be able to have some level of confidence in the office holder. And this is not something that only -- please hold.

This is not something that only this government has raised. As a matter of fact, I would like to draw your attention to some observations that have been made by a past attorney -- Chief Justice in our country, Justice Harry.

When the Leader of Government Business went to give submissions before the Foreign Affairs Committee of the House of Commons last year, so did a past Attorney General. One of the comments that he made 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 an Attorney General who is a civil servant and who 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 is also sometimes used as an 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 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 his 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. Surely that situation should be professionally intolerable to any legal advisor as well to the other parties involved. Conflict of interest about an Attorney General should vacate his office on a change of government and can see no alternative.

Now, what has been put forward here is not necessarily views that has been put forward in the Summary of Proposals, but this individual who has been longstanding party of our judicial system, in his experience in the Cayman Islands, observed the conflict of interest. What has been raised in the Summary of Proposals in relation to the attorney general is that there are conflicts of interest.

So we as a country, we need to identify how it is we are going seek a resolution, seek a compromise that we are comfortable with.

Now, he has raised, Justice Harry has raised the issue of whether or not the Attorney General should change. The proposals have raised whether or not when an Attorney General is appointed that the premier, the head of the elected government should have a say in who this person is because they need to have confidence in the office holder.

Some may say, well it should remain the way it is, but the question that we do have to face in our daily basis is how do we resolve the conflicts of interest phased by the principal legal advisor to the government? Who does he advise when there's a conflict? Because what has been raised here is sometimes he advises Cabinet.

Sometimes he votes on particular policy decisions. Sometimes he wears another hat and advises the Governor and some of those cases, those -- that advice may be not privy to the Cabinet.

So how do we assist this office holder to ensure that his role is clear and there is -
- at least we can reduce the conflicts of interest.

So I don't know perhaps Leader of Government Business, whether or not you would like to comment or Minister McLaughlin on the issues faced with the role of the Attorney General, whether you feel your submission is going far enough, meaning that you just want to input on his appointment or whether or not, as you know, has been suggested by Justice Harry that that in and of itself is not far enough, he should be changed every four years.

And I think that this is something that we as the community or you as the audience need to discuss and find out what your positions are on this because if our government is in a position where it needs legal advice, it should be able to have that legal advice no matter what and there shouldn't be any issue of conflicts.

So perhaps we can deal with whether or not the system we have is a workable system. And if it's not a workable system, what are the alternatives that are being proposed and what are the other alternatives that are out there?

>> MINISTER McLAUGHLIN: The whole question about the independence of the Attorney General and his role is being examined in the U.K. itself at the moment and they're having some real concerns about the way their system operates.

I've heard and I've seen in advance what former Chief Justice Harry said his concern was or one of his concerns was that when a government changes the Attorney General who would have been giving advice to the former government might find that he was in a conflict or she was in a conflict with the new government that came in. That really is not our principal concern.

Our principal concern is one of basic loyalty. Under the present system, the Attorney General is appointed by the Governor and is loyal to Her Majesty's government

first and foremost. We have had instances in Cayman and everybody will remember the Euro Bank Affair, it is no question to whom Mr. Balentine and Mr. Pierson can vouch as -- there's no question to whom Mr. Balentine felt that he was first and foremost obligated.

We have had the experience ourselves recently in relation to the commission of inquiry where our present Attorney General felt bound to advise the Governor and as a result couldn't advise Cabinet in relation to that matter at all. So Cabinet didn't have any advice until we had to go outside of Cabinet to get legal advice in relation to the matter.

So the system really can't work the way that it is. The Attorney General has to wear too many hats on our current system. He is, under the Constitution, the principal legal advisor to the government. It doesn't say anything about the Governor, but over time he has become -- by convention, he has become the legal advisor to the Governor. When there isn't a conflict between Cabinet and the Governor, or the issues, then that's fine. But as Cayman becomes increasingly complex and more mature, the occasions when there is a conflict are going to continue to increase. He's also essentially the chief prosecutor responsible for public prosecutions. So he sits in Cabinet as a member of the executive. He sits in the legislature as a member of the Legislative Assembly and then he prosecutes people.

That can't be right, separation of powers requires that there is a distinction between -- clear distinction between those roles.

But the biggest issue, from our perspective, is one of basic loyalty. If he's appointed by Her Majesty's government, there's no question where his principal loyalty must lie. And time and circumstances have proven that, as we say in Cayman, over and over.

So our proposal is that there's a separate director of public prosecutions who's responsible for public prosecutions. If the Governor needs legal advice, he should have a separate legal advisor. The Attorney General's responsibility is to Cabinet and he should be appointed -- or she ought to be appointed by the Governor acting on the

advice of the premier and -- that's Constitution line for saying that the Governor will do -- will follow the -- essentially the instruction he's given by the premier in that regard. It doesn't necessarily follow that the Attorney general will change every time a government changed because if the Attorney General is giving objective legal advice and he's someone in whom the next government can repose confidence, they may well keep him or her on.

But there is no -- there's no perfect -- and this person would not be a politician. I am not suggesting that this person should run for election and would be a civil servant, but that essentially that the elected government decides whether or not they are satisfied with their legal advisor.

There is no perfect scenario. As I said, the whole issue about the role of the Attorney General is one that is under scrutiny even in the mighty United Kingdom at the moment. We spent a long time kicking this around. We've had a lot of advice from Professor Jowell who has been advising us general on this matter and who is intimately involved in what's transpiring in the U.K. And this essentially is our proposal.

Just want to quickly mention the other two positions that were raised by the lady at the back. The U.K. has advocated essentially that all overseas territories wind up with a Minister of Finance. That would not remove the requirement or the office of the Financial Secretary. In the same way that we have permanent secretaries who are responsible for the administration of our respective ministries and portfolios, the financial sector would be the head civil servant responsible for the portfolio of finance and economics. And would still give advice and do all the technical work in the same way that permanent secretaries do in any of the other ministries, but they would be a politically-responsible person who had ultimate responsibility for finance policy. That would be the Minister of Finance.

The Chief Secretary would continue, except that they -- the designation would be deputy Governor. Soon -- our proposals aren't calling for the abolition of any of these offices, what they are calling for is the removal of them out of the Legislative Assembly

because they aren't elected and out of Cabinet again because they are not elected. We are proposing, however, that the Attorney General would attend Cabinet and, if necessary, the Legislative Assembly to give advice to the government but not to vote on or speak on legal -- well, on legal matters.

So I hope that helps to clarify our proposal.

>> **MEMBER OF THE PUBLIC:** Miss Bothwell, panel, please excuse my voice. I have a question. Many persons tonight have alluded to the deal-breaker issues with the U.K. government in our Constitution. Can you tell us exactly what those deal-breaker issues are? What issues will they not accept and that they've kicked back to us in our previous discussions with them because it would be enlightening to know what those are and if our current draft Constitution includes any of those issues.

>> **PANEL MEMBER:** We don't regard any of the proposals we are making as deal breakers. We have spent a long time and got the best advice that we could pay for in developing our proposals. We've looked carefully at what's been done in Turks, B.V.I., Gibraltar and we've had the benefit -- the real benefit of Professor Jowell and his team. Professor Jowell is one of the most highly regarded national constitutional lawyers in the world. He's one who advises the U.K. on a regular basis and has a -- shall I say, an inside track with them. That is not to say that every single proposal that we're making, we can guarantee success. But we don't regard any of them as deal breakers. They may well be the U.K. says "no, we don't agree that the Governor should not chair Cabinet, we are going to insist that the Governor chairs Cabinet." Is that a deal breaker? I wouldn't have thought so, Mr. Pierson. We would not say we couldn't come to an agreement on a new Constitution because we didn't get that particular proposal.

So I don't think anything that we are proposing is necessarily a deal breaker. The U.K. may not agree. And probably won't agree with everything that is put forward. But that is a different thing from saying it is a deal breaker.

What we are seeking to get from the electorate is a mandate to negotiate --

essentially is -- what you would give us assuming that you voted in favour would be the limits that we could negotiate.

If there were points which the public felt strongly that we absolutely had to have this, we haven't heard those being put so far, then of course that would be a very different matter.

But essentially, what we're trying to get -- the point we get to is that this sort of broad parameters in which the public says "no, we don't want you to go any further than this regardless of how strongly you feel, this is as far as we believe you ought to go." So that we are able to negotiate with the U.K. within those parameters and we might well fall short in some regards of what those proposals are.

But I don't see any really that I would consider deal breakers. And I've said we spent a long, long time at this and we've gotten the best advice. We wouldn't come to you as the people of this country with proposal that we thought were outrageous or impossible.

That don't mean we got it all right. I am not suggesting that. We human like everybody else. I don't know that I could point to anything in this that I would say is a deal breaker.

>> MEMBER OF THE PUBLIC: Mr. Chairman, I perhaps need to just clarify that point. When I said a "deal breaker", what I meant was a controversial issue that might cause a bit of a problem, like for instance, if you look on page 10, I think it is, of the proposal you'll see another issue there where it's being suggested that non-Caymanians should be able to stand for election after having spent twenty or twenty-five years. And for many Caymanians I've heard speaking, that to them would be a deal breaker, which means that it would be controversial. So I was just suggesting -- so they are issues that we should take into account.

>> PANEL MEMBER: So you're talking about deal breaker locally, not a deal breaker with the U.K.?

>> MEMBER OF THE PUBLIC: Not necessarily with the U.K.

>> PANEL MEMBER: Okay.

>> MEMBER OF THE PUBLIC: But issues we want to get these proposals agreed to when we have the referendum of what the people are feeling that this is one issue that I can't accept. So when I said deal breaker, when that referendum is taken, we want to have the referendum agreed to, rather than the process being slowed down because of one or two issues.

And there was a third issue which I mentioned briefly was that of single member constituency. I think that if we're going to deal with that, we have to deal with it properly. We have a Boundaries Commission that split the country into 17 different constituencies. Now there might be an island or two that might want to accept that, but I believe that we should go along with what is in the best interest of the Cayman Islands as a whole. So there are the comments I'm making to be helpful and not the other way around.

>> PANEL MEMBER: Thank you, sir.

Can I address that because I understood the lady who spoke to be talking about deal breakers with the United Kingdom.

As far as these issues that Mr. Pierson mentioned and those three are without a doubt the three -- probably the three most controversial that we've come across, although I have to say until this meeting, no one had raised the point about who should chair a Cabinet as being an issue. But the whole point of this exercise is to get precisely that kind of feedback so that we can hopefully accurately measure what the public sentiment is on these various issues and adjust what we put forward as a proposal through referendum to meet what it is that we believe the majority view is on these matters.

So those are perhaps three instances where the government must listen, will listen to what people say and to try to measure. Christen has been taking copious notes from the day we started and we run the talk shows and TV programs and we got some other meetings that we're going to have with other sectors of the community.

So hopefully we can get the temperature of the water on all of these issues. And when the final document is put forward, hopefully it will reflect what is the majority view.

So just to make the point again, what's in the proposals, I hope they're not deal breakers because we are prepared to adjust them if that's what people feel.

>> MRS. SUZANNE BOTHWELL: We do have two more questions, hopefully on these topics. Gentleman in the front, gentleman in the back, and then gentleman behind the second row.

And then we will be moving on to the issue of one person, one vote. And also after that, election -- standing for election, who is eligible to vote. Thank you.

>> MEMBER OF THE PUBLIC: Members of the panel, good evening.

>> MRS. SUZANNE BOTHWELL: Good evening.

>> MEMBER OF THE PUBLIC: I would just like to voice an opinion in relation to the official members of Cabinet. I would -- support your decision created -- to create a director of public prosecutions, however I would feel a bit reserved to eliminate that role of the Attorney General. Furthermore -- sorry, can -- the Attorney General as a member of Cabinet, yes, sir.

I do feel that there is need to have an individual who is the legal expert who is able to voice his opinion in a voting role.

Furthermore, it was also just stated that the Constitution is said to protect us and this is in the best of times and also in the worst of times. In relation to the role of the financial minister, I did feel that that could be a position that could be abused, you know, in worst of times, let's say for example, the premier, the point themselves that -- that particular position and have the opportunity to use that to get into (inaudible). I just wonder if that had been considered somewhat?

>> MRS. SUZANNE BOTHWELL: Yes, thank you. Perhaps we can deal with the issue of the role of the Financial Secretary. The legal requirements that are government officials, whether you are civil servant or bound by government ministers and also that of the Attorney General as a voting member of Cabinet and I think you

mentioned before that you felt that he's a principal legal advisor of government, so the question is whether or not he should be -- apart from the advisor, whether he should be a voting member and whether or not there are distinctions in that role. If you can perhaps respond and take on the comments made by the young man.

>> PANEL MEMBER: Let me just deal quickly with the Minister of Finance. That position is one really that the U.K. is keen on because they want political responsibility, political accountability for the role of finance. They made that clear from very early in their proposals. And all of the other (inaudible) gone that well. That would not take away the responsibility of the Financial Secretary as I said earlier.

The question with the Attorney General, it's a fair point. I don't think your view differs that much from what we proposed except that you believe the Attorney General should remain as a member of Cabinet. You didn't say how you felt about him in the Legislative Assembly, which is an important thing as well. But our proposal envisages him sitting in Cabinet all of the time, but not voting, sitting as an advisor.

And again it comes back to basic principle of democracy. He wasn't elected by the people and therefore he's not accountable to them and he would not necessarily be representing their views. He is an advisor advising on what the legal position is (inaudible) his professional duty.

So we take on board what you say. If you can just say what you think about him saying in the Legislative Assembly.

>> MRS. SUZANNE BOTHWELL: Perhaps, Minister McLaughlin, can you speak about accountability because I think that was part of the question is if you have a -- a Minister of Finance, to what level is he accountable? Is there more room for corruption, I think that's the heart of the issue, and whether or not having a civil servant in that position would prevent such corruption from taking place. I think that's probably one of the heart of the issues that you mentioned in relation to the post of Minister of Finance.

>> MINISTER McLAUGHLIN: I don't know that the Minister of Finance would necessarily be more prone to corruption than say the Minister of Housing or the Minister

of the Responsibility of (inaudible) or if you take my point, (laughing).

It's the fact that he has responsibility for finance policy, understand he has responsible for policy. Ministers don't or ought not to get involved in the nuts and bolts of preparing accounts any more than I write the education law or writing cheques or anything of the sort.

It is a step. It is a step all of the overseas territories have taken and it's a step that the U.K. wants us to take. And the U.K. tends to be quite conservative or reserved on these issues. But it's also part of us growing up as a country and as a nation. You know, a country which -- in which there are trillions of deposits, at least on paper, which warrants itself as the fifth largest financial services -- financial centre in the world. We should, I believe, be able to manage our own affairs to the extent we have the Minister of Finance.

I don't know how else I can express it than in that way.

>> MRS. SUZANNE BOTHWELL: Thank you.

>> HON. D. KURT TIBBETTS: If I might, Minister McLaughlin, just to quickly add.

We also have to bear in mind that we will have -- that we now have our own domestic legislation and we also are now in the process of creating an anticorruption law. We have the public management and finance law. And there are several specific areas which create the checks and balances for that position.

And I hope you smile with me when I say this, but I've heard that position taken before by somebody a little bit older than you, who's family to you and that's why, no problem.

But the point that I want to make in this day and age is that when we speak to the change from an official member to an elected member being in charge, and Minister McLaughlin alluded to it, we're speaking about deciding on policy and having the responsibility. It's all about the democratic process.

Ministers are elected by the people and they are accountable to the people. As it

is right now, the official members, and this has nothing to do with the people, we're talking about the positions. Those positions participate in the process in the very same manner at the very same level as the elected ministers, but they are not accountable in the same manner that elected officials are. And that's basically the difference that you're trying to create. You will still have a Financial Secretary. You will still have an Attorney General. And you spoke to the A.G. being a voting member.

But the only point that I'm making to you is that an elected member being the Minister of Finance would still be taking all of the technical advice from the Financial Secretary who would still be the civil servant responsible for finance, but the elected member would just be part and parcel of the government who would direct the policy.

So it wouldn't be like being the Minister of Finance means that you are replacing the Financial Secretary and you're doing all of the physical that things that the Financial Secretary does. It is simply a matter of the policy level.

I am not asking you to agree, I just want to make sure you understand that part of it as an explanation.

>> MEMBER OF THE PUBLIC: Thank you, Mr. Tibbetts.

My question was just in relation to that, to the checks and balances of government and I guess my concern was to what extent the overseeing bodies would be able to fill the role that is currently filled by those three official members.

Thank you very much, sir.

>> MRS. SUZANNE BOTHWELL: Thank you, sir.

We do have a gentleman at the back had his hand up and then Mr. Adams had his hand up afterwards.

Gentleman at the back, do you still have a question that you wanted to ask or are you satisfied? Yes, you? You still have a question? And then Mr. Adams afterwards. Thank you.

>> MEMBER OF THE PUBLIC: Good evening.

>> MRS. SUZANNE BOTHWELL: Good evening, sir.

>> MEMBER OF THE PUBLIC: I think there was a good question over here in regards to deal breakers. And there must be something that we should make sure that we avoid even discussing that may cause us or cause it to be a deal breaker in the face of the U.K.

Is there anything that you could suggest to us that you had in your previous discussions that you would say now that's a no-no?

>> MINISTER McLAUGHLIN: If there is a deal breaker, it is any proposal which suggests that we should not have a Bill of Rights as part of the Constitution with the U.K. They have made that point abundantly clear to us on many occasions, starting very early 2002 and maybe back from '93, but I wasn't around in '93, so I don't want to comment on that. But perhaps Mr. Pierson and Mr. Tibbetts could talk about that. That's before my time.

But certainly since I've been around, they have made that clear and they made it clear very recently again that -- not so much insisting on what that contained, but that it is part of the Constitution because it will give it -- it will give it greater sanctity, if I can use that word, because it wouldn't be possible for a new legislature to change it at will because the Constitution takes quite some effort to get changed.

But as to what you can talk to them about, certainly we spent three days there, Mr. Pierson was there as well, and none of us ever left the meeting, I don't believe, feeling that there was any area that we couldn't explore with the United Kingdom, that anything that we suggested to them would cause them great alarm or concern. They might not agree, but that's another matter altogether.

>> MEMBER OF THE PUBLIC: Thank you. Good evening.

>> MRS. SUZANNE BOTHWELL: Good evening, sir.

>> MEMBER OF THE PUBLIC: It appears as if we're now moving away from those areas of administrative and executive.

>> MRS. SUZANNE BOTHWELL: Yes, when you're finished, unless that's what you want to talk about.

>> MEMBER OF THE PUBLIC: That's what I wanted to talk about before we got off of it because there are a couple of parts to that that I --

>> MRS. SUZANNE BOTHWELL: You want to talk about one person, one vote is that --

>> MEMBER OF THE PUBLIC: No, I want to talk about the other parts we've been talking about, you know, the relationship with...

(TAPE #2, SIDE A ENDS)

(TAPE #2, SIDE B BEGINS)

>> MEMBER OF THE PUBLIC: (Cont'd) ...just a couple of things, if I may?

>> MRS. SUZANNE BOTHWELL: Absolutely.

>> MEMBER OF THE PUBLIC: One is in broad brush, looking at this and taking a few steps back. If you don't stand for something, you might fall for anything.

And I think there are probably some things in the nature of who we are as a people, even though some may criticize us for trying to call ourselves a country, that if we found ourselves in the position of having to cross certain lines, it would be either absolutely unacceptable to us or it would go so far to the core of who we are that it could destroy us if we had to accept those things.

So I'm going to talk about what is a four letter word in Cayman, but it's actually only a four syllable word and that is this matter of independence. Because I think we need to be -- dare I say intellectually honest in how we approach whether or not this Constitution takes us closer or doesn't take us closer. And trying to defend whether or not it does is really something that we should instead approach from whether or not it is making us more mature and, yes, frankly, more capable of administering ourselves. Because we may find ourselves, one of these days, in a situation in which not just the relationship with the United Kingdom, but as you alluded to at the very outset, we now have things that come not so much from the U.K., but from the European Union. And the situation may well arise that we find ourselves facing one of those things, as I was alluding to before, that cut to the core of who we are.

So I think how you have outlined it here in this document on page 2, we believe there is no desire in the country to seek independence. Our aim is to improve the relationship with the United Kingdom, to make our internal government more democratic, efficient and accountable and to prevent any recurrence of the unfortunate incidents that have in the past strained our relationship with the mother country. Beautifully said, because I think that does reflect our heart and does reflect where we are.

But I just consider that we ought to express that the fact that this may take us into a more mature form of government, the fact that it may develop certain competences and abilities and experiences that would stand us in good stead if we found ourselves in a situation where (inaudible) of independence began to appear as something we are almost forced to do otherwise ceased to exist as being who we are. That can't be a bad thing.

So I just want to encourage the Constitutional Secretariat, the government who is leading us through this, the opposition who are fearing those things that I don't think we need to fear those things if we approach them from a mindset of maturing so that we can stand if we need to stand some point in the future, however distant that may be. One simple point. And it may be slightly controversial, but I think that we need to be honest with ourselves and realize it could happen.

But the second thing in terms of administration that really is more immediate and affects all of us from day to day is a matter of the Statutory Boards. And I don't recall spotting in this document anything that has to do with how we mature and respect of how we appoint those boards. And those boards have very far-reaching effect on how business is conducted, how relationships are conducted and how even we go about things like developing property or not developing.

So I would be interested to know has any thought gone into yet whether the Constitution would contain provisions that would make us somewhat more mature as to the appointment of those positions or perhaps the appointment of at least the chair

people of those positions in the statutory boards that would be more democratic than it is at present.

Thank you very much.

(APPLAUSE)

>> MINISTER McLAUGHLIN: Before we lose that train of thought, the short answer is no, we haven't considered making those constitutional revisions, but we are open to suggestions. Have you thought about it at any length?

Because the way -- I think everybody knows that the way it happens now, the government decides who the chairmen are, who the board members are, that's the way it's always worked. And it doesn't always work very well. I acknowledge that, but how else do you choose those things? Your suggestions?

>> MEMBER OF THE PUBLIC: As you look around and you see other more mature democracies, dare I say that, you see that certain positions such as that are actually elected positions and it may be that the person who is the head of that statutory authority or board would be -- we could just start with appointing them. I mean, in even mature democracies, the whole statutory authority is elected. And perhaps that's, you know, a bridge too far, but maybe what we ought to do at least is consider -- pardon?

Yes, yes. But perhaps what we should consider is a process by which at least we begin by having an election for the one who is ahead of everyone, one who has a fair amount of power within those things. If we can't go all the way to all of them being some form of election or at least ratification by the electorate in some form or fashion, because they do have a lot of impact as to how policies are executed and how we're affected as citizens and as corporations operating in the Cayman Islands.

>> MR. McLAUGHLIN: Tim, can we think about this a little bit. In relation to many of the boards and authorities, not necessarily all of them, there are some perhaps I can see that what government thinks really wouldn't matter. But the objective of most of these authorities and these kind of boards is to administer the policy of the government.

Now, if we go down a road where they are separately elected, how do you reconcile their views which they will hold independently or may hold independently of the government's views in terms of administering the government's policy. Remember the government's policy ought to be -- ought to reflect the mandate they've just been given by the electorate who voted for them on the basis of this platform and this set of (inaudible).

Do you follow me? How do we reconcile those two things?

>> MEMBER OF THE PUBLIC: It's a matter of the operating model that we overlay it with. If we hold as a fundamental truth and maybe we don't, but if we hold the fundamental truth that the government should be of laws not of men, then that translates into it should be clear, the policies should be expressed and the directives issue it in such a clear fashion that the government would have given broad direction, would enrich the operation of any of these statutory boards is contained or directed.

And beyond that, it's sort of difficult for me to see and maybe it's easy for other folks, but the fact that you've elected individuals with whom you were comfortable or selected, rather, in the present form of appointment, doesn't necessarily lead to government policy actually being carried out if the policy has not been clearly articulated and if there is not an operating model that insists there's some top level policies that have to be carried out.

And that, you know, regardless of how those people are appointed, if that model isn't really watertight, you're going to find these gaps in between the policy of the people that have been elected to represent us and the mandate they were given and the actual execution of them. And I think you're probably familiar with certain of those things that have occurred in the past.

So I would suggest that if an electorate has found itself aligned with a particular party, we now have a party system, in terms of appointments to or elections to the Legislative Assembly or what will soon be called the Parliament; surely it would be those who tend to be aligned with the broad policies espoused by the party that won,

who would tend to garner the most votes when it comes time or it's come at the same time as electing those people to be appointed to these various boards.

And I appreciate, you know, that this step we're trying to take now with the Constitution may not be as big a step as I am talking about in going to that depth with elections, but I certainly think it's a great opportunity for us to think about it and to consider how we can -- we can integrate more democracy in the appointment of those people, and at the same time, improve upon the operating model by which government policy is articulated to the statutory authorities and (inaudible) by those authorities.

If I may, there was just one more point. This may seem small, but I think it is vital to really reinforcing the importance of the Constitution that we're about to create and that is in the oath or affirmation of office. Because if we look in the oath or affirmation of office that is presently taken, from what I can tell, that oath or affirmation does not go beyond saying you're swearing allegiance to the Crown. But I believe it's high time that if we're writing a new Constitution, we rewrite that oath or affirmation of office to also include a commitment to uphold the Constitution of the Cayman Islands.

So, thank you.

(APPLAUSE)

>> **MRS. SUZANNE BOTHWELL:** Thank you. Thank you, sir. I mean for those of you who are interested in oaths and affirmations, they are found on page 51 of the Constitutional Guide.

And I believe Mr. Adams is correct that when we look at the oaths that our elected representatives have to swear, that our judges have to swear, that those oaths are really to Her Majesty the Queen II, Her Heirs and Successors or Her Majesty Herself.

I think the judicial oath is the only one, perhaps, that speaks to -- and I will do right to all manner of people, but any mention of the Cayman Islands is notably absent when our elected representatives or judiciaries swears an oath, there is no oath to carry out your office in the best interest of the people of the Cayman Islands.

I would like to take one more comment or question on this area. I do want to

move on to two other major areas that we think we need to cover in this meeting simply because I have -- I do have to keep track of the time and it's now almost 10 o'clock and I don't want to keep you here all night; but at the same time, I do want to make sure we get some of the issues -- equally important issues discussed.

Thank you. Mr. Adam?

>> MR. ADAM: Thank you very much, ma'am. And this wasn't planned to follow after Timmy.

On the matter of the oath and very current is if you go on the web and look up what's going on in Kenya, which was considered a paradise in the African continent before some of the problems developed there all because of weaknesses in the Constitution to allow the full dictatorship to really be applied. In the swearing in of the speaker in January, there were some good speeches there in connection with the oath of allegiance because the current elected dictator there under grand old organized parliamentary democracy type of Constitution. The objections there was to change it where it was oath of allegiance to the person who was elected as the prime minister, president of the country. And that's where the point is very valid. It should be to the Constitution and that's what they pointed out.

I would also in connection with what the matter of boards because we know the way boards are -- and this comes back to the separation of powers between the government of the day, the political arm and the administration of the laws of the legislature in the Legislative Assembly. And because we don't have this check and balance and the separation of powers, you have people phoning.

In the past, I mean, you know people could phone up and you need a permit approved, be it from the central permitting authority or to get a building or to get a work permit or to do whatever, if you want anything done in the country, boy, you got to phone Mr. So-and-So. That's the way it was and that's because of the way it's set up.

Now, the policy of the country is really enshrined in the laws of the country and boards should work via the laws of the country because that's the way they should take

the guidance and not the day-to-day whims and changing of Cabinet one month it's one policy and next month it's another policy. That's what laws are for. And that's when we start to move to a constitutional democracy.

And once they are elected or once they are appointed, their guidance should come from what is contained in the laws and the regulations under which they operate. That's what they should administer. And that we grimly begin to get separation of powers.

I would also suggest that if we look at what has occurred a few years ago in British Columbia with the appointment of the Citizens Assembly where they looked at some of these very said questions and look at the method.

Mr. McLaughlin, you can look there, it's a lot of it in the web as to the method of appointment of the people to the Citizens Assembly and the way they came from the electorate and recommended people. It's quite extensive. If you want, I could send you some stuff on it. It's quite extensive as to how they went about it with the Citizen Assembly. California and the Netherlands are also having a look at what they did in British Columbia.

>> MRS. SUZANNE BOTHWELL: Thank you very much. I would just like to just indicate the draft 2003 Constitution, if you look at the very second to last page, there was some modification toward existing oaths. And we do see under the second oath for due execution of office there was an agreed -- negotiation was agreed by the United Kingdom and Cayman as of 2002, 2003. In relation to that oath for the due execution of office that not only would you truly -- would you swear an oath which you will serve Her Majesty the Queen and Her Heirs and Successors, but it also says in that oath and the people of the Cayman Islands in the office of -- underneath it says description of the office, so help me God.

So we do see that when looking at the details of our Constitution that in 2003, we did make some headway as to trying to identify where the Cayman Islands fits in all of this. And we saw that when our elected representatives are to swear when they take

their position constitutionally, that when they swear to serve, they swear to serve Her Majesty the Queen, but alongside that equally the people of the Cayman Islands.

I would like to move very swiftly looking at the issue of one person, one vote. This is a summary that is to talk about a shift in the way our electoral system is run. It is to recommend a different type of electoral system. I think that most people are very well acquainted with the issues concerning single member constituencies and one person, one vote.

What has been recommended now is that there should be a full implementation of this new electoral system. This was a recommendation made in 2003 Constitutional Commissioners arising out of their recommendation, 2003 there was a change to our Constitution. The current Constitution which established 17 electoral districts, however the boundaries for those constituencies needed to be set. The Electoral Boundaries Commission was established. They went around the Islands. They produced a report. I'm not sure, maybe I could seek clarification as to whether or not that report was debated in the Legislative Assembly, but that was part of the constitutional requirement that report would have to be debated and then subsequent constitutional changes would have to take place in order for us to move fully toward a single member constituency, one person, one vote system.

Right now I think, Minister McLaughlin, that we're almost half way there. We have established in our Constitution 17 electoral districts. We have a report that constitutionally those additional seats have not been added to the L.A. So therefore, in our current constitutional model, we cannot practice the new electoral system.

And the question at hand or the issue at hand is whether as a community we feel that it is time for us to finish, complete the issues, complete the changes and so that we can change this electoral system of one person, one vote and whether or not this should be in line with the recommendation of the electoral -- of the Boundaries Commissioners or should it be somewhat different.

And I believe that you have made a suggestion in particular in relation to Cayman

Brac and Little Cayman that differs from the recommendation of the Electoral Boundaries Commission that says that Cayman Brac and Little Cayman should be two constituencies. And I think that you have made a somewhat modified proposal and I would like to know on behalf of perhaps the audience here, why it is you are suggesting something different.

>> HON. D. KURT TIBBETTS: Thank you, Suzanne.

Maybe it's because it's Cayman Brac and Little Cayman we're talking about why Minister McLaughlin was kicking me underneath the table telling me you answer that, you answer that. The truth is, and I heard what Mr. Pierson said earlier on. I was only joking about that.

That was a suggestion based on feedback that we have gotten from some of the people in Cayman Brac whereby there was a question that they were not sure that it would not, in their minds, because of the circumstances with Cayman Brac and Little Cayman and the way they are compared to Grand Cayman having the vast majority of the population.

And the fact that if with their vote -- listen now, Cayman Brac and Little Cayman being divided into two constituencies, the numbers of electors, that is number of voters in each of those constituencies would be a very small number compared to everywhere else when you divide up 15 constituencies in Grand Cayman. Perhaps today with the voter list being what it is, you would end up with probably somewhere between 8- or 900 voters in each constituency in Grand Cayman. And over in Cayman Brac you would end up with half of that if you did two different constituencies.

But at our last visit to the Brac, which was, I think our third or fourth meeting, just a couple of weeks ago --

>> MRS. SUZANNE BOTHWELL: Yeah, about two weeks ago or a week ago.

>> HON. D. KURT TIBBETTS: -- when we had similar meeting to this. The indications from the majority there, and Mr. Pierson I took your point well, sir, what you said earlier on, but I'm only reporting what was said to us there, the vast majority of --

and I think it was -- it was probably about 50 people, somewhere between 50 and 60, I believe, people there that night. What they wanted was to remain as one constituency. And instead of what we proposed to try to bring it as close to a level playing field as possible where it would still be one man, one vote, although it would be two returned to the one constituency.

Thank you, Lord.

They said they wanted it to remain status quo, which is one constituency and one man, two votes returning two. So they wanted what obtains now to remain. I am only telling you what they want.

Now we recognize that that creates almost two systems. But we certainly don't wish to discount what their thoughts are and simply say, well, if we are going to go to single member constituencies, then we have to go to single member constituencies.

And I think that's one of them that we will have to continue to talk through. Because what we wouldn't like to have happen is that the vast majority of -- yes, the vast majority of the people in the Brac and Little Cayman to stay their course and then it creates a real problem.

My colleague, Minister McLaughlin, asked me last week in Cabinet when is Cayman Brac and Little Cayman going to (inaudible) (laughing). I told him nothing of the sort.

But anyway, that is what we have been hearing from them and it was the reason why we tried to sort of meet the situation half way. When we were preparing the document, it was the best shot that we could give it at that time, but we will be going back over to the Brac and Little Cayman.

We haven't gone to Little Cayman, actually. I think last count they had 23 or 27 voters over there. Maybe there are a few more there now. But we're going to go over there also and we're going to spend some more time talking the whole situation through with them.

Many of us -- not many of us, but some of us here are from the Brac. And even if

we aren't from the Brac, many of us know plenty Bracers and we know how they can be. So that's a kind of tall order, but it's one of them that we going to have to continually work at to see how we can call for the discussion to see what end result we can come.

I mean we didn't get hard-nosed with the discussion or anything like that. And, in fact, they didn't spend all night on that situation either because they wanted to understand a lot more about all of the other parts of the presentation that Suzanne and her team were doing. But we'll just have to -- when we go back up again, open the doors and start to talk about it some more and see how we can end up.

And we do recognize that they -- the easy answer once we can get agreement is for there to be 17 single member constituencies. But I think their affairs are not just because they wish to be obstinate, but I believe they have real fears because of the demographics and they don't want to have a divided situation. I think that's basically in a nutshell where their fears emanate from.

>> MRS. SUZANNE BOTHWELL: Okay. Do we have any questions or comments on a single member constituency? Yes, we do have one. Perhaps we can also, after this gentleman has asked his question and made his comment, discuss amongst ourselves because we are all part of the Cayman Islands, Cayman Brac and Little Cayman forms part of Grand Cayman. Because I think the whole issue of single member constituency and especially one person, one vote. It goes back to democracy and equality of the vote. And whether or not, you know, we should continue to have a system whereby some persons have more of a right as an elector, has more say as an elector against other members of our communities who are electors.

Thank you. Please go ahead.

>> MEMBER OF THE PUBLIC: This is for any member of the panel.

>> MRS. SUZANNE BOTHWELL: Thank you.

>> MEMBER OF THE PUBLIC: Regarding the boundaries, the actual boundaries of the constituencies, do you guys have any protections against gerrymandering? And additionally, do you have any mechanisms to actually adjust the

boundaries of the population demographic shift? And how would you do that fairly?

>> **HON. D. KURT TIBBETTS:** Constitutionally, there is a -- there will be with regards gerrymandering, there will be provisions in any Constitution which would call for a Boundaries Commission which would deal with that. They will also have to be legislation, my friend, which would specifically deal to the -- in terms of reference of a Boundaries Commission, its appointment, its term and everything else like that. And there would also have to be the mechanisms put in place for -- okay, let me get practical with it.

You will end up with a Boundaries Commission having a certain life span. Beyond that, on a regular basis, you will have to have a new Boundaries Commission appointed. And it might not be for each election or it might be for each election, depending on growth rates and what triggers the mechanism to say that you're going to need a new Boundaries Commission to check population growth patterns and all like that to decide. Okay, for instance, like what has been happening in Bodden Town in recent times where the population of Bodden Town has been growing faster than anywhere else in the country. And if you had single member constituencies, we would have to be paying close attention to that.

So there would have to be mechanism in place which would call for on a regular basis whatever that time period is for a Boundaries Commission, a new Boundaries Commission to be appointed and go through the process of getting the stats and deciding on whether changes should be made and if so, to bring the balance. Because the whole idea of any changes would be to bring each constituency to have as close to the same number of electors as you possibly can, which is the framework.

That's for that part of it. Perhaps Minister McLaughlin would wish to add more.

>> **MINISTER MCLAUGHLIN:** Maybe this would be helpful. There was an agreement actually between both parties and the United Kingdom which reflected in the draft Constitution 2003 as to how this process would work.

And I see a similar sort of provision or similar set of provisions in the new

arrangement. Under this the electoral Boundary Commission would be appointed from time to time by the Governor acting in accordance -- acting after consultation with the Chief Minister and the Leader of the Opposition. And the Commission would consist of the chairman appointed by the Governor, one member appointed by each of the Leader of the Opposition and the Chief Minister.

And so that is your sort of control over the gerrymandering issue because there's equal rating regardless of the fact that one is government and one is opposition. It's equal rating of the Governor having the chairman at the helm.

And the Commission would review the boundaries of the constituencies and produce a report to the Legislative Assembly. And they would set out the reasons why they thought these changes were necessary would be debated publicly and then approved by the Legislative Assembly or not approved as the case may be.

>> MRS. SUZANNE BOTHWELL: And I think that is actually what the present Constitution says and that's actually the present Constitution now. But it's mirrored in the 2003 draft, that process. In terms of gerrymandering, when we look at the last Electoral Boundaries Commission, we did have a gentleman by the name of Mr. Carl Dundas who was appointed by the Governor to head up the Electoral Boundaries Commission and similarly, there was a representative nominated by the Leader of Government Business and the Leader of the Opposition. And they had public meetings.

And if you're interested in reading about what did they take into consideration, what were they prevented, what they were not allowed to consider, I would invite you to look at the existing Constitution, which you have a companion guide and a copy of that here. Look at section 70 of the electoral -- of the draft Constitution. But even more so, on our web site, under the resources page, there is the Electoral Boundaries Report is there and it's very interesting reading to look and see exactly what issues those commissioners took into account when delineating the boundaries for the constituencies. And there is recognition in the fact that every couple of years, every number of years, the boundaries would need to be adjusted because of population

growth, shift of population, et cetera, and so forth.

So if you read the Electoral Boundaries Commission, I think they address specifically the issue of gerrymandering and the things that they had to deal with in terms of looking at natural boundaries. They were not allowed to take into consideration issues of race and so forth. So you can look at that for our own edification.

And if you have further concerns about it, I would encourage you to e-mail the Secretariat. We do accept proposals or comments via e-mail or again, come to the meeting. We have a radio show Mondays and Fridays on Radio Cayman, call us. That's what you feel that you want to talk about. And also every other week we are starting a television show on CITN.

Now, unless we have any other questions or comments in relation to one person, one vote, we would like to move on. But before I do that, I would like to invite Minister McLaughlin to perhaps some closing comments on this topic.

>> MINISTER MCLAUGHLIN: Actually, Suzanne, I wasn't signaling you for that.

What we are interested in is how you feel about moving to single member constituencies and one man, one vote. As Mr. Pierson has alluded to, this has been and continues to be something of a controversial issue and we're trying to get some feel for how people think about it generally. Let's leave aside Cayman Brac's peculiar situation, we have to resolve that. We know. But there's a significant shift from what we have now to what we have been proposing. So if we can get some kind of feel for what people think about that.

>> MRS. SUZANNE BOTHWELL: Okay. We have two persons in the back.

>> MEMBER OF THE PUBLIC: With the one vote, 15 or 17 member constituencies, would that not necessarily give the representation provided they are not in the government? In other words, the majority would be the government, right, whether you are elected as single member representative or not.

Suppose three or four members in the same area close together were elected, and it comes to form government, they are not part of it, they are in opposition, would

they not necessarily lose the opportunity to get maybe certain benefits or -- to be accountable to their constituents, how could they fulfill their requirements?

>> HON. D. KURT TIBBETTS: Tommy, I remember a few years back hearing the same question asked, and it is a real question that people will ask. But let me just look at it from a practical standpoint and say to you, we are the government today. There are four representatives in West Bay who are the opposition. There is an election to be held in 2009.

It makes absolutely no sense, no logic, nothing whatsoever with any sense for any government and in this particular instance for this government to ostracize that district and expect to run an election in 2009 and put candidates in the district of West Bay to oppose the representatives that are there now.

You see what I'm saying to you? So, even let us say that we had somebody who led the government who was a vindictive person and did not feel that way obliged, I would -- I can't believe that the good Lord would allow everybody in the party to be that stupid and they would be the government. If you understand what I'm saying to you.

So while that fear is something that you would naturally think about, in practical terms it just doesn't make any sense whatsoever. And I'm with certainty that that would not happen. If you understand what I'm saying. And the best way for me to explain that is just by a practical example. Okay?

>> MEMBER OF THE PUBLIC: I think currently you said there are 17 districts?

>> MRS. SUZANNE BOTHWELL: Yes, in preparation for the one person, one vote, single member constituency, the current Constitution has established 17 electoral districts. But the boundaries have not been set.

>> MEMBER OF THE PUBLIC: Okay. My question is -- and I hope you bear with me --

>> MRS. SUZANNE BOTHWELL: Absolutely.

>> MEMBER OF THE PUBLIC: -- because I hate to reveal my ignorance here, but 17 districts, right now we have five, six. We're going from six to 17. I guess I

foresee certain problems with the number of people coming forward or being nominated or running for election in a particular district.

I now say, for example, the East End at one time only had one person nominated at one time and that person went into the house by default because he was the only person nominated. I can't even remember that election was held or not and whether or not how many votes he had. But can we find ourselves in a situation where we maybe have no one running for a particular district or we might only have one person?

I mean, because our population, really, we're talking about the electorate. We're talking about people who can qualify to run and people who can qualify to vote. And that's a small number when we take the entire population and demographics of the entire country. We're talking about a small number of people.

>> MRS. SUZANNE BOTHWELL: We do have over 13,000 electors now.

>> HON. D. KURT TIBBETTS: Mr. DaCosta, again, I will try to be as practical as I can. I can promise you today because I happen to know some of them that there are people who haven't run for office in this country because they couldn't find a home to run in. Meaning, for instance, the biggest district of George Town, when they look at, comparatively speaking, the size of the district and when they look at what they would really have to accomplish to be able to run a meaningful campaign scares them to death and they don't bother. If they had a constituency that was 800 voters, they could really, in their own minds, stand a much better chance of being elected and also being able to reach out to those -- to the voters in a way that physically they could manage.

Let me tell you now, if you compare these Cayman Islands to larger countries, the quickest one to mind would be North America and the continent of the United States of America. And I mean, those campaigns are totally different. Everybody has their own jet. Everybody can find \$30-million to inject into their own campaign, so you can imagine -- not everybody, but a good lot of them, you can imagine their ability and the whole system, the Federal system, that's all totally different. And I mean, they will cover a state with 10-million people in it or more.

But going the opposite way is what I'm saying to you, it makes life easier, not more difficult for someone who would wish to run, if you understand the point that I'm making.

So I think don't think that there will be any problem about just one person being nominated for one of the constituencies. I want to make the distinction between constituency and district. We wouldn't move from six districts to 17 districts. We would move to 17 single member constituencies. And that's a more appropriate word because the numbers -- the moment you go to the 17 single member constituencies, if that's where we end up, then certainly the numbers for each of those constituencies get a lot less than how they are now.

You see, that's another part of the democracy of it that is really not a level playing field. You have one person in East End and North Side, for instance, and they vote for like 5- or 600 people.

Sorry? Yeah, it's somewhere between 5- and 600 people. Sorry, you right, I said it wrongly, forgive me. I realize what you're saying now, Suzanne.

In those districts you have like about 600 voters in each of those districts. In George Town, we surpassed 5,000. Each of those 5,000 people that are on the voter's list can vote for four individuals. Those in North Side and East End can only vote for one. Those in Bodden Town can only vote for three. Those in Cayman Brac and Little Cayman can only vote for two. And then you have 5,000 voters in George Town and 3,000 and odd voters in West Bay being able to vote for four people. Is that fair?.

You see, you know, so I mean if we try to just -- a lot of it is in motion and what you're used to. But if you try to step out of the box and be objective and really look to create a process that is democratic and with a level playing field for all concerned, we will understand that that's the way to go, at least in my view. But it is not something that we say has to be the case.

And again, everyone has the ability to speak their minds. Our job is to make sure that what we say to you informs you that you're able to make the decision on your own

coming from an informed position and probably not just dealing with emotions.

Because I mean, it is -- we could flip the coin and say it is difficult for somebody who has been voting in the district of George Town or West Bay, for instance, and they are 60 years old and they voted, what, ten times. And all of a sudden you're saying to them that the four people that they used to be able to vote for now they can only vote for one.

So you have that kind of scenario, but the fact is we need to be looking at it as objectively as we possibly can. And the key ingredient in the entire process is democracy.

>> MRS. SUZANNE BOTHWELL: We do have two more questions, Mr. Ebanks and then Mr. Conolly at the back.

>> MR. EBANKS: The reason why I look at the one man, one vote, I guess if you want to find (inaudible) -- back to West Bay, I believe that the four people that was running in West Bay was buying a lot of refrigerators, washing machines and so on and so forth. I have tried to find a way to circumvent that and I think that's what I did. Somebody said congratulations, I said what are you talking about. He says for successfully doing this (inaudible) Constitution.

The fact is that when we vote in East End for one candidate, that one candidate today represents the whole complete Islands. It's unfair to the other people in -- I mean in the Island because this guy got in basically by one vote, technically East End or it was North Side the same way. This is a minority that of the votes that was cast in the district or in the districts...

(TAPE #2, SIDE B ENDS)

FAMILY LIFE CENTRE - 18/02/08 - TAPE #3

>> **MR. EBANKS:** (Cont'd) ... this minister have got in with a minority vote and is not under a democratic system. When it's in the Cabinet as minister, Mr. Arden McLean presently. And my outlook on that was not democratic that I could vote for four people being -- I don't want to use the word Caymanian because the word differentiates. The U.K. government say I'm a citizen. And I'm telling you that I believe that the guy is call himself Caymanian should be termed as those that was status granted under the laws of the Cayman Islands. Okay.

>> **MRS. SUZANNE BOTHWELL:** One person, one vote.

>> **MR. EBANKS:** As I said, this is the area I want to go into. When I find that he wanted to circumvent the stoves, the refrigerators, this is the idea that I came up with. George Town would be divided into four or five, West Bay would be divided into four. This is blocks A, B and C, which make constituencies, but I'm saying blocks.

And East End would be one, North Side would be another one, that would be twelve. I never calculated the Financial Secretariat as one of those members to make seventeen.

Anyway, what I'm saying is I'm one vote system, yeah. I'm saying (inaudible) the Island. I want a democratic system. And there's no if, ands, and buts about it. I already spoke to (inaudible) commissioner on the blocks so on and so forth already, so this would give you an idea how far I went with it.

>> **MRS. SUZANNE BOTHWELL:** Absolutely. And I think it's important for us to look at definitely the whole issue of population. We want the one person, one vote or single member constituencies. What we do is we keep the ratio between the population in that constituency and the vote somewhat equitable amongst all of the different constituencies.

So -- because we can't import a new population into East End. East End will always be a small number. North Side, likewise. But what you could do in larger districts is to divide it up so that across the board there are similarities, there's equity,

that's what they call it in law, but I won't get into that, there's fairness in the entire system. And with fairness, I guess, comes semblances of democracy.

Mr. Connolly, you did have a question, do you have the microphone yet?

>> MR. CONNOLLY: I do. It is a question and a comment. I think -- personally, I think this is an ideal time has come on. But I just wanted to highlight because it's in this technical sort of jargon. For George Town, and correct me if I'm wrong, what would happen if we have say four constituencies. Let's for example use South Sound as one. So we would have an election for a representative for South Sound. It would mean that the persons voting for that representative would live in South Sound under the current election law, person running for South Sound wouldn't have to necessarily live there.

>> MRS. SUZANNE BOTHWELL: That's correct.

>> MR. CONNOLLY: And we would have one maybe for east George Town, and Prospect, one for central George Town and one for the northern George Town, and the southwest West Bay beach.

One of the practical issues of that is, especially with the party system, we're going to have at least a slate -- apparently now the party runs for candidates in George Town. They're going to typically be running -- they may actually run more candidates now. One of the big issues with this situation obviously is the boundaries, not so much from an electibility issue, but from a disparity in the characteristics of the people living in each of those areas.

So whereas at the moment -- well, okay, you may have an area say -- let's just use South Sound for instance, it is generally thought of it's a more expensive area to live in, more affluent. Obviously the representative there is likely to respond to the characteristics of that district, of that area.

Now the good side of that is one of 17 -- but the good side of that is that the representative will probably be a lot closer to the issues of South Sound versus what we have at the moment where you could have say all four candidates coming from north George Town, for instance. I think it's a good -- I basically suggest or recommend that -

- it's my opinion that I think it's a good direction to go in. I mean for years in East End, we have only been able to vote once and I'm missing a lot of votes that other people have had in the past.

But I do think that districts, it's critical to keep the district boundaries because -- in other words, that you have representatives from each of the areas. In East End, particularly, where you have a very small or North Side, but more so East End at the moment, we have small number of voters. If you want to what is called -- what is debated the national elections where you have everybody voting for 15 or 16 -- I know it's not recommended, but it's one of the discussions on the table. The problem that you would have there is that only -- the high likelihood of only George Town and West Bay would ever represent absolutely.

So I support the idea, but I just wanted to clarify and just highlight, you know, in a non-technical way that we're talking about maybe breaking George Town into four areas and each person could run in that area would represent that smaller area back in the house.

>> MRS. SUZANNE BOTHWELL: I think I got your point.

I think, I mean, we are still in the early days of the public consultation process and it is the intention of the Secretariat that as we move through the public meetings, the various districts between March and April, that perhaps instead of just doing a general presentation that we start getting down into the nitty-gritty issues that we as a community feel that's important and the boundaries is one that is very important. If we're going to be moving forward toward an electoral system that splits the districts themselves up into constituencies within the districts for the purpose of elections, then we need to look at the boundaries.

I know we have one of our past commissioners here, which I will not call out her name, but it is important for us to understand the process, the dynamics, the things that were considered when they were dividing up the boundaries. And I would encourage people who are interested in the whole issue of one person, one vote and the single

member constituencies to look at the map, it's on our web site. And I will just double check, but I think it may be available in the public libraries, certainly at the elections office, to see exactly where these boundaries, where they recommended the boundaries to be and the reasons why they made those recommendations.

And of course I do believe that if we are as a community if we have in principle agreed that we are to move toward this more democratically sound system that based on the length of time that has passed, I do believe it would be due time to implement a new Electoral Boundaries Commission to look at the different issues.

>> **MR. CONOLLY:** Sorry, the centre of my point was, just for clarity, is that when we are talking about some of these words that are very legally and accurately stated that it would help to say this is what we mean by this, we mean breaking George Town into four or breaking West Bay into four.

>> **MRS. SUZANNE BOTHWELL:** Into five or four, yes.

>> **MR. CONOLLY:** And this is how it would work, to get, I think it may help to get a better reaction from the crowd rather than saying the pure technical aspect.

>> **MRS. SUZANNE BOTHWELL:** We thank you for that.

>> **MR. CONOLLY:** You get a better reaction.

>> **MRS. SUZANNE BOTHWELL:** Yes, definitely. What we will do is definitely use the future meetings -- once we've done our initial round in the districts, to use the future meetings to deal with specific issues. So, for example, as you suggested what I'm talking about single member constituencies, I would have available to members of the public a map which actually is colour coded and it actually shows you the districts and we could talk about -- we could go into the report of the Boundaries Commissioners and look at exactly what they had considered and why they had recommended the boundary lines to be the way they were.

Thank you very much, Mr. Conolly. We will definitely take that on board.

Just moving to the last issue for tonight. We're going to deal with -- raise the whole issue of eligibility to vote and stand for elections. This has definitely been one of

the most highly debated topics in our meetings and it is important that we -- it is important that we raise and talk about these issues because there are many sides of the discussion. And I think it's good for us as a community to talk about them and to understand the reasons why even those from West Bay find they are -- some may find they are good recommendations, some may find they are offensive. Some people actually feel very strongly about them. But we need to understand as a community why they are on the table.

I think someone mentioned the issues about deal breakers, things that the U.K. may -- as you say, you have to deal with this or they feel it's an important issue to look at. I think that perhaps the whole issue of standing and voting in elections is one of those and perhaps I would like to give you an opportunity to look at what has been said on page 10 of the Summary of Proposals.

And the first statement that has been made in relation to the eligibility vote for -- in elections is that we propose the compromise reflected in the 2003 draft. And I would like to draw specifically those persons who are keen on reviewing this issue in their private time to look at section 73 of the draft Constitution that's in the law document here, the very small one, section 73.

And that reflects a position that was obviously -- I don't know, but if it's a compromise by the governments in the U.K. after negotiations and what the qualifications for electors would be.

Now the first thing that was said in the proposal is that this would make several adjustments to the existing rules. You want to know what our existing Constitution says, you have the document here to help you out. You have the question and answer guide.

What it says is that because the changes in the United Kingdom rules the existing requirement of the Caymanian status and British Overseas Territory Citizenship by virtue of a connection of the Cayman Islands -- with the Cayman Islands needs to be extended to include those with Caymanian status who have British citizenship by virtue of their connection with the Islands.

So we need to look at when we are looking at eligibility to stand for elections or vote as an elector, the whole issue of what about my citizenship as a British citizen? What about my British citizenship that I have obtained as a Cayman Islands B.O.T.C. that has been vested upon me, how does this affect my current constitutional arrangement, whereby is it restricting me from running for elections, restricting me from being an elector or whether or not -- sorry, this needs to be regularized?

Then it goes to look at: As regards the right to be registered as an elector, a voter, the existing requirements concerning residents, domicile and parentage would be replaced by single residents requirement for two out of four years preceding registration. Of course those who now have the right to be registered would not be affected.

Now, the current requirements for a person who wants to be an elector -- qualifies as elector is quite lengthy. Now I encourage to you to look at the Constitution.

But what is being suggested a voter -- what is being suggested is a compromise in the 2003 draft, which recommends that a person would have to go through the same qualifications of -- it says here, has to be a Caymanian, has attained the age of 18 years of age, he's a resident in the Cayman Islands, the date he's registered as an elector or voter, and that he has been a resident in the Islands for a period or periods amounting to not less than two years out of the four years immediately preceding the date of registration.

So that is what it is saying that we should move to when looking at qualifications to be a voter.

Our present Constitution and I don't want to go into a heck of a lot of detail, but I will go into some detail for your benefit is that -- is that, of course, the current arrangement is that the person has Caymanian status, so same thing, Caymanian. Eighteen years old, we have that in the 2003 draft. And then we have in the current arrangement that he should be a B.O.T. -- a British dependent territories citizen by virtue of the Cayman Islands.

That is not in the current -- in the recommendation that's there, but there is a

request that we deal with that issue of our B.O.T.C. status and our British citizenship status in the new constitutional arrangement.

And then the new law talks about parent or grandparent should be born in the Islands and that you've lived -- and that person should have lived in the country for two out of three years immediately prior to the date he or she was registered.

And it goes into, you know, if you are born outside the Islands, so in relation to how many days you should be present in the Islands. It's quite a lengthy -- I think is not absent from the country for more than 300 days. So we do have quite extensive qualifications and limitations.

Now what the proposal is now is that if a person is a Caymanian, that's a starting point. If he or she is a Caymanian and he is of the right age, the 18 years of age, then the only issue that the Constitution should be concerned about if you are Caymanian is your residency and the length of time you've been resident.

And that is really what you are being asked to look at and consider, whether or not you think the very strict and stringent rules regarding how many days you are on Island and what period should still apply or whether if you are a citizen of that country and you have met the requirement of two out of the four years, whether you should be eligible to vote.

And it doesn't deal with the issue of parentage. It talks about you as a Caymanian because you would have gone through the process of matriculating in our society based on the local legislation.

Then there has been a proposal made in relation to standing for elections. And the proposal has been that the domicile requirement would remain, but the parentage residence rules would be adjusted. For those with Caymanian parents, the residency requirement would be five out of seven years preceding or before you are nominated to stand for election.

So you would have to be resident of the Island five out of seven years before you put your name up for nomination to stand for election.

For those without a Caymanian parent, the requirement would be Caymanian status for at least twenty-five years and residence for twenty years out of the twenty-five years preceding or before the time you wish to stand for election.

Now, this is very different from the current rules because the current rules says that when it deals with, you know, being a qualified citizen, they call it, you see here that you have to be born -- if you were born in the Islands and did not possess and is not pursuing any other claim of any other citizenship and you have residency of seven years and you've not been absent for more than 400 days out of those seven years, if you are born outside the Island, you would have to have at least one parent or grandparent who is born in the Islands and possess Caymanian status. And it spoke about the whole issue of residency.

And I think, Minister McLaughlin, you can articulate this better than I can. The issue in relation to standing for election in particular is whether or not we as a country wish to allow first generation Caymanians to stand for elections.

And Minister McLaughlin, Leader of Government Business, perhaps this is something that you should perhaps discuss why it is this type of proposal is being made and what you expect during the public consultation period why you think it's important to discuss all sides of the issue.

>> MINISTER McLAUGHLIN: Thank you, Suzanne. I just want to thank those of you who have stayed because it is very, very late and this is a difficult subject.

This is without a doubt the most controversial issue that we have experienced. This is the sixth meeting that we've had. I just want to give you a little history. If you look at the position paper of the P.P.M., which was done in 2002 arrived out as a result of meetings that we went through, some 17 meetings, I think we did then. The feedback we got then was that many people were feeling that the requirements for being able to stand for election were too restricted and excluded essentially children who were born here, but who didn't -- whose parents weren't Caymanian at the time that they were born, but their children grew up here and went to school here and were culturally

Caymanian.

Of course that was in the pre-Cabinet status grants era so people's attitudes to this issue were perhaps a little different than they have been post the Cabinet status grants.

And the proposal that is in, well, the provision that is in the draft Constitution and the proposal that is in our documents all come from that single source.

We didn't feel that we had a basis to change the proposals having been elected on the basis of the manifesto, which was based in part on the position paper that the P.P.M. had put out back in 2002.

But its objective was essentially to -- that provision to allow first generation Caymanians to have the right to stand for election in the country in which they were born and which they grew up.

The present provisions in the current Constitution require Caymanian parentage, so essentially you have to have a historical connection to Cayman to be able -- which goes beyond you to be able to stand for election under the current Constitution.

So essentially, first generation Caymanians can't stand for election under the present Constitution. Our proposal would allow first generation Caymanians to do so.

One of the weaknesses with our proposal, which we acknowledge, is that it could possibly allow persons who weren't born here but who subsequently got Caymanian status.

Let's say that they came here when they were twenty-five, they did fifteen years without Caymanian status so they would be forty, so when they're sixty-five they would be able to run.

There are other scenarios because people (inaudible) before they're twenty-five, but that is one of the concerns that have been articulated to us.

I should tell you straight up at the risk of prejudicing your view that everywhere we've gone, not just in the meetings, but elsewhere, the majority of people who have spoken to us have said to us that they understand what the proposal is trying to do, but

they fear essentially the House being taken over by people who don't have a historical connection to us.

And we hear what you have to say, but I should say the Leader said it the other day, our inclination at this stage is to revert to what the present Constitution says because that is the key (inaudible). So we would be -- we would like to hear what you folk may -- I mean, there have been first generation or parents of first generation Caymanians, essentially, who have said, but my child was born here, he grew up here, this is the only place he knows as home, why should he be precluded from standing for election just because I didn't have Caymanian status at the time he was born. And that is a powerful, powerful argument. And that is, as I say, was really one of the basis for the proposal in the first place.

But our feedback has been that most people don't think that's the issue. So we would like to hear what you all have to say.

>> MEMBER OF THE PUBLIC: Good evening, panel. It's a question/comment per se. I understand the interest at stake, you wanted to be fair to the first generation Caymanian, the children of the status recipients and all of the rest of it, but my question is was this proposal (inaudible) amend this particular section forced upon us by any exterior sort of forces, namely the F.C.O.?

>> MINISTER McLAUGHLIN: To that I have to say no, but just let me -- it's not just a simple "no". Mr. Pierson is here and he can compare what I'm saying.

What the U.K. said to us when we were -- because the then government put forward the current position, that is the position that is under the present Constitution. We put forward this position. It was this position that wound up in the draft Constitution. So that's the one that you (inaudible). So you know what their inclination is.

What they did say to us was that they were concerned that in a population of then, it wasn't what it was now, it was -- that we had only 11,000 people who qualified to vote. They seemed to be more concerned about giving the mandate -- not the mandate, what do you call that thing, the right to vote, to more people. They felt it was

essentially undemocratic to have significant numbers of people living in the country who couldn't participate in the elector process.

And we had discussions about the then imminent new immigration law because many -- it had been a long time since anybody had been granted Caymanian status and that was one of the concerns as well. And we explained to them that law was coming in to change the basis on which Caymanian status would be granted and they seemed to have accepted that at that point.

I don't recall, but my memory is not perfect, so Mr. Pierson or Mr. Tibbetts remember otherwise, they should say so, I don't recall them making any big issue about qualification to stand for election. Their point, if I remember correctly, is the right to vote.

>> MEMBER OF THE PUBLIC: The reason why I asked that question in particular, again, one thing that troubles me about being in Cayman and taking the chance to voice one's opinion is the minute an individual speaks up to sound patriotic about being Caymanian or protecting all things Caymanian, that individual is labeled as anti-expatriate, every sort of derogatory adjective that one can find.

(LAUGHTER)

That's a fair point. But the concern that I have is if the system isn't broke, why are we even messing with it? I understand that twenty years from now somebody who is a first-generation Caymanian, if they are so agreed, may speak to your successors and actively pursue this issue. I am not quite sure why we are being asked to address this issue now off of the back of a granting of status to in excess of 5,000 people. And that's just a guesstimate because of the 3,500 that received status there would be dependents. So if you multiply everybody, the 3,500 grants of status had two or three dependents, you are going to the 5- to 10,000, you know, new Caymanians who are eligible to vote.

A guesstimate is if the current population of the Cayman Islands is anywhere between 50- and 60,000 people, and if they are only -- again this is a guesstimate, I

would dare say, including children, a total of 15 to 20 indigenous Caymanians. For this proposal to go forward all that would happen is the indigenous Caymanian again runs the risk of being further shrunk in its size of population, but more importantly in the type of representation it receives. There are many people here who come to the Island who make their homes here, who have done rather well off of being in Cayman. But yet, if you were to take a poll of those individuals who could potentially stand for office, if you ask them if they know anything outside of their work place and the true essence of being Caymanian, you will find very few that can speak competently on any of those issues.

So again, the second part of my question is, if it isn't broke, why are we even addressing this issue given the numbers at stake. And the fact of the matter is the indigenous Caymanian is a shrinking class.

Again, that isn't to sound anti anything. But the reality is wherever you go in this world, whether it be America, Canada, the U.K., people love being what they are and they are always cautious about being taken over by outside forces who impose their own customs, their own wills, their own way of life. Being Caymanian, I remember as a kid, you knew not to give trouble because the people that you didn't know knew you and they knew your parents.

Something as simple as going into a building and saying good morning, good evening, that was part of our culture. You can walk into anywhere right now and trust me, people will see you every day for five years and not utter one word to you or about you. And for me, that is a legitimate concern where we are now extending the opportunity...

(TAPE #3, SIDE A ENDS)

(TAPE #3, SIDE B)

>> **PANEL MEMBER:** It was a starting point, but I do take your point and I hear all you've said, but I'm going to repeat again, we are not now doing that. The document was only a starting point. Certainly made you think. Thank you very much.

>> **MRS. SUZANNE BOTHWELL:** Thank you very much.

>> **PANEL MEMBER:** And the message is loud and clear.

>> **MRS. SUZANNE BOTHWELL:** Before we go to the next person who has a question or comment to make, just want to say that -- the gentleman did speak about whether if it's not broke why fix it. I do appreciate what is being said in relation to that. But I think that the issue goes deeper than that and we have had discussions in other public meetings about this. It goes to the equality of citizen. Because if the Cayman Islands is going to afford an individual an opportunity to be a citizen of this country, what does a citizen mean? And what does it mean in relation to nation building?

So we did have a gentleman in Cayman Brac who spoke to the issue of well, if my son is born here, has been raised here all of his life, will probably die here, at what stage is he deemed to be Caymanian or an equal citizen? And it goes to development of your society, allegiance. How people who come here and matriculate here, how they are treated as members of society.

So whilst it is good that we discuss the issue and we know what the majority view is, it is equally important that we take the time to listen to the minority voice because the minority voice does represent a certain section of our society. And I have had Caymanians -- indigenous Caymanians call me, raise in other public meetings who have taken a more liberal view of who should stand for election. Some persons feel that if that person is born here and this is their only connection -- this is their connection to the Island, this is where they are first-class citizens, they are not first-class citizens anywhere else irrespective of where their parents are born, then shouldn't they be treated as equal citizens.

So I really would like us to take the time to look at the complexity of this issue because it is about nation building because whether or not we like it, our population is going to grow. The number of Caymanians are going to grow over the decades and this is an opportunity for us to look at how it is, do we absorb these individuals into our society, ensure they are treated as equal citizens. Not only use them for their talent and

genius, but also allow them to find ways to give back to the society.

So it is a complex issue. I think we do know what the majority view is. I think it is important that in the public meetings, even though they may not physically be represented here, that we are -- my responsibility as Secretariat is to at least present to you some of the other issues that have been raised. Because at the end of the day, yes, we as -- of the Cayman society need to present what is the majority view.

If the majority view is that we remain how we are now, and that is what we go to the United Kingdom with, that is good. But at the same time, we do have to deal with our citizens who are here who form the minority and who will be disenfranchised and who are disenfranchised because in their view they are disenfranchised. We feel that they are not.

Some people feel that, you know, you have to earn your rights as a citizen and sometimes that may come in time. It may come and be a generational thing whereby you prove your allegiance based on the generation of your family that has been here.

So it's good that we discuss all of the issues and present everything.

We have someone at the back and a lady at the front and Mr. Conolly at the other side.

>> MEMBER OF THE PUBLIC: Evening.

>> MRS. SUZANNE BOTHWELL: Evening.

>> MEMBER OF THE PUBLIC: I will give you a couple of comments since you asked for feedback, I will be quick.

I think the premier should chair the Cabinet. You don't ask for it, you don't get. Non-elected people (inaudible) should not be in the L.A. I think we should have one person, one vote across the country. And I hope the folks in the sister Islands will get over their hang-ups.

Regarding the most current topic we're talking about, the voters and the standing, one question on the voter, it says two out of the four years preceding registration. I assume you only register once?

>> **MRS. SUZANNE BOTHWELL:** Yes, that would be when you are registered to vote.

>> **MEMBER OF THE PUBLIC:** Okay. In that case, I hope the absence category still applies.

>> **MRS. SUZANNE BOTHWELL:** So you would like that to remain, you should be limited -- you should be on Island for a certain number of days.

>> **MEMBER OF THE PUBLIC:** Yes. In other words, you shouldn't be able to register and then disappear and then vote.

>> **MRS. SUZANNE BOTHWELL:** Yes, residence should be something that we continue to look at.

>> **MEMBER OF THE PUBLIC:** In other words, you shouldn't just register and then float off into the sunset but continue to vote.

>> **MRS. SUZANNE BOTHWELL:** Yes, thank you.

>> **MEMBER OF THE PUBLIC:** Understanding I would go for first generation Caymanians let them stand. However, I think we could add something to it in risk of getting shot.

To count for the folks that are born here, the young kids who this is their only home and this is what they call home by putting something in it that just says you got all this twenty-five years and stuff, simply that they spent the first fifteen years of their life here and if they get all of the other qualifications, then here we go. Right.

As you said, I was going to say basically what you were talking about, which is how long does it take to become Caymanian, when you actually become Caymanian after the fact you have to be born here, grow up and die and then your children are really Caymanian, that really seems to be unfair.

>> **MRS. SUZANNE BOTHWELL:** Okay. Thank you. We had the gentleman at the back, the lady at the front, and then Mr. Conolly.

>> **MEMBER OF THE PUBLIC:** Yes. At the meeting at (inaudible) Beach, I expressed the way I felt about it. And I would like to ask the question, where did the

first Caymanian came from?

>> PANEL MEMBER: Certainly not Cayman.

>> MEMBER OF THE PUBLIC: Certainly wasn't a Caymanian. He became a Caymanian because he happened to be here at a time when people accepted them as human beings coming from another country.

I know the world has changed, but as previous mentioned about the first generation Caymanian, the fact is that no child is responsible for where he was born, when it is born, or to whom it is born to. Everybody has a birthright. It's not given by man, it's given by God.

A child being born here, raised up here, went to school here, he got all of the attributes of the culture of Cayman. Therefore, that person should be treated as a Caymanian. I don't know -- I don't remember, think about when I was born. I remember not -- I don't think it's any of us that do, but the fact is we found ourselves here. And we called ourselves Caymanian. We grew up here.

My parents could have been from Tim Buck Two, I wouldn't know. I have to rely on what they told me. But the fact is we are very (inaudible), but we have (inaudible). When we opened the door and granted some 3,000 (inaudible) and gave them the right to be Caymanian, the doors had really been thrown open wide. I don't imagine anything that we would do that would stop the onslaught that is coming as that exercise (inaudible).

>> MRS. SUZANNE BOTHWELL: We do have the lady in the front.

Thank you very much, sir.

>> MEMBER OF THE PUBLIC: Just one quick question. I was hoping that Mr. Connor was here tonight, but I don't see him.

>> MRS. SUZANNE BOTHWELL: He was here. Oh, he's here. He's here.

>> MEMBER OF THE PUBLIC: Okay, sorry. It's my understanding that if a child is born on the Island and remains here for the first ten years that he automatically gets Cayman status; is that correct any longer?

>> **PANEL MEMBER:** (Sound indicating in the negative)

>> **MEMBER OF THE PUBLIC:** Where would that bring them, then, in being a Caymanian or being able to.

>> **MRS. SUZANNE BOTHWELL:** Mr. Connor, if you can reserve your answer until you're given the right microphone because we are recording it and I am sure that our listeners later on would want to hear your answer.

>> **MR. CONNOR:** Thank you, Suzanne. I should know better, I've been here every night.

No, I was saying that the person would still have to acquire Caymanian status. But as far as the British Nationality Act is concerned, if they have lived here -- are born here and lived here for the first ten years of their lives, then they would qualify to be registered as a British Overseas Territories Citizen.

In relation to qualification as an elector, under the current Constitution, you not only have to be age 18 and resident here, but you also have to possess Caymanian status and be a British Overseas Territory Citizen.

So by virtue of the person's birth, they would have one portion of that, which is British Overseas Territory Citizenship, but not necessarily Caymanian status, unless their parents had Caymanian status at the time.

>> **MRS. SUZANNE BOTHWELL:** Mr. Connor, would you perhaps go into the difference between Caymanian status and B.O.T.C. status and actually probably identify for those who are listening who are here what is the citizenship because there's a big distinction between what Cayman status is and what citizenship is.

>> **MR. CONNOR:** Okay. We have -- and I have always said this that we have this difficulty where we are governed by two separate pieces of legislation. Our local legislation which is our immigration law and the British Nationality Act which is determined by the British or the U.K. parliament and over which we have very little say on input in terms of its development. So our local legislation in relation to Caymanian status is governed by our immigration law. And as you know, we are original

immigration law 1972 and there have been amendments along the way.

For instance, in 1972 all you had to do was to be born in the Cayman Islands or of parents, one of whom was born in the Cayman Islands and you possess Caymanian status. So either by birth in the territory or birth to Caymanians and you possess Caymanian status.

Then we saw over the years various amendments that basically tighten the restrictions for you to be able to obtain Caymanian status.

Then of course we have the British Nationality Act, which confers nationality upon us. And I will give you an example again. If you have Caymanian status, it doesn't necessarily mean that you convert, for instance, possess a Cayman Islands passport.

You qualify for a Cayman Islands passport by virtue of being a British Overseas Territory Citizen. And vice versa, you can be a British Overseas Territories Citizen and not necessarily possess Caymanian status, which is the scenario that Irma has presented to us, where a child could be born in the Cayman Islands of non-Caymanian parents, live here for the first ten years of their lives and then qualify to be registered as British Overseas Territory Citizen.

>> **MRS. SUZANNE BOTHWELL:** Okay. Thank you. Do you have any other parts to your question or is that it? That's it.

Okay, we will take one more question for the night because we are past 11 o'clock and we could perhaps wrap up.

>> **MR. CONOLLY:** I promise I won't be long, but actually, Mr. Connor, you kind of answered. You went into an eloquent scenario about citizens and second-class citizenship discussing Cayman status and discussing this eligibility to vote. And I was going to ask you to define what a Caymanian was, for one. And two, to highlight that we are actually British citizenship and that this concept of, you know, the growing your nation-building speech a few minutes ago was really, I think, not quite accurate in the way it was being presented. I'm glad that Mr. Connor corrected the terminology for me.

What I would like to say is that I think we can nation build, we can bring in as

many people as we need to; but until we have the indigenous Caymanian, until we have the people who have been here for years and their children taken care of first, we should look at providing for those people first and everybody else afterwards. I think everybody is welcome, but we have to create a situation where -- if we find ourselves in a situation where people who have long-term tender here believe that they are not getting the benefit of the system, we can write anything in laws it won't help us.

And I recommend that we keep cognizant the fact that we do have people here who do not believe they're getting their slice of the pie. And we have to solve that problem first before we absorb everybody from overseas. That's just my point. Thank you.

>> MRS. SUZANNE BOTHWELL: Thank you very much, Mr. Conolly.

Just a few questions. You did perhaps mention, perhaps, you know, there should be tenure and absorbing people from overseas and you mentioned the question of what is a Caymanian. That is an age-old question, age-old debate and that's the reason why I have asked Mr. Connor to make a distinction or to explain what is our citizenship. Caymanian status is not our citizenship, our citizenship is as British Overseas Territories in connection to the Cayman Islands.

Whether you are an indigenous Caymanian, whether you have obtained it through grant by the British Nationality Act that you have to physically apply for that, that is our citizenship. And we subsequently obtained British citizenship in addition to our B.O.T.C.

The creation of the creature called Cayman status is something that was introduced in our local legislation to ensure that even though the United Kingdom has their own legislation dealing with our citizenship because we are part of them. But their local, as local legislation in place, which perhaps establishes a more local sense a person's ties to the Islands and their rights within the Islands.

And, Mr. Conolly, I'm not necessarily putting forward my views when I'm speaking about nation building and other positions, I'm just putting forward the position -- some of

the views that have been presented to me, whether through e-mail, whether through telephone calls, whether in other meetings about some of the views that other Caymanians have, because I do agree that the issue of protecting local interests is a very important one and a very serious one and it must be discussed against the other issues that have been presented in terms of persons who are Caymanian and whether or not they are able to exercise equal rights in their country.

Yes, sir. And this is the very last question because I did say it was the last one. And that's it. And no, Danny, you cannot get yours.

>> **MR. AARON:** It depends on how you interpret this because you could still allow a last question because I am not even going to pose a question, but a suggestion to consider.

>> **MRS. SUZANNE BOTHWELL:** Mm-hmm.

>> **MR. AARON:** One of the vexing issues around this whole question of Caymanian and who is who, I believe that we have perhaps confused things. When we chose to call something "Caymanian status" that other nations in a similar stage of development as us have called the thing "the longer status" because it's really hard to accept that someone who does not have the same citizenship as us can really be called a Caymanian in the same sense that I would want Caymanian status to mean, which is once you get that, you're Caymanian.

But that's not what we have. And perhaps therein lies the biggest problem is that instead of us calling this thing "the longer status" and then defining Caymanian as a combination of that plus having identical citizenship to us, which is British Overseas Territory Citizenship by virtue of a connection with the Cayman Islands, then we would start getting around to a point at which we can begin to go where is this foolishness of having something called Caymanian status and then claiming they're not Caymanian.

As long as we have it now where you have Caymanian status but you don't have, as Mr. Connor explained, necessarily the same form of citizenship, this divide will continue in this country. Just a suggestion.

>> MRS. SUZANNE BOTHWELL: But I want to ask you, Mr. Aaron, following up on that, there are many people who have both Caymanian status and B.O.T.C. So they have the very same things as an indigenous Caymanian, the only thing they don't have is they may not have that parent and that lineage, that ancestry.

>> MR. AARON: And if I may offer a suggestion in that respect. Those people that have British Overseas Territories Citizenship by virtue of a connection with the Cayman Islands, that has been established.

Those people who not only have done that and fulfilled the U.K. legislation requirements, but also have fulfilled this thing by which they become by virtue of a decision taken here in Cayman by us that they are granted this thing which presently we call "status", which is an un satisfactory term. I have no problem in accepting that they are Caymanians.

However, I will still come back to -- one thing you said that I can't say I agree with is that necessarily because someone is a citizen, but cannot hold a particular office that that makes them a second-class citizen.

Because if that were to be true, if that were to be true, then there are millions of citizens in the United States who would then go around considering themselves second-class citizens.

I don't necessarily equate the two. Because as you know there are many, many citizens in the United States who cannot hold the office of president.

>> MRS. SUZANNE BOTHWELL: They have additional requirements for holding that high office.

>> MR. AARON: Yes. And they have done that, I'm sure they have their good reasons for it. But it doesn't mean that they have to go around feeling anything less than a fully-fledged citizen.

If you talk to those people, they are passionate that they are citizens.

>> MRS. SUZANNE BOTHWELL: I do agree that these are all issues. And as I said, what I'm putting forth is not my view, I'm just raising -- and of course you are open

to disagree, that is what we are here to discuss, whether you agree, whether you disagree, and what at the end of the day why we're here is to galvanize the views and come out with what is the majority view of particular issues.

And to this date, the majority view on the issue of standing for election is that there needs to be that historic connection with the country, not that you necessarily as a first-generation Caymanian be able to have the most high right of representing the country, the highest office, but that that should be reserved to those persons who have established themselves generationally.

On this juncture -- at this juncture, I would just like to wrap up and say thank you very much for coming. We will take on board all of your views. And we encourage you to come out to other meetings, listen to the program, and thank you for your patience and your contributions. Thank you very much.

(APPLAUSE)

(TAPE #3, SIDE B ENDS)