



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

Remarks by Leader of Government Business Hon. D. Kurt Tibbetts, JP, MLA Cabinet Press Briefing Thursday May 22, 2008

On the 11th January of this year the Government put the country back onto the path towards Constitutional Modernisation. It did so by putting a set of Proposals on the table for public discussion, and by giving the Secretariat the go ahead on a programme of public education and discussion. The proposals were accompanied by some fairly detailed explanatory notes. The programme was a major effort to ensure that all Caymanians would have the opportunity to hear the proposals explained, to express their own views, and hear the views of others. I think that every objective observer has recognized that this programme, which is still ongoing, has been a terrific achievement.

I want to acknowledge above all the efforts of Suzanne Bothwell and her colleagues, and Professor Jeffrey Jowell, QC, the Government's Constitutional Advisor. But I want also to give special thanks to the various citizens who have spoken and written publicly on this subject, to the individuals, groups and associations who have called on us to discuss the proposals, and all those who came to public meetings or watched or listened to the programmes on radio or television. This has been a most



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

valuable process, and the Government has received a great deal of valuable feedback.

If this sounds as though I'm signaling the end of the programme of public education and consultation, that is not at all what I mean. The programme will continue unabated until the Referendum takes place. That will be in about two months' time, probably in the latter part of July. The definite date will be announced within the next few weeks. So, by the time the Referendum is held, the country would have had more than six months of public education and discussion. There are those who say that this is not enough, but I must disagree with them. If we let the process drag on, people will lose interest. People will begin to ask "Is this thing ever going to be done?" They are going to ask "Will this process grind in to a halt like it did in 2003?" So we need to keep moving forward. If anyone really thinks that the public education programme is deficient in some way, they still have time in which to come forward and explain that to us so that we can intensify or adjust the programme in the next couple of months. It is no use just standing back and complaining. You must come forward and say precisely what you think we need to explain that has not already being explained.

Today, is, however, a very important milestone in the Constitutional Modernisation process. At the outset we announced that the proposals



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

we had put on the table were to be adjusted in light of public feedback. We have now received a great deal of feedback. We have even, finally, received something from the Opposition – their Discussion Paper

published last month. It does not look as though we are going to receive anything else of value from the Opposition. So the process must move forward. And today we are unveiling the Revised Proposals.

I am not going to take you through all of the Revised Proposals item by item. You will need some time to study them, and you will have further opportunities to ask us questions about them. But I want to say that we and our helpers and advisors have striven to address the objections and concerns that have been raised. Actual changes have been made to the proposals tabled in January, and we have tried to clarify the things on which there appeared to be doubts and concerns.

I must also talk about the Bill of Rights on which there has been a great deal of confusion. About what it would contain, how it would be applied and what would be its ramifications for life in these Islands. The attitude of the Opposition to this issue has, regrettably, added to the anxiety and confusion.



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

The Government has worked hard to educate the public on this very important area of constitutional change. We have held numerous meetings, public and otherwise, discussed the issues on talk shows and on television. We have also met with the Cayman Ministers Association pastors and congregations of a number of churches, with the Council of Chamber of Commerce, and a number of NGO's.

We have had human rights expert, Professor Jeffrey Jowell come to Cayman on numerous occasions to provide guidance and explanation on the issues to Government and the public at large. Because this has been such a controversial area, I will spend some time today making clear what the Government proposals are in this regard.

The Constitution should include a Bill of Rights to protect our basic rights and freedoms from interference by Government. The Bill of Rights should be based on the 2003 draft Constitution, but with a number of adjustments, and clearer language. It must be clear that the Bill of Rights will only apply "vertically". In other words, it will only bind Government, governmental institutions and public officials – not private persons, businesses, churches or private schools. It will not affect relationships or dealings between private persons, businesses, churches or private schools. It must be clear that the Bill of Rights will not affect our Christian traditions, in particular religious instruction in schools, or prayers in



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

schools or public places. It must be clear that the Bill of Rights will not apply to controversial areas such as the recognition of sex change, gay marriage, or more liberal abortion laws. Although freedom of religion is an essential part of the Bill of Rights, it must be clear that the Government

can still ban religious practices or preaching in the interests of public safety, public order, public health or public morality. Everyone should have access to the Courts, in order to challenge the decisions of Government, governmental institutions or public officials for violating their rights under the Bill of Rights, and the Courts should be able to strike down the decision. Legislation could also be challenged, but the Courts should have power only to declare that the legislation offends the Bill of Rights. It would then be up to our Parliament to decide whether and how to put things right.

Support was expressed for three rights, over and above the fundamental rights listed above. These rights have been adopted in recent newly-drafted constitutions in other Overseas Territories, and seem to fit our values and aspirations. They are:

- the rights of children in our society to be free of abuse or exploitation;



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

- the right to the protection of our environment. This will include the control of pollution, and the protection of our heritage, oceans, wildlife and land biodiversity – subject, of course, to appropriate social and economic development; and
- the right of us all to be treated lawfully, fairly and reasonably by governmental institutions and public officials. We already have this right, because of the law of judicial review that has been developed by the English courts in recent decades. But it needs to be entrenched in our Constitution so that it cannot be removed by the Government of the day.

It is absolutely clear that the UK will, because of its own international obligations, require us to have a Bill of Rights in our Constitution if we change the Constitution in any way.

But a Bill of Rights is not alien to our democratic traditions and values, and indeed will allow us the positive opportunity to enshrine our own *moral, spiritual and democratic* values in our own way, with far less chance of the UK imposing rights upon us that do not fit our traditions.



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

Having our own Bill of Rights will inspire confidence in all people who deal with us, that Government observes democratic fundamentals and treats people with due dignity and respect.

I want to say a few words about the Ballot Paper. You will see the Ballot Paper at the end of the Revised Proposals.

Part 1 is for all voters. Those who want to vote for the Revised Proposals simply need to check box A. That is all. They do not need to look at Part 2 of the Ballot Paper.

Similarly, if there are voters who want to vote against all the Revised Proposals, they simply need to check box C in Part 1, and ignore Part 2.

But we know there will be voters who agree with most of the Revised Proposals, but disagree with one or two particular items. They need to check box B in Part 1, and then turn to Part 2 and check the box for the item or items with which they disagree. We have put into Part 2 all the items that seem to be controversial, with one exception which I will come to in a minute. And Cabinet will have power to add further items if it appears that other features of the Revised Proposals are controversial.



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

One item that some may regard as controversial is not in Part 2 of the Ballot Paper; the Bill of Rights. We thought it would be misleading to put this in Part 2, given that the UK has told us clearly that we will not get any of our changes to the Constitution if it does not include a Bill of Rights. Voters need to understand that. And we must be careful not to give the impression that voters can approve the Revised Proposals without a Bill of Rights.

Now I must talk briefly about the Opposition. There was an important part for the Opposition to play in this process, but thus far they have chosen not to do so. It would have been a great help to the country if the Opposition had explained which of Government's proposals it agrees with, which it disagrees with and why, and what other recommendations it has to make. That would have helped people to focus on the issues and to make up their minds. But the Opposition has chosen to take a different path. They have done their best to raise doubts and fears, to cause uncertainty and confusion. You only have to think about their mantra, much repeated, "if you don't know, vote no" to see that they are not truly interested at this time in helping voters make a good decision. Their Discussion Paper, finally produced last month, contained many questions (all of which could have been raised months ago) and very few answers or recommendations. The Government has nonetheless, taken full



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

account in the Revised Proposals of what the Opposition has said in its Discussion Paper.

We cannot agree with them about a Senate, but we have included that as a separate item in Part 2 of the ballot paper so that voters can say what they think. We have incorporated or addressed other Opposition comments on, for example,

1. District Councils;
2. Public Accounts Committees;
3. Our free market capitalist economy;
4. Consultation by the UK before choosing a new Governor.

It is ironic that the Opposition meanwhile calls for a longer period of public education and discussion. The Opposition could have done so much more to help the public. In any event, as I have already said, six months of public education is sufficient.

And I want to stress that it is not too late for the Opposition to see the light and play a more constructive role. We still have two months to go to the Referendum. In that time it would be helpful to the country if the Opposition explained which of the Revised Proposals it disagrees with



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

and why. As well as helping to focus discussion, this would enable Government to consider whether any further items need to be added to Part 2 of the Ballot Paper.

In case the Opposition still does not wish to co-operate, we will shortly be issuing some briefing notes analyzing the Opposition's Discussion Paper. Our impression is that on the substantive issues there is in truth little difference between us and little change in the Opposition's thinking since 2004.

Let us be clear what this is really all about. The Opposition sees this is another political contest in which one side must win and one side must lose. We do not see it that way. This is not about party politics. There is only one issue at stake – Will this country get the Constitutional framework it needs? If it does, the country wins. And let everyone who has participated in the process, and everyone who has voted on referendum day, share the credit. If the country does not get the Constitution it needs, the country loses. But that is not going to happen.

I invite all Caymanians to get a copy of the revised proposals. Study them carefully and if you have any questions, call the Constitutional Review Secretariat. The officers there will be happy to provide you with all the



From the Office of the
Leader of Government Business
Hon. D. Kurt Tibbetts, JP

Government Administration Building
Grand Cayman KY1 9000
Cayman Islands

Tel: (345) 949-7900 ext. 2471
Fax: (345) 949-2922
E-mail: kurt.tibbetts@gov.ky

information you need to come to a decision. That is their purpose for being there.

I urge Caymanians to go out in your numbers and say “Yes!” to a new constitution. Help us send a clear message to London. You have absolutely nothing to lose and so much to gain. Be part of history! You owe it to your children and their children to vote a resounding yes. Caymanians, I urge you to seize this historic opportunity to define your future. In years to come, you will be glad you did. I thank you.