



**Formal Negotiations on a
New Cayman Islands Constitution**

First Round

Between

The Cayman Islands Delegation

- and -

The United Kingdom Delegation

Monday, 29 September 2008 – Thursday, 2 October 2008

Held at

The Ritz-Carlton, Grand Cayman

The United Kingdom's Delegation

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Hon. Alden M. McLaughlin, Jr. JP – Minister of Education, Training, Employment, Youth, Sports & Culture
Hon. Anthony S. Eden, OBE, JP - Minister of Health & Human Services
Hon. Charles E. Clifford, JP - Minister of Tourism, Environment, Development & Commerce
Hon. V. Arden McLean, JP - Minister of Communications, Works & Infrastructure

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The Cayman Islands Conference of Seventh Day Adventists - Pastor Shian O'Connor

The Chamber of Commerce

Mr. Will Pineau – CEO Chamber of Commerce
Mr. Eddie Thompson, President Elect Mr. Stuart Bostock, Vice President

The Human Rights Committee

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Mrs. Sara Collins, Partner and Head of Specialist Trust Disputes Group

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THURSDAY, 2 OCTOBER, 2008
2008 CONSTITUTIONAL NEGOTIATIONS
HELD BETWEEN
CAYMAN ISLANDS DELEGATION AND
THE FOREIGN AND COMMONWEALTH OFFICE

THE CHAIRMAN (MR. IAN HENDRY, FCO DELEGATION): Good morning everybody. Before we start I'd like to invite Pastor Shian to say a prayer this morning.

PRAYER

PASTOR SHIAN O'CONNOR (REPRESENTATIVE OF THE CAYMAN ISLANDS SEVENTH DAY ADVENTISTS CONFERENCE): Let us bow our heads as we praise.

Our Heavenly Father, we stand indebted to You this morning for Your faithfulness to us as You watched over us as we slept last night, You woke us up this morning, and You have given us yet another opportunity, a brand new day with opportunities and challenges. As we begin this session, this final day, we invoke Your presence here, we ask Your spirit will lead and guide that the goals and objectives that we have today will all be met with a successful session, and at the end we will return the honour and the glory to You. This is our prayer we pray in Jesus' name. Amen.

THE CHAIRMAN (MR. IAN HENDRY, FCO DELEGATION): Thank you. Thank you very much.

PROPOSAL 4 – BILL OF RIGHTS

THE CHAIRMAN (MR. IAN HENDRY, FCO DELEGATION): Well, we've reached the last day of our deliberations of this particular round of discussions, and I think we're in pretty good shape to achieve my much desired objective to have a look at every point in the set of proposals before us.

I think, as I advertised yesterday afternoon, we should start with Bill of Rights, Proposal 4, and we have the benefit of a proposed draft Bill of Rights circulated on Monday. And I invite first the Cayman Islands delegation, if they would like to do so to say some introductory words about it. For our part we have a few questions about it, having studied

the draft, but I'll come to those after any introductory remarks anyone would like to make.

Alden?

HON. ALDEN M. MCLAUGHLIN, JR. JP (MEMBER OF PPM, MINISTER OF EDUCATION, TRAINING, EMPLOYMENT, YOUTH, SPORTS & CULTURE): Morning, Mr. Chairman, good morning everyone. I'm going to leave most of the technical discussion on this point to the professor, but I just want to say, by way of introduction, that I think we're all keenly conscious of the various concerns about the implications for a Bill of Rights for these Islands.

This has easily been the most controversial aspect of the whole constitutional modernisation initiative, and a great deal of work has been done on the education front, a great deal of time is spent in consultations both publicly and privately, with a wide range of stakeholders coming out of those discussions, or coming out of the education campaign really I think we now have a much better — as a country we must have a better grasp of what human rights is all about and particularly what a Bill of Rights should aim to achieve.

And the draft that we have prepared ... well, it's one of a number of drafts that we have gone — that we have developed, and we hope this reflects and meets the various objections, the concerns that we've heard first about the possible horizontal application of rights and that it meets the concerns raised by the CMA in particular in that regard, and the concerns about judicial activism or “judicial creep” that we hope that those have been met by the inclusion of a provision which provides that the courts will have the power to declare legislation as incompatible with the Bill of Rights rather than to strike the legislation down outright. Those were the two principal concerns raised, I believe, by most stakeholders in this regard. So, I am hopeful that with continued discussion today and with observations from the FCO team, and obviously everybody else around the table, that we'll be able to come to an agreement about the wording of the Bill of Rights and that we'd be able to leave here being able to say to the country that there is a draft Bill of Rights which we believe the whole country can get behind.

Thank you, sir.

PROFESSOR JEFFREY JOWELL, QC (CONSULTANT TO CAYMAN ISLANDS GOVERNMENT FOR CONSTITUTIONAL MODERNISATION INITIATIVE): If I just may add to that. The — on the technical side the draft Bill of Rights is based on the 2003 Draft, with a number of amendments and additions and simplifications.

Yesterday you mentioned the desirability of plain English, and of course, that is very desirable, but you also mentioned quite rightly that in order to leave no room for doubt and to be clear about the scope of a Bill of Rights things often have to get rather convoluted and complicated.

