

Hon. W. McKeever Bush, OBE, MLA, JP
Leader of the Cayman Democratic Party
Leader of Her Majesty's Loyal Opposition

P.O. Box 28, Grand Cayman KY1-1301 CAYMAN ISLANDS

27 October 2014
BY EMAIL: dritch@rc.com.ky

Mr David Ritch
Chairman
Chairman of the Constitutional Commission
1st Floor Cayman Corporate Centre
P.O. Box 391
Grand Cayman, KY1-1106

Dear Sir,

RE PROPOSED REVIEW OF CAYMAN ISLANDS CONSTITUTION (THE "CONSTITUTION")

Thank you for your letter of the 14th October, 2014. As you are aware, I was informed by a previous letter from the Commission that the Constitution was being reviewed. However, no particulars were provided as to what or who initiated the review and whether there were particular sections which were being addressed in the review.

As you are no doubt aware, I was of the view that the draft Constitution which was presented to the public was not well drafted and many of the provisions were more suited for a country with a much larger population than the Cayman Islands. The requirement in the Constitution for a number of separate bodies, which require their own staffing, was extremely onerous and the costs of operating the same were beyond the capability of the small population which a limited budget. For these reasons, I recommended that the public should exercise caution and should not support the Constitution as it was drafted. Unfortunately, this is now proving correct.

It is my view that changes to a constitutional document should only be proposed after any problems have been clearly identified and referred to constitutional experts for their consideration and recommendation. All amendments should be clearly enumerated by setting out the particular problem with clear reasoning as to why a change is necessary along with a draft of the wording of the change to the particular section(s) with an explanation of how the new wordings addresses the problem which has been identified. In this way, the public will be fully informed and a proper debate encouraged.

Should the above approach be adopted by the Constitutional Commission and the questions and solutions be set out in a full and comprehensive paper by a experienced constitutional lawyer, for example Lord Pannick QC of Blackstone Chambers, I would be prepared to consider whether it would be appropriate for limited changes to be made without the need for a referendum.



Constitutions, from time to time, require judicial interpretation. The United States Constitution, which is some 300 years old, has been the subject of constant judicial interpretation and the changes which were made over the years were subjected to the processes set out in their constitution.

Cayman has a number of very important issues which need to be addressed, including the problems of unemployment, increasing loan defaults on personal homes which has resulted in and continues to result in financial institutions disposing of family property, badly needed infrastructure projects, immigration rationalisation in order to encourage the growth of business which will address unemployment problems and provide an opportunity for our young people to have a future in their country, the exponential increase in crime which has unsettled the population and threatens the tourist industry, and the excessive and arbitrary use of power by the unelected. These issues are far more important than the constitutional changes recommended and it is my opinion that a divisive debate over the constitutional changes without a clear and precise document will be disruptive to the community at large.

Although the Commission has no doubt devoted time and effort in its deliberation, my own view is that constitutional changes in a democracy should only be instituted by referendum, except in exceptional circumstances and at present, the Commission has not identified any exceptional circumstances or embarked upon a process set out above. Without this, it is not possible for me to agree to any changes.

Respectfully Yours,



The Leader of the Opposition

cc. Her Excellency the Governor

