

COMMUNICATION
BY
THE RT. HON. PRIME MINISTER
AND MEMBER FOR CENTRVILLE

RE : THE CONSTITUTIONAL COMMISSION

Dated : _____ 2012

MR. SPEAKER:

I wish to inform this Honourable House and the general public that my government has appointed a new Constitutional Commission to conduct a comprehensive review of the Constitution of The Bahamas, and to recommend changes to the Constitution in advance of the 40th anniversary of Independence next year. These changes will require a national referendum to be held in due course so that the will of the people can be determined on the matter.

Former Attorney-General, **Sean McWeeney QC**, will be the Chairman of the Constitutional Commission. **Mr. Loren Klein**, Chief Counsel in the Chambers of the Attorney-General, will, in addition to being a member, serve as the technical co-ordinator of the Commission's Secretariat. The other members of the Commission will be former Attorney-General and former Minister of Education, **Mr. Carl Bethel**, **Mrs. Rubie Nottage**, **Mr. Mark Wilson**, **Mr. Lester Mortimer**, **Mrs. Tara Cooper-Burnside**, **Mr. Michael Stevenson**, **Dr. Olivia Saunders**, **Mr. Michael Albury**, **Ms.**

Chandra Sands, Ms. Brandace Duncanson and Mrs. Carla Brown Robert.

The Commission has been given a broad mandate to build upon the impressive work that was done by the first Constitutional Commission appointed on 23rd December, 2002 but effectively disbanded after May, 2007.

It is anticipated that the new Commission will pay particular attention to the need to strengthen the fundamental rights and freedoms of the individual, including the need to end gender-based discrimination against women consistent with United Nations Conventions and more enlightened views that have developed globally since the attainment of our Independence. The Commission's inquiry into this particular matter will necessarily entail close examination not only of the anti-discrimination and fundamental rights provisions but the citizenship provisions of the Constitution as well. Indeed there are other difficult Citizenship-related questions that will no doubt exercise the Constitutional Commission as well

Similarly, the Commission will bring under renewed scrutiny the provisions of the Constitution that regulate the relationship between centres of state power and the individual. This will be done with a view to affording greater individual protection against abuses of power while at the same time ensuring that the collective security needs of the citizenry as a whole are not unduly compromised by the pursuit of individual liberty in a democratic society. Complex questions relating to the retention and enforcement of

capital punishment are expected to arise for consideration in this context as well.

The question of whether the Bahamas ought to remain a constitutional monarchy or evolve into a republic, albeit within the Commonwealth, is also expected to receive the close attention of the Commission.

Similarly, whether and, if so, to what extent, the Caribbean Court of Justice - or perhaps even a final court of our own - should replace the Judicial Committee of the Privy Council as the final court of appeal under our constitution will be a question that the Constitutional Commission will likely have to consider as well.

In addition, a broad and diverse range of questions relating to our political system will arise for constitutional review. These will include questions such as:

- Whether there ought to be constitutionally fixed dates for general elections;
- Whether there ought to be fixed term limits for Prime Ministers and MPs?
- Whether the electorate should be vested with limited rights to recall their MPs?
- Whether the Senate, being an appointed body, should be constituted differently to encapsulate a broader cross-section of national interests?

- Whether eligibility for service in the Senate should be lowered from 30 to 21, the same age that applies to the House of Assembly?
- Whether the Senate should even be retained at all?
- Whether the unqualified right to free speech enjoyed by legislators needs to be modified so as to give the individual citizen either a limited right to reply to defamatory attacks made against him in Parliament, or a right to seek redress against the offending legislator in a court of law?
- Whether the constitutional power and authority over criminal prosecutions now vested in the Attorney General should be transferred instead to a constitutionally independent Director of Public Prosecutions with security of tenure?

These and many other questions will receive the attention and study of the Constitutional Commission in the coming months.

More generally, as the Constitution of The Bahamas is now almost 40 years old, this is an appropriate juncture for us, as a nation, to take stock of where we are today in light of the constitutional experience of the past four decades, and to collectively decide, both in the legislature and in a national referendum, what reforms and adjustments, if any, should be introduced in order to secure the continuing relevance, vitality and resilience of the supreme law of the land.

The Commission is in the process of establishing and staffing a secretariat to facilitate the co-ordination of the Commission's work. It is also anticipated that a website will be launched to help keep the public informed of the

Commission's work and to provide a channel for the exchange of views and ideas between the Commission and the general public on matters of constitutional reform. This will be supported by other opportunities for structured dialogue with the public.

The Commission is expected to report its recommendations to the government on or before March 31st, 2013.