

**TO THE HOUSE OF ASSEMBLY  
BY THE  
PRIME MINISTER &  
MINISTER OF FINANCE  
AND MEMBER FOR CENTREVILLE  
THE RT. HON. PERRY G. CHRISTIE ON  
WEDNESDAY 2<sup>ND</sup> OCTOBER, 2013**

**Re: Constitutional Reform**

**Mr. Speaker :**

Honourable members are aware that the Constitutional Commission, headed by Mr. Sean McWeeney QC, presented its report to the Government on the 8<sup>th</sup> July, 2013. This Report will be formally laid on the table of this honourable house during the course of today's proceedings. The Report has, of course, received wide circulation in the country already as a result of its distribution to the general public (including online) at the same time that it was presented to the Government.

The Report, Mr. Speaker, contains 73 recommendations of which slightly fewer than 40 would necessitate formal constitutional amendment. Such a process of amendment would, in most instances, involve passage of the amending bills through both Houses of Parliament, with special majorities varying between 2/3rds and 3/4ths, following which the bills would have to be submitted to the electorate for approval in a national referendum.

Having regard to the large number of constitutional amendments that full implementation of the Commission's recommendations would entail, the Commission in its Report has advised the Government that it would not be practicable to advance all of the proposed amendments at the same time; that instead the recommended reforms should be staggered over a period of years. The Government is in general agreement with this approach.

In recommending this multi-phased approach to constitutional reform, the Commission has expressed the view that the process should begin with a "first round pick" of issues of national priority that are likely to be supported by both sides of the political divide in Parliament.

Following recent consultations that I have had with the Leader of the Opposition and Member for Killarney, I am satisfied that there is broad bi-partisan support for the acceleration of constitutional reform on the following recommendations of the Constitutional Commission:

- **firstly**, the amendment of the citizenship provisions of the Constitution to achieve full equality between men and women with respect to the acquisition and transmission of Bahamian nationality; and
- **secondly**, the expansion of the definition of discrimination in Article 26 of the Constitution to include discrimination based on "sex" as a prohibited ground so that women would be able to enjoy the same level of protection from discrimination that men already enjoy.

These two areas of constitutional reform are, of course, thematically connected. They are also, I think honourable members would agree, matters of priority for The Bahamas because of international treaty obligations that require our nation to end all forms of legal discrimination against women – in common, I

should say, with virtually all of the modern, civilized world.

Even more fundamentally than that, however, it is simply unacceptable that there should be any further delay in bringing about the full equality of men and women in the Bahamian society of the 21<sup>st</sup> century. Indeed I will put the matter even more forcefully than that by proclaiming it to be a moral imperative of the first magnitude that there must be a complete and definitive end to the second-class status of Bahamian women in relation to citizenship matters and on the subject of discrimination generally. There needs to be full and complete equality between men and women so that what is good for one is good for the other.

To achieve this moral imperative of complete gender equality, recommendations 9, 10, 11, 16, 24 and 25 of the McWeeney Commission's Report would have to be implemented.

These recommendations call for the following specific actions to be taken:

- 1. The citizenship provisions of the Constitution should be re-cast in gender-neutral language with a view to reflecting complete equality between Bahamian men and Bahamian women in relation to the acquisition and transmission of Bahamian citizenship, including, in particular, the following matters :**
- 2. A Bahamian woman (who is married to a non-Bahamian) should have the same constitutional right that a Bahamian man has to pass her Bahamian citizenship to her child at birth irrespective of whether the child is born abroad or in The Bahamas. Honourable members are aware, of course, that at present there is no such constitutional right in relation to the foreign-born child of a married Bahamian mother where the father of that child is a non-Bahamian.**
- 3. A Bahamian woman should have the same constitutional right that a Bahamian man has to obtain citizenship for her foreign spouse but subject to amendments to the Bahamas Nationality Act to introduce further safeguards against citizenship claims that might be based on marriages of convenience. I should add that we in the Government attach a great deal of importance to the need for these particular safeguards having regard to what social experience has taught us about this particular danger over the years.**
- 4. A Bahamian man who fathers a child with a foreign woman outside of marriage should have the same constitutional right that an unwed Bahamian woman has to pass citizenship to that child, subject to his proving paternity. Right now such a child would have to take the citizenship of its foreign mother, leaving the Bahamian father unable to pass Bahamian citizenship to his child. Indeed, as the Constitutional Commission has observed in its Report, this represents a singular instance of the Constitution discriminating against men. In the interests of complete gender equality, therefore, this would have to be changed as well.**
- 5. On the matter of gender discrimination generally, the word "sex" should be added to the definition of "discriminatory" in Article 26 of the Constitution so as to make it unlawful to discriminate against any person based on sex.**
- 6. However, a proviso should be added to make it clear that such an amendment to Article 26 would not overturn the long-established legal prohibition against same-sex marriages.**

**Indeed the Marriages Act already renders void any marriage that is not between two persons of the opposite sex. It will be important, therefore, to make it clear that any amendment to Article 26 to outlaw gender discrimination could not be construed so as to legalize same-sex marriages. The existing prohibition in this regard would therefore remain in place.**

Putting the foregoing recommendations together, Mr. Speaker, it will be seen that six (6) separate items would have to be enshrined in the amending bills to bring about gender equality under our Constitution. It should be noted that in all these cases a three-quarters (3/4ths) majority of the members of each House – first the House of Assembly and then the Senate – would be required to pass the amending bills. After that, assuming, of course, that the bills are carried in each House with the requisite majorities, the bills would then have to be submitted to the electorate for approval by a simple majority vote in a constitutional referendum.

My Government, again having had the benefit of consultations with the Leader of the Opposition and Member for Killarney, does not propose that there should be any additional items included in this first round of constitutional amendments. The referendum would therefore be limited to the specific items that I have just laid out.

As far as the projected timeline for this first round of constitutional reform is concerned, it is now anticipated, **firstly**, that the amending bills will be introduced in the House of Assembly before year's end; **secondly**, that passage of the bills through both the House of Assembly and the Senate will be completed by the end of February, 2014; and **thirdly** that a referendum on the matter will be held throughout the nation not later than the end of June, 2014, following an ample period for public education and discussion led by the Constitutional Commission.

Before closing, Mr. Speaker, I should like honourable members to also be aware that the Government intends to act upon another of the McWeeney Commission's urgent recommendations by appointing a new and separate commission to bring focused attention to the question of how children born in The Bahamas to non-Bahamian parents should be dealt with in relation to matters of citizenship and Permanent Residence. This quite rightly has been identified by the McWeeney Commission as a matter requiring urgent attention. I therefore expect to be in a position to announce the membership and terms of reference of this new citizenship commission in the very near future.

Finally, it is evident from what I have already said in this communication that the McWeeney Commission will remain in existence to generally advise upon the implementation of the recommendations contained in its Report and to play a leading role in the public education on constitutional reform that will take place in advance of the forthcoming referendum.

I take this opportunity to again express the thanks of the Government to the Chairman and members of the Commission and its Secretariat for the outstanding work they have done to date in the service of the nation on this matter that is so vitally important to our constitutional democracy and our full well-being as a people.