



REPORT OF

THE

BERMUDA INDEPENDENCE

COMMISSION

AUGUST 2005

FOREWORD

This report represents the result of six months of investigation, assimilation, and dissemination of information on the question of independence for Bermuda by the Bermuda Independence Commission (the Commission).

In order to meet its mandate, the Commission embarked upon an exercise of providing a higher level of public awareness on the question of constitutional change and all that it would entail.

The appointment of this Commission is consistent with the International Mandate on Self-Determination as contained in the United Nations (U.N.) Charter, Human Rights Conventions and Resolutions of the U.N. General Assembly. The Commission engaged in an extensive review of historical, investigative documents and discussion papers produced by the Government, political parties, academics and experts on constitutionality ranging over a period of more than two decades.

Also in furtherance of its mandate, and to secure more in-depth information, the Commission delved deeper by embarking on research opportunities in foreign jurisdictions on specific concerns such as defence, international relations, trade and commerce, judiciary and alternative constitutional models. This Report goes into specific detail on these concerns. Substantive interaction with the public has given the Commission the opportunity to discover the nature and scope of certain social conditions that it never would have been exposed to otherwise. These social issues cannot be ignored within the framework of the mandate and its ultimate purpose.

Our work would not have been successful without the active participation of the community through the many fact-finding public meetings held in specific areas of the country and where varied views were expressed. We also benefited greatly from our interaction with students during our many visits to both public and private schools. The significant contributions of the students, made through the debate, quiz and essay competitions, provided critical perspective from our youth, and were especially appreciated. Our discussions held with senior citizens were invaluable and provided substantial insight due to their many years of observation and involvement in the community. The numerous written submissions from commercial enterprises and individuals have offered an important, constructive perspective, aiding us in our deliberations and for this we are grateful.

The coordination of such a monumental initiative could not have been achieved without the dedicated and diligent labours of the thirteen members of the Bermuda Independence Commission. The expertise of our constitutional lawyer and liaison from the Government was helpful to our understanding of some of the technical and political terminology associated with our mandate. The Commission is eternally grateful for his assistance. In addition, the Commission would not have achieved its mandate without the invaluable contribution of its constitutional advisor who lent her wealth of historical knowledge, borne of many decades of political and constitutional involvement. Her timely advice and pertinent direction shall always be deeply appreciated.

Our awareness of the international dimension of the process of self-determination as it relates to Bermuda and other non-self-governing territories would not have been raised without the involvement of the U.N. Special Committee on Decolonization, and its Chairman, to whom we extend our sincere thanks and best wishes.

The Commission is grateful for the courteous advice and hospitality extended to us by the many authorities and representatives of foreign governments.

As the Chairman of the Bermuda Independence Commission, it is my sincere hope that the information that we have amassed and presented in this Report will serve to provide the basis for meaningful and informative debate on the subject of independence by the political directorate of our country. I consider it an honour and a privilege to have laboured alongside my fellow Commission members, who represent a cross-section of the Bermudian community and, as a microcosm in function, have represented a model for the macro community to emulate.

In conclusion, whilst we found it a challenging feat, we remained not only a commission on independence, but also an independent commission.

Bishop Vernon G. Lambe, Sr. M.B.E., J.P.
Chairman of the Bermuda Independence Commission

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1. INTRODUCTION

1.1 Creation of the Bermuda Independence Commission and its Terms of Reference

Press Statement by Premier W. Alexander Scott JP, MP to Introduce the Membership of the Bermuda Independence Commission (BIC) - Thursday, December 16, 2004

Bermuda is certainly not the first country to discuss the issue of Independence or Sovereignty, but I think that we will be the first to do so in the manner which we are about to embark.

On Friday December 10th 2004, I stated in the House of Assembly that before Christmas, I would introduce the membership of a Bermuda Independence Commission to the public of Bermuda.

I am pleased to stand before you today to share the names and some of the faces of those individuals who will provide information and lead a public discussion on the topic of independence for Bermuda.

You will immediately recognize from the list of names and see from the group assembled here that the BIC represents every facet of the community of Bermuda.

The intent was not to bring together every person we could find who was in favour of independence, or to present all of the constitutional experts and lawyers that exist in Bermuda to share their expertise on the subject. Instead, the intent is to provide a framework for a discussion on independence in all its forms that is acceptable to Mr. and Mrs. Bermuda – male/female, White/Black, businessman/grassroots, young and not so young.

The Bermuda Independence Commission will explore the subject of independence and present it in a way that each of us, no matter what our background, can understand.

They will have access to the expertise and information that is necessary to educate the public and lead an informed discussion.

Now please turn your attention to the names of the Bermuda Independence Commission:

*Bishop Vernon Lambe (Chairman)
Dame Lois Browne-Evans (Advisor)
Mr. Derrick Burgess MP
Mr. Rolfe Commissiong
Mrs. Dianna Kempe
Mr. Gary L. Phillips
Mrs. Janet Smith Bradshaw
Mr. Michael Winfield*

*Mr. Marc Bean
Ms. Crystal Caesar
Mr. Eddy DeMello
Ms. Donna Pearman
Mr. David Rowntree
Mr. Robert Steinhoff*

We had also sent an invitation to the Opposition United Bermuda Party, but they have today declined that invitation.

Mr. Philip Perinchief will serve as the Liaison to the BIC and in this role he will provide administrative, research and organizational support to the Chairman. As a Civil Servant, he will not be a voting (if that is how the BIC choose to come to decision) member of the BIC.

1.2 The Terms of Reference

- a) to generate and encourage the widest possible discussion on the pros and cons of independence in all of its facets;
- b) to distribute information in an effort to generate broader public understanding of the subject;
- c) to promote and organize a national dialogue or debate via the media and public meetings which would include invitees from unions, business organizations, the public, politicians and have the ability to receive oral and written submissions from same;
- d) to collect and collate relevant data regarding independence;
- e) to identify and procure the requisite services of expert consultants on legal, constitutional, consular (diplomatic and external affairs) and other relevant matters;
- f) to prepare and complete monthly reports of its deliberations and forward these to Cabinet via the Chairperson of BIC; and
- g) to prepare a comprehensive report at the end of its deliberations with reasoned recommendations on the subject of independence and to submit a report with relevant appendices to the Cabinet.

1.3 The Methodology of the Commission

1.3.1 The Background Materials:

The Bermuda Independence Commission, in its very early stages, found it immeasurably helpful to utilize the extensive research and works of the former United Bermuda Party (UBP) Government administration, and its Party, on the issue of independence. These papers spanned a period of several years dating from 1977 to 1995. The UBP is to be commended for its accomplishments in this regard.

The Commission commenced by studying the UBP (Party and Administration) documents and six discussion papers prepared by the Government Liaison for the Commission on relevant topics. The latter papers were designed to provoke thought and offer some information on substantive and procedural issues such as the race issue and independence, a referendum versus a general election as the proper vehicle to independence and a republic within the Commonwealth versus a constitutional or parliamentary monarchy.

The Commission, in studying this background material, was divided into three teams and each team was assigned an equal volume of work. These three teams, over this period, were brought back for two to three hours at the end of the work-day, in a plenary session, to share their views, observations and conclusions with the Commission at large. Throughout this period, the Commission received and reviewed documentary excerpts on topical and relevant issues to prepare it for questions from the public when it embarked upon its public meetings. From its inception, this Commission was provided with a tentative timetable, largely tailored to its needs and flexible at its request.

1.3.2 The Public Meetings: (Annex #1)

On March 24, 2005 the Commission conducted its first public meeting at the Warwick Workmen's Club. The ensuing public meetings were electronically transcribed and, for the most part, were broadcast live. On two separate, week-long periods in March and May/June 2005, the United Nations Special Committee on Decolonization (UNSC-24) accompanied the Commission. Numerous members of the public, from all walks of life and across the social and racial divide in Bermuda, attended, listened and gave their points of view on the issues of independence. These comments form a part of this report.

1.3.3 The Overseas Visits:

In preparation for its intended visits to the United States (State Department and the United Nations), Canada, the U.K. and Brussels and selected countries of the Caribbean, the Commission was provided with relevant study materials in respect of the United Nations (UN), the Organization of American States (OAS), the European Union (E.U.), the Isle of Man, Guernsey, the Channel Islands, Gibraltar and the Caribbean.

After the study of these materials the Commission constructed cogent questions touching upon such issues as the impact (if any) of independence on the economy, the Bermuda dollar, race perspectives on independence, citizenship, passports, pre-clearance facilities, treaties and conventions, republics, constitutional monarchies and aviation and shipping registries. These questionnaires were sent in advance of these overseas missions in an attempt to prepare the hosting authorities to provide the Commission with the best and most accurate and current information they could. Authorities in every single country visited were most cordial, helpful, professional and reliable in respect of the expectations of the Commission delegations.

The Commission is grateful for the assistance of H.E. the Governor, Sir John Vereker, KCB and the Deputy Governor, Mr. Nick Carter, for facilitating visits to the Foreign and Commonwealth Office (FCO), the UN and Canadian officials in Ottawa, Canada.

These visits provided a unique opportunity to closely question these foreign authorities on current and future policies relative to Bermuda. These visits resulted in a more informed Commission.

1.3.4 The School Visits:

In an attempt to further involve the youth of Bermuda, the Commission determined that it should go into high schools and the Bermuda College. Indeed, the Commission held a public meeting focusing on the 18 – 35 year old segment of the population.

These visits proved to be extremely instructive. They culminated in a Quiz, Essay and Debate Competition, whose winners visited the UN, between June 15 and 18, 2005 and gave historic ‘petitions’ or addresses to this august body. The Quiz and Debate Competitions were recorded and have been publicly aired.

1.3.5 Submissions and Oral Presentations:

The Commission has received numerous written and oral submissions. These submissions were received from a cross-section of individuals, from organizations and political parties. Others, such as the Association of Bermuda Insurers and Reinsurers (ABIR), the Association of Bermuda International Companies (ABIC), the Bermuda International Business Association (BIBA), the Masjid Muhammad, the Progressive Labour Party (PLP), the Bermuda Police Commissioner and the Bermuda Regiment's Commanding Officer also made oral submissions. The Commission attempted to gather the views of as many people as was possible on this very important subject. The Commission disseminated this information to the public through its website www.bermudaindependencecommission.bm.

2. EXECUTIVE SUMMARY

The Government of Bermuda is now preparing the community for a full debate on independence. It is hoped that this report, with its numerous annexes, will serve as a definitive resource and assist people in making rational and informed decisions.

The Bermuda Independence Commission has, through various channels, gathered a wide range of opinions on the subject of independence. These opinions and observations by the people of Bermuda are relevant. The Commission conducted extensive research and this report represents the results of that process.

The Commission wishes to highlight some of the findings which may be of particular interest to the readers and voters who will be called upon to determine the future constitutional position of Bermuda.

Independence for Bermuda, expressed in its simplest terms, means assuming full responsibility for the four Reserved Powers of the Governor as set out in Section 62 of the Bermuda Constitution Order 1968, namely;

- external affairs;
- defence, including armed forces;
- internal security;
- the police.

The section “Constitutional Matters” is a reminder that, save for the Reserved Powers of the Governor, Bermuda enjoys a degree of internal self-government. In the current relationship with the U.K. certain aspects of these Reserved Powers have been delegated to the appropriate Cabinet Ministers by means of an entrustment.

The issue of a general election or referendum to test public opinion on the subject of independence is also addressed in this section. The Commission has concluded that it is incumbent upon both political parties to share the merits of each method.

Those persons or organizations with questions and concerns about appeals to the Privy Council should find the position of the FCO informative in that the Privy Council would remain available to Bermuda should a decision be made to proceed to independence.

The matter of citizenship was raised at every public meeting. The position of the U.K. Government, as articulated by the FCO, is that it is the usual practice to withdraw British nationality upon independence, except in the case of persons who have a residual connection through a parent or a grandparent. Its report, however, adds that *“it would be inappropriate to speculate on how such matters might be*

handled in the future as the British Overseas Territories Act 2002 does not give voice to any assumptions in that respect". It is against this later statement that the Commission makes a recommendation that the Government explore this further as a matter of urgency.

The full measure of any debate on independence is not easily explained in hard-currency terms. What is clearly important to the community are the potential increased costs in the administration of the affairs of an independent Bermuda. The Commission has, therefore, prepared an analysis of possible options. The "Summary of Costs" gives an indication of the minimum and maximum costs of independence, in real dollar terms, and is also expressed as a percentage of the 2005/06 budgeted revenue of \$750 million. Depending upon the option, the Commission has put the annual and capital costs of independence at a low of \$5,293,000 and a high of \$14,695,000 – the latter being two percent of Government revenue; even the high figure represents less than one year's increase in Government revenue.

The Commission was presented with an array of concerns that straddle the social, political and racial arenas. A review of the section on "Social Concerns" should bring into focus the depth and breadth of those social issues, which the community perceived as either directly or tangentially influencing their attitudes towards independence for Bermuda.

The preponderance of submissions – both verbal and written – obliges the Commission to comment upon how race relations are shaping the attitudes of the people of Bermuda on the debate about independence. The Commission has, thus, dedicated a section to race relations and offers a recommendation that the Government, and indeed the entire community, initiate a new dialogue to address this insidious and pervasive issue, still unresolved in our society.

Many Black Bermudians believe that Bermuda's colonial status is linked to the history of slavery, segregation and inequality and that independence may be the final step in emancipation. They also feel that independence would finally bring Bermudians together and the strength of sharing a common citizenship would outweigh the issues that continue to divide the Bermuda community.

A considerable part of this report discusses issues relative to Bermuda's current constitutional status and how those issues might change should Bermuda become independent. This includes issues such as the Bermuda economy, the value of the Bermuda dollar, citizenship, the cost of independence, the appointment of public officers and internal security and defence.

In conclusion, the Commission, in presenting this report, intends to explode the myths and misconceptions about the issue of independence. A change in the constitutional status of Bermuda, the reader will learn, will not, in and of itself, solve the social challenges facing this community; nor, on the other hand, as evidenced by the submission of the international business community, will such a change, in and of itself, precipitate a flight of business from Bermuda.

The full value of the debate on independence is difficult to define but it is important for all Bermudians to, as objectively as possible, listen to all the arguments being made and seek to understand the position of each member of the community. Through this process, no matter the decision, Bermuda will begin to heal some of its ills and be a much better country.

3. FINDINGS OF THE COMMISSION

3.1 Bermuda

Information

Bermuda, known for its friendly people, tourism and international business sector, together with the famous Bermuda Shorts, Bermuda Onion and The Bermuda Triangle, is a British overseas territory located in the western part of the Atlantic Ocean (893 miles (1437 km) east of Charleston, South Carolina's coast of the United States of America) at 32 20 N, 64 45 W. Bermuda consists of 8 major islands and 130 smaller islands. The capital, Hamilton, and St. George's are the two main towns. The town of St George and its surrounding fortifications received World Heritage status in 2001 from the United Nations Education, Scientific and Cultural Organization (UNESCO).

Juan de Bermúdez, the Spanish navigator discovered Bermuda in 1505 and in 1609 Bermuda was settled by a group of English colonists. In 1616 the first slaves were brought to Bermuda. In 1620 the first Parliament was held after the Crown granted the colony limited self-government. In 1968 Bermuda was granted internal self-government and a new constitution.

At the time of the 2000 Census, Bermuda's resident population was 62,098. Foreign-born inhabitants represented around 30 per cent of the population. The workforce numbered 38,259. Blacks constituted 60 per cent of the population, while 40 per cent were Whites and other races. Bermuda is one of the most densely populated countries in the world (with approximately 3,000 inhabitants per square mile). Bermuda has one of the highest standards of living in the world with a GDP per capita of approximately BD\$64,000.

Constitutional, Political and Legal Issues

Bermuda is a non-self-governing territory administered by the United Kingdom. The Constitution of Bermuda, adopted in 1968, contains provisions relating to the protection of fundamental rights and freedoms of the individual. The Governor is responsible for defence, external affairs, internal security and the police. Bermuda's parliamentary system of government is the oldest outside of Westminster. The Government of Bermuda comprises a Governor, a Deputy Governor, a Cabinet and a bicameral legislature, with a House of Assembly of 36 members directly elected for a five-year term and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor, on the advice of the Premier, three on the advice of the Leader of the Opposition and three by the Governor at his discretion.

3.2 Constitutional Matters

The present Constitution is contained in the Bermuda Constitution Order 1968 as amended in 1973, 1979, 1989 and 2002. The principle features of the current Constitution are summarized in Appendix 3 of the 1995 Green Paper. (Annex #2)

3.2.1 Governor's Responsibilities:

Under Section 62 of the Constitution, the Governor's Responsibilities (Reserved Powers) are:

- external affairs;
- defence, including armed forces;
- internal security;
- the police.

In respect of these powers, the Governor can consult with the Governor's Council but is not bound by its advice.

Under the same Section the Governor acting in his discretion may delegate, in writing to the Premier or a Minister, responsibility for any of the Reserved Powers and this has occurred, to some extent, in matters regarding the police and the regiment.

3.2.2 Constitutional Advancement:

The internal affairs of Bermuda, except for internal security and the police, are the responsibility of the elected government. According to the 1979 White Paper (Annex #3) between 1974 and 1976 the Government requested further constitutional advances. The response of the United Kingdom (U.K.) Government was to indicate that it would only agree as a part of a timetable leading to independence. The White Paper also states that the U.K. Government suggested in the light of the considerable constitutional developments in Bermuda, the Bermuda Government might wish to consider whether the time had now come to move, more positively, in the direction of independence or self-determination. In fact, the U.K. Government emphasized that its policy was neither to delay independence, nor force it upon unwilling territories. This is still the view of the U.K. Government. (Annex #4)

The 1977 and 1995 Green Papers, prepared by Government, stated that the U.K. Government advised that no further substantive advance was possible because, as was pointed out, the Constitution already provided a very large degree of self-government and that even the Reserved Powers have been the subject of delegation. This position was reiterated to the Commission in its recent discussions

with the FCO. The U.K. Government also confirmed that it would not consider Bermuda for full integration or for associated statehood. (Annex #5)

Accordingly, the present U.K. position at this time is that Bermuda has the option either to maintain the status quo or to become an independent state.

The options of full integration or associated statehood might, however, be available with another independent state.

3.2.3 Test of Public Opinion:

The Commission received the following position from the FCO of the U.K. (Annex #5) regarding how public opinion should be tested:

“As the grant of independence by the U.K. requires the prior approval of Parliament, the U.K. Government need to be satisfied that, if a territory moves to independence it does so on the basis of the clearly and constitutionally expressed wish of its people. The move to independence is a fundamental step. Increasingly in the U.K. major constitutional issues of this kind are being put to a referendum. At this time, the presumption of the U.K. Government is that a referendum would be the way of testing opinion in those territories where independence is an option. But a final decision on whether to go the referendum route, and what form the referendum might take, would need to be determined by the U.K. on a case by case basis, reflecting the uniqueness and individual characteristic of each territory.”

The above suggests that it is the intention of the U.K. Government to be involved in the final decision as to what instrument would be utilised in Bermuda to determine the will of the people. The Commission learned that, in many cases, the decision on independence was determined by means of a general election and, in no instance, did the Commission discover the use of a referendum. The decision as to which method should be utilised in Bermuda is beyond the scope of the Commission; however, it was a subject of much community input.

3.2.4 Status of an Independent Bermuda:

Should independence be agreed to, the present Constitution would remain in force until a new constitution was adopted. Once it was established that there was a clear and constitutionally expressed wish for independence, a meeting would be held in London between representatives of Bermuda and the FCO with the object of setting

up an agenda of topics for discussion at a Constitutional Conference. The Constitutional Conference would discuss the content of the Constitution of an Independent Bermuda. (Annex #5)

The Commission has been advised that it will take an Act of the U.K. Parliament to end the responsibility of the U.K. for the government of Bermuda and to remove all limitations on the legislative power of the Bermuda Legislature, including the powers reserved to the Governor. The same legislation would confer power on Her Majesty to make an Order in Council containing the independence constitution. This Act would also make any necessary amendments to U.K. Statute Law consequent on Bermuda's independence and would deal with the citizenship consequences in U.K. law. The Bermuda Constitution Act, 1967 and Orders in Council made, pursuant to that Act, would be repealed upon independence. Other pieces of U.K. legislation which form part of the law of Bermuda (e.g. certain U.K. Acts and Orders in Council) would remain part of the law of Bermuda until repealed or amended by the Legislature of an independent Bermuda. (Annex #5)

3.2.5 An Independence Constitution:

An independence constitution would set out, define and protect the fundamental rights and freedoms of its citizens. A Constitutional Conference would resolve matters such as whether Bermuda would be a constitutional monarchy or become an executive or non-executive republic. (Annex #6) It should be noted here that the submission of the PLP contemplates a constitutional monarchy within the Commonwealth. (Annex #7)

The Constitution would also define how its articles could be changed with entrusted rights and freedoms requiring more than a simple majority of Parliament or even referenda. It is of extreme importance that the independence constitution preserves issues such as the separation of powers, the rule of law and the protection of public officers and institutions and the guarantee of the democratic process.

3.2.6 Appeals to the Privy Council:

The FCO Report indicated as follows:

"It would be open to an independent Bermuda within the Commonwealth to choose whether it wished the Privy Council to continue as Bermuda's final Court of Appeal. Even if Bermuda chose to become a republic at independence, on the basis of previous precedents, arrangements could be made with the U.K. Government for final appeals to continue to lie to the Judicial

Committee of the Privy Council and provision would need to be included in the Independence Act of Parliament to deal with that [said appeals].”

Presently there are no costs associated with Bermuda’s appeals to the Privy Council except costs paid by litigants. The FCO has advised that this will not change should Bermuda become independent. The Caribbean Court of Justice might be an option for the appeal process.

Access to the Privy Council as Bermuda’s ultimate court of appeal in an independent Bermuda is important to many. The PLP submission proposes that appeals to the Privy Council will be the subject of an entrenched provision in the constitution of an independent Bermuda. (Annex #7)

3.2.7 Appointment of Public Officers:

The Bermuda Constitution Order 1968 (Section 25) states that the Governor may:

- (a) Constitute offices for Bermuda and make appointments to be held under Her Majesty’s pleasure thereto; and*
- (b) Remove any person so appointed or take such other disciplinary action in relation to him as the Governor may think fit.*

The current system, appointment by the Governor, ensures the appointment to specific public offices is protected from political bias. Such positions include: The Director of Public Prosecutions, the Judiciary (including the Supreme Court, Court of Appeals, Chief Justice, and Magistrates) the Public Service Commission, the Commissioner and Deputy Commissioner of Police, the Auditor General, and the Ombudsman. The Civil Service is protected from political interference by the Public Service Commission, the members of which are appointed by the Governor by instrument under the Public Seal after consultation with the Premier who shall first have consulted with the Opposition Leader. (Section 81, Bermuda Constitution)

Upon Independence

In an independence constitution, the process of appointing public officers, as well as their removal and discipline would be enshrined in the new constitution. The PLP submission sets out its commitment to maintain a framework which ensures the political neutrality of the Civil Service. Under a constitutional monarchy within the Commonwealth, Bermuda would have a Governor General and that position would have responsibility for appointment

of certain public officers. Under a republican model of government, a President would normally assume these responsibilities as defined by the relevant constitution.

3.2.8 Citizenship and Visa Matters:

The Explanatory Notes to the British Overseas Territories Act 2002 (Annex #8) provides the following information:

“After consultation with the fourteen British overseas territories, including Bermuda, the British Government published a White Paper in March 1999 entitled “Partnership for Progress and Prosperity: Britain and the Overseas Territories”. This dealt with several aspects of Britain’s relationship with the territories, including the decision that they should be known as “overseas territories” in place of outdated terms such as “dependent territories” or “colonies”.

“A key feature of the White Paper is the question of citizenship. Under the British Nationality Act 1981 most of the people of the overseas territories have British Dependent Territories citizenship. This status is acquired as a result of a connection with one or more territories (such as birth, adoption, registration or naturalization there) or by descent. British Dependent Territories citizens (BDTC) do not have right of abode in the United Kingdom. Most live in the West Indian overseas territories, Bermuda, St. Helena, Gibraltar and the Falklands.”

In short, all British Overseas Territories Citizens who had Bermudian status by virtue of a connection with Bermuda were automatically conferred British citizenship with effect from May 21, 2002. The offer of British citizenship, however, is non-reciprocal as far as immigration rights are concerned. This decision was reached following close consultation with the overseas territories’ Governments.

British citizens who reside in overseas territories are not subject to U.K. immigration controls and are therefore able to enter the U.K. for purposes of leisure, study and employment without gaining prior permission. As British citizens, Bermudians are now able to enter and live in the U.K. and build up the residence requirements relating to other benefits. Under European Community law, having British citizenship also confers rights of free movement, residence and the opportunity to work (without a work permit) in the E.U. member states.

Children born to British citizens on or after May 21, 2002 will automatically be British citizens at birth if they are born in an overseas territory or the U.K.

Citizenship upon Independence

The Commission has learned from FCO documentation, that should Bermuda proceed to independence

“...the nationality consequences would be dealt with in an Act of Parliament. In the past, the usual practice was to withdraw British Nationality from the majority of those acquiring citizenship of the new State on independence day, but to provide for its retention where the person concerned had a residual connection – for example, through a parent or grandparent ... But it would be inappropriate to speculate on how such matters might be handled in the future, and the British Overseas Territories Act 2002 does not give voice to any assumptions in that respect.”

Therefore, should Bermuda proceed to independence, British citizenship is expected to be withdrawn along with all the attendant privileges: the right of abode, the right to seek employment, as well as the right to visa-free travel throughout the U.K./European community. Upon independence, Bermuda would have to negotiate its own visa agreements.

In addition, it is to be noted that any further development in Bermuda's constitutional relationship with the U.K. would inevitably require a transformation of the immigration regime. An independent Bermuda would have to create its own fully-defined Bermudian citizenship. This is a very complex matter to be discussed and determined at a Constitutional Conference. Matters that would need to be resolved include the international obligations for independent nations in respect of the status of long-term residents and the need to address the matter of statelessness.

Dual Citizenship

Dual citizenship is an issue to be resolved by a post-independent Bermuda. Many countries including Canada, the U.S. and the U.K. allow for dual and, indeed, multiple citizenship. The PLP submission states that a PLP Government would allow dual citizenship.

Visa-Free Travel – U.K. and Europe

Should Bermuda proceed to independence, its citizens would be subject to the provisions of U.K. immigration rules, which govern the entry and stay in the United Kingdom for tourist travel as well as for educational pursuits and work. It has been past practice for Britain to grant visa-free travel to citizens of former dependent or overseas territories.

Under the Schengen Accord 1985, and as at 2005, the following countries have agreed to grant visa-free travel to all British Overseas Territories Citizens (including Bermuda): Austria, Germany,

Belgium, Denmark, Finland, France, Greece, Iceland, Italy, Luxembourg, Norway, Portugal, Spain, Sweden and the Netherlands. Neither Britain nor Switzerland is a signatory to the Schengen Accord but Switzerland has submitted its application for membership.

Should Bermuda decide to proceed to independence, the Government would have to negotiate with the Schengen countries as a bloc for visa-free travel. It is not possible to negotiate separate arrangements with each country. Until such has been achieved, all citizens of Bermuda would need to acquire a Schengen 'visitor' visa issued by an authorized agency which allows the holder to move freely in all of these countries for the pre-determined period. The length of time required for the processing of such a visa depends upon the national making the application, and could be as long as one month.

Visa-Free Travel – USA and Canada

During meetings with the State Department in Washington D.C., officials advised the Commission that, at this point, they could see no reason to discontinue the current visa-free status for Bermuda whether it remained a British overseas territory or if it became independent. Title 8, Section 212, of the United States Code of Federal Regulations, and Title 22, Section 41.6 (a) of the code, provide that persons who have a residence in Bermuda, and are British citizens are entitled to the waiver of visas.

In regard to the US customs pre-clearance arrangement, the U.S. State Department indicated that it saw no reason why this should be changed. Indeed, it saw benefits to the U.S. of retaining this arrangement in Bermuda.

With respect to visa-free entry to Canada by nationals of an independent Bermuda, the Canadian Government followed the 'clean-slate principle'. That is, Canada would not automatically exempt Bermuda from a visa requirement. Bermuda's current, favourable position of not requiring a visa to enter Canada would likely be a serious consideration when and if an application for visa-free travel was made.

3.3 Reserved Powers

The following areas currently fall within the Reserved Powers of the Governor. An independent Bermuda would take full responsibility for these areas.

3.3.1 External Affairs – Current:

External Affairs covers activities such as: handling governmental relations, supplying foreign policy advice, maximizing international opportunities through the negotiation of trade agreements, participating in international organizations and providing consular assistance. Such activities currently are carried out on Bermuda's behalf by the British Government. Britain, in negotiating a treaty on Bermuda's behalf, receives input from the Bermuda Government regarding matters affecting Bermuda and, in turn, the British Government keeps Bermuda apprised of the progress of the negotiations. At times Bermuda representatives are present as observers. The British Government has delegated some authority for certain treaty negotiations to Bermuda through the 1968 Entrustment. With greater frequency, Ministers of the Bermuda Government are, with prior approval, thus permitted to negotiate certain agreements provided that they keep the British Government informed. One example is the Tax Convention that Bermuda was allowed to negotiate directly with the U.S.

There are international organizations that are available for Bermuda to join now as a dependent country. As a dependency of the U.K., Bermuda is eligible for partnership in the association of Overseas Countries and Territories (OCT's) with the European Union (E.U.). Bermuda has, to date, opted not to participate in this arrangement. Membership in the OCT's may, in fact, have potential benefits and challenges. Such challenges might include the free movement of persons, goods, services, labour and technology and cultural cooperation.

The member states of the E.U. agreed "to associate with the non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom". (Treaty Establishing European Treaty, Article 182) The objective is to promote the effective economic and social development of the OCT's through economic and trade cooperation; trade development including trade in services, which is of particular relevance to Bermuda; trade-related areas such as effective competition policy, the protection of intellectual property and safety standards at work; human and social development; and regional cooperation and integration. It should be noted that the OCT's benefit from an advantageous trade system whereby products originating in the OCT's imported into a European Union country are not subject to import duties or quantitative restrictions. This is non-reciprocal in that products originating in the E.U. are, on the other hand, subject to the import duties regime of the respective OCT's. Additionally, the OCT's can benefit from financial assistance through the European Development Fund (EDF) and other sources.

3.3.2 External Affairs upon Independence:

In the event that Bermuda chose to become independent, it would become responsible for managing its own external affairs. In the case of sovereign states, this function is assumed either by a Ministry of External Affairs or within the office of the Prime Minister.

If Bermuda chose to establish a Ministry of External Affairs, the activities of that Ministry would include the appropriate alliances and treaties, bilateral or multilateral, to which Bermuda wished to be a party and which organizations it wanted to join, for example, the United Nations and some of its specialized agencies.

Additional organizations for consideration are listed below:

- The Caribbean Community (CARICOM)
- Caribbean Development Bank (CDB)
- Free Trade Area of the Americas (FTAA)
- Inter-American Development Bank (IDB)
- The World Bank Group
- International Monetary Fund (IMF)
- Association of Caribbean States (ACS)
- World Trade Organization (WTO)
- Organization of American States (OAS)
- European Union-African Caribbean Pacific Group of States (EU-ACP)

Additional information on the methods of membership and potential benefits of membership are provided in Annex #9. The Government will need to evaluate the benefits, costs and challenges of each organization prior to considering membership. Some of these organizations promote free trade and a decision to join them would require careful consideration of the impact of their policies on Bermuda's duty structure and consequently, Bermuda's tax regime and the country's requirement for Bermudian majority ownership.

In its talks with officials at the U.S. State Department, the Commission was advised of the kinds of organizations that an independent Bermuda should seek to join in the interest of, for instance, protecting its fish stocks. One such agency was the International Convention on the Conservation of Tuna (ICCAT) to which the U.K. is presently a signatory.

Another option available to an independent Bermuda would be joining the ACP group of countries, through which Bermuda would have a relationship with the E.U. The EU-ACP partnership agreement, known as the Cotonou Agreement, has as its objectives “poverty eradication, sustainable development and the gradual integration of the ACP countries into the world economy”. (EU-ACP Partnership Agreement, June 2000) Bermuda could benefit from financial and technical cooperation from the ACP association. Upon joining the ACP group, Bermuda could be considered for funds by the European Development Fund (EDF) based on its population size and GDP. Whilst Bermuda’s relatively high GDP per capita probably would preclude its having access to as much funding as other member states, it could qualify for disaster relief and possibly for funding of large capital projects such as the proposed hospital, under the terms of the EDF as well as the European Commission Humanitarian Office (ECHO).

The FCO advised that the matter of treaty succession, and the attendant political and legal issues, would likely be discussed at the Constitutional Conference. Customary international law would not oblige Bermuda to inherit, automatically, the treaty rights and obligations of the United Kingdom. Conventionally speaking, Bermuda, upon gaining membership to an international organization, would deposit an instrument of accession with the relevant depositories for the respective treaties it chose to adopt.

Bermuda would have to make unilateral declarations just prior to independence regarding its intentions for treaties to which it is a party. Bermuda would then submit these declarations to the Secretary General of the United Nations who, in turn, would circulate them to Members. A disclaimer of responsibility by the United Kingdom would succeed this process. Article 9 of the Vienna Convention, however, renders such declarations insufficient to effect a succession of treaty rights or obligations. This notwithstanding, under Articles 27 and 28 of the Convention, Bermuda, under a form of unilateral declaration, could notify its intention to apply all treaties, provisionally, pending determination of its permanent position on each treaty. The U.K. Government has indicated that it would supply Bermuda with a list of its international treaty obligations. The Commission was advised by a number of sources that review of these existing treaties should be a matter of priority.

3.3.3 Internal Security – Current:

Bermuda's internal security is maintained by the Bermuda Police Service (BPS) in the first instance and secondarily by the Bermuda Regiment, which serves as a support unit for the Police. The Police are responsible for the "prevention of crime, detection of offences, arrest and prosecution of offenders and maintaining the peace." (Annex #10) Both the Police and the Regiment have undergone substantial strengthening of their capability in recent times, and have implemented the recommendations of the 1978 Gilbert Report. As advised by its Commanding Officer, the Bermuda Regiment enjoys relationships with the British Army and various other external military units through regular training attachments. Both the Commissioner of Police and the Commanding Officer of the Bermuda Regiment further informed the Commission that the Governor could seek the advice of various military agencies in ensuring Bermuda's internal security. These sources include *"the U.K. Ministry of Defence, the intelligence agencies and the security services in London; the Metropolitan Police (U.K.), specialist advisers on law enforcement, prisons and port security employed by the Foreign and Commonwealth Office; and military advisers based in the British Embassy in Washington, who also have responsibility for liaising with the US military."*

External oversight of Bermuda's internal security and defence is assigned to the British Military Adviser in Washington, D.C. The British Military Adviser is a senior ranking officer who advises the Governor and liaises between the British Government and Government House. It is the position of the Commanding Officer that these relationships need not change on independence as many former British colonies have maintained their close links to the British Army. (Annex #11)

In the event of a threat to Bermuda's internal security, the Regiment would be embodied on the orders of the Governor, as Commander-in-Chief, by authority of Section 32 of the Defence Act, 1965. Section 3 of the Emergency Powers Act permits the Governor to make regulations to ensure public safety and public order.

Non-operational matters in respect of the Police and the Regiment are delegated to the Minister of Labour, Home Affairs and Public Safety. These aspects include recruitment, finance and budget, public relations and representations in the House of Assembly. Both the Commissioner of Police and the Commanding Officer of the Bermuda Regiment report to the Minister on these concerns.

3.3.4 Internal Security upon Independence:

Upon independence, Bermuda would assume responsibility for all matters pertaining to internal security. It is the position of the Commissioner of Police that the Bermuda Police Service would have both “the necessary resolve and the capacity” to maintain law and order and internal security in an independent Bermuda. The Commissioner advised, however, that the Police are not equipped or trained to deal with a terrorist attack, and that overseas assistance would be necessary.

Presently, Bermuda maintains a number of relationships with policing authorities and organizations such as Interpol, the Drug Enforcement Agency (DEA) and the Federal Bureau of Investigation (FBI). Upon independence, adjustments in some instances in the relationship with the organizations referred to above might be necessary. In the case of Interpol, additional membership and other costs are likely. Bermuda’s relationships with the DEA and the FBI would probably require re-negotiation.

There is a variety of training facilities available to the Police Service. In the case of the U.K., however, if Bermuda were to move to independence, it might lose its preferred status in respect of training and be required to compete with other independent countries for places in the much sought after U.K. training programmes.

The Commanding Officer of the Regiment holds the view that the existing forces should be augmented with a full-time company of one hundred personnel. This would enhance Bermuda’s state of readiness to handle a serious challenge to internal security. In what the Commanding Officer deems to be the unlikely event of a threat of external aggression, this added strength would assist local forces in managing until military assistance arrived.

3.3.5 Defence - Current:

The FCO has advised that as a British overseas territory, north of the Tropic of Cancer, Bermuda is protected under the cover of the U.K.’s membership in the North Atlantic Treaty Organization (NATO). If Bermuda becomes independent it will be responsible for its own defence. At such time, it would be important to conduct an assessment of its internal and external threats. The result of such an assessment would determine which international organizations should be approached for assistance and cooperation. Although there is no recent assessment of the nature of threats to Bermuda, there

are, however, security concerns relating to terrorism, drug trafficking, money laundering, weapons trafficking and the protection of fisheries.

3.3.6 Defence upon Independence:

An independent Bermuda could enter into negotiations with NATO in its (Bermuda's) own right but would be required to meet all of the NATO requirements for membership by way of a lengthy process. A second option would be to seek a bilateral relationship with NATO, the U.S., U.K. or Canada in the form of either a treaty of friendship or a memorandum of understanding. Bermuda could also consider joining the Organization of American States (OAS), a grouping of countries in the Western Hemisphere cooperating in a number of areas that the Organization lists as defending democracy, protecting human rights, strengthening security, fostering free trade, combating illegal drugs and fighting corruption. Bermuda might even want to consider political neutrality, similar to Switzerland.

3.3.7 Consular Activities:

The Commission learned that the role of an ambassador or a high commissioner today has evolved to include trade development and revenue-generating opportunities for their countries. It should be expected that the business of Bermuda's missions would include the advancement of tourism and international business; the promotion of Bermuda's aviation and shipping registers, the protection of Bermuda's fisheries; maximizing opportunities for Bermuda generally; assisting Bermudians in need overseas; and issuing visas to foreigners wishing to travel to Bermuda. Upon independence, Bermuda would determine where it would be prudent to establish missions. Since there is no significant concentration of Bermudians residing in any overseas jurisdiction, large numbers of missions may not be necessary. A few strategically placed missions may satisfy Bermuda's needs; for example, an office in London, commuting as necessary to Europe; a mission in New York, also serving Washington, D.C.; and a mission in Ottawa serving all of Canada. Further cost savings could be derived by, wherever possible, housing a mission and the Bermuda Tourism Office in the same premises. Additional savings could be realized by sharing offices with other small countries. The utilization of honorary consuls and the facility of multiple accreditations are also cost-saving mechanisms usefully employed by many small jurisdictions.

In Commonwealth countries it is customary for the host country to provide consular assistance for a national of another, non-represented Commonwealth country. Currently, the U.K. Government provides consular protection of Commonwealth citizens in non-Commonwealth countries. The FCO has indicated that this practice is not guaranteed to continue.

3.4 Economy & Commerce

3.4.1 Economy:

The well-being and prosperity of all members of a community is dependent on a sound and viable economy. An independent Bermuda can only succeed if it continues to provide for a strong and successful economy with opportunities for every member of the community. According to the Bermuda Industrial Union:

“Idealism apart, the achievement of independence must have the practical goal of maintaining and/or improving the standard of living of all Bermudians.” (Annex #12)

Bermuda's GDP per capita is one of the highest in the world, being higher than that of the United States, Canada and the United Kingdom. Bermuda has an exceptional standard of living. Bermuda's economy is in a position of steady growth, led by the continued expansion of international business. Estimates of real growth in GDP in 2004 for Bermuda indicate a better than anticipated expansion, at nearly 3.0% following the 2.1% in the prior year. Bermuda has near full employment and employs foreign workers to fill jobs not taken by Bermudians. Employment opportunities grew 1.5% to 38,259 in 2004 primarily in international business and construction.

Consumer price inflation averaged 3.6% in 2004 compared to 3.2 % in the previous year, slightly ahead of the U.S. at 2.7%. Price levels were driven higher by the continued weakness in the dollar, sustained increase in oil prices, and increases in health care costs.

Bermuda is a conservative country and its economy has been effectively managed by successive governments by meeting current public expenditure through tax revenue, managing and controlling current expenditure to provide surplus for capital investment, and borrowing only for high priority long- term capital projects. This practice has resulted in a low net debt level of \$131 million at March 2005 or 4 % of GDP. This is well below Bermuda's self-imposed debt policy limit of 10% of GDP which, in turn, below global norms, which are closer to 30%.

Bermuda has continually received excellent reviews from major international rating agencies on its management of the country's debt and the overall economy. Moody's 2004 report provides positive analysis and comment on Bermuda's economic fundamentals and its prudent debt management policies. The Bermuda Government's finance indicators were vastly better than those of its peers.

The balance of payments is important because it measures the surplus or deficit of foreign currency received or expended by the country. Foreign currency receipts are important as they provide the foreign currency necessary for the purchase of goods and travel. This is critical in an economy where virtually all goods are imported. Bermuda has enjoyed a positive balance of payments for two decades, allowing for the relaxation of currency controls in the 1990's.

International business and tourism are Bermuda's primary source of foreign exchange earnings. These two pillars of our economy provide between 70% and 80% of the total current account receipts of foreign exchange. Whilst it is true that the international business sector now provides the largest single contribution to GDP and foreign exchange earnings, the tourism sector continues to be a vital component of Bermuda's economy. The continued success of both of these industries is critical to the future success of Bermuda's economy and the welfare of every Bermudian resident.

3.4.2 International Business:

There were 13,573 international companies, including 1,300 insurance companies, registered in Bermuda at the end of 2004, an increase of 64 or 0.5% over 2003. Over the first six months of 2004, foreign exchange earnings of the international companies increased by \$38 million to \$579 million or 6.5%. These companies spent an estimated \$1,125 million in Bermuda in 2003, a 7.2% increase over the \$1,050 million recorded in 2002. They directly employed 4,096 people in 2004, an increase of 315 workers or 8.3% over 2003 levels. These companies make significant financial donations to educational and other community organizations.

These figures demonstrate that the international business sector is the pillar on which the Bermudian economy has become increasingly reliant. The benefits are far reaching; they support the government by paying fees, the tourist industry by bringing business visitors to the Island, and the construction industry by erecting buildings to carry on their operations and accommodate their staff. They provide jobs for Bermudians, revenue for local businesses, and foreign currency for travel and the purchase of foreign goods.

International business comprises the insurance sector, mutual funds, holding companies, shipping and trusts. The insurance sector, which includes captive insurance companies, reinsurers and direct writers, insurance managers and insurance intermediaries, comprises the largest component of Bermuda's international business. These companies have in excess of \$80 billion in capital and surplus, \$90 billion in premium revenue and \$230 billion in assets.

One of the reasons Bermuda is a popular jurisdiction for international business is its highly successful and adaptable risk-based regulatory approach. Bermuda continues to review and modify its regulation to comply with changing international standards appropriate to the nature of Bermuda's market, and takes care not to undermine the country's competitiveness. The continuance of such a cooperative regime would be an essential element in an independent Bermuda.

Bermuda has always emphasized quality rather than quantity in international business and is known for its due diligence and 'know your customer' approach to new business. This is reflected in the positive branding that it has enjoyed for several decades.

There are challenges facing this sector. Bermuda's reputation and weight as a major player in the global financial services arena is highly regarded and envied. Negative media exposure is adversely affecting the branding of 'offshore', and the increased US regulatory scrutiny of the insurance industry poses a potential threat to the insurance sector.

International companies located in Bermuda recognize that independence is a matter to be decided by the Bermudian electorate. As stakeholders in the economy they have expressed an interest in remaining in an independent Bermuda should the country decide to go independent. A decision by the people of Bermuda to become an independent state per se should not be a threat to maintaining Bermuda as a jurisdiction for international companies provided the decisions relating to change are appropriate and communicated effectively.

International companies resident in Bermuda highlighted the following issues key to retaining Bermuda's popularity as a jurisdiction for their companies:

- Political and social stability is fundamental to retaining Bermuda's attraction as a jurisdiction for leading international companies;

- The process of determining the clear and unambiguous will of the people on independence will be important to the democratic image of Bermuda as a nation and as a jurisdiction for international business and to avoiding discontent which might lead to destabilization. For these reasons they believe independence is best determined by referendum;
- A constitution that provides for appropriate checks and balances with enshrined protection for human and business rights and the rule of law;
- A clear, fair and internationally recognized legal process with right of appeal to the Privy Council; and
- Clarity on the tax, regulatory and immigration system in an independent Bermuda needs to be determined and communicated in advance. There is concern over the extra costs that Bermuda would have to bear as an independent nation and the potential impact on taxes that international companies would be expected to bear.

The Bermuda International Business Association (BIBA) promotes new international business for the Island. In a survey of 42 overseas professionals who refer business to Bermuda the response was overwhelmingly negative. These business partners do not like the possibility of change. In general, they like to work with jurisdictions that are stable, predictable and consistent. Even discussion of independence diverts potential interest to jurisdictions that have emerged as business alternatives to Bermuda.

The submission by the Bermuda Industrial Union (BIU) included the following statement;

“Given the preponderance of dependence upon foreign decision making for our well-being, any move towards independence must be taken with full consideration with its impact upon foreign decision-makers. At stake is the maintenance of a high level of confidence that the move towards independence will not diminish the profitability of the foreign owned enterprises. For should these fail, then the industries which support the international sector will fail and Bermuda’s fragile economy will collapse like a house of cards.”

In the end, it is all about confidence. Of paramount importance, therefore, is that politicians from all political parties clearly recognize the importance of international business to Bermuda and all Bermudians. They further recognize the absolute necessity of

maintaining political and social stability as well as the legal, tax, and regulatory environment that have made Bermuda attractive to this industry.

3.4.3 Tourism:

After two decades of decline, the tourism sector appears to have stabilized and may even be improving. Employment in the industry showed an increase of 98 to 3,079, the first increase in many years.

Given the large contribution that Bermuda's tourism industry makes to the economy of Bermuda, its employment of many Bermudians, and its supply of much of the infrastructure enjoyed by both residents and the business sector, it is obviously an important factor in any discussion on change.

The Commission has discussed this and the impact of independence on tourism, with former territories. Most tourists coming to Bermuda today are largely unaware of, or interested in, Bermuda's current constitutional position. They are attracted to Bermuda for reasons not associated with its being, or not being, a colony. Like international business, tourism is dependent on a wide range of factors, the most important of which are stability and security.

The management of tourism is today, and would be, Bermuda's responsibility with the possible exception, currently, of some aspects of air services to Bermuda. The U.K. Government, however, has given a written undertaking that any air service agreements it negotiates for Bermuda will be undertaken for the benefit of Bermuda only, and this was a significant step forward. It is possible that if the Bermuda airport were lifted outside of its current British status as an airport, negotiations with potential carriers to Bermuda would be different, but this is difficult to estimate at this time. Given that the cost, frequency and gateway access of air services is a vital element of tourism, such freedom and independence as an international, stand-alone airport might be beneficial. With this sole exception, we see little impact resulting from independence on this industry.

Whilst the debate on Bermuda's tourism industry belongs in another place, the future health of this industry has little to do with Bermuda's constitutional status. As long as any change in Bermuda's constitutional status was handled responsibly, the peaceful environment that attracts visitors was not threatened, and the costs of a Bermuda vacation was not negatively impacted by any such change, the Commission has identified no impact on tourism.

3.4.4 The Role of the Bermuda Monetary Authority:

The Bermuda Monetary Authority (“the Authority”) currently operates largely as an independent, regulatory and supervisory entity to Bermuda’s financial sector. As outlined by the Bermuda Monetary Authority Act 1969, the Authority’s responsibilities include: issuing and redeeming notes and coins; supervising, regulating, inspecting, and promoting the financial stability and soundness of Bermuda’s financial institutions; and issuing financial instruments to those institutions and the Island’s residents. Additionally, the Authority assists with the detection and prevention of financial crime, fosters close relations between itself, financial institutions and the Government, manages exchange control and advises the Government on financial monetary policies.

In recent years, the Authority has made extensive changes to its powers, responsibilities and governance to ensure operational independence from the Bermuda Government and has had no influence or direction from the U.K. Government. The Authority regulates the financial services industry in accordance with international regulatory standards, not U.K. standards. The Authority frequently reviews its regulatory standards for compliance with international standards and follows a process of consultation with industry prior to implementing any changes. A change in constitutional status, therefore, will have no impact on how the Authority regulates the financial services industry.

Value of the Bermuda Dollar

There has been some speculation that a change of constitutional status might bring the need for a change to the existing peg of the Bermuda dollar to U.S. dollar. Bermuda’s economy is very closely tied to that of the U.S. with most of its imports of goods and services reflecting U.S. dollar prices. As a result, the economy is significantly impacted by financial and economic development in the U.S. and the 1:1 fixed parity with the U.S. dollar has worked extremely well for Bermuda.

There is no reason to suggest that independence would cause a reduction in the value of the Bermuda dollar. Bermuda has experienced a strong economy that is a result of a continued solid balance of payments, low public sector borrowing, and a strong credit standing in international markets. Also, the policy to maintain the Bermuda dollar essentially as a domestic unit of currency assists in avoiding foreign trade and speculation of its value. The key to protecting the value of the Bermuda dollar in the future is to maintain a positive balance of payments through the continued strong performance of the economy. As long as business maintains

its confidence in Bermuda as a favourable jurisdiction, there is no reason to believe that constitutional advancement will adversely affect the value of the Bermuda dollar.

The Authority currently has operational autonomy from the Bermuda and the U.K. Governments and, accordingly, independence is not expected to have an effect on the Authority's regulation and supervision of financial institutions or impact the way that the Authority carries out its other responsibilities. There need not be a material effect on the role or value of the Bermuda dollar as it relates to the U.S. dollar. The Authority does not see a need for the establishment of a central bank, provided that the present relationship with the U.S. dollar and openness to U.S. markets is retained. Whilst the Commission accepts the Authority's position, the Commission has been advised that it would be prudent to maintain the option of a central bank under active consideration in the event Bermuda decides to transition to independence.

3.4.5 Aviation:

As an overseas territory of the U.K., Bermuda presently does not have the authority to independently conclude treaties with sovereign states. This is the prerogative of the U.K. Government. Since 2000, the U.K. Government has adopted a policy allowing Bermuda to have greater control in the negotiation of relevant air services.

Upon independence, Bermuda would have complete control over all aspects related to aviation. As a sovereign state, Bermuda would need to become a contracting party to the Chicago and Montreal Conventions. The 1944 Chicago Convention deals with the freedoms of the air as they relate to international air service agreements. The International Civil Aviation Organization (ICAO) was established as a result of this Convention to regulate international civil aviation. The 1999 Montreal Convention deals with the liability of air carriers to passengers and shippers, and for those states that have ratified it, replaces the 1929 Warsaw Convention.

There are other relevant international treaties to which an independent Bermuda might consider becoming a signatory. Further analysis would be required in order to establish criteria under which Bermuda's interests would best be served by these treaties.

The Bermuda Aircraft Registry continues to enjoy a robust reputation for setting and achieving very high standards of safety regulation of its aircraft and operations. The U.K. Civil Aviation Authority's regulatory oversight of Bermuda's Department of Civil

Aviation (DCA) is viewed positively by foreign authorities such as the United States Federal Aviation Administration (FAA), which continues to grant Bermuda a Category I rating for aviation safety.

The Bermuda DCA does not rely on the U.K. for any duties or functions, and performs its own safety oversight, independently of the U.K. authorities. Post-independence, the new Bermuda regulatory regime would have to establish its own credibility.

Regarding civil aviation legislation, Bermuda would need to develop a Bermuda civil aviation act and supporting regulations, but in return, could enjoy a modern, well-structured, inclusive legislative infrastructure, superior to what is in place today. Bermuda may have been disadvantaged because many international instruments that could serve its aircraft registry well are currently not available as they may have conflicted with U.K. interests.

Bermuda presently does not provide any en route navigational services, and as a result, does not benefit from any over-flight fees. Bermuda is located in the U.S. FAA New York Air Route traffic control centre, and the FAA provides all of these services. The potential for collecting fees as a result of Bermuda establishing air traffic control for a Bermuda flight information region exists; however, the benefits are likely to be minimal as opposed to the cost of setting up, maintaining and managing the Air Traffic Control unit.

Bilateral agreements determine the types of services and points in each state to/from and behind/beyond which service may be provided by carriers of each state. In order to provide for international air services, upon independence, Bermuda would need to enter into its own bilateral air service agreements with other countries. Bermuda would have the option of choosing between a restrictive or liberal, 'open skies' policy.

An 'open skies' policy may be desirable for an independent Bermuda to encourage new air services, but it is likely that demand would drive new services. If Bermuda had its own commercial airline, it might wish to ensure it had a fair share of markets by having some restrictions in its bilateral agreements, but this protective stance is an outmoded approach. Year-round, life-line scheduled services are always important for island communities. The ability for an independent Bermuda to retain such services would be a sensible provision in bilaterals.

It is also possible to have multilateral agreements, for example, between countries in a particular region, such as Bermuda and CARICOM, to create a common aviation market.

3.4.6 Shipping:

The Bermuda register of merchant shipping forms a part of the British shipping register, which comprises registers in the U.K., its overseas territories, and the crown dependencies. Ships registered in any of these territories are entitled to fly the red ensign, and are, thus, referred to as the Red Ensign Group (REG). At the moment,

Bermuda competes with the main REG registers (U.K., Isle of Man, Gibraltar, and the Caymans), and other high-quality, independent, international registers, such as The Bahamas, Panama, and Liberia.

The U.K. Government, through the Maritime and Coastal Agency (MCA), holds ultimate control of the register. The MCA has entered into a memorandum of understanding with Bermuda's Department of Maritime Administration, permitting the Department to operate as a Category I shipping register of British ships in Bermuda on the basis of certain minimum standards.

Prior to 2002, ships registered in Bermuda were registered in accordance with merchant shipping legislation enacted in the U.K. between 1894 and 1998. In 2002, Bermuda enacted its own legislation that closely followed the U.K. law. By doing so, Bermuda assumed the responsibility for legislating its merchant shipping regulations. These regulations are necessary to give effect to international conventions. The U.K. has extended a number of conventions to Bermuda. In order to maintain its Category I status, Bermuda has sought extensions of these maritime conventions. These are necessary to regulate global merchant shipping.

Upon independence, it would be necessary for Bermuda to continue to show the industry that the established high standards of the Red Ensign Group (REG) would be maintained. It is possible that some ship owners would wish to maintain this U.K. link, and opt for another REG registry. Whilst there may be an immediate negative impact on the registry, should Bermuda maintain current practices following independence, such impact is likely to be minimal and short-lived. Bermuda would have to become more visible in the shipping industry through full participation in the International Maritime Organization (IMO) and the relevant protocols under the International Labour Organization (ILO).

The control and development of maritime legislation would be the responsibility of Bermuda. This would reassert the profile of Bermuda within the industry; however, Bermuda would need to develop the relevant technical expertise on a wide range of topics, in

addition to attending IMO meetings on a regular basis. There may be a need to have representation in London, where the IMO is headquartered.

Additionally, the Commission has learned that the following are also important:

- In case of a dispute, the Privy Council is the preferred final court of appeal for ship owners.
- The protection of the Bermuda fleet must also be considered. The U.K. Royal Navy currently provides protection in times of conflict.
- A number of ships are currently being constructed under the Bermuda flag.

The success of the register in an independent Bermuda would ultimately depend on the policies of the Government of the day, and the steps it takes to promote the register. (Annex #13)

3.4.7 International Telecommunications/Space:

Under Bermuda's current status as an overseas territory, matters pertaining to its international space and telecommunications are currently under the control of the United Kingdom government through its Office of Communications (Ofcom).

This oversight includes negotiations with other states and international organizations such as the International Telecommunications Union (ITU). As a result, legislation enacted by Bermuda to support its regulatory regime must meet both international treaty, and United Kingdom legislative obligations.

The current relationship has, at times, created potential conflicts of interest between Bermuda and the United Kingdom, an example being the recent challenges that Bermuda faced when the Isle of Man sought to file with the ITU for specific satellite slots that were geographically within Bermuda's "space real estate".

There could be benefits to Bermuda if it were able to realize the potential of its satellite rights, such as: additional revenue through the introduction of a new class of licensing fees; international recognition of Bermuda as a premium jurisdiction to service this opportunity; and the creation of jobs and training opportunities resulting from the new incorporations, and the resulting need for local and specialized human resources.

Upon independence, Bermuda would have the ability to represent itself directly in the international arena, rather than having to go through Ofcom. This could include membership in several of the international telecommunications organizations, such as the ITU, CITEL (telecom organ of the OAS) and Commonwealth Telecommunications Organization (CTO). The Commission has been informed that opportunities exist within these organizations under Bermuda's current constitutional arrangement and suggests that such opportunities be evaluated as a matter of priority.

3.5 Social

3.5.1 Current:

Bermuda is experiencing the same phenomena as other western countries—that of declining birth rates and improvements in longevity. This has resulted in an aging population and the attendant challenges, such as caring for the elderly, re-consideration of the compulsory retirement age, and the implications for school enrolment levels.

The total population is 55% Black and 34% White, with persons of mixed and other races comprising the remaining 11%. The Bermuda-born population is 69% Black and 21% White with the remaining 10% being mixed and other races. The population also has a significant foreign-born component of 28% stemming from immigration for employment purposes.

Bermuda's tight labour market is at near full employment with one of the highest labour force participation rates in the world for both males and females – 90% and 80%, respectively. As a result, only one out of every five children under five years of age and not attending primary school was cared for at home by a parent. Needless to say, the increase in the incidence of working parents has had negative implications for the care of even older children during after-school hours in particular.

Education

Between the 1991 and 2000 Censuses, the educational attainment levels of Bermudians improved quite significantly as the proportion of degree holders increased from 9% to 15% and the proportion of persons with technical and vocational qualifications or associate degrees grew from 17% to 21%. There are concerns within the community, however, regarding inequities and shortcomings at the primary, middle and secondary levels. Census data show quite clearly, that the distribution of students by race across the public and private educational sectors is markedly disproportionate. (Report of 2000 Census).

Housing

There were more than 25,148 occupied dwelling units at the time of the 2000 Census. Of these, Bermudian households occupied 19,410 and the incidence of home ownership varied by race, such that 67% of White households owned a home compared with 54% or roughly half of Black households. The average household size in Bermuda is small at 2.47 persons in 2000 and there are 2,079 or 8.2% of households with more than four persons. For Blacks, this figure is 10% and for Whites it is 5%.

3.5.2 Concerns:

The Commission has been confronted with an array of concerns at many of the public meetings held throughout the Island. Even though these concerns straddle the social, political, racial, spiritual and economic arenas, it is the social challenges facing our community, which seem to be of primary concern to all ages. Our young people clearly expressed their thoughts and concerns at the numerous schools visited by Commission members. The Commission was disappointed with the turn-out of the 18-35 year olds at the public meetings, but those who did attend were equally expressive. The Commission feels that to ignore the above-mentioned challenges facing this country, because they do not fall strictly within its terms of reference, would be to fail in its overall responsibility to the community. The social concerns and independence may be mutually exclusive but are of equal importance. The Commission holds that these concerns should not be an impediment to the consideration of constitutional change or a transition to independence. It has been suggested that until these issues are addressed, many people in the community will not give the debate on independence the attention it demands.

It was suggested to the Commission that the eradication of Bermuda's social deficiencies requires that a comprehensive approach be adopted in transforming its society. A written submission from members of Masjid Muhammad, on the topic of independence for Bermuda, states that

"A new national thought is absolutely critical if the leaders of the country want to lead Bermuda to independence in this global age. The new national thought must be one that embraces all religions and speaks to the moral fibre of society. It should be unifying and inclusive of all people. Further, it must be one based on faith, hope and the pursuit of happiness, justice and equal opportunity under the law." (Annex #14)

Their members further suggest that this new national thought should be the basis of a new theoretical framework for development.

On a related topic, the Government has recently commissioned a study on Sustainable Development for Bermuda. The UN definition captures the necessary essence:

“Development which meets the needs of the present without compromising the ability of the future generations to meet their own needs.”

The three main pillars of Sustainable Development are:

- Social
- Environmental
- Economic

The question is whether development along social, environmental and economic lines is meeting the needs of Bermudians presently without compromising the ability of future generations to meet their needs.

The Sustainable Development Team’s presentation to the Commission quoted the following definition from a former senior member of India’s Civil Service:

“Sustainable development ... promotes efficient use of resources, environmental harmony, and a just and equitable social order, all at the same time, and quickly, without letting a small class of people capture all the wealth and then devising policies to help it trickle down to the long marginalized majority.” (Ashok Khosla)
(Annex #15)

3.5.3 Race:

The Challenge

It is fair to say that the racial question and the implications that flow out of its consideration have been an ever-present, although seldom acknowledged feature, of the Bermudian social, economic and political landscape throughout Bermuda’s history. Certainly, the Bermuda Independence Commission, in its deliberations, spent significant time contemplating the race issue.

The public fact-gathering and information phase suggested that race, and its consideration, was playing a major role in how people approached the issue of independence for Bermuda, a fact not lost on the United Nations SC 24 Committee, as indicated in their report (Annex #17).

Bermuda, along with a diminishing number of other small island communities, largely in the Atlantic/Caribbean region, has still not attained a full measure of self-determination. Thus, the legacy of colonialism, and its remaining symbols, still shape racial perceptions powerfully and contribute to the divide that separates the two major racial groups within the country.

The Divide

Recent polls indicated that an overwhelming percentage of the White population oppose independence. The polls suggest that the majority of Bermuda's Anglo Saxon community believe that severing the links with Great Britain is an unnecessary step at this time. While this view is seldom touted publicly, there is no doubt that the cultural and historical links to the "Mother Country" of Great Britain has influenced their opinion. There is an historical perception that Whites have been far more resistant to independence because some have viewed such changes as threats to their privileged position socially, economically and politically. Moreover, with the election of a predominantly Black party to the position of Government, some Whites continue to take comfort in the perceived checks provided by the Administering Power (U.K. Government).

The recent granting of British Citizenship in May of 2002 (Annex #18) and the concurrent rights of E.U. citizens has had the added effect of stiffening resistance from this significant segment of the community on the question of independence.

One of the mainly White fears expressed is that an independent Bermuda risks being compared with recently emerged, poor, Black-led, Caribbean countries. On the other hand, those that appear to be doing quite well are seldom mentioned in this regard. Neither do these comparisons position Bermuda relative to White-dominated countries whose economies are not as successful. Finally, these arguments fail to give any credence to the state of the respective economies prior to independence.

For many Black Bermudians, however, these sorts of comments are viewed as simply 'code language' utilized by Whites who fear Black government without the direct oversight of the U.K. Administering Power. Many within the Black community view these comparisons as offensive. Many Black Bermudians trace common ancestry to the Caribbean.

Conversely, some Black Bermudians view constitutional advancement as a positive one which is intrinsically linked to their quest for the attainment of human and civil rights, and ultimately their full emancipation in Bermuda which, in the mind of some, can only be achieved through political independence.

A Black view suggests that until Whites share a common destiny with Black Bermudians, this divide will always exist at some basic level. The current constitutional position is viewed as enhancing White privilege. As this view is so emotive, the divide may appear at times to be even wider than it is.

There is, however, one fundamental theme that seems to be common to both Blacks and Whites, albeit with some variation. Bermuda has developed into a very materialistic society. Successive governments have tended to define the measure of success of the economy and society in starkly material terms. Consequently, there is little evidence that any real effort has been made to initiate meaningful programmes to truly bridge the manifest racial divide. Bermuda whether independent or not will have to ensure that the historical legacy of racism and its effects are addressed. Both Blacks and Whites do, however, share the concern of how independence will affect them materially. It would appear that what will satisfy both

Blacks and Whites is the assurance that the constitution of an independent Bermuda will be one that is strong, inspires confidence and truly attempts to represent the interests of all its citizens.

One of the White Bermuda Independence Commissioners, addressing a Rotary meeting in May of 2005 had the following to say in terms of how the issue of race has permeated the Commission's internal and external deliberations.

"In our internal discussions and in our interaction with the public generally, one subject has come up time and time again. That is the subject of race. As I have listened to the comments, it has become very clear that we need to bring this subject to the fore. In particular, Whites have to stand up and be willing to discuss the issue and not put heads in the sand. Most importantly, we need to listen and sometimes we need to listen beyond just the words. We need to get beyond the aggression, beyond the guilt, beyond the stereotypical labelling. We need to acknowledge that for most of its history Bermuda was a segregated community where one race was given opportunity and benefit over the other. We lived in what was effectively a caste system with Portuguese being treated in one way and Blacks in another. If we can acknowledge how wrong that system was and how determined we are to correct any remaining vestiges, if we can acknowledge that the final elements of integration lie not with the Black community but with the White community..."

He asked,

"Is opportunity, not just for jobs but for education, for growth and for all of the freedoms we believe intrinsic to the Bermuda of today, equal for all?" (Annex #19)

A White Bermudian female echoed some of the sentiments expressed above by stating in her oral submission that,

“When I think about independence I think not about what is right for this Government, nor even for those of us in this room, but rather, what is right for my two year old son? What can I give him? And I believe that what we need to do is heal those wounds. I don't think that the White community in Bermuda has risen to this occasion. I think we have been negligent in terms of suppressing a natural

education that needed to come out and has not and what we are experiencing now is a backlash to years of repression... and you reap what you sow...”(Annex #20)

The Bermuda Independence Commission respects the view expressed that the establishment of a common citizenship and national identity could assist in reducing the racial barriers. In one of the richest countries in the world, the question has to be asked as to why Bermuda has such a large prison population. It is equally concerning that over 90% of that population are Black males. The Government's recent initiative on “Black Males” ought to assist in reducing racial and gender barriers. The Commission believes that it is only by acknowledging the genuine and legitimate historical grievances, and thus resentments, can Bermuda embark upon the process of healing and achieve some level of closure upon this chapter of its history. This factor is the most significant issue needing to be addressed, independence or not.

3.5.4 Crime:

An issue often identified by contributors to the Commission was the growing lack of safety and security and a general lack of respect for people and property within the community. The Commission is alarmed at the increase in gang-related incidents, the high incidence of breaking and entering homes, thefts against tourists and residents and the general feeling that there is a lack of control over the lawless elements within Bermudian society. The Commission has identified that while there is real fear of the costs and potential uncertainty resulting from even a debate on independence, the problem of crime could and would cause far more damage to Bermuda's reputation and its image as a safe jurisdiction for both international business and tourism than independence ever could. This issue must be addressed as a matter of priority.

3.5.5 Healthcare:

Healthcare and education form the basis of any successful social agenda. The concept of wellness is becoming more popular but much work has still to be done. Statistics of overweight adults and children and the number of people dying from preventable diseases, e.g. heart attacks, clearly indicate the need for more research. A greater focus on prevention, on healthier diets, on exercise and even a review of traditional medicine could help reduce amounts spent on healthcare.

3.5.6 Education:

Changes to bring about equality must begin in an educational system that is adequately equipped to meet the demands of Bermuda.

Bermuda's system of education is still affected by the racial divisions in Bermuda. Schools have been desegregated and in the Bermuda of today, parents cannot be prevented from sending their children to schools they perceive offer better opportunities and which they can afford. Government's role must, therefore, be to create standards within the public school system that are nothing short of excellent.

The school curriculum, from preschool throughout, should be designed to foster a unified society. The educational system should initiate programmes that foster understanding, acceptance, appreciation and a celebration of all ethnic cultures represented in society. The educational system must demonstrate Bermuda's affluence through its levels of excellence, not only its state-of-the-art physical plants. The success of education today is judged largely on academic achievement. Of equal value, however, is the importance of individual self-worth, of core values and of a national ethic. As long as a society values insurance professionals over carpenters, bankers over teachers, or lawyers over hotel workers, it establishes an effective caste system, a system that erodes the self-worth of some in the community.

3.5.7 Political:

The Westminster style of governance has served Bermuda well; however, the challenges facing Bermuda today demand a change in this inherent adversarial approach. As long as both political parties continue to view the legislature as an opportunity to score political points, as a debating forum where the fundamental issue of what is right or wrong for the country and its residents takes second place to the political balance sheet, Bermuda will not be well served. The challenges facing Bermuda today require that there be a change in this style of governance.

Political leadership should exhibit the core values of any community. The mainly White-held view questioning Bermudian (Black) ability to govern may have been exacerbated by a series of perceived scandals. Whilst it is appreciated that at least some of these issues might have been politically exaggerated, the perceived failure of the country's leadership to quickly and decisively embrace a national code of ethics for the governance of Bermuda, only serves to reinforce this fear. This sentiment is contributing to the negativity on the issue of independence. It is encouraging to note the PLP submission suggesting a code of ethics, and the Premier's subsequent comments on this matter.

3.5.8 Environment:

Environmental issues are of equal importance to Bermuda's future. The Commission applauds the overarching mandate of the Commission on Sustainable Development in its broadest terms. It therefore expects that the Sustainable Development Commission will address issues such as air pollution, water pollution, waste management and the inequities of housing as part of its work.

3.5.9 Economic:

There is a clear, economic disparity between the races. With the Emancipation Act of 1834, Britain ensured that the slave owners in the colonies were well remunerated for the loss of their slaves. (Annex #21) The unfortunate slaves, who were starting with no financial resources, were provided with none. An apprenticeship plan had been suggested, but did not gain the support of the Whites. It is this historical precedent that continues to impact on the relative, racial economic positions.

Whilst the disparity of household income by race has narrowed, the question to be asked is whether the gap between the total assets of the races in Bermuda has actually widened. Bermuda's larger businesses are predominantly White-owned and managed, in a population which is majority Black. Addressing these inequities will require community commitment.

"To compete in a borderless world ... requires excellent and well maintained infrastructure, a well educated population, a sophisticated financial structure, good communications and adequate capital managed with entrepreneurial skill. Bermuda has a sizeable share of these qualifications and the means to develop the rest." (Bermuda's Stride into the 21st Century, Dorothy Newman 1994)

3.6 Estimated Costs of Independence

The final cost of independence can only be determined when Bermuda has made the decision to go independent and the government of the day has made various policy decisions on the scale upon which an independent Bermuda would conduct its affairs.

Key issues in determining costs would be the creation of a Ministry or Department of External Affairs and changes to our defence and internal security. In arriving at estimates of cost, the Commission has sought to provide costs for various options in the relevant areas, including a low and high estimate. In areas where the Commission was unable to obtain a close

indication of costs, the Commission has exercised its judgment in making a provision for known and anticipated costs in order to provide the readers with an estimate of complete costs.

The summary of the low-cost options gives an indication of the minimum cost of independence and the summary of the high-cost options gives an indication of the maximum that independence is likely to cost. The actual cost of independence would probably fall somewhere between these two figures. Additionally, this report provides separate figures for one-time, initial or capital costs.

Table 1 presents a summary of the Commission's low and high estimates of the annual costs and initial and capital costs of independence and the percentage they represent of the Government's 2005/06 budgeted revenue of \$750 million.

Table 1
Summary of Costs

Type of Cost	Low \$	% of Revenue	High \$	% of Revenue
Annual costs	3,307,000	0.4%	10,234,000	1.4%
Initial and capital costs	1,986,000	0.3%	4,461,000	0.6%
Total estimated costs	5,293,000	0.7%	14,695,000	2.0%

A government that was minded to limit its activities in external affairs to membership in the UN and its agencies and the Commonwealth Secretariat and conduct most of its diplomatic relations from Bermuda, New York and London without providing for any substantial increase in local security, could do so for an annual cost of approximately \$3.3 million plus an additional one-time capital and start-up cost of \$2.0 million. (Annex #23)

A government that identified the need for a higher profile internationally by joining a number of additional international organizations with five overseas missions and increased local land and marine security could do so for approximately \$10.2 million annually plus a further one-time cost for capital and start-up costs of \$4.5 million. The actual cost of independence would likely fall somewhere between these numbers depending on the options selected by the Government. (Annex #23)

To put this in perspective, the low and high annual costs represent 0.4% and 1.4%, respectively, of the Bermuda Government's budgeted revenue for 2005/06 of \$750 million. The one-off initial and capital costs represent 0.3% and 0.6% of budgeted revenue, respectively. These combined costs would represent less than one year's increase of government revenue year over year.

The Government budget for 2005/06 provides for an increase in revenue of \$57 million with no new taxes or meaningful increases in tax rates. The high estimate of the cost of independence of \$14.7 million represents 26% of the annual government revenue increase and the low estimate of \$5.3 million represents 9%.

3.6.1 Governor General or Non-Executive President:

An independent Bermuda would create a new Head of State, Governor General (constitutional monarchy) or President (republic). The person in this position would assume some of the duties of the Governor and might occupy Government House. The annual expenses of the Governor and his staff of \$ 912,000 are currently paid by the Government of Bermuda. As the costs of the new Head of State are unlikely to exceed that of the Governor, there would be no additional costs expected from the creation of this new office. In the event Bermuda decided on becoming a republic with either an executive or non-executive President as Head of State, it is unlikely that there would be any additional cost.

3.6.2 External Affairs:

As an independent nation, Bermuda will be responsible for its own external affairs. Bermuda may create a Ministry of External Affairs or, given the limited scope of its engagement in external affairs, may follow the practice of some smaller countries and assign the responsibility to the Premier's office or another existing Ministry. Table 2 displays the low and high estimated costs of conducting external affairs. The annual cost of a Ministry/Department of External Affairs in Bermuda is estimated at \$1,109,000 to \$1,609,000, and one-time office fit-out costs would be an additional \$300,000 to \$450,000 (Annex #24)

An independent Bermuda will need to decide which international organizations it would be prudent to join. Virtually all independent countries join the UN and its leading Agencies and all former British overseas territories become members of the Commonwealth.

The PLP submission to the Commission supports joining the UN and the Commonwealth Secretariat on achieving independence. It would only consider full membership in CARICOM on the basis that Bermuda would not become a signatory to the Caribbean Single Market and Economy and its free movement of people, nor to the Caribbean Court of Justice. It would further consider membership in the International Monetary Fund (IMF), the World Trade Organization (WTO), the Organization of American States (OAS) and the North American Free Trade Agreement (NAFTA). The Government might also consider joining other international organizations such as the Free Trade Areas of the Americas (FTAA), the Inter-American Development Bank (IDB), and the European Union's African Caribbean Pacific (ACP) organization.

Bermuda's assessment for the UN's Regular and Peacekeeping budgets would be approximately US\$200,000 and \$350,000, respectively. If Bermuda were to join the UN Specialized Agencies (Annex #22) additional costs would be in the region of \$450,000 for a total cost of \$1,000,000. Costs to join the Commonwealth Secretariat are estimated at \$275,000 (£150,000). A provision of \$1,000,000 has been made in the high estimate for the cost of joining additional organizations.

An independent Bermuda would also need to determine in which cities it would establish embassies, high commissions or consulates and which could be staffed or handled by honorary consuls. Diplomatic relations could be conducted through a Bermudian Minister or Permanent Secretary being accredited to other governments abroad, but this would not require the individual to be resident abroad. Some countries have overseas missions to support their citizens living abroad, or to protect or enhance their exports. This would not apply to Bermuda as there are no substantial communities of Bermudians living abroad, and Tourism is already represented by Tourism offices or agencies.

International business is promoted by private sector organizations. Accordingly, Bermuda would require overseas offices in only a few cities to support membership in foreign organizations and trade opportunities, to carry out diplomatic activities with foreign governments and to provide consular services for travelling citizens and visitors requiring visas.

Virtually all independent countries have missions in New York because they are members of the United Nations, and virtually all former British overseas territories are members of the Commonwealth and consequently have missions in London. Most Caribbean countries have overseas offices in Ottawa and Brussels to deal with their interests with Canada and the E.U., respectively, and some have offices in Washington and Miami, the latter to support their membership in the OAS.

The PLP submission proposes an upgrade of the Tourism Office in New York to diplomatic status, and gives priority to establishing a full embassy in Washington, as well as a high commission in London and representation in Ottawa.

Option One (low estimate) provides for:

- a Department of External Affairs within an existing Ministry led by a Permanent Secretary;
- membership in the UN and its lead Agencies; and
- membership in the Commonwealth with overseas offices in New York as an upgrade to the Tourism Office, and in London.

In this option Ottawa and Washington could be covered from personnel based in Bermuda or New York, and Brussels from personnel in Bermuda or London. This is a lean structure and the minimum that could realistically be expected for overseas representation of an independent Bermuda. Annual costs of the overseas missions would be approximately \$1,086,000 with additional fit-out costs of \$250,000. (Annex #25)

Option Two (high estimate) provides for:

- a separate Ministry of External Affairs;
- membership in the UN, its Agencies and the Commonwealth;
- membership in a number of other organizations;
- upgraded offices in New York and London, with a resident ambassador accredited to the UN;
- and a high commissioner accredited to the U.K. and Brussels; and
- overseas missions in Washington, Ottawa and Brussels.

Annual costs for overseas missions under this option are estimated at \$2,476,000 with additional set-up costs of \$575,000. (Annex #25)

There are, of course, other options such as sharing costs with other small countries in Ottawa and Brussels, participating in the Commonwealth Small States office in New York, or the use of honorary consuls in some cities, in which case the costs would fall somewhere between options one and two. Option One is a reasonable estimate of the minimum costs of overseas offices and Option Two is the high estimate based on the assumption that it is unlikely Bermuda would establish more than five overseas offices in its first few years as an independent country.

In countries where Bermuda decided not to establish missions the United Kingdom might continue to represent the interests of the newly independent Bermuda for up to one year after independence. In Commonwealth countries, the host government is responsible for consular or quasi-consular services to citizens of other Commonwealth countries.

British Missions have traditionally been responsible for the protection of the interests of all unrepresented Commonwealth countries in non-commonwealth foreign countries. In these

circumstances, Bermuda would be required to reimburse British missions for out-of-pocket expenses. Provision has been made for \$100,000 to \$250,000.

The Deputy Governor's office currently carries out most of Bermuda's external affairs activities. The annual cost of \$650,000 is paid by the Bermuda Government. On achieving independence this would provide a cost savings; and this has been offset against the above costs.

Table 2
Cost of External Affairs

Type of Costs	Low \$	High \$
Department/Ministry of External Affairs in Bermuda	1,109,000	1,609,000
Membership in the UN and its specialized agencies	1,000,000	1,000,000
Commonwealth membership	275,000	275,000
Membership in other organizations	0	1,000,000
Overseas offices	1,086,000	2,476,000
Reimbursed consular expenses	100,000	250,000
Savings from Deputy Governor's Office	(650,000)	(650,000)
Total annual costs	2,920,000	5,960,000
Initial and capital costs	550,000	1,025,000

3.6.3 Internal Security:

The Bermuda Police Service (BPS) has secured additional funding from Government for five successive years. The BPS establishment (number of posts) has increased from 436 positions five years ago to 468 positions today, of which 462 are funded in the current budget. The current account budget for 2005/06 stands at \$50.5 million, 84% of which is for personnel costs.

Upon independence, an International Liaison Unit would have to be established to maintain the required international contacts with the FBI, DEA, Interpol, and the Association of Caribbean Commissioners of Police, and to be the key link with the relevant authorities of other jurisdictions. As shown in Table 3, the amount of \$145,000 has been provided for a chief inspector and an administrative assistant to handle such affairs. Although considerable strides have been taken to modernize the equipment for public order duties, additional equipment and training costing about \$300,000 will be required in the event that Bermuda decides to become independent. The BPS has a team of highly trained officers that comprise the Emergency Response Team, which has been strengthened recently with increased numbers. The team is not trained or equipped to deal with a terrorist scenario, however, and overseas assistance would be required. A memorandum of understanding would need to be arranged with one or more other countries for assistance in the case of a terrorist or other special event. These arrangements are cost-neutral to prepare and costs are only incurred if they are implemented. No costs have been provided,

as such an event is remote and unpredictable. On achieving independence, Bermuda would need to apply for membership in Interpol in its own right at a cost, today, of \$10,000.

The Government's Capital Expenditure Plan which projects capital costs through to 2010 already provides for approximately \$100 million for the BPS, mostly for the Hamilton Police Station, Prospect HQ and Southside Police Station. There are no additional capital costs required for independence other than the public order equipment and training referred to above.

Submissions by the PLP and the Bermuda Regiment propose an increase in the complement of full-time Regiment soldiers to become more self-sufficient following independence. Various submissions made to the Commission propose a review of our marine capability to determine whether there would be a need for a coast guard type capability to deal with drug interdiction, search and rescue activities and fisheries protection.

The annual cost to expand the Bermuda Regiment with a company of full-time officers and soldiers would be \$3,532,000 and the operating and maintenance costs for two forty-foot vessels would be a further \$275,000. (Annex #26)

Kit and equipment in current inventory would be used to equip a full-time company. The purchase of two forty-foot vessels would cost in the region of \$600,000.

One option clearly would be to retain the current complement of the Bermuda Regiment and accordingly this paper provides for no additional costs in its low estimate. Provision has been made for the costs of a full-time company of soldiers and an increased marine capability in the high estimate.

The government of the day might decide to strengthen the BPS land and marine capability instead of that of the Bermuda Regiment or to strengthen the manpower of both organizations. In any event, the Commission is satisfied that the provisions made in this paper for the Police and Bermuda Regiment in total provide a reasonable estimate of the potential costs of strengthening security in the event that the country decides to go independent.

Table 3
Cost of Internal Security

Type of Cost	Low \$	High \$
Police Liaison	145,000	145,000
Membership in Interpol	10,000	10,000
Company of 100 full time soldiers	0	3,532,000
Boat fuel, maintenance, and misc. supplies	0	275,000
Total annual costs	155,000	3,962,000
Public order equipment and training	300,000	300,000
Capital costs for two forty-foot boats	0	600,000
Total capital costs	300,000	900,000

3.6.4 Defence:

Bermuda is perceived as low risk in terms of likelihood of external aggression. Defence concerns are more related to drug trafficking, protection of fisheries, and possible terrorism activities. As referred to above, it would be prudent for the Government of an independent Bermuda to arrange for a memorandum of understanding with the United States, United Kingdom or another friendly country to provide assistance in the case of an extraordinary event such as a terrorist attack.

3.6.5 Aviation:

Adherence to the Chicago Convention 1944 would require Bermuda to contribute \$36,000 annually to the International Civil Aviation Organization (ICAO). Additionally, there would be a further one-time payment of \$36,000 in the first year. (See Table 4.) Bermuda would become fully responsible for all aviation liabilities and would have to arrange for insurance. Provision of \$25,000 to \$50,000 has been made for an insurance premium.

The U.K. does not receive any revenue for Bermuda over-flight and there is no prospect that Bermuda would be able to charge such fees, which are prohibited by Article 15 of the Chicago Convention.

Table 4
Cost of Aviation

Type of Cost	Low \$	High \$
ICAO	36,000	36,000
Insurance	25,000	50,000
Total annual costs	61,000	86,000
One-off initial costs	36,000	36,000

3.6.6 Shipping:

Upon independence, some of the existing vessels registered on the Bermuda Register may elect to leave the Bermuda Register in favour of another Red Ensign Group (REG) Register. The success of the Register in an independent Bermuda would depend on the policy of the government of the day and its commitment to promote and expand the number of vessels on the Register. The PLP submission is that maintaining high standards, together with elimination of some of the present restrictions required by REG, would lead to an expansion of tonnage registered in Bermuda and, thus, increased revenue.

Bermuda would need to become more visible in the shipping industry through full participation in the IMO and ILO organizations. Provision for membership costs in these organizations has been made above under Special United Nations Agencies. Also, there would be additional staff costs for preparation and attendance at these organizations and their working groups. (See Table 5.)

Table 5
Cost of Shipping

Type of Cost	Low \$	High \$
Salary and costs of attending IMO	155,000	210,000
Salary and costs for attending ILO	16,000	16,000
Total annual costs	171,000	226,000

3.6.7 Treaty Succession:

An independent Bermuda would need to assess all treaties that currently apply to Bermuda to determine which are prudent to renegotiate. This is a large task with hundreds of

treaties requiring review and decision. Technical advice would likely be required. This paper provides \$250,000 to \$500,000 for this assistance.

3.6.8 Constitutional Conference:

If the people of Bermuda were to express a will to move to independence, the U.K. Government would arrange an Independence Conference in London to draw up a new constitution. This would include representation from the Bermuda Government, the Opposition, and the broader Bermudian community. Lawyers on behalf of the FCO and Bermuda would collaborate to produce the relevant constitutional document. The Attorney General's Chambers would be expected to take the lead, and there would be travel costs involved. The Bermuda Government might also wish to consult with other constitutional lawyers. A provision of \$250,000 to \$500,000 has been made for travel and consulting services.

3.6.9 Legislative Review:

Prior to independence, Bermuda would need to review all of its laws and ascertain which would need revision to be compatible with a new constitution. The Attorney General's Chambers would normally deal with this; however, given the size of the task together with the resource constraints in the department, a provision of \$100,000 to \$500,000 has been made for consultants.

3.6.10 Independence Celebrations:

In the event Bermuda goes independent, Bermudians will want to celebrate the occasion. This paper provides \$500,000 to \$1,000,000 for the cost of celebrations.

Summary of Costs of Independence:

Table 6 accumulates cost estimates, low and high, by the various anticipated areas of activity.

Table 6
Cost of Independence by Area of Activity

Area of Activity	Annual Costs		Initial and Capital Costs	
	Low \$	High \$	Low \$	High \$
Head of State	0	0	0	0
External Affairs	2,920,000	5,960,000	550,000	1,025,000
Internal Security	155,000	3,962,000	300,000	900,000
Aviation	61,000	86,000	36,000	36,000
Shipping	171,000	226,000	0	0
Treaty succession	0	0	250,000	500,000
Constitutional conference	0	0	250,000	500,000
Legislative review	0	0	100,000	500,000
Independence celebration	0	0	500,000	1,000,000
Total costs	3,307,000	10,234,000	1,986,000	4,461,000

Cost estimates are based on Government 2005 salary rates and other 2005 costs using assumptions that the Commission believes are reasonable. Costs would likely increase annually to reflect inflation. Initial and capital costs are one-off start up costs that would likely be incurred in the first or second year following independence. Where the Commission has identified costs that would be incurred in the event Bermuda decided to go independent and there was no specific cost information available, the Commission has made a provision for these costs in order to provide the readers with an estimate of complete costs.

3.7 Bermuda's Current Constitutional Position

3.7.1 The Constitution:

The 1968 Constitution and its amendments assign a wide range of powers to the Premier, the Cabinet, to the Bermuda Legislature and to other Bermuda Authorities. The U.K. Government and the Governor, acting in his discretion, retain responsibility for the "Reserved Powers": external affairs, defence, including armed forces, internal security, and the police. With Reserved Powers, the Governor acts in his own discretion but only after he has consulted with the Governor's Council made up of the Premier and either two or three other Ministers. In practice certain aspects of these Reserved Powers have been delegated to the relevant Cabinet Minister of the Bermuda Government.

Bermuda has administrative authority over both the Bermuda Police Service and the Bermuda Regiment and through an instrument styled The Entrustment Authorization 1968, Ministers of the Bermuda Government have been given substantial levels of authority for negotiating international agreements. Additional freedoms associated with civil aviation and shipping for negotiating new air services to and/or from Bermuda, specifically for charter flights, have been given.

The current constitutional position gives to the Bermuda Government as much, if not more, authority over the country's destiny than is the case for any other of the remaining Overseas Territories.

The Bermuda Constitution Order 1968 provides safeguards for the protection, from political interference, of the Public Service, the Judiciary, the Auditor General, the Police Service and the Regiment.

The current constitution also provides significant rights and freedoms to Bermudians including provisions covering fundamental rights, freedom of speech, assembly, association, and movement. It also provides for protection from discrimination on the grounds of race, political opinion, colour or religion. It further provides protection for privacy of home and protection against deprivation of property, and enforcement of fundamental rights. Readers are referred to Chapter 1, 'Fundamental rights and freedoms of the individual' of the Bermuda Constitution Order 1968, for further detail.

A new constitution for an independent Bermuda would be drafted by lawyers on behalf of the U.K. Government and Bermuda only after a vote in favour of independence and at an Independence Conference in London. This constitution could be adopted by the Bermuda Parliament, after being approved by the U.K. Parliament.

3.7.2 Nationality:

The British Overseas Territories Act 2002 conferred British Citizenship on all British Overseas Territories Citizens (which includes all Bermudians), giving them the right of abode and employment, not only in the U.K. but also in the E.U. The U.K. has advised that in the past when overseas Territories achieved independence, its usual practice has been to withdraw British nationality, except in the case of those persons who have the right of U.K. citizenship through a parent or grandparent. The U.K. Government does not expect that a different approach would be taken in Bermuda's case.

A U.K. passport, currently available to all Bermudians, provides for visa free travel to the U.S., E.U., Commonwealth countries and many others. An independent Bermuda would need to negotiate for visa-free travel arrangements with foreign countries. Bermudians would need to apply for visas to travel to any country where visa-free travel had not been negotiated upon independence. Bermudians travelling to countries that are signatories to the Schengen Accord could apply for multi-country visas when planning to visit countries within that Accord. Such visas could only be issued outside of Bermuda and by authorized visa-issuing agencies.

3.7.3 External Affairs:

Currently, Bermuda's external affairs are dealt with by the FCO and the Bermuda Governor and Deputy Governor. They have a professional staff of diplomats and an international network of embassies, high commissions and consulates in place to look after the interests of Bermuda and travelling Bermudians. Bermuda enjoys the benefits of many international organizations through the U.K.'s membership. Further, Bermuda benefits from many international treaties negotiated by the U.K. on its behalf.

As an independent nation, Bermuda would be responsible for its own external affairs and it would need to create and staff a Ministry of External Affairs. It would also need to decide which international organizations it would join and in which cities it would establish embassies, high commissions or consulates. Bermuda would also have to make provision for consular services for Bermudians travelling in countries where it does not maintain an overseas mission and would have to negotiate its own international treaties. The formation and conduct of a Ministry of External Affairs would be an additional expense for Bermuda. (see Section 3.6.11 above)

3.7.4 The Bermuda Police Service:

The BPS has stated that it sees itself capable of handling any internal security matters, albeit, with the assistance of the Bermuda Regiment and the Bermuda Fire Service if necessary. At present, the Governor is able to draw upon several sources of external advice on internal security and the defence of Bermuda. Future arrangements, should Bermuda become independent, would be a matter for discussion between the Government of Bermuda and the Government of the United Kingdom or another friendly government.

The BPS has excellent relations with the relevant international bodies. Some of these, like Interpol, are established through the U.K., and a change in Bermuda's constitutional status would require application for membership in Bermuda's own right. The Commissioner of Police was confident of the success of such

application. Additional membership and associated running costs would be anticipated. Other relationships, such as those with the DEA and FBI, would have to be re-negotiated.

Bermuda also currently enjoys the benefits of the Regional Law Enforcement Advisor funded by the FCO and located in Miami. Bermuda has received, and continues to receive, direct training and other logistical benefits from this advisor. This relationship would cease on independence. Finally, Bermuda's current position as an overseas territory entitles Bermuda to preferred status in its training requests and an independent Bermuda would have to compete with other independent countries for training slots.

3.7.5 Defence:

Neither the BPS nor the Bermuda Regiment is trained or equipped to deal with an international act of aggression or a terrorist scenario.

The United Kingdom is currently responsible for the defence of Bermuda; and as a British overseas territory north of the Tropic of Cancer, Bermuda's defence is currently covered by the NATO umbrella under the NATO Treaty. If Bermuda were to become an independent country, the U.K.'s existing responsibilities for the defence of Bermuda would cease and Bermuda would no longer be protected by NATO.

If Bermuda chose to become independent it would have to enter into some form of treaty of friendship with a friendly country to come to its defence in a time of need.

3.7.6 Economy:

Bermuda has an exceptionally high standard of living from an outstanding economy based on the two pillars of international business and tourism (See Economy & Commerce). Tourism has been in decline for two decades and, although it is showing signs of stabilizing, it is no longer the main driver of Bermuda's economy. International business is important because it is the largest contributor to GDP, and is the major source of foreign currency that Bermudians use to import foreign goods and to travel.

International companies are attracted to Bermuda because of its political and social stability, and its favourable legal, tax and regulatory environment. This attraction is presently being affected by negative branding of "offshore business" and increased competition from other offshore and onshore jurisdictions. Bermuda is also seen by some as an expensive jurisdiction in which to do business.

The international business sector is wary of change. In general, it likes to work with jurisdictions that are stable, predictable and consistent. Even discussion of independence throws all of those issues into flux and creates uncertainties. Existing companies are likely to adopt a wait and see approach on independence; however, the attraction of new business to the jurisdiction is made more difficult given the uncertainties associated with considering independence. A loss of confidence in Bermuda's political or social stability or negative changes to the business environment which make it popular for these companies would have a dramatic effect on the economy and the standard of living of all Bermudians.

Bermuda's current tax environment is one of the prime attractions of the country. Any significant increase in taxation could impair the jurisdiction's competitiveness. If Bermuda becomes independent it will have to bear the costs of maintaining the functions of external affairs and defence as well as other costs. If these costs cannot be financed out of current government revenues or expense savings there might be the need for additional taxes. This would make Bermuda a less attractive jurisdiction in which to conduct business.

3.7.7 Shipping:

Currently, Bermuda's Shipping Register is recognized as a "British Register". Upon independence, it is possible that a significant number of ships registered would not seek to remain listed in Bermuda, as many of those vessels are U.K. based.

3.7.8 Aviation:

Bermuda's Aircraft Registry continues to enjoy a robust reputation for setting and achieving very high standards for safety regulation of its aircraft and operations. The Commission has been advised that foreign authorities view the regulatory oversight of Bermuda's Department of Civil Aviation by the U.K. Civil Aviation Authority positively. It should be noted, however, that the Bermuda Civil Aviation Authority does not rely on the U.K. for any duties or functions and performs its own safety oversight independently of the U.K. Authorities. The U.K. Government has issued a written agreement stating that it will, when negotiating Air Service Agreements on Bermuda's behalf, do so only for Bermuda's economic benefit. At independence, Bermuda would become fully responsible for all aviation liabilities and would have to arrange appropriate insurance cover.

Article 15 of the Chicago Convention prohibits charging any fees solely for transit of aircraft over its territory; however, charges may be levied for the provision of air traffic control services. Under agreement, the US currently provides for air traffic services for the

Oceanic airspace around Bermuda. At independence, Bermuda would be responsible for the sovereign airspace above Bermuda; however, as Bermudian territorial airspace is relatively small, it is unlikely to be cost effective for Bermuda to provide an air traffic control service. In short, there are no apparent economic advantages to be gained from aviation on going independent.

3.7.9 Summary

Bermuda's current constitutional status has existed, with relatively minor amendments, since 1968. To many the argument, *yes at sometime we agree Bermuda should go independent, but just not now*, is an argument they have been hearing for decades. To others, the status quo represents a more comfortable and secure environment and they simply cannot understand how the benefits outweigh the risks. Some of the resistance to the concept is typical resistance to change and Bermudians, being generally a conservative people, may be more resistant to change than most.

3.8 Independence

The current Bermuda Constitution allows for a significant degree of internal self-government, save for the Reserved Powers that are outlined in the Constitution, Section 62 (1). Historically, the U.K. Government, through the Governor, has delegated to several Ministers the right to perform some of the functions under his Reserved Powers by issuing an entrustment authorization. Such entrustment is specific to the individual to whom the power is transferred and can be revoked by the U.K. Government at its pleasure.

Upon independence, all of the Reserved Powers currently entrusted to the Governor would become the responsibility of various Ministers, giving Bermuda complete control over its internal and external affairs. Thus, those elected by, and responsible to Bermudians, would become fully accountable for all matters relevant to the running of the country.

The appointment of various officers, the separation of the civil service from elected Government, and the independence of various offices such as the Auditor General, would all likely be enshrined in a new constitution and there is precedent to ensure that the separations of authority would be preserved.

A submission suggested that Bermuda's success was reason not to take the final constitutional step. Others submit that it is this very success, which should give Bermudians confidence in moving forward. They argue that Bermuda has been well-managed not because of, but independent of, its constitutional position as a colony.

3.8.1 Myths & Misconceptions:

There are several prevalent myths and misconceptions associated with the issue of independence for Bermuda that were a significant feature of the feedback received by the Commission.

To many, independence represents change, the unknown, and the potential of losing something. The reality is that Bermuda has faced these challenges and will continue to do so, regardless of whether Bermuda is independent or not. Independence will not automatically mean:

- that the economy will change;
- that taxation will be increased;
- that income tax will be introduced; nor
- that the Bermuda dollar will be devalued.

Neither will it mean:

- that the racial issues will be resolved;
- that crime will cease to be a problem;
- that education will be improved; nor
- that the housing situation will be solved.

None of these issues is directly related to independence and all can be resolved today regardless of Bermuda's constitutional position. These are issues that Bermudians are empowered to address today.

Internal Self-Government

Bermuda, despite its degree of internal self-government, is constitutionally a non-self-governing colony. (Annex #17) The U.K. Government could revoke part or all of Bermuda's Constitution at its will, without consultation with the Bermuda Government, and effectively rule through the U.K. Parliament. (Annex #16)

The Value of the Bermuda Dollar

Constitutional change in and of itself will not result in the devaluation of Bermuda's currency as long as the mechanisms that are currently employed to maintain its valuation with respect to the United States dollar remain in place. There is no direct correlation between constitutional change, as envisioned by independence, and the strength and/or valuation of a country's currency. The value of Bermuda's currency today is a direct result of the manner in which Bermuda has been managed for decades and has little, if anything, to do with the fact that it is an overseas territory. As long as Bermuda continues to manage its economic affairs with the same effectiveness it has throughout history, there should be no impact on the value of the Bermuda dollar. This conclusion is reached after

careful consultation with the Bermuda Monetary Authority, with overseas government agencies and with the United Kingdom Treasury Department.

The Flight of International Business

Independence, in and of itself will not lead to economic instability, decline or flight of international business to other domiciles. Direct discussions with representatives of this sector suggested that as long as Bermuda continues to offer a business friendly regulatory model, a benign tax regime and political and social stability, independence in and of itself should not have a negative impact. If the process of independence is well explained, if input is sought from the business community and if the proposed change is carefully laid out, thus diluting the potential for unreasoned fear, then independence is unlikely to have a negative impact.

One prominent member of the Association of Bermuda International Companies (ABIC) stated the following on the potential of corporate flight:

“It would certainly be my expectation that while people might bring their contingency planning to another level, it would be very foolish for someone to make a move before they saw what was happening. So, I mean, talking from my point of view, any prospect of any sort of immediate flight or exodus is not on the radar screen.” (Annex #28)

The Commission was reminded that similar fears were expressed in the lead up to the election of 1998 on the potential of the PLP being successful. The constitutional steps toward independence now contemplated have re-ignited these same fears. In fact, following the victory of the PLP in 1998 not only were those fears not realized, but also Bermuda has remained an important domicile of choice for international companies. (Annex #7)

U.K./E.U. Citizenship

The U.K. Government has stated that it sees no reason why Bermuda would be treated differently from other countries that have taken the road of independence in the past. This suggests that upon independence, British citizenship would be withdrawn from those without direct familial ties. (Annex #5) Some Bermudians are unaware that only those with parent or grandparent ties to the U.K. would retain British citizenship.

Concerning the European Union, the Commission has duly noted that the proposed European Constitution included, by way of an appendix (appendix 45), a clause establishing the right of reciprocity upon the remaining Overseas Territories in the area of immigration. This would essentially establish a regime of open borders between

these remaining territories and the European Union and its citizens, potentially affording these citizens the right to live and work within these respective remaining territories, including Bermuda. Irrespective of the future success of the ratification of the European Constitution, Bermuda's vulnerability on the issue remains. This would threaten, for the first time, Bermuda's authority over its own immigration policies.

Erroneous Comparisons

The suggestion that Bermudians should look to countries in the Caribbean and note how unsuccessful they have been post-independence is invalid. There are many reasons why some Caribbean nations are perceived as being successful or not today but the Commission's findings indicate that these reasons are not directly related to their independence. The Commission was informed by numerous sources that no erstwhile colony has been better prepared for independence than Bermuda is today. In real terms, most of the smaller countries had virtually none of the advantages Bermuda has today when they sought independence. The following argument was put to the Commission:

"When the U.K. left as the Governing Power, the countries fell apart, their citizens seemingly incapable of managing themselves and, by definition, this is what will happen to Bermuda."

The Commission has heard this argument either directly or by inference and again suggests it is totally fallacious. Bermudians have been responsible for managing Bermuda since at least 1968, and have been doing so well, in economic terms at least, and there is absolutely no evidence to suggest that such stewardship would suddenly be reversed as a result of independence.

The Costs

Finally, as noted elsewhere (see Section 3.6), the cost of independence would not be outside the affordability of Bermuda. This conclusion is reached only after a detailed analysis of the potential costs.

3.8.2 The Benefits:

There are benefits to independence that need to be considered and which could potentially have a positive impact across a broad spectrum of the Bermudian political, economic, cultural and, consequently, its social landscape.

Throughout its travels abroad, and by way of representations made locally, the Commission's various delegations invariably were told that no country over the last four decades having achieved

independence was better prepared constitutionally or economically for that constitutional step than Bermuda is at this point in its history.

Upon independence, Bermuda would assume the Reserved Powers of the Governor, and thus establish self-determination. Bermuda would then be in a position to set out its own Bill of Rights, its own codes of social behaviours and establish a framework where all citizens are treated equally under the law and where equal opportunity is a priority. Many believe that this could represent an immeasurably positive impact and potentially unite Bermuda's people.

In the event of independence, Bermuda would chart its own course and destiny, an idea not lost on one Bermudian man who, by way of an oral and written submission delivered to the Commission at a Somerset meeting, stated the following:

"And the nature of our relationship with the United Kingdom now, some may regard it as beneficent but the structural relation is one of an imbalance of power. In a colonial relationship, the colonizing power always, in every matter of importance, political matters, economic matters, financial matters, the colonial power always has the upper hand. If your interests do not align with the interests of the colonial power, your interest will be defeated. It is as simple as that".

"Me...my family...we cherish that and we believe that, in the end, the people of Bermuda will choose Independence because...an enlightened people, people who are educated, informed, progressive-thinkers, people who love their culture, people who are courageous, do not freely choose to subject themselves to the will of other people." (Annex #29)

An independent Bermuda would negotiate all international arrangements on its own behalf without the intermediary of another government. The British Government is not focused on looking for opportunities for Bermuda and, indeed, in certain circumstances British interests may conflict with Bermudian interests.

The experience that surrounded the appointment of the current Chief Justice, while fully within the powers of the Governor, clearly illustrated the nature of the limits of the dependent relationship, constitutionally, that confront Bermuda and Government. In an independent Bermuda, a position such as the Chief Justice would be appointed by a Bermudian Governor General.

It is only through independence that Bermuda can act interdependently with the world community. In this complex global environment an independent Bermuda would be able to respond quickly and decisively on its own behalf and successful interdependence will result in Bermuda being able to negotiate freely with other independent countries.

Independence may represent an expansion of opportunities for Bermudians, particularly young Bermudians. These opportunities could include: careers in the diplomatic service, potentially expanded opportunities in the fields of aviation and shipping and increased scholarships and training through agencies such as the Commonwealth Secretariat and the United Nations.

Through membership in world organizations such as the ACP group, funds could be available for disaster relief and major infrastructure projects, for instance the new hospital. Moreover, the strategic positioning of diplomatic missions in key jurisdictions should promote Bermuda's trading interests, seek out new opportunities, undertake effective lobbying on Bermuda's behalf and ensure that Bermuda remains in the forefront of international relations. An independent Bermuda might also qualify for beneficial infrastructural funding through new bilateral arrangements.

As the balance of power in the world shifts, an independent Bermuda would be better positioned to protect and advance its interests and realize the opportunities. Positioned between the great trading blocs of America and Europe, Bermuda has a geographical advantage that it could beneficially leverage on independence.

Bermudians have been focused for many years on the issues that separate them, potentially because they have failed to embody successfully that which they share. The Commission heard that, to many, the emergence of Bermuda as an independent nation would create an environment where all Bermudians shared that one collective characteristic of being "Bermudian", not just as a citizen, but as a people. The Commission is prepared to accept that this cannot be dismissed simply as an emotional response to the issue of independence. To many this is a core issue. The creation of a national identity may, to some, be of secondary importance. To others it is a dream they have been chasing for their entire lives.

Some Black Bermudians associate Bermuda's current colonial status as being only slightly removed from its history of slavery and segregation. An advantage of independence for them is the logical and necessary step towards full emancipation. This may be a difficult concept for some in the White community to grasp but until they do, it is nigh impossible to have a meaningful debate on the subject. One of the challenges this Commission faced in attempting

to provoke debate is that some of the sentiments held were not understood by opposing groups. A meaningful debate on independence requires all views to be heard.

On many occasions, the following analogy was put to this Commission:

“Colonial status is like that of being a child, but every child matures to adulthood and must venture forward independently, to deny this is to deny the natural order of life. Yet we still see many in Bermuda refusing to agree that Bermuda has reached adulthood, how long do we have to remain children before they agree we are ready?”

Clearly, the advantage for Bermudians sharing this sentiment would be that Bermuda would at last reach adulthood.

A distinct advantage to an independent Bermuda could be the value of international relationships and organizations and the expertise available to emerging nations. This is evidenced in the information gathered by the Commission in its investigations. A list of some organizations that Bermuda could potentially join is attached as (Annex #9)

There is a significant sector of the Bermudian population who feel that full emancipation, full adulthood and full equality may only be achieved when the last vestiges of colonialism have been removed.

3.9 Opinions Offered in Oral and Written Submissions

There was significant feedback from the public meetings arguing that Bermuda's current constitutional position, the 'status quo', has served it well and that there is no clear rationale to progress towards independence. The following summarizes many of the arguments made in those meetings and in submissions to the Commission by those arguing against independence: (Annex #27)

1. *Cost - Given the challenges facing Bermuda, the reluctance for any additional taxation, the attraction of the current tax system, and their perception of the limited benefits of independence, Bermuda should not be considering any additional financial burdens.*
2. *International Business - In the last decade, in particular, International Business has invested heavily in Bermuda, contributed a significant majority of Bermuda's GDP and its foreign currency, employed large numbers of Bermudians and is a business sector perfectly capable of moving to other competitive jurisdictions. The point was made that competitive jurisdictions are already capitalizing on the independence discussions being held in Bermuda*

and are seeking to persuade Bermuda registered companies to move away from Bermuda. They state, Bermuda cannot afford to loose any from this segment of its economy.

3. *Citizenship – In 2002, the British Government changed its citizenship legislation, effectively conveying on Bermudians full British Citizenship, which in turn, gave Bermudians the right of abode and employment in the U.K. and all countries within the European Union. This opened opportunities for Bermudians considerably and allowed visa-free travel to all of Europe, and many other countries. Some hold the opinion that this is too important a benefit to sacrifice for the sake of independence.*
4. *Bermuda's defence is the responsibility of the U.K. Bermuda bears no responsibility for the provision of such defence and the costs of having to assume these responsibilities would add further burden to Bermuda taxpayers.*
5. *Bermuda's international representation is handled by the U.K. A change to independence would necessitate the establishment of embassies, consulates, etc. that again would add considerably to the costs having to be borne by the limited Bermudian population.*
6. *Membership in international bodies like the UN would add further and unnecessary costs.*
7. *The transition to independence they say, in and of itself might well cause instability which is an anathema to international companies and even, potentially, to tourism.*
8. *One only has to look at other small countries which have gone independent, to see how badly many of them have fared. In short, why should Bermuda take such a risk at this time?*
9. *The integrity of government is very important and independence would free the Bermuda Government from any control exercised, or potentially exercisable, by the U.K. Government.*
10. *After achieving independence, most countries have shown some difficulty supporting infrastructure and social support networks in downturns, as well as prosperous times, and end up running potentially debilitating public debt deficits.*
11. *There are serious and significant issues facing Bermuda right now. These issues should be dealt with now before any consideration is given to independence.*

12. *In today's global economy no country can make it alone. Bermuda is considering independence at a time when other nation states or territories are ceding some of their sovereignty to larger economic and political bodies such as the E.U., FTAA and CARICOM. In the case of the E.U. the ultimate proof that member countries have given up their sovereignty is the existence of the European Central Bank, a Euro currency, a European Parliament and European Court. In CARICOM the Caribbean Single Market and Economy provides for the free flow of capital, businesses and eventually labour between its member states. Will independence mean we become less independent?*
13. *The response from an independent survey of overseas professionals, that refer international business to Bermuda, was negative from nearly every respondent. Concerns were raised about uncertainty over costs, continuity in the legal system and increased competition from alternate jurisdictions. The following quote is from an investment executive in the U.K., "Perception is everything. The stability of Bermuda and its close proximity to English law is a key, differentiating factor frequently trumpeted by business professionals in Bermuda.... Clients are unlikely to leave the island overnight; those companies thinking about doing business with Bermuda would think again and there is a strong sense that existing customers/clients would adopt a 'wait and see approach'."*

The above comments represent either a summary or, in certain instances, direct quotes from both verbal and written submissions to the Bermuda Independence Commission. The Commission makes no comment on the above believing that they represent perceptions. Some of these assertions are addressed in this report.

There is concern over the potential for corruption and abuse of power. One submission made some definitive points on this issue and may express the view of many.

"Bermudians need to be convinced that there will be satisfactory safeguards against the risk of abuses of power and some politicians will regard such safeguards as unwelcome and unnecessary..."

On many occasions, the Commission received comments to the effect, *"If it isn't broken, why fix it?"* There are many who are content with the status quo, feeling that Bermuda currently enjoys the best of both worlds. They say that, with substantive control over its internal affairs, a citizenship that now enables Bermudians to work, live and travel in a wide array of countries thus bringing additional opportunity and international experience, with the "protection" of having the U.K. Government oversight, Bermuda and Bermudians enjoy a wide range of benefits. For them, the risks involved in changing our constitutional status outweigh the potential benefits.

In another submission, the following point was made.

“Unlike those ex-colonies that had the desire for self-Government but few of the tools, Bermuda has all of the tools for independence. There has never been a colony more prepared for independence than Bermuda is right now. But there’s the rub. It is because we are ready, it is because we have the experience, it is because we have seen the pitfalls of others; ironically, it is because we have all these things, that we pause. We ask “why?” instead of “why not?”

In contrast to the views expressed above, the following presented a different perspective: (Annex #27)

1. *The people of every country have an inherent and inalienable right to articulate a view on self-determination and act upon that view.*
2. *A relationship of political dependency such as Bermuda has with the United Kingdom is a form of subjugation, no matter how attractively it is packaged.*
3. *There is an inherent power balance in a colonial relationship which makes it undemocratic in the purest sense of the term.*
4. *In the areas of economics, international trade, finance and aerospace commerce...Bermuda would be much better positioned to advance and defend its national interest if it was not fettered by the existing colonial relationship.*
5. *Ministers of the Government of Bermuda do not have a right to speak at Commonwealth Conferences unless they have first obtained the permission or consent of the United Kingdom head of delegation to the conference. The indignity may be exacerbated further if the U.K. delegation is led by a U.K. civil servant and the Bermudian Minister of Government must sit behind this individual at the conference table.*
6. *In our view, the objective pre-conditions for independence are satisfied. The missing element is belief in ourselves as a people. Nothing else is holding us back.*
7. *For most of Bermuda’s history, the majority of Bermuda’s people have been subjected to discrimination in one form or the other. First it was slavery, then segregation and even today opportunities are not equal. Independence is the final step towards freedom and it may allow all of Bermuda’s people to stand together as one, finally.*
8. *If Bermuda is to make positive progress in the 21st century, we must embrace independence as not to do so can only result in our stagnation and ultimate demise.*

9. *The robust economy that Bermudians enjoy has nothing to do with Great Britain. This is why I have a difficult time understanding the rationale behind the statements made that post-independence the Bermuda economy will collapse.*
10. *While I have British citizenship by birth, the only benefit I see in it is that I get to stand in a shorter line at Customs and Immigration upon arrival in Great Britain. I would gladly denounce this right to hold a passport of an independent Bermuda.*
11. *With Bermuda's economic success not having been a result of anything done by Great Britain, it is very difficult to state any disadvantages with independence.*
12. *Independence is a natural transition for any dependent country. The move to independence presents an unparalleled opportunity to explore, select and introduce a system of governance suited to our size and temperament.*
13. *Most countries have moved to independence for... three reasons. They are:*
 - *a desperate need to get out from under an oppressive master;*
 - *to take charge of their own affairs; and*
 - *as a natural evolutionary step following political maturity.*

These views are not necessarily the views of the Commission but reflect views expressed to the Commission either orally or in writing.

4. RECOMMENDATIONS

The Commission respectfully makes the following recommendations:

1. Many individuals indicated that they could not vote for independence unless they knew beforehand the details of the type of government and constitution for which they would be voting. **It is recommended that Government, after its own internal discussions and after publishing this report, engage in a dialogue with the people of Bermuda on the topic of independence. In doing so, the Government should lay out, for the people of Bermuda, its proposals with regard to the type of government and constitution, and all related matters.**
2. International business companies are important stakeholders in Bermuda's economy and are sensitive to the uncertainties arising from the debate on independence. **Government should consult with them to remove these uncertainties. Government should confer with the Bermuda International Business Association and the Insurance Development Council to ensure that myth is separated from reality on this issue, and that they are kept fully informed. Further, Government should work with these organizations to carry this message to prospective companies.**
3. The present stance of the U.K. Government on the loss of British nationality appears to be that, in the event of Bermuda going independent, those Bermuda citizens who now have British nationality, but no familial ties to the U.K., will have their British nationality withdrawn. **The Government should explore, as a matter of urgency, how British Citizenship, for those without residual connection to the U.K., might be retained should Bermuda proceed to independence.**
4. **Given the impact of race relations on attitudes towards independence, the Commission strongly recommends that Government lead a process to where the diversity of Bermuda is celebrated, where opportunity is equal and where there is genuine social unity. The Commission believes that this could be achieved through a process of truth and reconciliation.**
5. **The Government obtains from the Foreign and Commonwealth Office a comprehensive list of all of Bermuda's international treaty obligations, as early as possible.**

6. The Commission, in its investigations, identified memberships in international organizations, and opportunities arising from such memberships, that exist for Bermuda in its current constitutional status. **The Commission, therefore, recommends that Government conduct a review of all international opportunities that currently exist, and the many additional prospects should Bermuda proceed to independence.**

5. INDEX TO ANNEX DOCUMENTS

Annex #1	The Timetable of the Bermuda Independence Commission
Annex #2	1995 Green Paper
Annex #3	1979 White Paper
Annex #4	U.K. 1999 White Paper, Partnership for Progress and Prosperity – Britain and the Overseas Territories
Annex #5	U.K. Government Position Paper – May 2005 Letter from the U.K. Foreign and Commonwealth Office
Annex #6	Discussion Paper: The Comparison Between A Republic and a Constitutional Monarchy
Annex #7	Submission of the Progressive Labour Party (written)
Annex #8	Explanatory Notes to British Overseas Territories Act 2002
Annex #9	Methods of Membership and Potential Benefits of Membership
Annex #10	Submission of the Bermuda Police (written)
Annex #11	Submission of the Bermuda Regiment (written)
Annex #12	Submission of the Bermuda Industrial Union
Annex #13	Submission of Department of Maritime Administration (written)
Annex #14	Submission of Masjid Muhammad (written)
Annex #15	Submission of the Sustainable Development Project
Annex #16	Bermuda Constitution Act, 1967
Annex #17	Report of United Nations Special Committee of 24
Annex #18	British Overseas Territories Act 2002
Annex #19	M. Winfield speech to Hamilton Rotary meeting

Annex #20	Oral Submission of White female made at the public meeting held at Sandy's Secondary Middle School
Annex #21	Emancipation Act of 1834
Annex #22	UN Specialized Agencies
Annex #23	Estimated Schedule of Independence Costs
Annex #24	Estimated Cost of External Affairs Department in Bermuda
Annex #25	Estimated Costs of Overseas Missions
Annex #26	Estimated Cost of Bermuda Regiment
Annex #27	Synopses of Oral and Written Submissions
Annex #28	Oral Submission of Association of Bermuda International Companies (ABIC)
Annex #29	Submission of Bermudian man made at the public meeting held at the Somerset Cricket Club

6. ACKNOWLEDGEMENTS

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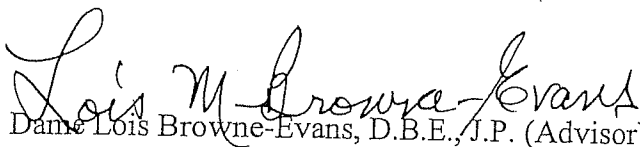
The Commission acknowledges the Premier of Bermuda, the Hon. Alexander Scott J.P. MP for the appointment of this Commission and for providing the Commission the opportunity to benefit from the tremendous knowledge and wisdom of Dame Lois Browne-Evans D.B.E., J.P. who served as Advisor to the Commission.

Most importantly, the Commission is indebted to the many members of the community who came to the public meetings, who shared their fears and their hopes with the Commissioners and who helped guide the direction of this report. In the end, this report is dedicated to the people of Bermuda.

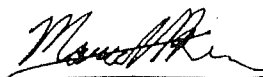
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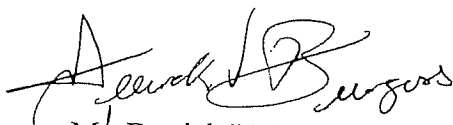
Bishop Vernon G. Lambe, M.B.E., J.P. (Chairman)



Dame Lois Browne-Evans, D.B.E., J.P. (Advisor)



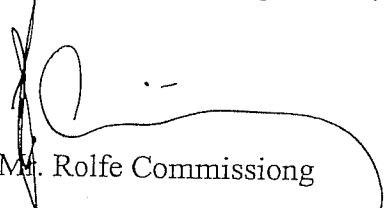
Mr. Marc A.R. Bean



Mr. Derrick V. Burgess, J.P., M.P.



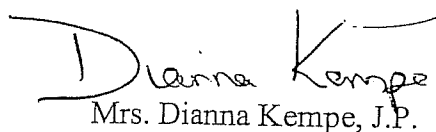
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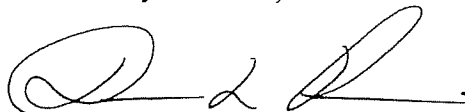
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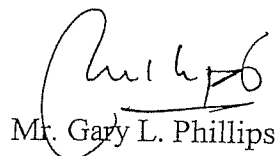
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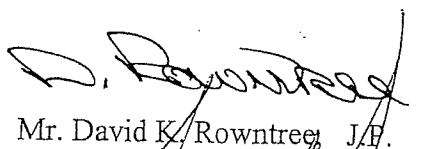
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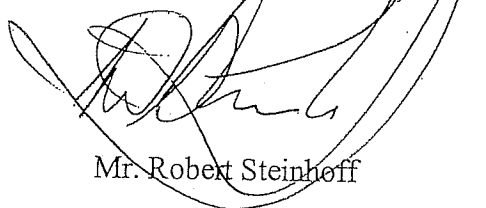
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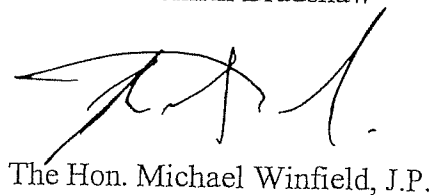
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