



EVOLUTION
of a
N A T I O N

TRINIDAD
and
T O B A G O
at **FIFTY**

H
HANSIB



Published by Hansib Publications in 2012

P.O. Box 226, Hertford, Hertfordshire, SG14 3WY
United Kingdom

Email: info@hansib-books.com
Website: www.hansib-books.com

A catalogue record for this book is
available from the British Library

ISBN 978-1-906190-58-3

Copyright © The Parliament of Trinidad and Tobago, 2012

All rights reserved. No part of this publication may be reproduced,
stored in or introduced into a retrieval system, or transmitted, in any
form, or by any means, electronic, mechanical, photocopying, recording
or otherwise, without the prior written permission of the publisher.

Printed and bound in the UK





CONTENTS

Introduction	5
About the authors	9
<i>Tobago and constitutional development in the context of the Parliamentary process</i>	13
Reginald Dumas	
<i>From Legislative Council to House of Representatives: Promoting or hindering democracy?</i>	25
Dr Kirk Meighoo	
<i>The effectiveness of Parliament as an organ of State in scrutinising executive action</i>	37
Professor Rhoda Reddock	
<i>From unicameralism to bicameralism: Trinbago's constitutional advances (1831–1962)</i>	65
Professor Brinsley Samaroo	
<i>The relevance of the Senate in a modern democracy</i>	79
Dr Hamid A. Ghany	
<i>The role of political parties in the development of democracy in the Republic of Trinidad and Tobago</i>	101
Professor Selwyn Ryan	
<i>A Parliament for the people: Constitution reform and the role of Parliament</i>	111
Dr Olabisi Kuboni	
<i>The role of the Head of State in a bicameral system of governance</i>	123
H.E. Professor George Maxwell Richards	



INTRODUCTION

OUR NATION'S ATTAINMENT OF INDEPENDENCE IN 1962 marked the end of colonial rule that had started during the 16th century under the aegis of Spain and had continued when the British captured Trinidad. In the meantime, Tobago had its own uneven political history, changing hands from one European power to another whilst having its own bicameral elective legislature from as early as 1768. As Crown Colony governance became tighter from the mid-19th century that melancholy isle was deprived of its bicameral legislature in 1874 and in 1877 was made a purely nominative, one-chambered Crown Colony legislature. In 1889, Tobago was united administratively with Trinidad in order to reduce British expenses in the Caribbean and in 1899 the noose was further tightened when that colony was made a ward of Trinidad and Tobago. From the beginning of the 20th century, Tobago joined Trinidad in advocating freedom from colonial rule, becoming an integral part of the achievement on Independence in 1962.

During this long period of the islands' subjugation under European domination, there were fundamental philosophical premises upon which such governance was based. Among these beliefs were:

- a) That non-white people were incapable of governing themselves and therefore needed the constant guidance of Europeans.
- b) That systems of governance brought to this region by Africans and Asians (who formed the majority of the population) had to be quickly discarded and replaced by Western, Christian derived norms. What was British was best and those who could not conform were effectively shut out of the process.
- c) That in order to ensure European dominance every effort was made to implement the policy of *Divide Et Impera* (Divide and Rule). This caused each ethnic or religious group to see each other as the enemy and not the manipulative colonial overlords.

Independence in 1962 was an improvement of that colonial regime but many of the vestiges of the past burdens persisted in the reliance on the Westminster model, the salience of race and religion as agencies of mobilisation and the continuing search for political solutions which lay outside of our own experience, resulting in the addition of structures from the American model. Since 1962, our people have sensed these inadequacies in their governance but we did not possess the intellectual competence to analyse the issues properly and to make recommendations for effective change.

During the last three decades, however, that inadequacy has been increasingly addressed and we have now reached the point at which detailed information and analysis can be provided by our own national leaders of thought. With that in mind, the Presiding Officers of the 10th Republican Parliament undertook the responsibility of bringing together some of our leading thinkers to deliberate on these issues of governance. Between September and December 2011, eight lecture discussions were conducted at eight venues: Tobago, Arima, St Augustine, Chaguanas, San Fernando, Port of Spain and Point Fortin. His Excellency, Professor George Maxwell Richards concluded with the final presentation at the National Academy for the Performing Arts, Port of Spain. The following were the lecturers and the topics:

SCHEDULE OF LECTURES FOR THE 50th ANNIVERSARY OF THE BICAMERAL SYSTEM IN TRINIDAD AND TOBAGO

1. **‘Tobago and constitutional development in the context of the parliamentary process’**, by Reginald Dumas
2. **‘From Legislative Council to House of Representatives: Promoting or hindering democracy’**, by Dr Kirk Meighoo
3. **‘The effectiveness of Parliament as an organ of State in scrutinising executive action’**, by Professor Rhoda Reddock
4. **‘From unicameralism to bicameralism: Trinbago’s constitutional advances (1831-1962)’**, by Professor Brinsley Samaroo
5. **‘The Relevance of the Senate in a modern democracy’**, by Dr Hamid A. Ghany
6. **‘The role of political parties in the development of democracy in the Republic of Trinidad and Tobago’**, by Professor Selwyn Ryan
7. **‘A Parliament for the people: Constitution reform and the role of Parliament’**, by Dr Olabisi Kuboni
8. **‘The role of the Head of State in the bicameral system of governance’**, by H.E. Professor George Maxwell Richards TC, CMT, PhD



INTRODUCTION

This volume is a collection of the lectures delivered by the panel. We are indeed indebted to the lecturers for their participation in this series and our very special gratitude is extended to His Excellency the President of the Republic of Trinidad and Tobago for His Excellency's generous support.

Each presenter brought to the table years of research, political activism and mature reflection. There is no uniformity of views among the lectures and no effort has been made to harmonise the ideas put forward for change. The volume will hopefully, form the basis of our on-going discourse on constitutional reform. In this way, more and more of our population can be involved towards the devising of a constitution in which inclusivity of all our peoples will be a cardinal principle. This volume will not be the end of this Parliament's efforts at providing essential information and analysis for this and future generations. The next volume will focus on parliamentary milestones such as the laws passed since 1962, the significant role played by women in the parliamentary process, highlights of the struggle for local government reform and the effectiveness of our bicameral system as a genuine forum for the expression of the people's will. As we plot our course for the next fifty years, these issues will become increasingly important.

Senator The Hon. Timothy Hamel-Smith
President of the Senate

Hon. Wade Mark, MP
Speaker of the House



EVOLUTION OF A NATION: TRINIDAD AND TOBAGO AT FIFTY





ABOUT THE AUTHORS

in order of presentations

Reginald Dumas spent nearly all of his professional career in the Public Service of Trinidad and Tobago, where he reached the positions first of Ambassador and subsequently of Permanent Secretary to the Prime Minister and Head of the Public Service. In 1995, his authoritative, *In the service of the public* was published, and his efforts in Haiti as Special Adviser to the United Nations Secretary-General are recorded in his 1998 book, *An encounter with Haiti: notes of a Special Adviser*. Mr Dumas, who holds degrees from Cambridge University and an Honorary Doctorate from The University of the West Indies, is a regular commentator on national, regional and international affairs.

Dr Kirk Meighoo has been a university lecturer, political analyst, active politician, researcher and writer on West Indian government for well over a decade. In 2003, his *Politics in a Half-made Society: Trinidad and Tobago 1925-2001* was published. In 2008, he co-authored *Democracy and Constitutional Reform in Trinidad and Tobago* with Justice Peter Jamadar. He has served on various State committees and has acted as Temporary Independent Senator.

Professor Rhoda Reddock is Professor of Gender, Social Change and Development and Deputy Campus Principal at The University of the West Indies, St Augustine campus. She has received numerous awards and researched and published widely in the areas of Caribbean sociology, gender studies, development studies and labour history. Her publications include *Women, Labour and Politics in Trinidad and Tobago: A History*, Zed Books (1994) which was named a CHOICE Outstanding Academic Book for 1995, *Plantation Women: International Experiences*, Berg (1998) co-edited with Shobhita Jain, *Caribbean Sociology: Introductory Readings* with Christine Barrow (2000), the edited collection *Interrogating Caribbean Masculinities*, The UWI Press (2004), and the co-edited volume *Sex, Power and Taboo*, Ian Randle Publishers (2009).

Professor Brinsley Samaroo is a Senior Research Fellow at the University of Trinidad and Tobago. He is a former lecturer in History at the St Augustine Campus of the University of the West Indies and served as Leader of the Opposition in the Senate from 1982 to 1986 and as Minister of Government from 1987 to 1991.

Dr Hamid A. Ghany has been teaching at the UWI St Augustine Campus since 1992 and is currently Senior Lecturer in Government, Department of Behavioural Sciences. He has served as Department Head (1999-2003) and as Dean of the Faculty of Social Sciences (2003-2012). He has worked on major public service initiatives such as the Hyatali Constitution Commission (1988-90), the Tobago House of Assembly Technical Team for constitutional discussions with the Central Government (1992-1995), the Cabinet-approved Task Force on Ethics in the Public Service (1999), the Mediation Board (2005-2008), and the Equal Opportunity Commission (2008-2011). He has chaired public consultations on constitutional reform at the request of former Prime Minister Patrick Manning (2009-2010) and public consultations on internal self-government for Tobago at the request of Prime Minister Kamla Persad-Bissessar (2012). He continues to write, research and speak on constitutional and political matters.

Professor Selwyn Ryan is Professor Emeritus of the University of the West Indies. He has had a long career in academics, administration and publications on the Caribbean. He was a member of two Constitution Commissions (1971-1974 and 1978-1989). He was Chairman of the Public Utilities Commission and Deputy Chairman of the Caribbean Press Council. Among his many well-known publications are *Race and Nationalism in Trinidad and Tobago*, *Pathways to Power* and most recently, *Eric Williams; the Myth and the Man*. Professor Ryan continues to be a regular newspaper columnist and communicator on public affairs.

Dr Olabisi Kuboni is currently Head of the Graduate Programmes Department of the University of the West Indies Open Campus. For the past four decades she has been in the forefront of the movement for political change. Since 2003 she is a member of the Constitution Reform Forum (CRF), and continues to be involved in organising public forums aimed at heightening people's participation in the process of constitution reform. With the late Professor Dennis Pantin, David Abdullah and David de Merieux, she co-authored the 2007 CRF publication, *The People's Manifesto for Constitution Reform*.




ABOUT THE AUTHORS

Professor George Maxwell Richards is the President of the Republic of Trinidad and Tobago. Prior to his ascension to President, he served as Deputy Principal and Pro-Vice Chancellor from August 1980 to May 1985 of the University of the West Indies. Professor Richards became Acting Principal in October 1984 and held this post until May 1985, when he was appointed Principal and Pro Vice Chancellor. He held this position until November 1996.

Professor Richards has served on the board of a number of local companies, including the Trinidad Publishing Company, TRINTOC, and the National Gas Company, and has also served on the boards of several service organisations, including the National Training Board (Chairman), the National Advisory Council and the Institute of Marine Affairs (Chairman). He is also a member of several professional societies, including the Association of Professional Engineers of Trinidad and Tobago, the Institute of Chemical Engineers (London), the Institute of Petroleum (London) and the Royal Society of Chemistry (London).

He received the Chaconia Medal of the Order of the Trinity, Class 1 (Gold) for Public Service.





EVOLUTION OF A NATION: TRINIDAD AND TOBAGO AT FIFTY





TOBAGO AND CONSTITUTIONAL DEVELOPMENT IN THE CONTEXT OF THE PARLIAMENTARY PROCESS

Reginald Dumas

Conference Room, Mount Irvine Bay Hotel, Tobago

5th September 2011

I SHOULD LIKE TO BEGIN BY COMMENDING OUR PARLIAMENT and, in particular, the President of the Senate and the Speaker of the House of Representatives for the vision they have shown in arranging this series of lectures to commemorate the 50th anniversary of bicameralism in Trinidad and Tobago. Parliament is one of our democratically indispensable institutions and I very much hope that the series will assist in providing our population, especially our school population, with more informed and less emotive points of reference than is at present the case.

I am of course delighted that the series is being launched here in Tobago and I am honoured, and even more delighted, to have so caught the eye of the leaders of Parliament as to be asked to deliver the very first lecture.

At the outset, I must acknowledge my debt, for much of what I shall be saying this evening, to those who have already written extensively on Tobago. I should like to make particular mention of the late Douglas Archibald and Dr Eric Williams, of Dr Rita Pemberton and Professor Bridget Brereton and, above all, of Dr Susan Craig-James whose monumental two-volume history of Tobago, *The changing society of Tobago, 1838-1938: a fractured whole*, is for me the most valuable study of this island that has ever been written and, I suspect, will ever be written. I take this opportunity to congratulate her most warmly on the well-deserved national award she received a few days ago.

There is irony in the phrase “the 50th anniversary of bicameralism”. There is irony because the first bicameral legislature in this part of the world met on the 11th of July 1768 – in other words, not 50 but nearly 250 years ago. Where did it meet? In Tobago which had become a British possession five years earlier. Where in Tobago? In a place called George Town, which we now know as Studley Park. As with our Parliament today, the Tobago legislature had an appointed upper chamber, or council, and an elected lower chamber, or assembly.

Bear in mind that this was *70 years* before the final manumission of slaves in 1838 and therefore all the members of the legislature were white property owners.

Bear in mind also that in 1768 Trinidad was still a colony of Spain, becoming British in 1797 and obtaining a Council of Government, later termed Legislative Council, only in 1832. That is why I used the phrase “the first bicameral legislature in this part of the world”. The leaders of our Parliament are technically correct in speaking about the 50th anniversary of bicameralism in *Trinidad and Tobago*, for in 1768 it was *Tobago alone* that had the system – indeed, there was no Trinidad and Tobago in 1768. I can only hope that the Parliament, and especially the Tobago House of Assembly, will soon grant this historical reality the recognition it deserves.

Tobago was to change hands several times between France and Britain in the 18th and early 19th centuries before becoming firmly British in 1803. It was also to undergo several constitutional changes in the 19th century, tending in the general direction of a diminution of power.

In 1874, its bicameral legislature was abolished. Two years later, in 1876, it was, *at its own request*, reduced to Crown colony status, the same level as Trinidad. The economy was in free fall and the whites were fearful of the blacks. For its part, the British government, already tired of complaints from the planters and merchants, and at times calling Tobago “this miserable little island”, was anxious to extend its centralised imperial control in what would soon become a new wave of European colonialism, particularly in Africa, following the Berlin Conference of 1884/5.

In 1887 the British Parliament passed the Trinidad and Tobago Act giving the Queen the power to unite Tobago and Trinidad into one colony. There followed a series of Orders-in-Council, in 1888, 1889 and 1898, which abolished what was left of Tobago’s now toothless Legislative Council and advisory Executive Committee.

More important, the 1898 Order-in-Council declared Tobago a ward; an administrative district of the new colony of Trinidad and Tobago. Eric Williams would write in 1962 that “Tobago’s humiliation was complete.”

That was the constitutional position of Tobago on the eve of the 20th century: no more legislature of its own, no more money of its own, and, as many saw it, no more hope. It was now a ward, an administrative district, of Trinidad and Tobago. But its humiliation was not complete, for the term “ward” was not infrequently to be used in the sense of “dependent”, and Tobago was widely seen in Trinidad as a new parasite on that island’s body politic and financial might.

The Legislative Council of Trinidad was now transformed into the Legislative Council of Trinidad and Tobago, and the Secretary of State

for the Colonies directed that Tobago should always be represented therein by an unofficial member, beginning in 1889.

That was easier said than done. Largely because of poor sea communication, successive Tobago nominees hardly ever attended meetings of the Council. When the first colony-wide election (under limited franchise) was held in 1925, following the recommendations of the Wood Commission, Tobago had had practically no voice in the Legislative Council of Trinidad and Tobago for the previous 36 years.

Constitutional development? Of Tobago? What constitutional development?

The first elected representative of Tobago was James Biggart, who is now a largely forgotten figure. That is a great pity. In the seven years he spent in the Legislative Council until his death in 1932, Biggart, Susan Craig-James tells us, "tirelessly made representations for Tobago's needs.

He pleaded extensively for roads, bridges, improved jetties and ports, post offices, a Scarborough fire service, better schools, improved health services, and better telephone and sea communications. Nearly all his recommendations were ignored.

But it was he who won the agreement of the Anglican Church to establish Bishop's High School here in Tobago. And it was he and others who, in an early and unsuccessful attempt at devolution of political power, proposed that Scarborough and its suburbs be converted into a Borough, with a Council to manage the Borough's affairs.

I should like to take this opportunity to appeal to the leaders of Parliament, and especially of the THA, to honour appropriately the significance of his efforts on behalf of Tobago.

Biggart was followed in the Legislative Council by Isaac Hope, and Hope by George de Nobriga, who owned the Lowlands and Cove estates and who was regarded as uncaring of his labourers' welfare and as contemptuous of blacks. He once wrote: "The black man respects authority but it must be backed up with strength with a fair measure of benevolence."

This black man will refrain from comment at this time.

The first election in Trinidad and Tobago under universal adult suffrage was held in 1946, and de Nobriga was routed for the Tobago seat by the legendary A.P.T. James, who won again in 1950 and 1956, but was defeated in 1961 by A.N.R. Robinson, as he then was. James died the following year, 1962.

In and out of the Legislative Council, James fought hard, but ultimately without reward, for a return to Tobago internal self-government. He

advocated representation for Tobago as a special unit within the West Indies Federal Parliament. He failed, but he did succeed in getting the number of Tobago representatives in the Legislative Council increased from one to two in 1961.

Legislative Council or Parliament, the number, fifty years later, is still two. He also urged representation of Tobago's interests in the Executive Council, the advisory body to the Governor; here too he failed.

Constitutional development? Of Tobago? What constitutional development?

James also proposed the construction of the Northside Road from Castara to Charlotteville, and fought, like Biggart before him, for improved health and education services in the island. He insisted on the need for a deepwater harbour in Scarborough. And Craig-James tells us that it was he, in his "James Memorandum" to the Secretary of State for the Colonies in 1948, who "proposed dairy industries, manufacturing industries for cocoa, improved methods for fishing, fish-processing factories, and the electrification of the island."

At every turn, James was frustrated by the British and Trinidad and Tobago governments, each passing the buck to the other.

Constitutional development? Of Tobago? What constitutional development?

All that seemed to take a turn for the better when Eric Williams came to office in 1956. Several months after the election of the PNM, Williams would charge in the Legislative Council that "Tobago had exchanged the neglect of United Kingdom imperialism for the neglect of Trinidad imperialism." Alas, he was soon to forget those sentiments.

I have asked that James Biggart be suitably honoured. I ask the same for A.P.T. James. Yes, there is a small park in Scarborough named after him, and his bust sits there. But James deserves much more than that.¹

In April 1971, the Democratic Action Congress, formed by Robinson after his departure from the PNM, called for internal self-government for Tobago. In January 1977, Robinson, now the representative for Tobago East, presented a motion to Parliament which read:

"Be it resolved:

That this Honourable House is of the opinion that all proper and necessary steps should be taken to accord to the people of Tobago internal self-government in 1977."

In his speech to the House of Representatives, at which I had the good fortune to be present, Robinson quoted Williams as telling the Legislative Council in 1957 that Trinidad had betrayed its trust towards Tobago following the Act of Union.

Robinson argued that the case for Tobago's internal self-government rested on several grounds

- the failure of the colonial solution attempted by the Act of Union
- the failure of post-1956 attempted solutions – the Ministry of Tobago Affairs was “a makeshift arrangement ... dependent on the vagaries of party politics.”
- the abolition of the Ministry of Tobago Affairs had left “a vacuum of government.” In addition, Tobago was not represented either at the executive level of government or in the Senate.
- the government had reverted to the 1898 colonial solution, “when the whole of the West Indies (was) moving forward to democratic self-government.” This trend had to be reversed: Tobago could not have “less democracy as in 1898; (it had to) have more democracy in 1977.”

Robinson was strongly supported by the other Tobago representative in the House, Dr Winston Murray, who made it clear that he and Robinson were not advocating secession. On the contrary, he said on 28th January 1977, “We repudiate (it). We are keeping within the context of the nation-state of Trinidad and Tobago.” What they wanted was internal self-government. With amendments, Robinson's motion was adopted on 4th February 1977.

The next important step in this matter comes with the publication in 1979 of a draft Bill prepared by the late Lionel Seemungal for an Act “to make provision for, and in connection with, the Internal Self-Government of Tobago, and all matters incidental thereto.”

Inter alia, the Bill proposed the establishment of a Tobago Island Council, which would have the power to formulate and implement policy in Tobago on economic planning, programming and development of Tobago resources; the provision of adequate infrastructure; and “finance in general, and in particular the raising and receipts of monies ...”

The Council would also have the power to make laws and collect taxes within Tobago, and to borrow within Trinidad and Tobago.

Every single one of these proposed powers was rejected by the Cabinet (though it did say that borrowing could be done, but only with the prior

approval of the Minister of Finance). The reason given in each case was the same: Seemungal's proposal "derogate (d) from the concept of a unitary state." *No such concept exists in the Constitution of Trinidad and Tobago, ladies and gentlemen; no such concept.* The fundamental reason for the Cabinet position was the desire of the government, that is to say, Eric Williams, for centralised control of the country.

Thus, Robinson's 1977 motion was met in the ensuing debate by the alarmist and baseless remark from the then Attorney General, the late Selwyn Richardson, that in seeking internal self-government for Tobago Robinson was "asking (the) House to preside over the liquidation, or rather the fragmentation and disintegration, of the Republic of Trinidad and Tobago."

I have been reliably told there was a secondary reason for the government's position: that Robinson, having deserted the PNM and, with Murray, defeated it in Tobago, had to be put in his place. If all this was not the "Trinidad imperialism" that the same Williams had excoriated more than two decades earlier, I don't know what is.

It was therefore not in any way surprising that Seemungal's proposals were thrown aside and that the THA Act eventually passed by the Parliament – Act No. 37 of 1980 – states at Section 21 (1) that "The Assembly shall formulate and implement policy on all matters *referred to it by the Minister* (my emphasis) and ... the Assembly shall be responsible for implementing in Tobago *Government policy* (my emphasis) relating to" – and there follows a list of subjects, including economic planning, programming and development of Tobago resources; the provision of adequate infrastructure; and finance, in particular the raising and collection of revenue.

These were precisely the matters, among others, that Seemungal had proposed should fall within the purview of his *Tobago Island Council*, not the central government. This was certainly *not* the internal self-government envisaged more than three years earlier by A.N.R. Robinson and Winston Murray. Rather, it was a cynical, colonial distortion of their request by the Williams administration.

Constitutional development? Of Tobago? What constitutional development?

In early 1992, the new Prime Minister of Trinidad and Tobago, Patrick Manning, addressed the THA and offered what he called "constitutional guarantees in respect of the relationship between Trinidad and Tobago." Later that year the central government and the THA each appointed a technical team that would *inter alia* "review the constitutional situation

of Tobago within the unitary state of Trinidad and Tobago.” I was a member of the THA team.

In September 1994, Manning delivered to the THA a draft THA Bill prepared by the central government. The THA team considered the document and rejected it.

In our report to the late THA Chairman, Lennox Denoon, we said that the central government Bill marked “a considerable retrogression from the existing 1980 THA Act (and that) its effect would be to reduce Tobago to the condition of vassalage *vis-à-vis* the Central Government – any Central Government – of Trinidad and Tobago, and to entrench such vassalage in the country’s Constitution. The wardship that Tobago suffered for several decades ... would, in retrospect, seem like a period of constitutional enlightenment.”

I’ll give you just one example of what we found objectionable in the government draft.

The draft proposed that the Assembly’s functions were to be carried out “within the framework of (Central) Government policy.” This, the team countered, was “the very opposite of internal self-government or autonomy.” But that wasn’t all. The document went on to say that “(i)f any question arises as to whether the exercise of any function is within the framework of Government policy, a written statement issued by the Prime Minister shall be conclusive.”

The team would have none of it. We said the proposal was “colonial in nature” and purported to “confer on a Prime Minister a discretion and a power of interpretation that ... rightfully belong to Parliament, perhaps even the judiciary.” The warning indications of maximum leadership were already plain for all to see.

And it was constitutional *underdevelopment* with a vengeance. The fact is that, where devolution to Tobago was concerned, the Seemungal draft of 1979 was progressive and enlightened in ways where the Manning draft of 1994, 15 years later, strayed into the pernicious. The THA team therefore drafted its own Bill and submitted it to Denoon that same month, September 1994. With some minor changes, Denoon sent it to Manning in March 1995. You will not be surprised to hear that when the government’s counter-draft came in September 1995 the phrase “within the policy framework of the Government of Trinidad and Tobago” had been added to all the responsibilities proposed by us for the THA in an internally self-governing Tobago. The central government mindset of September 1995 was therefore exactly the same as it had been in September 1980: Tobago was to remain a colony of Trinidad.

Constitutional development? Of Tobago? What constitutional development?

As we were to find out, this attitude towards Tobago wasn't only a PNM government position. In the light of confident assertions by successive THA Executive Councils about THA powers said to exist under the Fifth Schedule of the 1996 THA Act, it is relevant to quote what the then UNC-NAR Attorney-General, Ramesh Maharaj, told the Senate on the 28th November 1996 during the debate on the Bill that led to the Act.

He said: "In respect of all the matters in the Fifth Schedule, the Tobago House of Assembly, yes, can formulate, articulate and debate – which they are entitled to do, and it is a very good thing for them to be able to do – *but the Cabinet of Trinidad and Tobago which is responsible for national policy overrides and has the power to supervise the Tobago House of Assembly affairs...What is wrong with that?*"

Maharaj took the same position on the question of state land in Tobago, which the THA Bill proposed should be vested in the Assembly "in right of the Republic of Trinidad and Tobago." What did "in right of" mean, he was asked. He replied: "The aim of this provision is to ensure that the Tobago House of Assembly can deal with land in Tobago, subject to the powers of Cabinet and existing laws." Could the THA sell any piece of state land? "The answer," he said, "is no, (unless it has been) approved by Cabinet." I can only hope that the THA has not been selling or leasing or giving out state land in Tobago without the prior approval of the Cabinet. If it has, there could be lawsuits in the offing. And these days you don't know who has court clothes.

Where, after all this, were the "constitutional guarantees" promised by Manning in January 1992? Yes, Parliament certainly amended the Constitution in 1996 with the insertion of a chapter on Tobago (Chapter 11A), but that chapter merely speaks about the existence of a Tobago House of Assembly. It is not entrenched in the Constitution and can be removed by a simple majority.

In any case, entrenchment of what? The fact that there is a THA? Of what use is that?

Constitutional development? Of Tobago? What constitutional development?

There are those in Tobago, mostly politicians and their acolytes, who appear to have persuaded themselves that the 1996 THA Act conferred autonomy on Tobago. Nothing could be further from the truth. What the Act did do was conjure up an illusion of autonomy. But, by definition, illusions have no substance.

At one stage I thought the THA had finally realised that self-evident fact, when in April 2005 it adopted a resolution, greatly modified from the original motion presented by Hochoy Charles, which called on the government “to pursue, *as a matter of urgency* (my emphasis), legislative and/or constitution reform to accord to the people of Tobago democratic internal self-government *inter alia*.”

I wondered at the time if there was such a thing as *undemocratic* internal self-government, but it has since been put to me that we *do* run that risk in small societies like this one.

I also wondered why the THA, without taking any initial steps itself to speak to the people of Tobago, would simply hand the issue to a government which had shown no discernible interest in the matter. In any case, why should a central government, any central government, be more interested than Tobago in pursuing self-government for Tobago? But I was prepared to give the Assembly the benefit of the doubt.

However, it is nearly *six and a half years* now since that resolution was passed, and internal self-government is yet to reach these shores. I can therefore only assume that the local interpretation of the word “urgency” is not in any way congruent with the generally accepted understanding of the word.

Within the last five years we have had the Ellis Clarke and Manning draft constitutions, devised in Port of Spain and including language on Tobago too inadequate for me to trouble you with this evening. We have also had three separate Tobago teams, one of them established by the THA, which have consulted the people of Tobago on their views and wishes regarding Tobago’s place in Trinidad and Tobago – or not, as the case may be. The teams have found that, overwhelmingly, Tobagonians wish to remain within Trinidad and Tobago. However, they are highly dissatisfied with the present system and strongly want devolution and internal self-government.

Devolution, as defined by *Wikipedia*, is “the statutory granting of powers from the central government of a sovereign state to a government at a sub-national level, such as a regional, local or state level.” Bodies like municipal corporations and the THA would be at that sub-national level.

“Devolution” differs from “decentralisation”, which in our political system has meant the execution of *central government policies* by bodies at that same sub-national level – in other words, the philosophy of Williams in 1980 and of Manning in 1994/5 and after.

In a Parliamentary debate on the 7th July 2008, Prime Minister-to-be Mrs Kamla Persad-Bissessar stated her party’s preference very clearly.

She said: “*I cannot see Tobago agreeing with the decentralisation process (and) agreeing to go backwards ... We subscribe to the devolution model ...*” (My emphasis.) Excellent. So do I. And if James Biggart and A.P.T. James were still alive, so would they.

When, therefore, the People’s Partnership, headed by the same Kamla Persad-Bissessar, said in its manifesto for the general election of May last year that it would, if elected, pursue “the principle of autonomy” for Tobago and, among other things, seek to achieve constitutional and other amendments, *including legislative authority for the THA*, I naturally sat up.

And once the PP had won the election, I started to lobby for change, especially on learning that the manifesto had been adopted as government policy. After what I’ve indicated to you this evening, you would expect me to start lobbying. I consider it my public duty to actively encourage the government along the constitutional path it has announced for Tobago, especially since that path is the very one the people of Tobago had previously and unmistakably stated they wished to follow.

I’m not going to bore you with the details of the action I and others have been taking for the last year, but I will say that the action is designed to **restore** – not introduce, **restore** – internal self-government, or autonomy, to Tobago.

My colleagues and I see internal self-government as having four main elements: executive authority, legislative authority, sustainable financing, and a clear definition, based on existing law, of what constitutes Tobago, that is, the main island, the offshore islands, and the waters around them. To a large extent, we are following the Seemungal model of 32 years ago.

Such reform must be entrenched in the Constitution and, in our view, must logically precede, and govern the formulation and content of, any new or amended THA Act. It does not have to await overall constitutional reform. It must however contain safeguards against the temptation on the part of any administration or interest group to go off on a frolic of its own. What we do *not* want in Tobago is *undemocratic* internal self-government.

There are fears and suspicions, not only in Trinidad, that calls for devolution and internal self-government for Tobago are nothing but a thin cover for eventual secession and independence.

These fears and suspicions are reminiscent of the apprehension expressed by the late Selwyn Richardson more than 30 years ago. They are totally groundless: the near-totality of the people of Tobago want to remain in a country called Trinidad and Tobago. But they want real

executive and legislative authority. Of course there are secessionists, but they are a tiny minority. They tend to see life in terms of hostility to Trinidad and they feel that with energy finds off the Tobago coasts the island can go it alone.

However, even if Tobago had the resources, especially the human resource, for independence – and I speak from long experience when I say it regrettably does *not* – even if that were so, there is no guarantee at all that an independent Tobago, with a population of only about 60,000 (if so many), would be admitted to the United Nations, which has become tired of mini- and micro-states. And Tobago would definitely fall in that category.

In his time as a Senator, Speaker Wade Mark became a vigorous parliamentary champion of internal self-government for Tobago. We must all be grateful to him for that. But even he, I think, will admit that Parliament *as a whole* – whether the body we know as such today or the pre-internal self-government body of Legislative and Executive Councils – has done virtually nothing over the last 120 years and more to promote the constitutional development of Tobago.

This island has stumbled from the transportation difficulties of the first Tobago members of the Legislative Council of Trinidad and Tobago, to the dismissiveness with which recommendations from James Biggart and A.P.T. James and A.N.R. Robinson were treated, through the obsessive centralisation of Eric Williams and his political progeny, through the colonialist condescension of Ramesh Maharaj, to the vacuity of the Tobago sections of the Clarke draft of 2006 and the Manning draft of 2009, which were both silent on the powers of the THA. In all this long and weary time, there has been little but constitutional underdevelopment, or, at best, stasis.

Administrations lay proposals before Parliament, and successive administrations have clearly been unwilling to propose the restoration of Tobago's internal self-government. Parliament has had to follow suit. As I have indicated, the current government has, as a matter of policy, pledged to reverse that approach. I am advised that this is the first time that any of our governments has given so explicit a public undertaking on this issue, and I offer my deep appreciation.

But we shall see if the pledge bears fruit, or if it turns out to be as barren as those which Tobago has for so long endured. Note, for instance, that none of the so-called (and unspecified) “constitutional guarantees” promised by Manning nearly *twenty years* ago has come to pass, not a single one.

Vigilance is therefore crucial. A draft Green Paper on the matter has been prepared by the Law Reform Commission. It has attracted attention in Tobago, and I expect will shortly be put out for public comment in Tobago *and in Trinidad*. That is a positive step, but the journey is far from over.

I continue to be the optimist. I continue to hope that one day soon, if someone asks me: “Constitutional development? Of Tobago? What constitutional development? In the context of what parliamentary process?” I can reply: “The process presided over by Timothy Hamel-Smith and Wade Mark that in 2011 or early 2012 removed the obstacles to Tobago’s constitutional development and restored its internal self-government.”

I do not think that that is too much to ask.

-
1. Since this lecture, James Biggart, Alfonso Philbert James and Arthur Napoleon Raymond Robinson were awarded The Tobago Medal of Honour, the island’s highest accolade.



FROM LEGISLATIVE COUNCIL TO HOUSE OF REPRESENTATIVES: PROMOTING OR HINDERING DEMOCRACY?

Dr Kirk Meighoo
Arima Town Hall, Arima
28th September 2011

Introduction

The introduction of a bicameral (two-chamber) Parliament to Trinidad and Tobago's system of government in 1961 was a major change to the existing unicameral (single-chamber) Legislative Council. Because this occurred the year before Trinidad and Tobago became independent, people automatically assume that this represents the beginning of our democratic evolution.

However, this is not the case. Trinidad and Tobago had a long history of democratic evolution, sometimes progressing closer toward and sometimes moving further away from the democratic ideal.

Indeed, rather than beginning Trinidad and Tobago's democratic evolution, the establishment of the bicameral Parliament actually ended a long, sustained period of Constitution Reform, occurring seven times over thirty-six years:

- 1925
- 1941
- 1945
- 1950
- 1955
- 1959
- 1961

In comparison, since Independence 39 years ago, there has only been one instance of Constitutional Reform (1976), which amounted to very little substantial change and, as we argue, took us perhaps further away from the democratic ideal.

Indeed, the establishment of the bicameral Parliament in 1961 was a curiously backward-looking revival of the system which democratic reforms during the transition to self-government in the colonial period were in the process of completely erasing, i.e. the wholly nominated Legislative Council of the Crown Colony period.

Why this occurred is not the subject of this paper, though it is explored elsewhere by Supreme Court Justice Peter Jamadar and the present author in our book, *Democracy and Constitution Reform in Trinidad and Tobago*.

Unfortunately, this backward step has not been recognised earlier, largely because of our lack of reflection on our own past – despite the existence of a University Campus with a Department of Government in existence for over four decades.

If we took our own past more seriously, we would be much farther along a path of democratic progress in our system of politics and government, instead of repeating the same old mistakes over and over again, as it appears we continue to do.

This paper will trace the beginning of our Legislative Council in our own West Indian System of Government and Politics, its democratic transformations from 1925 to 1955, and then its replacement by a bicameral Parliament in 1961. We will then explore what this change meant in terms of Trinidad and Tobago's democratic evolution.

Not Westminster, but our own West Indian tradition

Firstly, to place Trinidad and Tobago's democratic evolution in context, we must recognise that Government and Politics in the West Indies has its own tradition and history, related to developments in Great Britain, but quite distinct, with its own dynamics and institutions (explored in depth in a joint work by the late Lloyd Best and the author).

Westminster has its own tradition and history largely based on the notion of a "free Englishman", quite different from our own former slave societies, from *Magna Carta* in the 12th century, to the English Revolutions, to the reform acts of the 19th century.

Despite the significant constitutional changes recently introduced in the UK, it remains that in Westminster, there is no written constitution. Parliament is truly supreme. A simple majority decides everything. This is not the case in the West Indies.

Indeed, until a recent reform in 2009, the highest Court in the UK was a committee of the House of Lords, meaning that there is no "separation of powers" between the legislature and the judiciary in Westminster. Indeed, from at least 1066 until 2005, the Lord Chancellor was a member of Cabinet (the Executive), Speaker of the House of Lords (the Legislature), and Head of the Judiciary, fusing the arms of Government in his person, not separating them.

Politically central to the Westminster system, too, is the large number of backbenchers. Parliament has 650 members, and under current UK law no more than 90 MPs can be Ministers. That leaves a minimum 236 Government backbenchers, apart from the Opposition members.

Backbenchers from the governing party (or coalition) play an important informal role in keeping the Government in check. Government backbenchers are the ones who make any motion of no confidence in the Government succeed, such as occurred with the toppling of Margaret Thatcher, for example.

In contrast, in the current Parliament of Trinidad and Tobago of 41 members, each MP from the ruling party is either a Minister or Deputy Speaker. There are no Government backbenchers. This situation has worsened instead of improved under the current administration.

Again in contrast, at Westminster the Prime Minister faces direct questions every Wednesday for a half an hour, robustly answering undisclosed and sometimes impromptu questions from MPs, including his own party's backbenchers. This is a qualitatively different level of parliamentary accountability from anything existing in our system.

In further differentiation, the Upper House at Westminster is made up of a majority of persons with lifetime appointments – some even hereditary – and has historically had no upper limit, the current number being 786. These Lords up to 2009 included senior Judges and as of today still includes Senior Bishops of the Church of England. Indeed, since the British Monarch is also head of the Church of England, the House of Lords also has a Church of England role in that through the Lords Spiritual Church Measures must be tabled within the House. So there is no formal separation of Church and State either in the United Kingdom.

This is quite different from West Indian Senates, which are essentially temporary appointments without security of tenure, and wholly subordinate to the Prime Minister and Leader of Opposition, although in some Parliaments (like Trinidad and Tobago) some Senators are appointed by the President or Governor-General.

The Westminster system also depends on an informal but crucial historical political culture of responsibility and honour which, for example, sees members resign for mere allegations of impropriety. As is often lamented, no such culture exists in the West Indian system.

These examples should clearly illustrate how different West Indian Governments are from Westminster.

The West Indian System of Government and Politics is 400 years, not 40 years, old. Even though most West Indians are unaware of this

long history and heritage that we have inherited, we have faithfully operated the system according to core principles, largely unconsciously or subconsciously. We have our own tradition, a West Indian branch of English government, tied to the history of slavery and colonialism. ¹

Crown Colony System

Before 1925 Trinidad and Tobago was governed by the pure Crown Colony system, not an old democracy (like Great Britain). The Crown Colony system was first introduced in Trinidad (not Tobago, which was not part of Trinidad in any way before 1889).

Elsewhere in the British Empire (including Tobago) existed the Old Representative System – a democracy for free persons – in which the planters were well represented and the British Governor was often a mere figurehead, like the Monarch in Great Britain today, or our President.

The Crown Colony system was introduced during the ending of the slavery period, allowing the Government to proceed unhindered by Parliamentary opposition, unlike in the other colonies where the free planters had real governmental power. This system was necessary, the British argued, for the introduction of slave reforms and the abolition of slavery.

The Governor was now the lynchpin of the new system, in whom all authority rested. The main institutions were the Legislative Council (which became our Parliament in 1961) and the Executive Council (which was made into the Cabinet in 1959)

The Legislative Council was a single chamber in which there were ten *ex officio* members (they were there because it was their job requirement). These were the Heads of Department, who today would be considered like Permanent Secretaries because they were civil servants, but also as Ministers of Government, because it was the civil servants who ran the various departments of Government in the Crown Colony system. These Heads of Department were obliged to vote with the Government. It was sometimes humiliating for a conscientious British civil servant to vote against his conscience when he disagreed with the Government for any professional reason.

There were also eleven nominated members or “Unofficials”. These were usually respectable citizens resident in the colony. They could vote and express themselves freely. They were often conservative and quite divided. The Governor, however, had a double vote to guarantee a Government majority. This was the crux of the system. In addition, to

the Governor's numerical guarantee of support, the Governor was also President of the Council (which today we would call Speaker). This made his dominance of the LegCo even greater.

The numbers sometimes fluctuated, but the principle remained the same: The Governor and Official Members would have a guaranteed majority. In 1889, the Legislative Council was composed as follows:

**LegCo under the
Pure Crown Colony System**

1863-1925

**GOVERNOR (2)
President**

OFFICIAL MEMBERS (6)	UNOFFICIAL MEMBERS (6)
Colonial Secretary	Fred Warner
Attorney-General	Dr. LAA de Verteuil
Solicitor	Dr. JV de Boissiere
Auditor	L. Guiseppi
Protector of Immigrants	T.A. Finlayson
Director of Public Works	G. Garcia

The Executive Council comprised the Governor (as President), the Attorney General, the Colonial Secretary, and the Colonial Treasurer (all civil servants). Later on, members of the Legislative Council were nominated by the Governor to sit on the Executive Council. This body was merely an advisory body to the Governor.

Crown Colony modified

Importantly, the first elected members were introduced in 1925, just five years after the indentureship period had officially ended.

The Legislative Council was modified to include seven elected unofficial members. They were elected by persons who had a certain amount of property, since in those days, it was largely felt by democracies around the world that people without property did not have a stake in the well-being of the society. Candidates, too, were required to live or own property in the area where they were contesting. The nominated Unofficials

were reduced to six members, making the total number of Unofficials stand at 13, with the elected Unofficials having a majority of one.

However, the Crown Colony principle remained, meaning that the Unofficials – let alone the elected Unofficials – were not allowed to affect the Governor’s majority in the Legislative Council. The *ex-officio* members were thereby increased to 12 members. The Governor’s double vote ensured the Government, or official, majority.

The essence of the Crown Colony system remained. It was Government or Governor supremacy, not popular representation.

Toward responsible legislature and self-government

After the labour riots of 1938, and World War II, an intense period of constitution reform followed, with reforms occurring in 1945, 1950, 1955, 1959, 1961, and 1962.

In 1945, universal adult suffrage was introduced, meaning that every adult could vote for their representatives. The elected Unofficials in the LegCo increased to 9 elected members. The nominated Unofficials remained at 6.

Significantly, the Official members were reduced to only 3 members. This meant that the policy of an Official majority had changed. The division was now between the elected and the unelected (nominated and *ex-officio*), where the unelected members – including the Governor – had a majority of one over the elected members. It must be remembered, however, that the elected members were by no means united as a block, and neither were the nominated Unofficials.

TRANSITION TO RESPONSIBLE LEGISLATURE AND SELF-GOVERNMENT 1941 - 1961

1941	1950	1956
Governor	1	Nominated Speaker (no vote)
President (Casting Vote)		Elected Speaker (Casting Vote)
Power of Certification (Veto)		Official Members: 2
Official Members: 3	Official Members: 3	Nominated Members: 5
Nominated Unofficials: 6	Nominated Unofficials: 5	Elected Members: 24
Elected Unofficials: 9	Elected Unofficials: 18	
	Election by Secret Ballot of 5 elected members to Executive Council	Election by Secret Ballot of Chief Minister and 7 Ministers to Executive Council
	Ministerial Responsibility, with Governor as Head	Ministers could be removed by LegCo members in secret ballot
	Ministers could be removed by LegCo members in secret ballot	

In 1950, another major reform toward representative government occurred. The old Crown Colony system of a guaranteed Government majority was abandoned. Elected members were increased to 18, the nominated Unofficials were reduced to 5 and the Officials remained at 3. The elected members were in a majority.

In addition, the Governor no longer sat in the Legislative Council at all. The Speaker was appointed from outside the Council, and had neither an original nor casting vote.

This was a major step down from his dominance in the Legislature, and represented a separation of powers between the Executive and Legislature that did not even exist in Westminster. Like an American President, the Governor could use his reserve powers to veto legislation, but in general the elected members held sway.

In the Executive Council (the precursor to Cabinet), the Governor was still president, but only had a casting vote. The body was made up of five elected members, one nominated Unofficial, and three Officials. Importantly, the elected members were elected to the Executive Council by the elected members in the LegCo, not appointed or chosen by any single person. This is important as it made the Legislature, and not the Governor or Head of Government, the authority to choose Ministers of Government. Not even Westminster had that type of Legislative authority.

The elected members had Ministerial responsibility, and one was chosen as the leader whom the Governor would consult on allocation (budgetary matters).

More importantly, the Executive Council could convene a meeting without the Governor's cooperation, if a majority agreed. This level of Ministerial independence no longer exists today in Trinidad and Tobago (and not in Westminster, either).

In addition, there was an extraordinary level of Executive accountability to the Legislature, as the Ministers could be removed by a two-thirds majority of the LegCo. This also does not exist in our current arrangements any longer, and not in Westminster. Our system had evolved beyond Westminster in important areas.

That was not the end of the democratic reforms. In 1955, the Governor's powers continued to decrease while the LegCo's powers increased. Elected members were increased to 24 in the LegCo. The Speaker would also be elected by the LegCo, from outside the Chamber. An elected Minister of Finance would replace the Official Financial Secretary (British civil servant), reducing the official members to two. Five nominated members remained.

The Governor was now taken out of the system altogether, not even heading Government anymore. The Executive Council was to be headed by a Chief Minister, chosen by the elected members of the LegCo. He would be joined by two official members (British civil servants), and seven elected members, elected by the LegCo (not selected by the Chief Minister). No nominated members were part of the Council. Four other elected members would be elected as Parliamentary Secretaries.

The Trinidad and Tobago Territorial Legislature was to be part of the Federation of the West Indies, established in 1958, which was intended to be the sovereign independent nation. Eric Williams and the PNM were elected under this constitution. They did not like it and wanted it changed, to concentrate power in the Chief Minister, as opposed to the LegCo. They believed that the democratic reforms went too far, giving too much power to the Legislature, arguing that the Chief Minister should have powers like a Prime Minister in the UK. They wanted Government to be formed on party lines and not on representative principles alone.

PNM vs. the Rest: Independence

After much opposition, in 1959, Cabinet government was introduced by the then PNM Government, where the Chief Minister became the Premier (the Prime Minister was Grantley Adams, for the whole West Indies). The Premier had the power of appointment and firing of Ministers, not the LegCo.

In 1960, the Representation of the People Act was introduced, which provided for a politically appointed Elections Commission and a Boundaries Commission, as well as the replacement of the ballot box by voting machines. The Opposition DLP were strongly opposed, but their 118 proposals were ignored.

In addition, in the run-up to the 1961 elections, because of violent campaign rhetoric and actual incidents of violence that occurred, a State of Emergency was called in the opposition areas of St Augustine, Barataria, Caroni East, and Chaguanas, with the police conducting armed house to house searches for arms and ammunition. Nothing was found, and the DLP claimed victimisation and intimidation.

In 1961, after the decisive PNM electoral victory, a bicameral legislature (upper and lower house) was introduced.

Quite surprisingly from a historical perspective, the new Senate resembled the old Crown Colony legislature: wholly nominated, with a guaranteed government majority. The reason for this reversion to the

pure Crown Colony system, after it had already been abandoned and outgrown in Trinidad and Tobago, was never recognised or explained.

There was a limit of two Senators being appointed as Ministers, however. The lower house was dominated by the majority party, with members rarely showing any independent representation of interests (like Government backbenchers in Westminster). Trinidad and Tobago was a self-governing territory in the Federation of the West Indies. That year, the local government elections (which the PNM had lost in 1959) were suspended, until 1968.

In 1962, Sir Ellis Clarke drafted the Independence constitution which provided for Trinidad and Tobago's territorial independence, apart from the Federation. It was for the most part similar to the 1961 Constitution, except that a Governor-General represented the Queen. He acted on the advice of the Prime Minister or the Queen, not independently.

The Queen's Hall Conference was meant to generate broad national consensus on the new Independence Constitution, but turned out to be a shambles with the DLP, the Association of County Councils of Trinidad and Tobago, and the African National Congress effectively stymied by the Chairman, Dr Williams (like the Governor presiding over the LegCo and Executive Council), and walked out.

The transition from universal adult suffrage to Independence was completed. Parliament became empowered to make sovereign law, MPs were protected, the Speaker was listed in an Order of Precedence, and a Leader of Opposition was recognised. The Prime Minister in effect became the new Governor, and the Parliament was subordinate to the Executive. The Legislature no longer had the power to appoint and remove Ministers. The elected members were subordinated once again. A Crown Colony-type guaranteed Government majority prevailed.

Parliament of Trinidad and Tobago
1961 - 2011

1961	1962	1976
House of Representatives: 30 elected MPs	House of Representatives: 30 elected MPs	House of Representatives: 36
Senate (Appointed): (21)	Senate (Appointed): (24)	Senate: 31
Premier: 12	Prime Minister: 13	Prime Minister: 16
Governor: 7	Governor: 7	President: 9
Leader of Opposition: 2	Leader of Opposition: 4	Opposition: 6
Premier appoints Cabinet	Prime Minister appoints Cabinet	No limit on number of Senators to be appointed to Cabinet
Maximum 2 Senators to be appointed as Ministers	Maximum 2 Senators to be appointed as Ministers	
Legislature cannot remove Ministers	Legislature cannot remove Ministers	

PNM vs. the Rest: the Republican Constitution

In 1969, the Government established a Joint Select Committee of Parliament to consider further Constitution reform with a view to becoming a Republic.

The unrest of 1969-71 prevented the Committee from meeting, and the No-Vote campaign of 1971 prevented a Joint Select Committee of Parliament from being formed. To work around the problem, Prime Minister Williams appointed a Constitution Commission, headed by Sir Hugh Wooding.

The Wooding Commission recommended radical reforms, laid in Parliament in 1974. Among the important changes was that the Commission recommended to abolish the nominated Senate and to enlarge the single elected house. By the time that the report was laid in Parliament, however, two PNM members had crossed the floor and formed an Opposition. The Parliament, led by Williams's furious opposition to Wooding's recommendations, rejected the Wooding Commission and appointed a Joint Select Committee of Parliament to draft a new Constitution instead.

The Republican Constitution was virtually the same as the Independence Constitution. The major difference was that any number of appointed Senators could become Ministers, or even act as Prime Minister. This actually reduced the already diminished role of the elected members, and increased the power of the Prime Minister, who could nominate whomever he or she wanted as a Minister by appointing them through the Senate.

The new office of the President was to add a measure of independence, however. The President appointed the members of the Elections and Boundaries Commission and the Service Commissions, to reduce political interference. The President could also appoint Senators on his own discretion, unlike the Governor-General. The voting machines were also removed and ballot boxes re-introduced.

In 1987, the new Prime Minister, A.N.R. Robinson, became embroiled in a controversy with the then President, Ellis Clarke over the question of appointments to the Service Commissions. The Government convened a Constitution Commission led by Sir Isaac Hyatali to look into the issue of Constitution reform.

The Report, which did not advocate major change, was laid in Parliament in July 1990, but was never debated allegedly because of the attempted coup.

No attempt at constitution reform has since been attempted. However from mid-1999 the country was forced to face a series of serious constitutional questions. These arose from the following controversies: the removal of Tobago Senators, the conflict between the Attorney General and the Chief Justice, the appointment of a Commission of Enquiry into the Administration of Justice, the eligibility of dual citizens in Parliament, the Prime Minister's power to appoint losing candidates as Senators and the President's attitude to Prime Ministerial advice, the President's discretion in appointing a Prime Minister, the oversight of the Elections and Boundaries Commission, the appointment of a Prime Minister when Parliamentary loyalties have changed, the appointment of a Speaker during a deadlock, the appointment of a Prime Minister during a deadlock, Government authority without Parliamentary scrutiny, and so on.

These problems have raised fundamental questions that need to be answered, and are still raised today.

I submit that the fundamental question throughout our history has been the unequal balance between the power of representatives and the power of the Executive, particularly with regard to the expenditures of public funds, but also with the making of laws and policy.

Promoting or hindering democracy?

Unfortunately, the historical record appears to show that the establishment of a bicameral system represented a backward step in our democratic evolution, as the nominated system with a guaranteed Government majority was introduced through the Senate, and the Legislature lost its powers over the Executive.

This last point is particularly important, because the power and independence of the Legislature is in fact the most important indicator of the existence of democracy. Even if a Government is elected, if there is no accountability to the people's representatives, then this does not live up to the original idea of democracy. (In fact, Greek democracy did not have elections, because they believed elections favoured the rich, powerful, and famous, and did not provide for authentic popular self-government. People were chosen to office by drawing lots – giving everyone an equal chance.)

Democracy is the self-government of a community of free and responsible men and women, in a relationship of peers. The Legislature is key in this, as it is the place where the people's

representatives speak and deliberate. When the power of the Legislature is reduced, then so is democracy.

Unfortunately, Trinidad and Tobago's democracy has been found wanting by many international observers. The *Economist Intelligence Unit's* Democracy Index 2010 ranks Trinidad and Tobago 45 out of 167 countries, as part of the group of "Flawed Democracies". The countries are classified as follows:

- 26 Full Democracies
- 53 Flawed Democracies
- 33 Hybrid Regimes
- 55 Authoritarian Regimes

The *Parliamentary Powers Index*, as well, has ranked Trinidad and Tobago at 72 out of 158 countries.

If we understand our history more thoroughly, understand how we arrived at where we are, and also understand that there were other options available to us, we will be able to see that there are still other options available to us today. Hopefully, future constitution reform will result in the deepening of our indigenous democracy, and not moving away from the democratic ideal still further.

1. See the author's, "West Indian Government and Politics On Their Own Terms: 1625 to 2011 and Beyond" for more on this.



THE EFFECTIVENESS OF PARLIAMENT AS AN ORGAN OF STATE IN SCRUTINISING EXECUTIVE ACTION

Professor Rhoda Reddock
The University of the West Indies
12th October 2011

Introduction

The title of this paper asks the question – How Effective is Parliament as an Organ of State in Scrutinising Executive Action. This is an interesting question, since for most lay people- Parliament is the Executive. Most are unaware that part of its role was to scrutinise the executive and monitor its effectiveness. To many, this question would seem a bit *oxymoronish*. This paper therefore aims to provide some more insight on this critical although under-recognised role of parliament and identify some key issues for consideration.

The Trinidad and Tobago parliamentary system is of course a legacy of its British colonial past, a past that has a questionable history associated along with other colonial powers, with the decimation of the indigenous people of the region, introduction of enslaved Africans and indentured South Asians (commonly called Indians) into this region and the institutionalisation of racialised and unequal systems and structures. This is a history as well as a diversity and commonality of experiences which we are all- descendants of colonials and colonised alike- now seeking to fashion in our own collective image. In this paper, however, I do not explore the philosophical or moral implications of the colonial inheritance of this governance system. Rather this paper focuses more on efforts globally and locally to establish the best working possibilities for our post-colonial countries within the context of a hegemonic liberal democratic framework.

The term ‘bicameralism’ is used to refer to the existence of two legislative chambers or bodies. In Trinidad and Tobago this would be the Lower House or the elected House of Representatives and the Upper House – the nominated or appointed Senate. Although bicameralism in Trinidad and Tobago is usually identified with the Independence constitution of 1961, there were some earlier examples of bicameralism in its history as a two-island state. The most significant of course would be the original Tobago House of Assembly that existed from 1796 to

1877 when Crown Colony system similar to that established in Trinidad was instituted. This of course was not a democratic or representative body although it was part of what was called The Old Representative system. This Assembly was elected by white male landowners and according to Bridget Brereton:

A small, impoverished island supported nine privy councillors, seven members of the legislative council, (the nominated 'Upper House') and sixteen elected representatives in the assembly. But the electorate was a minute fraction of the population; in 1857, it only numbered 102 people; after franchise reform in 1860, the grand total of 215 was reached. Exactly ninety-one people voted in the 1860 elections and two representatives (for St John and Plymouth) were returned by one voter each. Clearly, the old representative system was a farce in a society like Tobago (Brereton, 1981: 154).

Today, almost two-thirds of the world's legislatures continue to be unicameral. Trinidad and Tobago also followed this system until 1961.

History of Parliament and bicameralism

The origins of bicameralism are usually located firmly within the European tradition and traced to Sparta where legislative powers were exercised by the Monarchy, Senate and Ephorate.¹ Present-day bicameralism, however usually finds its foundation in the division of the English Parliament into the House of Lords and the House of Commons in 1339. This became the main model for most of today's bicameral legislatures. More generally, another source has been the medieval notion that society consisted of well-defined groups or classes who should be represented separately. The survival of bicameralism may be attributed to its spread into British settlements overseas and colonised territories. Additionally, many countries adopted this system because they saw that the British 1688 Constitutional Settlement had endured successfully well into the 18th and 19th centuries and thus was viewed as the world's best practice.² Eric Williams³ himself was a strong proponent of bicameralism. In his famous speech on Constitution Reform in Trinidad and Tobago he argued in these words for:

(1) Abolition of the single chamber Legislative Council and the substitution of a bicameral legislature. That is automatic. No

defence of this is needed. The single chamber legislature is colonialism, in conception, in form and in operation. If you want to get out of the rut of colonialism, you can do so only by abolishing the single chamber legislature. If you want to get into the stream of democracy, you can do so only by substituting a legislature of two houses. There is no argument whatsoever. We have had our transition. You can't run with the hare and hunt with the hounds. The single chamber must go or it must stay. If it stays you must stop talking about ending colonialism. If you wish to have self-government it must go (Eric Williams in Sutton, 1981:129-130)."

From 1831 to 1925, the British Empire Crown Colony System reigned in Trinidad. The Crown Colony government comprised a Legislative Council with the Governor who presided over and dominated both the legislative and the executive council as chair with a double vote; an Executive Council and a Governor. Members of the councils were nominated not elected. The landscape began to change in 1925 when a Legislative Council with a few elected officials was introduced and the first national elections took place. Men over 21 years and women over 30 years, who qualified – under language and property criteria were allowed to vote. The voter had to satisfy the registering officer that he understood spoken English. Other changes took place until independence in 1962 when features of the Westminster system were instituted in Trinidad and Tobago including a change from the unicameral system to a bicameral system of government through the urging of Eric Williams (Meighoo & Jamadar, 2008).

Under the bicameral system introduced in 1961, the Parliament of Trinidad and Tobago consisted of a Senate and a House of Representatives. The House of Representatives was composed of 30 elected members and the new Senate resembled the Crown Colony Legislative of the 19th century. Today, the Executive branch now comprises the President, the Head of Government, the Prime Minister and a Cabinet of Ministers. The Parliament is given special powers and privileges in order to effectively carry out its functions. Included among these are freedom of speech in Parliament, the authority to regulate its business by Standing Orders, and the freedom from civil or criminal proceedings for words spoken or written by Members before their respective House and in Committee.⁴ On Friday 29th December 1961, the House of Representatives and the Senate sat for the first time in the history of the Parliament of Trinidad and Tobago.

For some, the major disadvantage of the bicameral parliament is the length of time of the legislative process because of the complicated procedures required for the passing of laws. It is also seen by some as expensive and a waste of time. However, for others, this is far outweighed by the noted benefits of the system. The merits of bicameralism have always been a topic of debate with proponents advocating that it strengthens the representative function of government. It does so by allowing one additional arena for interest representation and providing an institutionalised check on the abuse of legislative power and improves legislation and policy stability. In sum, the system's main objective is to control and act as a check on the abuse of power by other elements of government, namely the executive, which is almost always curtailed in a unicameral system.

Methods of scrutinising the Executive

But the main focus of this paper is “the effectiveness of parliament in scrutinising executive action.” Quite often it is forgotten that in addition to its responsibility for the legislative process, parliaments have a critical function in providing oversight of the government or the executive on behalf of the public. The accountability of *government* to parliament and through parliament to the electorate as a whole is an important component of the parliamentary system. Traditionally in Trinidad and Tobago it has been presumed that the role of oversight of the government is the responsibility of the Opposition and we often hear calls for a “strong opposition” to monitor the work of the government or the executive. The ability of the opposition to do this however is an issue not only of the relations of power between the parties but also of the balance of power between the parties in the parliament and within them. Indeed, it is the configuration of party power that can often determine the relation between parliament and the executive. While the interest of opposition parties lies in the most rigorous oversight of the executive, members of a governing party can use their majority to ensure that ministers are not embarrassed by exposure or a critical report.⁵

There are a number of other mechanisms that have traditionally been used by parliaments to provide oversight of the executive. First, the bicameral system itself has often been proposed as one mechanism of providing scrutiny of the executive. Others include – parliamentary committees, parliamentary questions, Commissions of Enquiry, Media and Communications Systems, Caucuses and Parliamentary

Commissions. However, secondary or statutory safeguards are also valuable. These include auditors-general, administrative appeals, tribunals, ombudspersons, and freedom of information statutes. All these kinds of safeguards, however, are at the mercy of governments in control of the legislature. They can be dismantled or weakened at any time (Evans, 2006)⁶ or simply ignored.

The bicameral system

According to Arvind Kumar (2011), a second chamber can provide the following:

- Checks on hasty legislation
- Act as a safeguard against the tyranny and despotism of a single chamber legislature
- Provide for representation of interest groups, intellectual elements, and others with special interests such as the fields of art, science, literature and social service.
- Provide an opportunity for persons of some expertise and experience who would normally not face an election
- Crystallise public opinion by delaying the passing of a legislative measure, which allows the people enough time for reflection and expression of their opinion.
- Allow for better legislation because all or many of the members are experienced and comparatively free from popular passion and rigid party discipline

There are many debates, however, about whether the second chamber does this or whether it does so adequately. This is dependent on the character of this second chamber as they differ in various parts of the world. In some they are elected, in others they are appointed by both the ruling party and the opposition, while in others they are elected or nominated by federal or local bodies or other communities or groups. Depending on their structure, they have been made to fulfil other political functions that cannot always be described as oversight.

For example in the Commonwealth Caribbean, Upper houses are often used to address imbalances in the Lower house. One area where this is most glaring is in relation to women. Indeed the first woman to sit in the Legislative Council in Trinidad and Tobago, Audrey Jeffers was nominated in 1946 to the first Legislature resulting from universal adult

suffrage. At that time women could not be candidates for elected positions despite having recently gained the right to vote. This pattern continues today, where in this region, women far exceed men in the Upper Houses of most countries, the most extreme being Belize which currently has no elected female members of the Lower house but 38.5 per cent in the Upper House.⁷

Table 1. Women in Upper and Lower Houses of Parliament: Commonwealth Caribbean

Country	Single or Lower House	Upper House
Antigua and Barbuda	10.5%	29.4%
Bahamas	12.2%	33.3%
Barbados	10.0%	33.3%
Belize	0.0%	38.5%
Dominica	12.9%	
Grenada	13.3%	30.8%
Guyana	30.0% (quota)	
Jamaica	13.3%	14.3%
St Kitts/Nevis	7.1%	
St Lucia	11.1%	14.3%
St Vincent and the Grenadines	19.0%	
Suriname	9.8%	
Trinidad and Tobago	28.6%	25.8%

Source: Adapted from, Mala Htun and Jennifer M. Piscopo, “*Presence without Empowerment? Women in Politics in Latin America and The Caribbean*”, SSRC Conflict Preservation and Peace Forum, December 2010, p.16

In the case of Trinidad and Tobago there was parity between both houses while Jamaica was the only country where there were a similarly low number of female representatives in both houses. In addition to addressing sex imbalances, Upper houses may also be used to provide the ethnic, religious or even class ‘balance’ or representation not possible through the Lower house. The fact that people are appointed to these positions brings additional challenges that limit the oversight capacity of the Upper houses. Appointments can be revoked at any time, party nominees have to follow the party line and independent appointees can be attacked for being unelected and therefore not having the right to disagree with the government. Upper Houses can also be a place for rewarding party

loyalists or repaying political debts. The republican constitution of Trinidad and Tobago includes an additional challenge, in that, persons nominated to the Senate can then be appointed to cabinet positions. Indeed this has become a well-established route to political office. In such a context the role of the Upper house in scrutinising the executive comes into question. The fact that most women enter Anglophone Caribbean parliaments in this way is problematic as their appointed status may circumscribe their political independence as they lack their own political base and can be as easily removed.

The inclusion of independent senators appointed by the President is one useful characteristic of the Trinidad and Tobago Upper house. Many of the independent senators have tended to be more critical and open in their discourse than others, as for the most part, they tend to be independent of the political parties or at least to have less allegiance to them.

Parliamentary questions

In parliamentary systems and others where ministers are also members of the legislature, the parliamentary questioning of ministers on a regular basis, both orally and in writing, forms an important mechanism of oversight. As noted by one source:

...when working properly, parliamentary questions are a significant investigative and oversight mechanism. For ministers to have to explain and justify their policies to parliament on a regular basis, and to answer publicly for any shortcomings, is a salutary discipline and an important contribution to accountability (IPU, 2011:7)

As noted by one Zambian parliamentarian:

“...questions press for government action – that is ...the government is called upon either to start or complete a project, to provide certain facilities or to take action...Questions force Ministers to be more alert for fear of exposing their failures: and questions generally help to keep the Government on its toes (IPU, 2011:7-8).”

But oral questions in plenary sessions can often turn into a party dogfight generating more heat than light, with questioning by ruling party members bordering on sycophancy, and replies degenerating into point-scoring against the opposition. In some cases questions may not be answered as

has happened in Trinidad and Tobago's Parliament, as the answers are not always so easy to come by. Written replies can also be carefully crafted by public servants to avoid revealing anything substantial. Nevertheless, when working properly, parliamentary questions can be a useful investigative and oversight mechanism. In Trinidad and Tobago, according to the Standing Orders of the House of Representatives (1961):

16. Questions may be put to a Minister relating to any matter, subject or department in respect of which the Minister is charged with responsibility.

However, there are restrictions on the questions that can be asked with a list that includes but not limited to requirements such as:

- b. A question shall not include the names of persons, or any statements of fact, unless they be necessary to render the question intelligible.
- c. If a question contains a statement of fact, the Member asking it shall make himself, responsible for the accuracy of the statement, and no question shall be based upon a newspaper report or upon an unofficial publication.
- d. No Member shall address the House upon any question, and a question shall not be made the pretext for a debate.
- e. Not more than one subject shall be referred to in any one question, and a question shall not be of excessive length.
- f. A question shall not contain arguments, inferences, opinions, imputations, epithets, ironical expressions or hypothetical cases.
- g. A question shall not be asked –
 - i. which raises an issue already decided in the House, or which has been answered fully during the current Session, or to which an answer has been refused;
 - ii. seeking information about matters which are in their nature secret;
 - iii. regarding proceedings in a Committee which have not been placed before the House by a report from the Committee;
 - iv. which deals with matters referred to a Commission of Enquiry or within the jurisdiction of the Chairman of a Select Committee; (Standing Orders of the House of Representatives, 1961)

This leads to the question – how free is the system of parliamentary questions in oversight of the executives with all these restrictions?

Committees of Parliament

The most systematic method for oversight of the executive is by parliamentary committees that track the work of individual government departments and ministries, and conduct specific investigations into particularly salient aspects of their policy and administration. These committees take different forms. There are permanent or Standing Committees with membership drawn from government, opposition, elected and appointed officials from a single or both houses (Joint committees). There are some that are common to many parliaments e.g. the Public Accounts Committee. There are also temporary committees that may be introduced to address specific issues for example Select Committees to review particular pieces of legislation. Many parliaments have reformed their committee structure to review specific government offices and members develop appropriate expertise accordingly.

These committees have the power to enhance governance systems by calling on the executive to account for the manner it determines and executes public policy. It was noted, however, by women parliamentarians who were involved in parliamentary committees related to Gender Equality that:

In parliaments with low numbers of women members, there sometimes are not enough women to take part in all parliamentary committees, or women have to spread themselves thinly taking on several committee assignments. A critical mass of women members is also needed to begin to change political priorities and place women's concerns on the parliamentary agenda (IPU. 2009:3)⁸

The use of committees as practiced in Trinidad and Tobago's parliament falls into three broad categories, namely, General Committees, Special and Joint Select Committees and Police/ Watch Dog Committees.

1. General Committees

This usually deals with the organisation and powers of the House. These include Sessional Select Committees (standing orders 64 to 68 and 71 to 76), and standing orders committees responsible for overseeing matters relating to the standing orders. These matters

are referred to them by the House of Representatives/Senate. It is very important to the functioning of the Parliament. House Committees look after the comfort and convenience of senators and members of the House of Representatives. Another general committee, the Privileges Committee oversees the powers and privileges of the houses, and the Regulations Committees ensure, report and scrutinise whether the powers to make regulations, rules, sub-rules and by-laws, conferred by the constitution or delegated by the Parliament are being properly carried out/exercised

2. Special and Joint Select Committees

Legislative Committees are in place to assist the house in legislation and policy-making functions. They are allowed a wide range of powers. They consider and report on issues that can be legislative, financial or investigative. The life span of this type of committee is usually short and typically considers public sentiment. They are also commonly used to scrutinise legislation e.g. (equal opportunity, public integrity). And;

3. Police/Watch Dog Committees

These committees help watch over the executive. They include the Public Accounts Committee and the Public Accounts Enterprises Committee. They are responsible for examining the Accounts and money granted by Parliament to meet the public expenditure and to examine audited accounts of all state enterprises for example Government ministries and departments.

The notion of parliamentary committees is a very laudable one in that they represent the highest ideals of the parliamentary system – persons of different political parties working together in the common interest. But the actual workings of these committees raise many issues of power and independence. These committees must have the power and commitment to really provide active and real oversight of the parliamentary committees and to take action if this is necessary. According to the Inter-Parliamentary Union (IPU):

“Political parties may have informal means of keeping their parliamentarians in line, through the party ‘whips’: with the patronage of appointment to key committees, the prospect of future preferment, membership of overseas delegations and so on; or the

threat of loss of a favourable place on the party's electoral list or even exclusion from the party altogether." In addition party politics can undermine the ability of the committee to provide effective oversight of the executive (IPU, 2011:4).

This therefore often makes it very difficult for committees to work because of the power political parties and their leaders can wield in relation to their members who are part of these committees. Many of us may recall the case of the "teacup incident" that went before the Privileges Committee where a member of one party represented on that committee voted against her party colleague because she genuinely felt the evidence went against him. She was chastised for this by her party leader with the famous statement – "politics has a morality of its own." As noted by the IPU – "All oversight is mediated via the struggle and competition between parties, and how this may be seen to play with the public at large (IPU, 2006:128).

In some countries the committee system has been used in very innovative and creative ways that could be considered for our context. For example, some countries have set up parliamentary committees on Gender Equality to oversee and ensure compliance with international conventions and agreements, implementation of gender equality in legislation, in the workings of the parliament itself, and the wider society. Women parliamentarians attending the Fourth Seminar for Chairpersons and Members of Parliamentary Bodies Dealing with Gender Equality noted that, "Much of the detailed policy work and oversight is done in parliamentary committees and it is here that gender equality strategies need to be implemented. (IPU, 2009:3) It also noted that while specialised parliamentary committees on gender equality are an important mechanism for gender mainstreaming, to be effective in their work, they require adequate funding and support.

At the same time monitoring and implementation is also necessary in the existing committee structures in order to mainstream gender analysis. It is important to ensure that the mainstream committees are also accountable for gender equality issues, and that gender analyses does not become systematically relegated to specialised gender committees (IPU, 2009:3). One way of doing this is to coordinate joint meetings of the Gender committee with other committees in parliament. The example was cited of convening common sittings with other parliamentary committees to debate the contents of bills and ensure the inclusion of a gender perspective.

Steven Langdon of the Africa Parliamentary Research Network, on the other hand, argues that whereas parliaments have focused on economic accountability and oversight that there is room for more oversight in relation to *social accountability*. He calls for example, for the introduction of parliamentary committees on poverty reduction, and I would add, social justice as a mechanism to address the persistent poverty of many countries. This has already been the case in Ghana, and Niger and there are moves in this direction in other countries as well (Langdon, 2006:6).⁹

To facilitate this, Langdon suggests that these parliamentary committees must be equipped as follows: with – strong research capabilities to support the committee’s work, links with civil society organisations to facilitate participation of poor and otherwise disadvantaged groups in shaping policy; oversight on public service implementation effectiveness to ensure that programmes are effectively implemented through Poverty-Impact Review, Poverty Monitoring and Macro-Economic Management. Oversight of programme effectiveness he suggests, could be one of the most important parliamentary contributions (Langdon, 2006:9). Such bipartisan or multi-party committees would therefore facilitate more structured long-term social transformation as opposed to short-term projects for electoral benefit. To facilitate this, parliamentarians may need to develop new skills and competencies to allow them to function effectively in this expanded committee system. Bearing in mind their busy schedules, the possibilities for short training activities in key areas such as – basic economics, gender analysis, environmental awareness and social policy may be necessary to strengthen their capacity for oversight.

Caucuses and commissions

In some situations cross-party caucuses have performed a related function. These have been particularly significant in the United States where the Congressional Black Caucus founded in 1971 is probably the best-known example. The CBC claims as some of its achievements – the declaration of Martin Luther King’s birthday, the extension of the Voters Rights Assistance Act and various expansions of the Voting Rights Act, to assist African American voters and the Anti-Apartheid Act of 1985.¹⁰ Since that time, the Women’s Congressional Caucus was founded in 1977 and the Hispanic Congressional Caucus in 1978. In 1981 the former was renamed the

Congressional Caucus on Women's Issues to reflect the involvement of congressmen in the work for gender equity in the Congress.

The establishment of these Caucuses was initially supported by the financial support of the US House of Representatives. In 1995 however, due to action by the Republican majority this was removed, as the House voted to end all funding of caucus organisations.¹¹ The Congressional Caucus for Women's Issues then reorganised itself as an organisation and prides itself on accomplishing a range of legislation. According to its website –

Although its members have numbered roughly 17 per cent of the House (including Delegates) – at its highest point – the influence of the Caucus has far exceeded its representation in Congress. The Caucus' long list of legislative accomplishments includes: The Pregnancy Discrimination Act; The Child Support Enforcement Act; The Retirement Equity Act; The Civil Rights Restoration Act; The Women's Business Ownership Act; The Breast and Cervical Cancer Mortality Prevention Act; The Mammography Quality Standards Act; The Family and Medical Leave Act; The Violence Against Women Act; The Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development Act; and the Reauthorisation of the Mammography Quality Standards Act (in "The Women's Caucus")

The influence of the Caucus, they note, extends far beyond this list of domestic legislative achievements affecting domestic policy. Caucus members have championed women's issues around the globe from Cambodia to Cairo to Beijing, working to bring international attention to the plight of refugees and representing the Congress at U.N. world conferences on women.¹²

Following this lead on March 7, 1992, The Jamaica Women's Political Caucus was established and is still active today as is evident from its Facebook page. The proposal for women's caucuses in the Trinidad and Tobago parliament was part of the document – 10 Points to Power – put forward by the Trinidad and Tobago Women's Political Platform to the political parties during the General Elections of 1995.¹³ More recently a Women's Parliamentary Caucus was established in Grenada in September 2010 headed by the President of the Senate. Two main objectives of this Caucus are to help promote effective participation of women in Parliament and to act as an advocate for the implementation of the

National Gender Policy for gender mainstreaming (Government of Grenada, 2011:38).

The need for caucusing across party lines was reinforced at the Fourth Conference for Members of Parliamentary Committees on the Status of Women and other Committees Dealing with Gender Equality hosted by the Inter-parliamentary Union in 2009. It was underscored as carving out a space for women to cooperate closely and define common priorities in pursuing gender equality. It was necessary however, to establish a clear mandate and defining rules for the operation and structure of women's, and all caucuses for them to function effectively and contribute substantively to the work of parliament (IPU, 2009:3). The importance of collaborating with men in gender equality work was also stressed.

Special commissions of enquiry

As a further instrument of oversight, mention should be made of special commissions of enquiry which *parliaments* may set up to investigate issues of major public concern, typically spanning the province of more than one department, and the remit of more than one of its committees. These should be distinguished from commissions of enquiry set up by *governments* themselves, in which the government sets its own terms of reference and chooses its key personnel. These latter can sometimes become an instrument for shelving a controversial issue, or blunting potential criticism of the government's own conduct, and hence not be an effective instrument of oversight at all. In either case the protection of witnesses and those who come forward is necessary and can be facilitated through 'whistleblower' legislation, although such protection has a wider relevance than just in this context. The Commissions of Enquiry Act of Trinidad and Tobago of 1982 chapter 19:01 stated the following:

- (3) No person giving evidence before the commission shall be compellable to criminate himself, and every such person shall, in respect of any evidence given by him before the commission, be entitled to all privileges to which a witness giving evidence before the High Court is entitled in respect of evidence given by him before such Court.

While The Commission of Enquiry (Validation and Immunity from Proceedings) Act of 2009 said the following:

- d) every witness who gave evidence before the Commission or any person who published any evidence given to the Commission shall not be subject to any legal proceedings in respect of such evidence or publication, as the case may be.

Commissions of Enquiry have been part of the Trinidad and Tobago landscape for decades and provide salacious and unbelievable revelations of corruption, dishonesty, misappropriations and inefficiency. In almost every case, few if any, are brought to justice and there is no method of monitoring to ensure that recommendations are implemented.

A strong case for *parliamentary* organisation of Commissions of Enquiry instead of governments was made in the House of Commons Select Public Administration committee on Parliamentary Commissions of Enquiry (2007-2008). This issue emerged in response to calls for a commission of enquiry into the circumstances surrounding the Iraq intervention. In justifying this proposal the House of Commons Report observed that:

The importance of parliamentary involvement in the inquiry process derives from the basic constitutional tenet that Parliament should be able to scrutinise the actions of the Executive and to hold it to account. Hence, in situations where the Government is unwilling to initiate inquiries into important concerns itself, it is vital that Parliament is able to do so. It is for this reason that our predecessor Committee declared its preference, constitutionally speaking, for inquiries established by Parliament rather than the Executive, recommending that:

... in future inquiries into the conduct and actions of government should exercise their authority through the legitimacy of Parliament in the form of a parliamentary Commission of Inquiry composed of parliamentarians and others, rather than by the exercise of the prerogative power of the Executive (House of Commons, 2008:4).¹⁴

This case provides an excellent example of the differing interests between the parliament and the government and the circumstances when that division becomes critical in order for the parliament to exercise its role of scrutiny.

Media and communications systems

For the continuing democratisation of political processes – wide national involvement and engagement is necessary and a number of benchmarks related to the media have been developed by the Commonwealth Parliamentary Association. For parliamentary proceedings to be open to the public, therefore, means in effect being open to the press and broadcasting personnel who act as the ‘eyes and ears’ of the public as a whole.

Informing citizens about the work of parliament is not just a concern for independent media, however, but is a responsibility of parliaments themselves. Over the past few years, parliaments everywhere have been making strenuous efforts to inform and educate the public about their activities, and to engage their interest and attention (IPU, 2006). In this they have been helped by the rapid development of new forms of information and communications technology which also facilitate an interactive relationship between representatives and citizens rather than just a one-way communication.

Parliaments have traditionally kept a full printed record of all their proceedings in the British and Commonwealth tradition known as Hansard. This is available on the Trinidad and Tobago parliament website for public viewing. More recently many countries like Trinidad and Tobago also have their own dedicated television channel for broadcasting and recording their proceedings. The Trinidad and Tobago Parliament Channel generally broadcasts parliamentary debates live on the network. By owning these media, parliaments are able to maintain editorial control over the content, as well as, to allow a much greater range of activity to be shown. In addition to broadcasts of sittings, the T&T Parliamentary Channel also carries biographies of parliamentarians, and documentaries on the history of representative democracy. The sound is also carried on radio.

But what does this do for the parliamentary oversight of the executive? Access to information is a key to effective accountability, including access to classified information. The parliament channel of Trinidad and Tobago gives the public an opportunity to witness the statements, actions and explanations in a live forum. The executive arm of the government, therefore, must be efficient and appear to be effective, in an effort to please the public and prevent negative images and ‘public outcry’.

To cite an example from another parliament, the Indian Parliament has offered this comment on the significance of extending the broadcasting of its proceedings:

Telecasting and broadcasting parliamentary proceedings lead to first hand political education of the common people. Constituents now have the opportunity of seeing for themselves the role being played by their elected representatives in ventilating their grievances... (IPU 2006:57)

But in addition to the parliamentary media, the national media is probably the most important organ of scrutiny on the executive. Over the last few decades the practice of post-cabinet press conferences has been introduced to share cabinet decisions with the public – Hot off the Press so to speak, but these have had their own challenges. They also suggest that the media itself needs to be better trained to monitor and scrutinise the work of parliament as the level of media questioning as well as the quality of media reporting often leaves much to be desired. Indeed one can argue that in the overcharged political climate of contemporary Trinidad and Tobago, the heightened political discourse of the popular media – print and electronic, provides a continuous and intense scrutiny on the performance or perceived performance of the executive, although not always with the depth of analysis and thoughtfulness that we would wish.

Effectiveness of Parliament

But national parliaments are not working in a vacuum. They are operating in a context where a number of international agencies have emerged which monitor, measure, train, and help shape the structure and organisation of national parliaments. The Commonwealth Parliamentary Union has developed benchmarks for measuring the performance of democratic legislatures. They have set standards for the institutional and procedural structures of legislatures. The World Bank Institute on the other hand, has published a study on legislative oversight and budgeting that includes metrics to assess the effectiveness of legislatures, while the International Institute for Democracy and Electoral Assistance (IDEA) has prepared quality standards for Democracy and Parliamentary Reform (IDEA, 2009). The IPU (2008) lists oversight tools such as committee hearings and questions, and measure the number of times these have been used. They ask parliaments to rate their effectiveness based on the numerical answers to the questions of:

1. How rigorous and systematic are the procedures whereby members can question the executive and secure adequate information from it?

2. How effective are specialist committees in carrying out their oversight function?
3. How well is parliament able to influence and scrutinise the national budget, through all its stages?
4. How effectively can parliament scrutinise appointments to executive posts, and hold their occupants to account?
5. How far is parliament able to hold non-elected public bodies to account?
6. How far is parliament autonomous in practice from the executive, e.g. through control over its own budget, agenda, timetable, personnel, etc.?
7. How adequate are the numbers and expertise of professional staff to support members, individually and collectively, in the effective performance of their duties?
8. How adequate are the research, information and other facilities available to all members and their groups?

They also ask whether mechanisms and resources are in place to ensure the independence and autonomy of parliament, including parliament's control of its own budget. Whether there is an availability of non-partisan professional staff separate from the main civil service, adequate unbiased research and information facilities for members; parliament's own business committee; procedures for effective planning and timetabling of business; systems for monitoring parliamentary performance; opinion surveys among relevant groups on perceptions of performance (IPU, 2008:26). In reviewing these benchmarks and guidelines it occurred to me how much our parliament had changed over the years and how much it had indeed sought to comply with these international standards even if sometimes only giving the appearance of such.

The social and cultural context of Trinidad and Tobago in which Parliament functions – Parliament and party systems

In considering the work of parliaments in providing oversight of the executive and government, it is necessary to consider the context within which our parliament is operating. In this presentation I consider two of these – gender and parliamentary practice and ethnic mobilisation and party politics.

Gender and parliamentary practice

As I have noted in an earlier publication (Reddock, 2004) – Feminist scholars of modern (western-derived) political systems have sought to explain their male-dominant character. Chowdhury and Nelson (1994), describe this “maleness” of politics as having two aspects. First there is the traditional fatherly characteristic (father of the nation) which sets up patron-client relationships which in turn reproduce the dependent relationship between father and son within patriarchal family structures. Such a system bestows much material reward on “sons” but in return requires economic obligation and reciprocity. The second characteristic which they identify is rooted in “fraternalism” that is the solidarity of brothers. They state:

To some extent all formal representative governments are descendants (through colonialism, reinvention or imitation) of British Parliamentary experiments with shared power and of the French Revolution’s initial parliamentary impulses. Both of these political systems emphasised the brotherhood of men. In the British Parliamentary experience, the king grudgingly shared his exclusive power first with a brotherly band of powerful landowners and later with rich commercial entrepreneurs. In the French experience the power of the king – and the king himself were swept away in a tide of what comes to be understood as the fraternity of male citizenship (Choudhury and Nelson, 1994: 16).

Following Carole Pateman (1988), this distinction between the patriarchal and the fraternal is highlighted by the authors who note that although as a political concept, “fraternity” is held to be a metaphor for universal bonds of humankind, the not so hidden sub-text so to speak, is its source in the solidarity and exclusivity among the brothers, the masculine right which surpasses the division between father and son (Choudhury and Nelson, 1994: 16). In other words, in the end the patriarchal authority held by fathers over sons can be overcome, as after all they are both men and “brothers”. What these authors did not address however is how this fraternity or brotherhood may be mediated by ethnicity and/or class. Also, while they could never ever be part of the male fraternity of the party, it would be interesting to see the extent to which in this case, women benefited from this patron-client nexus and supported or challenged the fraternity of the brotherhood (Reddock, 2004:10-11).

Patriarchal cultures

Legislative assemblies are often marked by a strongly adversarial culture and the institutionalisation of a particular form of masculinity which is linked to race and class (Kenny, 2007, cited in Jones, Charles and Davies, 2009:2). British political institutions, it has been argued are characterised by a culture of traditional masculinity that is a major obstacle to women (Lovenduski, 2005:46 cited in Jones, Charles and Davies, 2009:2-3). Interestingly, the newer parliaments in Scotland and Wales with more women from the onset have not reproduced this culture in the same way (Jones, Charles and Davies, 2009).

In my own work I have argued elsewhere that:

Much has already been written on the non-woman friendly atmosphere of the Caribbean political culture. Commentators have already referred to the aggressive and confrontational style of masculine politics; the “dirty” and dishonest aspects of corruption and patronage which seem to be endemic to our system and the personal abuse and sexual and morality-related attacks to which women are often open. Indeed it can be argued that there are some women who can become very adept at this kind of politics and many of the women who do succeed become better at this kind of politics than some men. But this has always been and continues to be a minority (Reddock, 2004:35).

Former ANC MP Jennifer Ferguson found parliament to be ‘like being back at school’ where its ‘patriarchal nature is designed to kill what’s feminine’. For Thenjiwe Mtintso, ANC MP, parliament presented a different and difficult terrain of struggle, even more patriarchal than she considered MK¹⁵ to have been. Even though the ANC entered parliament with an understanding of changing it, she said that men had ‘no understanding of parliament as a gender-friendly institution’.¹⁶

Ross (2002), in illuminating the female experience in parliament found that women recognise that their sex often precludes them from joining in the kinds of activities that men feel comfortable doing, so that if not directly excluded from the ‘boys club’, they opt out of membership themselves. Simply by virtue of their different sex (notwithstanding many other reasons), women exist outside the dominant (male) norms of parliament and they believe that they are often judged against a male paradigm of how a parliamentarian should behave and conduct himself,

they do not match up and are thus open to criticism.¹⁷ The strategies which women parliamentarians employ to cope with an often hostile working environment are many and various. Some women who are already assertive appear simply to exaggerate those so-called masculine traits, so that they function (and are often perceived) as honorary men.

Ethnic mobilisation and the parliamentary system

The effectiveness of many of the mechanisms mentioned above will be affected by the reality that parliament is a competitive space where both parties have an eye on the next election. It has been suggested further that whereas in the First Past the Post Tradition (FPTP), a party wins by a landslide, there is sometimes the view that e.g. collaboration in committees is irrelevant. One web-post raised the question:

“Particularly as FPTP produces landslide majorities, it makes Parliament less effective as the party that wins the general election forms the government and therefore has a large majority ...If MPs belonging to the party vote along party lines all the time, in theory parliament is rather ineffective when it comes to making decisions as well as scrutinising the government in an attempt to hold it to account.”¹⁸

This argument is used to critique the FPTP system which it is argued results in executive dominance and a winner takes all approach. In addition in a situation of political patronage, this victory means that in some political contexts this means a wholesale change of membership on state boards, sometimes even changes in employment in that persons presumed to be political appointees may lose jobs, in our context even at the level of government make-work programmes. In such a situation an election usually means a deep sense of loss for one group and expressions of triumphalism by the other. In addition, in our context without campaign finance legislation and monitoring, the winner often has many debts to repay which creates a climate for corruption and political favours to dole out after every election.

The context of post-colonial multi-ethnic societies presents additional challenges to the parliamentary system. This is exacerbated where political parties take on ethnic identities and defend their groups’ interest against that of ‘the other’. Writing on Sri Lanka, one author noted that

“... legislators representing ethnic-minority groups tend to act vigorously on behalf of their constituents because their group is “alienated and aggrieved. “It is believed that these legislators feel that they must overcome discrimination against their group (Oberst, 1985:266).

In Trinidad and Tobago, all ethnic groupings perceive themselves as disadvantaged and carry the mentality of minority groups and as noted by Reilly, 2006:

One reason that democracy is inherently problematic in conflict-prone societies is because of the pressures for politicisation of identity issues. In societies divided along ethnic lines, for example, it is often easier for campaigning parties to attract voter support by appealing to ethnic allegiances rather than issues of class or ideology... As rival parties respond in kind, a process of ‘outbidding’ can take hold, pushing the locus of political competition towards the extremes. In this way, democratisation itself can too easily lead to an increase in ethnic tensions and, in some cases, the outbreak of ethnic conflict (Reilly, 2006:812).

Politicians in parliament often by their actions and sometimes their statements perceive their responsibility as representing their group interests and responding to the perceived needs of the party’s ethnic constituency. In societies such as ours as with other post-colonial multi-ethnic societies – Parliament becomes the space for “... the formal institutional balancing of communal representation in the government (Musolf and Springer, 1977:118). The control or exacerbation of conflict in multi-ethnic or divided societies therefore depends heavily on the conduct of politicians and political parties.

In recent times there has been a great deal of interest in the role of parliaments in “conflict prevention and building a durable peace (CPA&WBI, 2010:1). The Inter-Parliamentary Union goes further to suggest that parliaments have a role in promoting national integration and social cohesion. And therefore “have an important role in helping to resolve conflict within the wider society, although the party system in a FPTP system is itself a major contributor to national conflict. Parliaments therefore must have a role in the self-monitoring of their behaviour, their ways of managing their conflict and the use of their political power both within and outside parliament.

Parties are being encouraged to move beyond their traditional ethnic constituencies and to seek multi-ethnic support and in the absence of this political coalitions are recommended. In some countries with conflictive and violent histories, regulations to constrain their functioning have been developed. These include rules stating that parties must have national representation and support in order to be registered i.e. not represent one region or community and mottos or emblems etc. must not have religious or ethnic connotations (Reilly, 2006:818).

But parliamentarians may also need to be equipped with skills and competencies in conflict resolution and mediation. For example in Zimbabwe, parliament members were provided negotiation, mediation and conflict handling skills to deal with the polarisation in the country as it was felt that parliament has to provide an example of peaceful dialogue and resolution of differences to the rest of the society (IPU, 2011:10).

In order to make parliament an agent of Conflict Resolution and Peace Building they noted that parliament must use its legislative function to enact laws that are effective, fair, sufficient, appropriate and acceptable and which are implemented to sustain the nation rather than an individual government. Legislation must tackle poverty, enable the provision of employment for all and especially for the young, punish bad government, address the causes of discontent and implement and after careful research develop strategies to correct disparities.

Additionally, parliament must involve the people in the consideration of legislation through dialogue so grievances are aired and people are aware that Parliament is listening. It must strengthen its oversight role to ensure that the executive and the population are fully accountable to this and that the rule of law is fully and fairly applied. Also, it must use its scrutiny authority to ensure that all institutions of governance and law enforcement act without political bias and interference, and parliament must apply its advocacy role and the communications expertise to this.¹⁹

In my review of the benchmarks developed by the global organisations, we have gone a long way in meeting these goals but we still have a long way to go. But in the end it is the population that must ensure that our parliament represents the best of what we can be and to demand that its independent role of scrutiny and oversight is performed at the highest level. To achieve this, increased civic and public education and political consciousness – not party consciousness, is required and this lecture series could be an important but hopefully not the only effort in this regard.

REFERENCES

- Ackbarally, Nasseem. "Mauritius: Women Fight to Enter Male-Dominated Parliament." *Global Information Network*, September 17, 2008: 1-3.
- America's Congressional Black Caucus*. (n.d.). Retrieved October 10, 2011, from America's Congressional Black Caucus: <http://thecongressionalblackcaucus.com/>
- Antigua Vision: Caribbean Reality. "Making Parliament More Effective." *Commonwealth Parliamentary Association Seminar on Parliament*. Antigua, 1999. 243-245.
- Bissessar, Ann Marie. "Female Participation in the Political Process in Trinidad and Tobago." In *Governance and Institutional Re-engineering*, edited by Ann Marie Bissessar, 184-201. Newcastle: Cambridge Scholars Publishing, 2008.
- Brereton, Bridget. *A History of Modern Trinidad: 1783-1962*, Kingston: Heinemann Caribbean, 1981.
- Commissions of Enquiry Act (1982, c. 19:01). Retrieved from the Trinidad and Tobago Parliament website: <http://www.tparliament.org/publications.php?mid=28&id=548>.
- Commonwealth Parliamentary Association and World Bank Institute. (2006). *Benchmarks Democratic Legislatures*. London.
- Crowe, Edward. "Web of Authority: Party Loyalty and Social Control in the British House of Commons." *Legislative Studies Quarterly*, 1986: 161-185.
- Delvin, Claire, and Robert Elgie. "The Effect of Increased Women's Representation in Parliament: The Case of Rwanda." *Parliamentary Affairs*, 2008: 237-254.
- Didier, Reudin. "The Relationship between Levels of Gender and Ethnic Group Representation." *Studies on Ethnicity and Nationalism*, 2010: 92-106.
- Franks, C.E.S. "Free Votes in The House of Commons: A Problematic Reform." *Electoral Reform*, November 1997: 33-36.
- G, L. (2010, August 8). *How Should Parliament be Reformed to Make it More Effective?* Retrieved September 2011, 28, from News Flavor: <http://newsflavor.com/politics/world-politics/how-should-parliament-be-reformed-to-make-it-more-effective/>
- Geisler, Gisela. "'Parliament is Another Terrain of Struggle': Women, Men and Politics in South Africa." *The Journal of Modern African Studies*, 2000: 605-630.
- Government of Grenada. *Women & Governance "A Grenadian Experience."* (2011). http://www.gov.gd/egov/docs/other/women_in_parliament.pdf
- Htun, Mala, and Jennifer M Piscopo. "Presence Without Empowerment? Women in Politics in Latin America and the Caribbean." *Conflict Prevention and Peace Forum*. Global Institute for Gender Research (GIGR), 2010. 1-23.
- Inter-Parliamentary Union. "An Effective Parliament (I): The National Level." In *Parliament and Democracy in the 21st century: A Guide to Good Practice*, by Inter-Parliamentary Union. Inter-Parliamentary Union, 2006.
- . "Evaluating Parliament: A Self-Assessment Toolkit for Parliaments." Switzerland: Inter-Parliamentary Union, 2008.
- . "Is Parliament Open to Women? An Appraisal." Geneva: Inter-Parliamentary Union. 2009. <http://www.ipu.org/splz-e/gender09/summary.pdf> (accessed October 10, 2011).

- . “Women in National Parliaments: World and Regional Averages.” *International Parliamentary Union*. August 31, 2011. <http://www.ipu.org/wmn-e/world.htm> (accessed September 30, 2011).
- . “Electoral Institute for Sustainable Democracy in Africa.” *EISA Gender Issues: Women in Parliament in SADC in 2002: Bar Chart*. July 2002. <http://www.eisa.org.za/> (accessed September 22, 2011).
- . “Women in Parliaments: History.” *Inter-Parliamentary Union*. August 31, 2011. <http://www.ipu.org/wmn-e/history.htm> (accessed September 30, 2011).
- . “Women in Parliaments: World Classification.” *Inter-Parliamentary Union*. August 31, 2011. <http://www.ipu.org/wmn-e/classif.htm> (accessed September 30, 2011).
- . “Women Presiding Officers of Parliaments.” *Women Speakers of National Parliaments: History and the Present*. August 31, 2011. <http://www.ipu.org/wmn-e/speakers.htm> (accessed September 30, 2011).
- Iyahen, Isiuwa. “Catalysts for Change: United Nations Development Programme.” *Women in Parliament in the Caribbean*. December 15, 2004. http://www.cfcportal.net/artman/publush/articel_38.shtml (accessed September 12, 2011).
- Joint Vienna Institute. “Concluding Statement: Parliament, Aid Effectiveness and Conflict Prevention.” *Workshop by the Commonwealth Parliament Association and the World Bank Institute*. Vienna: Commonwealth Parliament Association, 2010. 1-8.
- Jones, Stephanie, Nickie Charles, and Charlotte Aull Davies. “Transforming Masculinist Political Cultures? Doing Politics in New Political Institutions.” *Sociological Research Online*, 2009: 1-21.
- Kenny, M. (2007). Gender, institutions and power: a critical review. *Politics*, 91-100.
- Kumar, A. (2011). *What are the Merits & Demerits of Bicameralism*. Retrieved October 10, 2011, from Preserve Articles: <http://www.preservearticles.com/2011100314504/what-are-the-merits-a-demerits-of-bicameralism.html>
- Langdon, S. *Parliamentary Oversight as a Mechanism for Accountability*. African Parliamentary Union, 2006. <http://www.aprnetwork.org/Documents/Reports/Conference%20Reports/Parliamentary%20Oversight%20as%20a%20Mechanism%20for%20Accountability.pdf>.
- Lovenduski, J. (2005). *Feminising Politics*. Cambridge: Polity.
- Meighoo, Kirk, and Peter Jamadar. *Democracy and Constitutional Reform*. Kingston: Ian Randle Publishers, 2008.
- Mullen, Stephanie Ann Marie. “Linkages Between Female Parliamentarians & Grassroots Women’s Organisations.” In *Governance and Institutional Re-engineering*, edited by Bissessar Ann Marie, 203-221. Newcastle: Cambridge Scholars Publishing, 2008.
- Musolf, Lloyd D, and J. Fred Springer. “Legislatures and Divided Societies.” *Legislative Studies Quarterly*, 1977: 113-136.
- Nelson, B. J., & Chowdhury, N. (1994). *Women and Politics Worldwide*. New Haven: Yale University Press.
- Nicholl, Rae. “Electing Women to Parliament: Fiji and the Alternative Vote Electoral System.” *Pacific Journalism Review*, 2006: 87-107.
- Oberst, Robert C. “Legislative Behaviour and Ethnicity in a Third World Democracy-Sri Lanka.” *Pacific Affairs*, 1985: 265-286.

Parliament of the Republic of Trinidad and Tobago. (2011). *History of Parliament*. Retrieved September 9, 2011, from Parliament of the Republic of Trinidad and Tobago: <http://www.ttparliament.org/about.php?mid=50>

Pateman, C. (1988). *The Sexual Contract*. Cambridge: Polity Press.

Phakathi, Mantoe. "Swaziland: Women MPs Limited by the Patriarchal System." *Global Information Network*, July 9, 2010: 1-3.

Preece, Alun A. "Bicameralism at the end of the second millennium." *University of Queensland Law Journal*, 2000: 67-84.

Rai, Shirin. "Class, Caste and Gender- Women in Parliament in India." In *Women in Parliament: Beyond Numbers*. Stockholm: International IDEA, 1998.

Reilly, Benjamin. "Political Engineering and Party Politics in Conflict-Prone Societies." *Democratisation*, 2006: 811-827.

Reddock, Rhoda. "Reflections on Gender and Democracy in the Anglophone Caribbean: Historical and Contemporary Considerations", SEPHIS-CODESRIA Lecture, South-South Exchange Programme for Research on the History of Development (SEPHIS) and the Council for the Development of Social Science Research in Africa (CODESRIA). Amsterdam/Dakar, 2004.

— Inclusion/Exclusion: Women, Citizenship and Political Franchise in Early 20th Century Trinidad and Tobago. Unpublished manuscript.

Ross, Karen. "Women's Place in 'Male' Space: Gender and Effect in Parliamentary Contexts." *Parliamentary Affairs*, 2002: 189-201.

Shvedove, Nadezdha. "Obstacles to Women's Participation in Parliament." In *Women in Parliament: Beyond Numbers*. Stockholm: International IDEA, 1998.

Stockemer, Daniel. "Women's Parliamentary Representation: Are Women More Highly Represented in (Consolidated) Democracies?" *Contemporary Politics*, 2009: 429-443.

Stodel, Megan. "Women and the Alternative Vote." *Take Back Parliament*. March 8, 2011. <http://www.tbpsw.co.uk/2011/03/08/women-and-the-alternative-vote/> (accessed September 30, 2011).

Sutton, P. K.. *Forged From the Love of Liberty: Selected Speeches of Dr Eric Williams*. Port of Spain: Longman Caribbean, 1981.

(1961). *Standing Orders of the House of Representatives*. Trinidad and Tobago: Made by the Governor under the provisions of section 8 of the Trinidad and Tobago (Constitution) Order in Council.

The Commission of Enquiry (Validation and Immunity from Proceedings) Act (2009, n. 13). Retrieved from the Trinidad and Tobago Parliament website: <http://www.ttparliament.org/publications.php?mid=28&id=548>.

The Women's Caucus. (n.d.). Retrieved October 10, 2011, from Women's Policy, Inc.: <http://www.womenspolicy.org/site/PageServer?pagename=AboutWPI>


NOTES

1. Elected officials with legal and police powers, often referred to as magistrates
2. Preece, A. A. (2000). Bicameralism at the end of the second millennium. *University of Queensland Law Journal* , 67-84.
3. First Prime Minister of Trinidad and Tobago
4. *History of Parliament*. <http://www.ttparliament.org/about.php?mid=50>
5. Inter- Parliamentary Union. An Effective Parliament (I): The National Level. In I. P. Union, *Parliament and Democracy in the 21st century: A Guide to Good Practice*. Inter-Parliamentary Union.
6. Constitutionalism, Bicameralism and the Control of Power. <http://www.aph.gov.au/senate/pubs/evans/15167/c01.htm>
7. "Women in Parliaments: World Classification." *Inter-Parliamentary Union*. August 31, 2011. <http://www.ipu.org/wmn-e/classif.htm>.
8. Inter-parliamentary Union, Fourth Conference for Members of Parliamentary Committees on the Status of Women and other Committees Dealing with Gender Equality. Is Parliament Open To Women? An Appraisal. <http://www.ipu.org/splz-e/gender09/summary.pdf>.
9. <http://www.aprnetwork.org/Documents/Reports/Conference%20Reports/Parliamentary%20Oversight%20as%20a%20Mechanism%20for%20Accountability.pdf>
10. According to the website of the congressional Black Caucus over its history only three Republican members have ever joined. <http://thecongressionalblackcaucus.com/>
11. http://www.womenspolicy.org/site/PageServer?pagename=History_Accomplishments_Leadership
12. "The Women's Caucus". http://www.womenspolicy.org/site/PageServer?pagename=womens_caucus. Accessed on October 10, 2011.
13. This grouping of which I was a part was never able to meet with PNM political Leader Patrick Manning but was able to meet with Basdeo Panday leader of the UNC which eventually gained power as part of a UNC-NAR coalition. In response to our suggestion he looked at us incredulously and said – but you can't have that? Women from the government and opposition working together?
14. House of Commons, Public Select Parliamentary Commissions of Enquiry Committee, <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpubadm/473/473.pdf>. This report was prepared in response to the government's rejection of an earlier report *Governing by Inquiry* which called for parliamentary enquiries and the repeal of the 1921 Act that allowed for them. It was noted however that despite this and the passing of a new 2005 Act, the right of the parliament to have Commissions of Enquiry if it so desired still existed. It was in this context that the report was prepared to support parliament's assertion of that right.
15. This was the armed wing of the African National Congress which fought against the South African apartheid government
16. Geisler, G. (2000). 'Parliament is Another Terrain of Struggle': Women, Men and Politics in South Africa. *The Journal of Modern African Studies* , 605-630.
17. Ross, K. (2002). Women's Place in 'Male' Space: Gender and Effect in Parliamentary Contexts. *Parliamentary Affairs* , 189-201.
18. <http://newsflavor.com/politics/world-politics/how-should-parliament-be-reformed-to-make-it-more-effective/>
19. Joint Vienna Institute. (2010). Concluding Statement: Parliament, Aid Effectiveness and Conflict Prevention. *Workshop by the Commonwealth Parliament Association and the World Bank Institute* (pp. 1-8). Vienna: Commonwealth Parliament Association.



EVOLUTION OF A NATION: TRINIDAD AND TOBAGO AT FIFTY





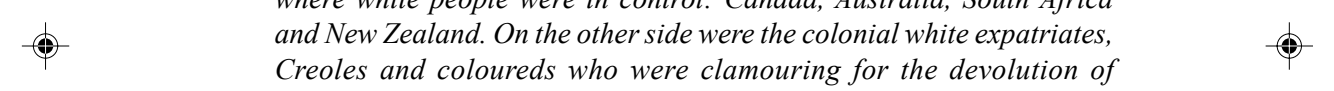
FROM UNICAMERALISM TO BICAMERALISM: TRINBAGO'S CONSTITUTIONAL ADVANCES (1831 – 1962)

Professor Brinsley Samaroo

City Hall, Port of Spain

24th October 2011

Abstract



In December 1962, the Parliament of Trinidad and Tobago was converted from unicameralism, initiated in 1831, to bicameralism. That advancement was the culmination of a long process of local agitation for political reform. This paper seeks to examine the contradictory elements at work for the century preceding 1962. On the one hand there was a British philosophical viewpoint which clearly stated that representative government, with the electorate in control, was not to be given to non-white peoples. That was the prerogative of those colonies where white people were in control: Canada, Australia, South Africa and New Zealand. On the other side were the colonial white expatriates, Creoles and coloureds who were clamouring for the devolution of responsibility. As the conflict played out, those non-white colonies, which had been inadvertently given representative legislatures, had their governments reversed to Crown Colony status.

Trinidad and Tobago was developed as a model Pure Crown Colony government and it was not until 1925 that a small number of elected representatives were allowed into the unicameral legislature. By the 1950s, the population had become so socialised into an acceptance of unicameralism that a Parliamentary committee endorsed its continuance in 1955. In that year however, Dr Eric Williams appeared on the scene and he galvanised the population into an acceptance of the principle of bicameralism. Dr Williams' initial petition, signed by thousands, was rejected by the Colonial Office and the 1956 elections were conducted under unicameralism. The People's National Movement, led by Williams, captured the government and in 1958, appointed another constitutional reform committee that recommended a bicameral legislature. The Colonial Office accepted the majority recommendation and so bicameralism was introduced in 1962. The paper suggests that in the current debates on constitutional reform, the Senate should be retained since it has proven to be a useful institution.

*But why, it may be asked should Trinidad not govern itself as well as Tasmania or New Zealand? Why not Jamaica, why not all the West Indian islands? ... Responsible government in Trinidad means government by a black parliament and a black ministry (J.A. Froude, *The English in the West Indies*, London 1888, pp.87 and 88).*

At this time (2011) when the citizens of Trinbago are engaged in the process of constitution making, it is necessary that we should look back at the process of governance of which we are the present inheritors. In this essay, we shall look at the philosophy that propelled the process.

The British Empire was not created by chance; from the time of conquest there were clear directions which drove the whole process. The 19th century was particularly important for the setting out of these directives; hence a good deal of our time would be devoted to 19th century British ontology. As the Empire moved into the 20th century, the 19th century way of seeing became more entrenched.

As circumstances in the colonies changed, there were variations on the theme and when the Colonial Office gradually gave independence to these colonies from the 1960s, they hobbled these new nations with constitutions rooted in one hundred years of colonial control. It is the psychology of that control which we must understand if we are to break out of the box into which all Caribbean governments have been locked.

Early British colonisation during the 16th and 17th centuries operated on the premise that colonies were extensions of the home country and should therefore be governed as the metropolis was constructed. Therefore, early colonial government was called the Old Representative System (ORS) in which there was representative government, that is, legislatures in which elected members formed the majority in law-making Assemblies, generally presided over by the Governor who represented the Monarch.

As Table 1 shows, most West Indian governments were devised in this manner, including Tobago that obtained its elected assembly in July 1778, appropriately named the Tobago House of Assembly (THA). Table 1 also indicates that this honeymoon between mother country and distant colonies could not last forever.

The revolt of the American colonies during the late 18th century was the first rude shock which started a change in metropolitan thinking. After this uprising of “ungrateful” American colonists, the colonial office determined that there were to be more stringent controls. The government of Trinidad had to be devised at the time when there was another

cataclysmic event taking place in the Caribbean, namely the revolution in San Domingue.

In framing a government for new colonies such as Trinidad and St Lucia, Mr George Canning, major policymaker in the British Parliament, warned his colleagues of the danger that had to be met:

Would the moral danger be best guarded by having established a new Negro Colony by increased importations from Africa? One would have to dread the population as much as the enemy; a population which, while you defended it with one hand, you must keep it down with the other.¹

In order to keep the black population under control, therefore, the myth was created that democratic government was the prerogative of white English settlers in the first instance. When sufficient numbers of these could not be found, other white Europeans from Central and Northern Europe or Iberia could be allowed as in the cases of Canada, South Africa, Australia or New Zealand. As in the case of slavery, it was necessary to salve the consciences of doubting Thomases.

In the event, some of Britain's most eminent 19th century scholars felt obliged to fill this gap. The English essayist Anthony Trollope, a well-respected guru among the validating British elite, visited Trinidad in 1859, as part of a Caribbean tour and was very pleased to see the operation of Pure Crown Colony here:

They have no House of Commons or Legislative Assembly, but take such rules or laws as may be necessary from the Crown ... One does see clearly enough that as they are French in language and habits and Roman Catholic in religion, they would make even a worse hash of it [representative government] than the Jamaicans do in Jamaica.²

Trollope hoped that Providence would save his Trinidad friends from assemblies as "would be returned by French Negroes and hybrid mulattoes." After the Indian revolt of 1857, the British attitude toward non-white colonies became hardened. On 26th July 1858, the Earl of Newcastle told the House of Lords that responsible government, that is government in which ministers or heads of department are responsible to an elected majority, was applicable only to colonists of the English race. And in 1906, Walsh Wrightson, Director of Public Works after

whom a major Port of Spain thoroughfare had been named, gave his take on the suitability of colonials to participate in government:

*The people of Port of Spain and of the colony generally are not filled by their personal qualities, character and education to exercise such an important privilege of self-government on English lines It would appear that in the tropics the great mass of the people have not that energy, self-reliance and determination to be masters of their own destiny which characterised the people of Great Britain.*³

On his visit to Trinidad in 1888, James Anthony Froude, Professor of Modern History at Oxford University, training ground for British officials, scoffed at those Trinidad radicals who wanted representative government. He was happy, he wrote, that Trinidad was a Pure Crown Colony and had hitherto escaped the introduction of the election virus:

*If for the sake of theory, or to shirk responsibility we force them to govern themselves, the state of Hayti stands as a ghastly example of the condition into which they will then inevitably fall.*⁴

Froude was one of the major influences on Joseph Chamberlain, who was Secretary of State from 1895 to 1906, during which time the Port of Spain City Council was shut down and replaced by nominated Town Commissioners. But these cogently argued strictures against the exercise of governance by non-white people in the Caribbean, Africa, Fiji, Mauritius, and India, did not apply to the white-ruled colonies. Between 1850 and 1855 responsible government was given to Upper and Lower Canada, Nova Scotia, Prince Edward Island, and Newfoundland.

During the 1850s New South Wales, Tasmania, South Australia, and Victoria were granted representative assemblies, followed by New Zealand and British Columbia. As Table 1 indicates, the opposite route was followed in the case of the non-white colonies. The majority of these colonies which had earlier been granted assemblies under the Old Representative System were reverted to Crown Colony status once a pretext could be found.

The 1865 Morant Bay rebellion in Jamaica, for example, was a perfect excuse, and in the case of the Windward and Leeward Islands, black unrest and the need for administrative efficiency were convenient excuses. By the end of the 19th century only Barbados, the Bahamas, and Bermuda

remained under the Old Representative System. Barbados on its part would have preferred to Part Company with a black Caribbean. In 1884, it sought union with Canada which itself was wary about a black influx into their borders.

During the 19th century, Trinidad was held up as a model Crown Colony government which set the tone for the abolition of Legislative Assemblies in the Windward and Leeward islands, hence the detachment of Tobago from the Windward island Federation in 1889 and its attachment to Trinidad.

Tobago had a bicameral legislature since July 1778, but this was gradually whittled away, first in 1874 when one chamber was removed, and three years later even that was abandoned as Tobago was made a Crown Colony. We must also bear in mind that what was happening in the Caribbean during that period was part of an international scenario, often described as the heyday of imperialism.

During the last quarter of the 19th century, Europe, bolstered by the achievement of the Industrial Revolution, was carving out spheres of influence throughout the tropical world, with major inroads into China, India, Malaya and the Philippines.

The year 1885 witnessed the partition of Africa by European overlords who sat in far away Berlin in front of maps of Africa and shared out the continent without any regard for cultures which spanned both sides of the river or mountain. These very arbitrary decisions would cause serious havoc in Africa during the 20th and 21st centuries.

The bard of British poets, Rudyard Kipling, urged fellow white men to persist in these efforts despite the opposition of the victims who were “half-devil and a half-child”:

*Take up the White man's burden –
And reap his old reward:
The blame of those ye better,
The hate of those ye guard –
The cry of hosts ye humour
(Ah, slowly!) toward the light: —
“Why brought ye us from bondage,
“Our loved Egyptian night?”⁵*

The celebrated English essayist and public philosopher, Thomas Carlyle, was amongst those whose support was courted for justification of British racism. In a published and republished pamphlet on the “Nigger

Question”, he claimed that he had nought but deep sympathy for “poor Quashee”, who “alone of wild men can live among men civilized.” He now, “lives and multiplies and evidently means to abide among us, if we can find the right regulation for him.”⁶ Whilst he could accept the principle of one man, one vote, he could not envisage equality between the vote of a “Demerara nigger” and a Chancellor Bacon.

Whites should always rule over blacks because they could not stand the heat of the tropics. The fortunate black man was much better off than the less fortunate white man of those tropical localities. This inability of white persons to work in tropical climates was another popular 19th century argument to justify white dominance and to keep the labouring population away from education which might encourage them to aspire for jobs above their station.

Having widely dispersed these arguments through their control of the media, the European governments moved to other devices to establish political control. Most significant in this regard was the policy of “Divide and Rule” along the ancient Roman mode *Divide et Impera*.

The Indian revolt of 1857, taught a salutary lesson to the British who had come close to defeat because of the unity between Hindus and Muslims. From thenceforth, every effort was made to keep Muslims apart from Hindus even to the extent of allowing communal representation on state assemblies on the sub-continent.

The success of the policy was amply demonstrated in the 1947 partition of India accompanied as it was by rivers of blood and the never-ending conflict between those two nations. The same policy was used in West Africa, Cyprus and Fiji where:

*Race relations were a reflection of British colonial policy, viewing and treating ethnic Fijians and Indo-Fijians differently and minimising contact between the two groups.*⁷

In Trinidad that policy of divide and rule pre-dated 1857. In 1806, the Governor’s Council of Advice counselled the Colonial Office to continue to encourage labourers other than black to emigrate to the colony after the arrival of 194 Chinese in that year. These Chinese would be useful as a counterpoise to the Africans, thus forestalling the “baneful and destructive” consequences of the “establishment of the Black Empire of Haiti and St Domingo.”⁸

In 1897, a Trinidad planter was totally frank in informing the Royal Commission of that year that he needed more “coolies” so that they

could be a counterpoise to black uprising and in 1919, Trinbago's leading white oligarch, George Huggins, headed a petition to the Crown lamenting the end of Indian indentureship since hitherto Indians could be used as a counterpoise but now they may even join the black mob.⁹

Whilst they kept the races apart, the rulers portrayed themselves as the impartial referees between the major sparring groups. They "bowed" to the black demand for representation in the wholly nominated Trinbago legislature by appointing a Cedros-born lawyer, C.P. David, to the legislature in 1904 and when the Indians complained, one of their lawyers, George Fitzpatrick, was appointed in 1912.

During the discussion leading to the drawing up of the 1946 Trinbago constitution, the validating white elite did all in its power to exclude the Indo-Trinbagonian population from participating in the electoral process by insisting on English language tests for all prospective voters. Despite strong protests from local groups such as the trade union movement and the Colonial Office persuasion, the local oligarchy persisted in its efforts to debar another non-white group from participating in power relations. It was only through the insistence of the Secretary of State that the English language requirement was dropped.¹⁰

This then was the theoretical framework which formed the backdrop for constitutional change in Trinbago during the 20th century. Before going on to the actual process of change, let us recount the major features of the Pure Crown Colony system which had evolved here for over a century. Its major features which have persisted to the present day were the following:

- a) Strong centralised, undemocratic control exercised by the governor, who in the view of C.L.R. James was father, son, and Holy Ghost. From 1962, Eric Williams became the new governor, ruling with a paternal but firm hand until his death in 1981. His successors followed suit; that was the only tradition to which they were accustomed, Lloyd Best called it "Doctor Politics".
- b) The population's acceptance of a strong leader who was expected to be in total control micromanaging the affairs of state.
- c) The indigenisation of the Westminster model to conform to existing cleavages in the society. In places like Cyprus, Fiji, and Trinidad and Tobago and British Guiana, the previously

encouraged ethnic antagonism fostered by *divide et impera* led naturally to the formation of ethnic or communal parties despite the best efforts of enlightened leaders to break this mould. In Guyana, Cheddi Jagan, fully aware of the ethnic tensions, sought to create a united nation by stressing class rather than ethnic solidarity. In India, Gandhi did his utmost to unite Hindus and Muslims only to be assassinated by a Hindu fanatic; and Eric Williams initially made serious efforts to heal the breach in Trinidad. After some years, realising the depth of the cleavage, he gave up his efforts and further cleavage occurred. History has been stronger than noble intentions.

The evolution of central government

As Table 2 shows, Trinidad as a separate colony from Tobago, was initially administered by the Spanish *Cabildo*, presided over by a Spanish governor. Upon conquest in 1797, the island was first ruled by a British governor up to 1803 when a Council of Advice was installed.

In 1831, the first legislature, called the Council of Government was introduced. This Council consisted of nominated officials such as the Chief Justice, Colonial Secretary, Colonial Treasurer, Attorney General, Collector of Customs, and the Protector of Slaves who was replaced after 1845 by the Protector of Immigrants. These same officials constituted the Governor's Executive Council created in 1831. Very soon, however, the Council of Government underwent quantitative changes.

In response to the agitation by the local elite for a share in governance, a window was opened up in the Council of Government for unofficial, that is, non-governmental employees to participate at a high colonial level.

This opening up was achieved through the inclusion of increasing numbers of merchants and planters over the decades. Whilst this was given to Britain's tropical colonies, it was granted under the strict and often repeated condition that should the unofficials ever band together to oppose the government, efforts would be made to increase the number of officials so as to avoid disruption of the wishes of the government. As late as October 1956, just over a century after its introduction in Trinidad, the Colonial Office was cautioning the Governors of the Windward and Leeward Islands, British Honduras, British Guyana and Mauritius to maintain Crown control by avoiding "so close a balance the government and opposition so as to make the operations of government difficult."¹¹

In the meantime, Trinbago had to tread the tortuous route of strict colonial control. From 1831 to 1862, there were six officials and six unofficials with the Governor as presiding officer holding an original as well as a casting vote, ensuring state dominance.

In 1863, two unofficials were added, giving them a majority but with the warning that if they voted as a bloc, officials would be added. With the accession of Tobago in 1889, one Tobago unofficial was added and two officials were appointed one of whom was to be the Commissioner for Tobago.

By the end of the 19th century, it was found that after the addition of French Creoles and Coloured proponents of reform, that unofficial were banding together to oppose the government. Therefore one official was added in 1898 to counter this tendency. Thus, there were now ten officials and eleven unofficials with the governor having two votes. As late as the first election of 1925, the Legislative Council consisted of twelve officials and thirteen unofficials (seven now elected) with the Governor as arbitrator. As the number of elected unofficials was increased after that time, and the number of officials reduced, the power to govern was increasingly shifted to the Governor and the Executive Council.

The period of the 1940s and 1950s of the last century, were years of intense political activity, and one of the issues at the forefront was the ending of the appointment of nominated persons to the legislature. But such a concession could not be granted to a non-white tropical colony.

In 1949, Secretary of State, Arthur Creech Jones, informed the politicians that at “this stage in the development of Trinidad and Tobago”, the nominated element could not be dispensed “without seriously disturbing confidence in the economic and financial stability of the colony.” By 1956, in the view of the Colonial Office, this situation had not changed.¹² Nominated members were to be maintained so as to “strengthen experience and knowledge of the Council in dealing with the complex issues of government.”

The final struggle for bicameralism

On 22 September 1961, the unicameral legislature of the colony was dissolved, 130 years after its initiation in 1831. In his report for September 1961, Governor Solomon Hochoy noted:

And so ended the life of the legislature which, by the enactment of many far-reaching measures, contributed substantially to the

*constitutional, political, economic and social advancement of the people of this territory. It also marks the end of the unicameral system and the dawn of the era of full internal self-government.*¹³

This historic landmark, however, was not easily achieved. The colony had, over its long period of Pure Crown Colony government, become so used to the paternal dominating hand of the Crown, that change was hard to accept. *The Trinidad Guardian* in July 1955, argued that it was pointless to change a system to which people have grown accustomed, particularly on the eve of Federation. Crown Colony government, too, had allowed the hardening of vested interest particularly in oil and sugar and these interests were fearful of a change in their status.

A constitutional reform committee set up in January 1955 had recommended the retention of unicameralism with more elected members and ministers, and the retention of nominated officials and unofficials with the strictures which we have previously discussed. This conservative tide was reversed and public opinion was galvanised to this purpose through a vigorous campaign waged by Eric Williams during the months of July and August 1955.

From the middle of July to the beginning of August, The People's Education Movement of the Teacher's Economic and Cultural Association hosted no less than eight public meetings in places such as Sangre Grande, Couva, Arima, Fyzabad, and Point Fortin. To a people whose opinions were hardly ever canvassed by politicians, these University type lectures were enthusiastically received.

In these lectures, the historian traced the evolution of democratic systems from the time of the Greek city-state to the present. He pointed out that in the United Kingdom, the mother of Parliament, bicameralism was the norm, and the framers of the 1776 American Constitution had opted for two chambers. Most pertinently he cited a 1957 British Guiana Constitutional Commission Report submitted by three prominent British academics which had recommended a bicameral legislature for that colony.¹⁴ The reasons for that recommendation were effectively used by Williams as he argued his Trinbago case.

Among these were the provision of a pool of experienced persons in various areas of endeavour who could rise above the political fray in matters of national interest; the enabling of the expression of the public will by the removal of the nominated element from the elected chamber; in place of the irritant of a nominated block, the upper chamber could provide a constitutional check by its delaying powers. Two chambers

would also provide a deep pool of potential Cabinet members and could be the basis for further evolution of democratic self-government.

With this usual thoroughness Williams circulated a petition, signed by thousands, to the Colonial Office calling for the institution of a bicameral legislature. Williams' Senate was to be a 16-member chamber made up of the following elements:¹⁵

Interests	Numbers
Oil, Sugar, Commerce, Cocoa, Shipping and local industries (One each)	6
Religious heads: Roman Catholic, Anglican, Hindu, Muslim, and one for other faiths	5
Three <i>ex-officio</i> members: Chief Justice, Colonial Secretary, and Attorney General	3
Two men or women of distinction appointed by the governor	2
Total	16

The Colonial Office in the short term decided to go, not with the Williams' recommendation of bicameralism but rather with that of the 1955 Constitution Reform Committee. Therefore, the 1956 elections were fought on the basis of a single chamber comprised of 24 elected members, five nominated unofficials and two officials. It is only after the 1956 elections, and the victory of Williams' People's National Movement, that he was able to put into effect the movement for bicameralism.¹⁶ Ensclosed in office, the PNM appointed a Select Committee in 1958, consisting of a majority of the PNM legislators. This committee recommended a bicameral legislature with the Senate consisting of the same elements that Williams had proposed in 1955. The final composition was now (1962) to be 24 members based on the following criteria:

Interests	Numbers
The Ruling Party	13
Opposition	4
Religious, social, and economic interests chosen by the Governor General on advice of the Prime Minister	7
Total	24

The Senate did not have the power to delay money bills, but could delay other bills for more than one year or two consecutive sessions. It must

be noted that the Prime Minister now obtained a Crown Colony dominance over the Senate similar to what he had over the elected chamber.

As Hamid Ghany points out, the office of the Governor-General at the independence of the nation “was the weakest that had been created in the Commonwealth up to that time.”¹⁷ But in a region in which the Crown Colony mentality had permeated deeply into the society, this was an ideal model. As Ghany further informs us, it was copied by Barbados (1966), Belize (1981), Grenada (1974), St Lucia (1979), Antigua and Barbuda (1981).

The Senate was introduced as part of the Constitutional Monarchy established in 1962 and was retained when the nation moved to Republicanism in 1976. At the present time, the Senate comprises 31 members of whom 16 are appointed by the President on the advice of the Prime Minister, six by the President on the advice of the leader of the Opposition, and 9 by the President at his discretion.

During this half of century it has worked well. As Williams had accurately prescribed, its members have been chosen from among those who had opted out of electoral politics but possessed competence in many areas of national life. The fact that the ruling party could choose Ministers from among its Senators has been an added advantage in a small nation with limited expertise.

The President’s nominees (the Independents) with no overt political affiliation, have, by and large, spoken independently and learnedly. The ruling party and the opposition have used the Senate as a training ground for future candidates in the electoral process and this has been beneficial to the nation.

The power to delay non-money bills has also served as an effective brake on hasty legislation. As the nation now embarks on the debate about constitutional change, an institution like the Senate needs to be retained to give balance to the Parliamentary process. But this must be done against a different, non-colonial background.

At the present time too many vestiges of Crown Colony government persist in the society; the system now needs to be opened up, allowing for more devolution and decentralisation. Our authoritarian structures will have to make way for more participatory government, catering to the heterogeneous mixture of cultures which inhabit this world on two islands.

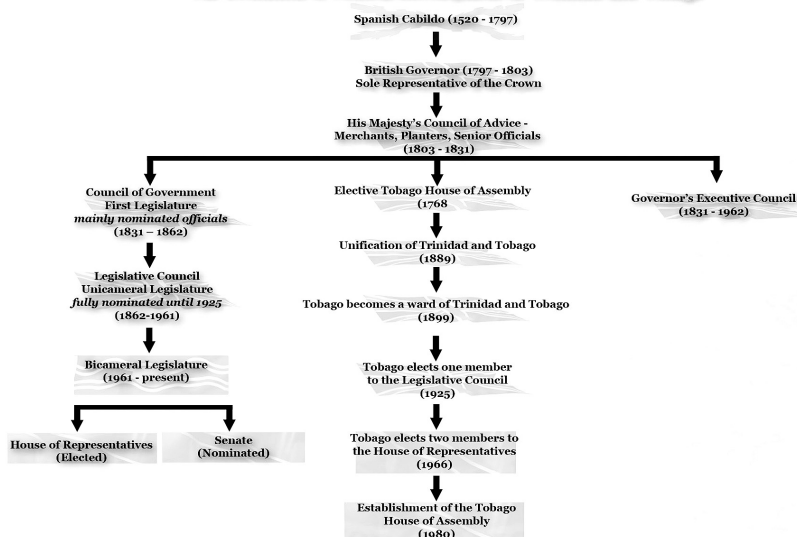
Table 1

Colony	Old Representative System	Crown Colony	Remarks
Jamaica	1663	1866	
St Kitts	1663	1866	
Montserrat	1663	1866	
Tobago	1768	1877	1874 reduced from bicameral legislature to unicameral legislature 1877 Crown Colony 1889 united administratively with Trinidad 1899 made a ward of the colony of Trinidad and Tobago
Grenada	1766	1875	
St Vincent	1766	1877	
St Lucia	Nil	1803	
Trinidad	Nil	1803	
British Honduras	1853	1870	

Adapted from Hume Wrong, *Government of the West Indies* (Clarendon Press, Oxford, 1923). Reprinted (Negro University Press, New York, 1969) pp 80-81.

Table 2

The Evolution of Central Government in Trinidad and Tobago



EVOLUTION OF A NATION: TRINIDAD AND TOBAGO AT FIFTY

NOTES

1. W. Cobbett (Ed) The Parliamentary history of England Vol. 36. 1820. Col. 869
2. A Trollope The West Indies and Spanish Main 4th Ed. London. 1859. Reprinted 1968 p 220
3. Hansard Trinidad and Tobago 1906. Pp 97-98
4. Froudeqp. 81
5. R.Kipling Complete verse Doubleday. London. 1939 p 122
6. Trollope p 311
7. C. Voight-Graf The Journal of Pacific Studies Vol. 27 Vol.2 Nov. 2004 p 180
8. British National Archives (BNA) CO 295/13. Enclosure with Hislop to Windham 26 Oct. 1806
9. (BNA) CO 295/522. Enclosure with Best to Milner, 7 Aug. 1919
10. (BNA) CO 295/630. Stanley to Clifford, 27 Mar. 1945
11. (BNA) CO 1032/102. Nominated members of the Legislative Council.
12. *Ibid*
13. CO 1031/3719 Monthly Intelligence Reports. 9 Oct. 1961
14. E. Williams, "Constitution Reform in Trinidad and Tobago, Teachers Economic and Cultural Association, Public Affairs Pamphlet, No. 2, 1955, p 23.
15. *Ibid*. Appendix
16. *Ibid*. Appendix
17. This account is drawn from Hamid Ghany, Constitution Making in the Commonwealth Caribbean with Special Reference to Trinidad and Tobago. PhD Thesis: London University, 1987, pp136f.



THE RELEVANCE OF THE SENATE IN A MODERN DEMOCRACY

Dr Hamid A. Ghany
New Town Hall, Chaguanas
2nd November 2011

I WISH TO THANK THE HONOURABLE WADE MARK, MP, Speaker of the House of Representatives, for extending this invitation to me to deliver this public lecture today on the subject of “The Relevance of the Senate in a Modern Democracy”.

In embarking on a discourse on this subject matter, I wish to commence by examining how Trinidad and Tobago came to have a Senate in the first place and then I shall discuss the reasons why the Senate is relevant in a modern democracy such as ours.

In order to place the subject matter of tonight’s lecture into perspective, it is important for us to understand how we came to have a Senate in our democracy that will turn fifty years old next month. To this end, it is important to place the overall evolution of West Indian Government into the equation that will provide us with the answer to why we have a Senate at all.

The Crown Colony system and the new representative system

In examining the evolution of West Indian Government, it is important to recognise the policy shift made by the British Government at the start of the nineteenth century to move away from the Old Representative System that had been in effect throughout the British West Indian colonies and the subsequent embrace, on a phased basis, of Crown Colony Government.

Trinidad and St Lucia were the first two Crown Colonies in the British West Indies. Trinidad was surrendered by the Spanish to a British expedition in 1797 and by the Treaty of Amiens 1802 it was formally ceded by Spain to Britain. St Lucia was captured by the British from the French in 1803 and by the Treaty of Paris in 1814 it was formally ceded by France to Britain. Both colonies became Crown Colonies in which the Governor ruled directly on behalf of the Crown and elected representation was suppressed. The principle of nomination was the hallmark of Crown Colony Government.

The continuation and expansion of this policy of Crown Colony Government emerged again after the Morant Bay uprising in Jamaica in 1865 which created the pre-conditions for the reform of Jamaica's Constitution from the Old Representative system to the Crown Colony system. Because of that uprising, the British Government removed the elected Legislative Assembly in 1866 and a system of nomination for the Legislative Council was introduced. This was copied in almost all the British West Indian territories except Barbados, the Bahamas and Bermuda by 1878.

However, by 1884, the British Government had decided to adopt a new policy that could be called the New Representative System in which both elected and nominated members would sit in the legislature. In 1884, elected representation was restored in Jamaica on a minority basis in relation to the nominated members in the Legislature so that, for the time being, the nominated members were greater in number than the elected members.

The Union of Trinidad and Tobago

It is important for us to juxtapose the policy of the British Government in the nineteenth century in the British West Indies as a whole alongside their policy that eventually brought together the colonies of Trinidad and of Tobago into a union. This will help us to understand some of the issues and controversies of today in relation to the wider topic of bicameralism in an independent Republic of Trinidad and Tobago.

During the American War of Independence, France captured Tobago in 1781 and the formal cession of the island to France was effected by the Treaty of Paris of 1783. The British captured the island in 1793 during the French and Napoleonic Wars, but it was restored to France by the Treaty of Amiens in 1802. However, it was recaptured by Britain in 1803 and was formally ceded to Britain by the Treaty of Paris in 1814.

As a consequence of the Trinidad and Tobago Act 1887 of the British Parliament, the two colonies were joined as one under the authority of an Order-in-Council made on 17th November 1888 that came into effect on 1st January 1889.

This Order-in-Council also made provision for the abolition of the Legislative Council of Tobago. The unification of these two British colonies, with completely different historical backgrounds, created the

need for the British Government to establish a single legislature for the twin-island colony and also to ensure the continued operation of all laws in force in Trinidad and all laws in force in Tobago.

This was effected by way of an Order-in-Council made on 20th October 1898 that came into force on 1st January 1899. This Order-in-Council made Tobago a ward of the colony of Trinidad and Tobago. It further provided that all laws that were in force in Trinidad on 1st January, 1899 would also extend to Tobago and that all laws that were in force in Tobago, at that date that differed from the laws of Trinidad ceased to be in force. The Legislature in Trinidad became the Legislature for the twin-island colony and all future laws enacted by that legislature would be deemed to extend to Tobago.

In this way, the British Government made a political and legal decision that would have ramifications for the twin-island colony long after its unification by imperial law. The political, psychological and legal effect of the decisions expressed in the 1899 Order-in-Council continue to manifest themselves in the post-independence era of the twin-island state of Trinidad and Tobago.

In 1924, the first major reform towards the introduction of elected representation into the Legislative Council of Trinidad and Tobago was made under the authority of the Trinidad and Tobago (Legislative Council) Order in Council 1924 which was subsequently amended in 1928, 1941, 1942 and 1945 before being revoked and replaced by a new Order-in-Council that provided for a new Constitution for the colony in 1950.

In 1924, the Legislative Council consisted of the Governor (who also presided over its sittings), twelve official members and thirteen unofficial members (of whom six were nominated and seven were elected). In 1941, the number of elected members was increased to nine and the number of official members stood at three.

This policy was copied from 1924 onwards in other British West Indian territories after the visit of Major E.F.L. Wood, Parliamentary Under-Secretary of State for the Colonies, who toured the British West Indies from 1921 – 22. Major Wood had recommended the re-introduction of elected representation in the legislatures of the British West Indies on a minority basis in relation to nominated membership. He also recommended that this position should be reversed gradually over time to permit majority elected representation in relation to nominated membership of legislatures.

The Moyne Commission 1938 – 39

After the social uprisings of the mid-1930s in the British West Indies, a Royal Commission under the chairmanship of Lord Moyne visited the region to investigate and report on the circumstances surrounding these events.

The Commission recommended that: (i) there should be the introduction of universal adult suffrage; (ii) an increase in elected membership of legislatures; (iii) the introduction of elected members into the Executive Councils; (iv) the assignment of greater responsibility to the Executive Councils. The Commission was uncertain about the prospect of a Federation which was regarded as a laudable goal that was not likely to succeed. Nevertheless, the Commission felt that an attempt should be made at Federation despite its misgivings about insularity undermining such an effort.

Federation

A conference to discuss the prospect of a West Indian Federation was convened at Montego Bay, Jamaica in 1947 by Arthur Creech-Jones, Secretary of State for the Colonies. A Standing Closer Association Committee was formed out of this conference to recommend to the British Government whether a Federation was a desired policy initiative in the West Indies. By 1953 the Committee recommended a Federation with a weak centre and strong individual units. In 1956 the British Caribbean Federation Act was passed, in 1957 a Constitution came into effect and in 1958 the federal elections were held and a Federal Government was constituted with Sir Grantley Adams as the first Federal Prime Minister.

In 1961, the British Government convened an independence conference at Lancaster House in London to discuss independence for the Federation which consisted of Antigua & Barbuda, Barbados, Dominica, Grenada, Jamaica, Montserrat, St Kitts-Nevis-Anguilla, St Lucia, St Vincent and the Grenadines, and, Trinidad and Tobago.

The Jamaican Referendum

The Opposition party in Jamaica (the JLP) was opposed to Jamaica becoming part of an independent Federation and preferred Jamaica to seek its own independence. The Premier of Jamaica, Norman Manley, agreed to a referendum among the Jamaican electorate on the subject.

The result of the referendum was a narrow victory for secession from the Federation by Jamaica. Shortly after this, Jamaica opted to proceed to its own independence.

The demise of the Federation

Following the general election of 4th December 1961 which was won by Dr Eric Williams and the People's National Movement (PNM), the bicameral Parliament of Trinidad and Tobago assembled for the first time after that. In January 1962 Trinidad and Tobago announced that it too would withdraw from the Federation after the failure of negotiations between the Federal Government and the Government of Trinidad and Tobago to bring about a revised formula for the continued operation of a Federation of nine members after the announced withdrawal of the tenth member, Jamaica. The Federation was terminated in April 1962. Jamaica (6th August, 1962) and Trinidad and Tobago (31st August, 1962) proceeded to their own independence.

Bicameralism in Trinidad and Tobago

There are eight bicameral Parliaments in the Commonwealth Caribbean, demonstrating a broad spectrum of features of composition and methods of selection. There are, however, some common denominators. For example:

- All of the second chambers in the Commonwealth Caribbean are called Senates and they are all nominated.
- There is no security of tenure for their members (who are called Senators) and they are all required to vacate their seats at the next dissolution of Parliament.

The fact that all of the Senates in the Commonwealth Caribbean are nominated is perhaps a direct result of the Crown Colony system of government that was introduced into the British West Indian colonies in the 19th century. That system of government had, as its hallmark, the expansion of the principle of nomination at the expense of the principle of election in the colonial legislatures of the region which previously existed under the Old Representative System. At the same time, you should also note that the shape, methods of composition and features of the Senates in the Commonwealth Caribbean appear to have been

influenced by policy developments in Britain, and other parts of the British Empire concerning proposals for the reform of the House of Lords and the export of those reform proposals to colonial legislatures (even though the reforms were not implemented in Britain itself).

We can trace the genesis of the shape, methods of selection and features of Commonwealth Caribbean Senates to 1918, and the Conference on the Reform of the Second Chamber (Cmnd. 9038/ 1918) in the United Kingdom under the chairmanship of Lord Bryce. The recommendations of the Bryce Conference for the reform of the House of Lords were:

- i. 246 persons to be chosen on the basis of proportional representation by panels of members of the House of Commons distributed in geographical groups.
- ii. 81 persons to be chosen by a Joint Standing Committee of both Houses and these persons should have a special knowledge of various forms of national life, e.g., agriculture, commerce, industry, finance, education, etc. These persons were also expected to be of independent character and mind.

These proposed reforms of the House of Lords were never implemented in Britain. Their main thrust was to:

- assure an adequate representation of the will of the elected representatives of the people through the use of indirect election by the House of Commons.
- ensure the recruitment of suitably qualified independent persons to serve in the House of Lords, but these persons would have to be a minority overall, although they may have been able to hold the balance of power depending upon the result of the indirect election in the House of Commons.

These reform proposals were apparently exported, rather than implemented in Britain. For example:

- The Government of India Act 1935 (25 & 26 Geo. V, c. 42) revealed that in the bicameral systems established for Burma and the Indian provinces of Madras, Bombay, Bengal, the United Provinces, Bihar and Assam, there was an obvious

adaptation of the Bryce Conference proposals that were meant for the House of Lords. The Burmese Senate was to consist of 36 members with 18 being chosen by members of the House of Representatives using the single transferable vote of proportional representation. The other 18 members were to be chosen by the Governor of Burma at his discretion. To some extent, a similar formula was applied in the Indian provincial legislatures named above. The Lower House was known as the Legislative Assembly and the Upper House was known as the Legislative Council. The members of these Legislative Councils were elected by a combination of special electorates, the General electorate, the Muslim electorate, the European electorate, and the Indian-Christian electorate, for some of the seats. Other members were elected on the basis of indirect election by members of the Legislative Assemblies in those provinces on the basis of the single transferable vote of proportional representation. The remainder were to be appointed by the Governor in his discretion.

- The report of a constitutional commission that visited Ceylon (known as Sri Lanka today) under the chairmanship of Lord Soulbury (Cmnd. 6677/1945) proposed that the Ceylonese Senate consist of 30 members, 15 of whom were to be elected by members of the Lower House on the basis of the single transferable vote of proportional representation. The remaining 15 were to be chosen by the Governor-General in his discretion from among persons who had distinguished themselves in public service, education, medicine, law, science, engineering, banking, commerce, industry or agriculture. These appointments would be made after the Governor-General had consulted the representatives of the appropriate occupation or profession. Indeed, in respect of Ceylon, the Soulbury Commission conceded the link with Burma by saying, “We prefer the proposal that the Second Chamber should be selected partly by the First Chamber by means of the single transferable vote, and partly by nomination by the Governor-General; and we think that this method would ensure adequate representation of minorities in the Second Chamber. We understand that it has been adopted in Burma with satisfactory results.” (Cmnd. 6677/1945, para.303). These recommendations were accepted

and embodied in the Ceylon (Constitution) Order-in-Council 1946 (S.R. & O. 1946, p. 2248).

- Sir John Waddington, the chairman of the Waddington Commission that visited British Guiana in 1950, advocated a unicameral system for the colony. However, the other two members, Professor Vincent Harlow and Dr Rita Hinden, advocated a bicameral system. Their recommendation was for a second chamber of nine members called the State Council, of which six would be nominated by the Governor in his discretion, two by the majority group holding office and one member by the opposition. (British Guiana: Report of the Constitutional Commission 1950-51, Colonial Office No. 280, London, HMSO, 1951, Codicil 11, para. 19.) This was clearly a further adaptation, in a smaller legislature, of the Bryce proposals.

The significance of these adaptations was that it influenced Dr Eric Williams who became the Chief Minister of Trinidad and Tobago in 1956, later the Premier in 1959, and the Prime Minister in 1962.

According to Eric Williams in a public lecture that he gave on 19th July 1955 in Woodford Square, Port of Spain under the auspices of the Teachers' Educational and Cultural Association:

'In 1951, the two university members of the three-member British Guiana Constitutional Commission, one of whom supervised my doctor's thesis at Oxford, recommended the establishment of a bicameral legislature for British Guiana. What they had to say is of direct concern to the people of Trinidad and Tobago.'

Of the two university members of this Commission, Professor Vincent Harlow was the member who had supervised Dr Williams' thesis at Oxford.

It is interesting to note that this Commission (the Waddington Commission) was divided on the issue of a unicameral or a bicameral legislature for British Guiana. The Chairman recommended a unicameral legislature, while the other members, Professor Harlow and Dr Hinden, recommended a bicameral legislature.

In a dispatch dated 6th October 1951, the Secretary of State for the Colonies, Mr James Griffiths, indicated that he accepted the proposal

for the bicameral system for British Guiana and asked the Governor to furnish, at an early date, his views on matters of detail in the recommendations.

In spite of the fact that there was a change of government in the United Kingdom in October 1951, the new Secretary of State for the Colonies, Captain Oliver Lyttleton, indicated in a reply to a parliamentary question for written answer that he had nothing further to add to the recommendations of his predecessor in office.

Williams' lectures on constitutional reform

It is against this background that the debate about unicameralism and bicameralism may be viewed in the case of Dr Williams and Trinidad and Tobago. The above quotation provides, perhaps, an interesting link between Williams' political and constitutional views and those of the former supervisor of his doctoral dissertation.

One of the cornerstones of Williams' ideas on the ideal legislature for Trinidad and Tobago was the introduction of a bicameral system. In his series of lectures throughout Trinidad and Tobago in 1955 on the subject of 'Constitutional Reform', he made his case for a bicameral system. Williams, at this time, was not a Member of the Legislative Council and so his views were regarded solely as those of an eminent private citizen. He embarked on a lecture tour throughout the country to speak on constitutional reform.

One of the more interesting aspects of Williams' views about bicameralism was his reverence for British institutions. In the same address to the public meeting in Woodford Square on 19th July, 1955 Williams said:

'The Colonial Office does not need to examine its second hand colonial constitutions. It has a constitution at hand which it can apply immediately to Trinidad and Tobago. That is the British Constitution. Ladies and Gentlemen, I suggest to you that the time has come when the British Constitution, suitably modified, can be applied to Trinidad and Tobago. After all, if the British Constitution is good enough for Great Britain, it should be good enough for Trinidad and Tobago.'

This quotation epitomised the attitude of Eric Williams to the whole question of constitutional reform and, at the same time, confirmed his

reverence for British institutions. The public response to these lectures on constitutional reform, that began in Woodford Square, Port of Spain, was overwhelming. Indeed, their popularity was clearly seen in the petition that was passed around for signatures to support Williams' proposals for constitutional reform. The petition was cited in the form of a memorial and read, in part, as follows:

“We, the People of Trinidad and Tobago, respectfully request, therefore, that our constitution be reformed to provide:

I. Substitution for the single chamber Legislature of a bicameral Legislature comprising:

- (1) An elected lower house of 18 empowered to elect a Speaker who need not be one of its members.
- (2) A nominated second chamber of 16, to consist of –

- (i) six representatives of special economic interests, viz.:
 - (a) oil; (b) sugar; (c) commerce; (d) cocoa; (e) shipping; (f) local industries – these representatives to be selected by the interests themselves;

- (ii) five representatives of the religious denominations, viz.:
 - (a) His Grace the Archbishop of Port of Spain;
 - (b) His Lordship the Bishop of Trinidad;
 - (c) the Head Pundit of the Hindu Faith;
 - (d) the Moulvi of the Moslem Faith;
 - (e) one representative selected by agreement among all the other religious denominations;

- (iii) three ex officio members, viz.:
 - (a) His Lordship the Chief Justice, as President of the chamber; (b) the Colonial Secretary; (c) the Attorney General;

- (iv) two men or women of distinction in public life, appointed by the Governor on the recommendation of the Chief Minister recommended below.

- (3) The right of both chambers to initiate legislation, subject to the reservations that –

- (i) money bills must originate only in the lower house, whose decision would be final;
- (ii) on all other matters except money bills, the second chamber must have a delaying power of two years.”

This petition was forwarded to the Colonial Office in London where it was closely scrutinised. It attracted 27,811 signatures and based on its wide appeal a solid platform for the launch of a political movement had been established.

Eric Williams and the introduction of a nominated Senate

The advent of the People’s National Movement (PNM) led by Dr Eric Williams, who became the Chief Minister following the 1956 general elections, changed the political landscape of Trinidad and Tobago in relation to the structure of the Legislature. One year before Williams became Chief Minister, he had embarked on a lecture series throughout Trinidad and Tobago in which he publicly proclaimed his preference for a bicameral system. For the 1956 general elections, the Legislative Council consisted of twenty-four elected members, five nominated members and two official members.

The PNM victory and changes to Williams’ proposals

Although the PNM won thirteen of the twenty-four elected seats in the Legislative Council at the 1956 general elections, this did not guarantee the party control of the Council as there were also five nominated members to be appointed by the Governor. There were negotiations with the Governor and the Colonial Office over the appointment of some nominated members on the advice of the Chief Minister.

As far as getting the permission of the Colonial Office on the nomination of at least two nominated members by way of the Governor acting on the advice of the Chief Minister was concerned, the Colonial Office made a policy shift in respect of Trinidad and Tobago as well as its other colonies. Evidence of this can be gleaned from a now-declassified confidential Intel from the Foreign Office to certain of Her Majesty’s Representatives overseas. It was labelled for Foreign Office and Whitehall distribution. The appropriate excerpt from the Intel read as follows:

5. Immediately after the election the Governor, Sir Edward Beetham, sent for Dr Williams and offered him his co-operation in forming a Government. Dr Williams then asked that his nominees should be appointed to fill the nominated seats, and this request at first threatened to give rise to some constitutional difficulty. The reason for this request was that the People's National Movement, holding thirteen out of thirty-one seats in the new Legislative Council, would, even with the votes of the two official members have to command the vote of at least one other member to give them an overall majority in the Council. Dr Williams was not prepared to have to rely on the votes of independent nominated members to implement the Movement's programme which he claimed he had a clear mandate from the electorate to pursue.

6. The revised constitution was designed (by a Constitutional Reform Committee in Trinidad which included all the members of the previous Legislative Council) to suit the continuation of a situation where the electorate had not returned a majority of one party. The basis on which Nominated Members are appointed remains as it was set out in 1949 in a despatch from the Secretary of State to the Governor, namely that such members should 'strengthen the experience and knowledge of the Council in dealing with the complex issues of Government' and should be appointed not to represent any particular interest, but "to serve the broad and best interests of the Colony as a whole".

In one or two other colonial territories with advanced constitutions, it has, however, been recognised recently that nominated members could not be appointed to a Legislature to oppose the policy of the majority of the elected members, and in those territories the Governors have consulted with the Leaders of the majority parties as to how the nominated seats should be filled.

In Trinidad, therefore, the emergence of a majority party was recognised as calling for some modification of the principles of the 1949 despatch. The Secretary of State therefore authorised the Governor to "take such steps by way of nominating suitable persons to the Legislative Council, after consultation with the leader of the majority party, as will provide a reasonable working majority for that party".

Discussions between the Governor and Dr Williams have now taken place and two Nominated Members who may be expected to support the PNM have been appointed. The new Legislative Council met on October 26 and elected a PNM Government with Dr Williams as Chief Minister. (See CO 1031 / 1301, No. 198 Intel, Confidential, November 8th, 1956).

The two Nominated Members chosen by the PNM were Mr W.J. Alexander and Mr C.A. Merry. It should be noted, however, that Beetham was quite cooperative on this issue and had excellent relations with Williams and the Executive Council. To quote Williams:

‘The first stage in the process of Constitution reform was, as my honourable Friend the Leader of the House indicated, in October 1956 when a sufficient number of nominated members (2) was obtained by the Party that received a majority of the elected seats in the election, to ensure to that majority, political stability.... based on precedents already established in Malaya and Singapore, the Secretary of State for the Colonies said so. We requested it on the basis of the precedents set in those countries. It did not have to be granted, Sir.’(See Official Report, Debates of the Legislative Council, Vol. 9, 1958-59, p.131).

Once in office, he opened negotiations with the Colonial Office to bring about a change to bicameralism and after five years of political dialogue, both locally and with the Colonial Office, it would come to pass.

Williams and the Colonial Office compromise on the Senate

A Select Committee of the Legislative Council in Trinidad and Tobago was appointed in 1958 and discussions were held in London in October / November 1959 between a delegation from Trinidad and Tobago led by Dr P.V.J. Solomon and the Colonial Office. These discussions broke down on the issue of the Senate and the need for some measure of concurrence with the Opposition. This is usefully described in paragraph 11 of the second revision to a Brief dated 27th April 1960 and prepared for Mr Julian Amery, Parliamentary Under-Secretary of State for the Colonies, who was expected to visit Trinidad and Tobago shortly thereafter. Paragraphs 11 and 12 of the Brief read as follows:

11. Shortly after the delegation's return, Dr Williams wrote to the Secretary of State a letter (Appendix H) which did little more than amplify the views expressed by Dr Solomon. In reply (Appendix J) the Secretary of State again explained that on this occasion the difference of opinion was between the political parties in Trinidad and not, as had on occasions been the case hitherto, between political parties in Trinidad on the one hand and a Secretary of State on the other. Her Majesty's Government were willing to accept either a bicameral or a unicameral legislature and indeed saw a strong case for a Senate. Failing agreement between the parties, however, the matter would inevitably be an issue at the election. In the context of full internal self-government he did not feel that he ought to force a Senate upon Trinidad if the party successful at the polls were to be strongly opposed to it.

12. Silence followed this letter until on 11th February, Dr Williams telegraphed welcoming the Secretary of State's proposal for a visit to Trinidad by Mr Amery. (*Trinidad Constitution*, Brief for Mr Amery, 2nd Revise, CO 1031 / 3221, 27th April, 1960, paragraphs 11 and 12).

Clearly the Colonial Office had an open mind on the issue of a bicameral or unicameral legislature for Trinidad and Tobago. There has been a view that the Colonial Office was taking sides with the DLP against the PNM on the issue of bicameralism. For example, Selwyn Ryan made this point quite clearly as follows:

‘Interestingly enough, the Colonial Office came out in support of the DLP against the Senate idea. The PNM was aghast.’
[Selwyn Ryan, *Race and Nationalism in Trinidad and Tobago*, (Toronto: University of Toronto Press, 1972), p.206].

However, this was not the case. Indeed, it seemed very much as though the Colonial Office was adopting an even-handed approach to the divergence of views between the Government (PNM) and the Opposition (DLP) in order to facilitate Williams and the PNM. Furthermore, a compromise position had been reached between the Government and the Colonial Office when the talks had been suspended in November 1959. In briefing Mr Amery on “General Tactics”, the Colonial Office advised as follows:

‘12A. The method imposed on us of separate meetings with both sides, and the unexpected breaking off of the talks by the Government, meant that we never reached the stage of telling the Opposition officially how far the proposals had been modified in discussion with the Government. We gave them some broad hints, and their ignorance of how far the original proposals had been modified may have been more apparent than real; but to some extent the Opposition may still at the end have been opposing proposals which, unknown to them, no longer held the field. It will be desirable at the outset of the resumed talks to try to reach with both sides an agreed summing up of where we have got to. This remains a tactical problem. It is clearly desirable as early as possible during the resumed talks to try to reach an agreed summing-up of where we have got to. Against this is the danger that as soon as the Opposition know what the Government have agreed to, they will shift their ground and find something else to oppose. For this reason the Governor advises strongly against insisting on even one joint meeting, at least at the outset. Whether to do so at some stage must depend on how the talks develop. Initially, the object should be to pin the Opposition down to a precise statement on what they want. [See 20(a) and (b) below] and work thence towards agreement.’ (*Trinidad Constitution*, Brief for Mr Amery, 2nd Revise, CO 1031 3221, para. 12A).

Clearly the Colonial Office was unhappy with the way in which the Opposition was handling the discussions and, furthermore, the credibility of the Opposition was also in doubt in the opinion of the Colonial Office. Therefore, in briefing the Parliamentary Under-Secretary of State they advised him “to pin the Opposition down to a precise statement on what they want.” One can see that the Colonial Office was more concerned about the behaviour of the Opposition than they were about trying to deny the Senate to Williams and the PNM. Indeed, the agreement that had been reached in London in 1959 between the Government delegation and the Colonial Office, which was a compromise, was as follows:

‘15. At the time the talks were suspended, it had been agreed with the Government delegation that the Senate should be co-terminous with the Lower House and its membership as follows:

- (a) 12 members appointed *on the advice* of the Premier;
- (b) 2 *on the advice* of the leader of the Opposition; and
- (c) 7 after consultation with the Premier to represent the main religious and business interests (it being understood that the Governor would be free to consult with others as well as the Premier regarding these appointments).’ (*Trinidad Constitution*, Brief for Mr Amery, 2nd Revise, CO 1031 3221, para. 15).

Both Williams and the Colonial Office had shifted their positions somewhat based on earlier points of view. However, this compromise had not yet been communicated to the Opposition and it was from that point that the discussions were going to be resumed in Trinidad with a visit by Julian Amery. However, Amery got deeply involved in the Cyprus negotiations for independence and could not draw himself away to visit Trinidad. In the circumstances, the Secretary of State for the Colonies, Iain Macleod, came to Trinidad in June 1960 to negotiate the final position with regard to constitutional reform for internal self-government (in which the bicameral debate was a major issue).

During his visit, the Secretary of State held discussions with an adequate cross-section of interests in the society, including the Opposition with whom he met twice. However, the Colonial Office strategy of getting the Opposition to agree to what had already been agreed between the Government and the Colonial Office clearly worked. The Opposition came around to supporting the idea of a bicameral Parliament and the major bone of contention was whether it should be introduced before or after a general election. In 1961 Trinidad and Tobago was granted a Constitution that conferred full internal self-government to the Colony within the framework of the Federation of the West Indies.

General elections were held on 4th December 1961. The legislature that assembled after those general elections was a bicameral one which consisted of twenty-one nominated Senators in a Senate and thirty elected MPs in a House of Representatives. The actual provisions in the Constitution mirrored exactly those that had been agreed since 1959 between the Government and the Colonial Office and read as follows:

- “15. (1) The Senate shall consist of twenty-one members (in this Constitution referred to as “Senators”) who shall be appointed by the Governor by instrument under the Public Seal in accordance with this article.

(2) Of the twenty-one Senators –

- (a) twelve shall be appointed by the Governor acting in accordance with the advice of the Premier;
- (b) two shall be appointed by the Governor acting in accordance with the advice of the leader of the Opposition; and
- (c) seven shall be appointed, to represent religious, economic or social interests in the Territory, by the Governor, acting after consultation with such persons as, in his discretion, he considers can speak for those interests and ought to be consulted.”

Williams had had his way, albeit with some degree of compromise. However, a Senate was introduced into Trinidad and Tobago in 1961 some five years after it was first proposed at a public lecture in Woodford Square, Port of Spain, by Williams himself. The scholar had turned politician and used his political will to negotiate for the introduction of a constitutional reform that was dear to his heart, namely a bicameral legislature in Trinidad and Tobago. However, it must be recorded that were it not for the assistance of the Colonial Office, Williams may not have realised his dream for a Senate in Trinidad and Tobago. The Whitehall version of the Senate was born with the three main categories of Government, Opposition and ‘Independent’ Senators. In 1962, Trinidad and Tobago became an independent, sovereign nation and this Whitehall version of the bicameral system was retained with some modifications.

At independence in 1962, the Senate was increased to twenty-four and this bicameral system was, in general, retained with some modifications to the numbers of Senators with the number appointed on the advice of the Prime Minister being set at thirteen (13) and the number appointed on the advice of the Leader of the Opposition being set at four (4). The seven Senators who were previously appointed by the Governor in his discretion were, at independence, to be appointed by the Governor-General on the advice of the Prime Minister after the Prime Minister had consulted those religious, economic or social bodies or associations from which the Prime Minister considered that such Senators should have been selected. In 1966, the House of Representatives was increased to thirty-six MPs.

In 1976, Trinidad and Tobago became a Republic within the Commonwealth and a President replaced Her Majesty Queen Elizabeth II as Head of State, while the Prime Minister remained as Head of

Government in a parliamentary system of government. It retained its bicameral system with a House of Representatives of thirty-six MPs and an enlarged Senate of thirty-one Senators.

Since 1976, the Senate has consisted of sixteen Senators appointed by the President on the advice of the Prime Minister, six Senators appointed by the President on the advice of the Leader of the Opposition and nine Senators appointed by the President in his discretion from outstanding persons from economic or social or community organisations and other major fields of endeavour (this latter category is commonly known as independent Senators).

In 2007, the number of seats contested for the House of Representatives was increased from thirty-six to forty-one.

The bicameral model

In essence, the existence of bicameralism in small states in the Commonwealth Caribbean is the result of both the Crown Colony system of government that expanded the principle of nomination from the Old Representative System that preceded it, and the evolution and adaptation of the 1918 Bryce proposals on the reform of the House of Lords. The historical evidence suggests that a second chamber constituted on the basis of combining political complexion with special interest and expertise recruitment justified the bicameral experiment.

In some of the bicameral (two-chamber) systems, provision is made for Senators to be appointed who do not hold office by virtue of political party invitation and are not subject to a political whip. These Senators are usually called independent senators, although the Constitution does not refer to them as such.

The availability of legislators who are recruited from non-political sources to serve in the Parliament affords the legislative process the benefit of conscience votes on all legislation. Furthermore, these Senators also assist parliamentary committees in their deliberations by not having to respond to the directives of the Government or the Opposition. Their expertise can also be useful in a professional way to enhance the output of these committees. In this way, a parliamentary technocracy can be created through the judicious use of appointments to this category of Senators by Governors-General or Presidents in the Commonwealth Caribbean.

The relevance of bicameralism in small states may be buttressed by the following other facts or political realities:

- (i) That the elected Houses are small and there is the need for wider interest articulation in the legislature.
- (ii) That electoral politics may be unattractive to persons in small states who may be uniquely qualified to serve as legislators. Under such circumstances, a nominated second chamber may serve as a useful vehicle to attract persons with useful expertise who may also be independent of mind and character.
- (iii) That some small states may also be divided states insofar as they are not geographically contiguous. The existence of a bicameral Parliament may offer opportunities for guaranteed representation of geographically disadvantaged areas or constituent units in the legislature.
- (iv) That some small states that operate the first past-the-post system, or systems of proportional representation with high thresholds of qualification for seat allocation may find bicameral systems useful to allow some measure of minor party representation in a second chamber in the legislature.
- (v) That in small states with parliamentary systems, bicameralism may offer greater scope for the recruitment of Ministerial talent for the Executive.
- (vi) That in small states with written constitutions, bicameralism may offer greater constitutional protection by way of varied entrenchment procedures involving both Houses to prevent easy amendment of the constitution.

You should also note that some small states operate unicameral legislatures where elected and nominated members sit in the same House side-by-side. To a large extent, evolutionary forces and political choice may explain the existence of such a phenomenon. At the same time, it may be more economical for small states to operate a unicameral system in this way. However, it is difficult to put a price on the value of democratic processes for any nation state.

On the whole, however, a case can be made for bicameral systems to be operated in small states. The proof of this can be drawn from the Commonwealth Caribbean where such systems have operated with reasonable success. In some instances, they have prevented the existence of single-party Parliaments following one-sided general election results where all of the seats in the elected House were won by one party (Trinidad and Tobago 1971, Jamaica 1983, St Vincent and the Grenadines in 1989 and Grenada 1999). Political traditions may influence the creation

of bicameral Parliaments in many small states. However, as an option for constitutional or parliamentary reform, there are very compelling reasons, as listed above, that validate bicameral systems in small states.

Twelve independent nations constitute the Commonwealth Caribbean: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St Lucia, St Kitts-Nevis, St Vincent and the Grenadines, and Trinidad and Tobago. Barring Guyana, which changed its Constitution in 1980 to embrace an executive presidential model, these countries have essentially the same type of constitutional system based on a parliamentary model.

Central to an understanding of the legislative process as well as the functioning of parliamentary government in the region, is a wider appreciation of the value of bicameralism (i.e., two-chamber Parliaments) in small-island states. In other words, Parliaments having both Upper and Lower Houses are called bicameral Parliaments.

There are eight bicameral Parliaments (Antigua and Barbuda, the Bahamas, Barbados, Belize, Grenada, Jamaica, St Lucia, and Trinidad and Tobago) and four unicameral Parliaments (Dominica, Guyana, St Kitts-Nevis, and St Vincent and the Grenadines) in the Commonwealth Caribbean. Parliament being the key institution of governance in the region, I shall now elaborate on bicameralism here.

Theoretical issues

Bicameralism has a variety of permutations associated with it, insofar as representative and responsible government is concerned. Among these permutations are the principles of *election* and of *nomination* as the key methods of recruitment to the legislature. Some legislatures may have elections for both Upper and Lower Houses (e.g., Australia), while others may have elections for one House and nomination for the other. For example, in Trinidad and Tobago, members are elected for the Lower House and nominated for the Upper House. These two variations demonstrate the fact that bicameralism can be employed in federal as well as in unitary state systems, regardless of their size. But, on what basis can bicameralism be validated?

Bicameralism may be validated in the Commonwealth Caribbean on the ground that second chambers can provide the following benefits:

- (i) An opportunity for a second examination of legislative proposals and measures.

- (ii) A more dispassionate examination of legislative proposals and measures (particularly in a non-elected House, where a party whip may not be applicable to some members).
- (iii) A wider scope of expertise to be recruited to serve in the legislature (and in parliamentary systems, also to serve in the Executive).
- (iv) A greater number of members to serve on parliamentary committees.
- (v) A wider scope for checks and balances by one House in relation to the other, either procedurally or politically.
- (vi) A wider scope of representation of interests in society.

However, it is important to note that:

- (i) a second examination of legislative proposals and measures will lengthen the overall legislative process.
- (ii) the absence of a party whip may not guarantee regular attendance and/or participation.
- (iii) the presence of non-elected members in the legislature (as well as the executive) may be viewed as a challenge to the tenets of representative government.
- (iv) the existence of a government majority on parliamentary committees overrides the benefit of a wider network of expertise from which membership can be drawn.
- (v) checks and balances between the Houses of Parliament in bicameral systems may adversely affect the legislative process by either the absence of consensus between Houses or the presence of delay in the process itself.
- (vi) the societal interests represented in bicameral systems may only increase in number, but there is no guarantee that a proportion or ratio will be maintained

Conclusion

Today, Trinidad and Tobago continues to talk about constitutional reform. One of the institutions that has faced considerable scrutiny has been the Senate. The Wooding Constitution Commission proposed the abolition of the Senate in favour of a single House with a mixture of 36 geographically-elected MPs on the basis of the first-past-the-post system and 36 list members chosen on the basis of the party list system of proportional representation.

Eric Williams refused to accede to the proposal of the Wooding Commission on the ground that it would be a dagger to the heart of the PNM. The Republican Constitution of 1976 did not reflect any incorporation of proportional representation.

The Hyatali Commission was divided on the issue of the Senate and the Ellis Clarke Draft Constitution of 2006 made a concession to proportional representation for the Senate. The Principles of Fairness Draft Constitution of 2006 also sought to introduce proportional representation to the Senate, while leaving the House of Representatives as it is now.

The principle of nomination for the Senate can either be modified to reflect the will of the population or the will of the leaders chosen by the population as well as the opinions of the President.

Whichever way may be chosen, the Senate has woven its way into the fabric of our political culture. The preponderance of public opinion might be in favour of modifying it under new constitutional arrangements, rather than abolishing it.

The debate continues. Thank you.



THE ROLE OF POLITICAL PARTIES IN THE DEVELOPMENT OF DEMOCRACY IN THE REPUBLIC OF TRINIDAD AND TOBAGO

Professor Selwyn Ryan
City Hall, San Fernando
16th November 2011

SOME FIFTY-SEVEN YEARS AGO, ERIC WILLIAMS AUTHORED one of the most significant political pamphlets ever to be written by a Trinidadian public figure. The Pamphlet was titled *The Case For Party Politics in Trinidad and Tobago*. The pamphlet was important not only for what it said, but also for what it signalled. It was saying to those who stood silently, as if mesmerised, that the time had come to create a new political instrument to take Trinidad and Tobago from colony to nation.

Dr Williams was not the first person to introduced party politics into Trinidad and Tobago as some claim. That is a convenient myth. Before the PNM, there were many others- the Trinidad Working Man's Association, the Party of Political Progress Groups, the Trinidad Labour Party, the British Empire Home Rule and Workers Party, The Trinidad Socialist Party, the United Front, and The People's Democratic Party, just to name a few. What Williams was seeking to introduce was a disciplined, ethnically diversified party, one which differed from the "one man and his dog" formations that had dotted the political landscape of Trinidad and Tobago. His argument was that those mini political formations were not genuine parties, as he understood the term, and were not adequate to address the problems that lay ahead. The party that he envisaged was a movement, a rally of all for all, a mobilisation cutting across race, religion, class and colour.

Williams approach to parties was Burkean. Parties for Edmund Burke (the British Member of Parliament for Bristol) were expressions of the organised political opinion of a community or sections of it. Hence, before one could have party politics, one had to have a public opinion to organise. The organisation of that public opinion demanded first an educated public. Williams did in fact seek to create that opinion by undertaking a series of public lectures during the late fifties and early sixties on a variety of subjects at the University of Woodford Square and its "Colleges" in Arima and Harris Promenade, San Fernando.

Our task this evening is to look back at what was achieved by Williams and his disciples. What is the legacy of the PNM in the construction of

democracy in Trinidad and Tobago? What did Williams mean by the term? What did it mean for him in practice? We will also be seeking to determine the extent to which other parties emerged to fill the gaps that were left unfilled by the PNM. We will be considering too whether what is now needed is a new party system to replace the two party variant to which PNM politics gave rise, or whether there is now need to write a new version of the classic document, perhaps titled “*The Case Against Two Party Politics in Trinidad and Tobago*, or alternatively, one called *A Case for Coalitional Politics in Trinidad and Tobago*.

A brief outline of party politics in Trinidad and Tobago, 1956 to 2011

The arrival of the PNM on the political scene gave rise to the appearance of several parties which sought to imitate it in terms of organisational principle and even ideology. The most significant of these were the Democratic Labour Party which began its life in 1958 as a federal party led by Alexander Bustamante of Jamaica, and the Liberal Party which drew most of its support from the white and off white gentry. The two parties were, however, never able to match the discipline for which the PNM became well known. For the most part, the PNM represented the Afro-Creole masses, the mixed middle class, the Indian Christians, and the urban Muslims, and there was need to establish a corresponding mass based party for the Hindu element.

In between the tribally based parties, there emerged small parties which sought to represent the working class and the urban-based university educated intellectuals. I am referring here to the Workers and Farmers Party, the National Joint Action Committee (NJAC) and The Tapia House Movement. These minis -parties disavowed ethnicity and maximum doctor leaders in principle if not in reality. All, at one time or another had sharp disagreements over leadership. The WFP tried to solve its internal democracy problem by refusing to designate any one person as leader.

This democratic gesture failed and gave rise to confusion. Tapia also split over the issue of who should be the Doctor Leader. There were also sharp disagreements as to whether the party should be involved in conventional politics or not.

NJAC also had leadership and ideological issues. The party, like Tapia, had sharp disagreements as to whether the group should engage in electoral politics perhaps in association with the ACDC. One wing argued that conventional politics would corrupt and contaminate the movement, while the other believed that they should seek to capture political power

as conventional parties did. In the end, NJAC splintered into a multiplicity of ideological groupings ranging from guerrilla activity in the hills to Black Muslim elements on the plains of Mucurapo. We note however that the principle issue being agitated was the widening and not the deepening of democracy. It was a struggle to capture state power.

The 1970s witnessed the emergence of several “newish” parties, all bent on taking power away from the hegemonic PNM. Among them were the Action Committee of Demographic Citizens (ACDC) which later morphed into the Democratic Action Congress, a breakaway group from the PNM led by A.N.R. Robinson.

The Democratic Labour Party also had its leadership issues. The party broke into two wings, one which retained the original name – The Democratic Labour Party – with the other calling itself the Social Democratic Labour Party. Both sought to maintain control of the Indo-based elements in the society and also to expand to include the detribalised elements.

In the end, both DLP’s lost the mandate of heaven, so to speak, and remerged as the United Labour Front which brought together radical trade union elements in the sugar and oil industries. The ULF had in fact succeeded in what had long been a goal of radical working class leadership elements. As we shall see, the leadership of the ULF was driven by ethnic, regional, ideological and personal factions, and never succeeded in presenting the country with a credible challenge to the PNM.

The failure of the various movements and parties to present the country with a credible alternative to the PNM was a matter of great concern, particularly to those elements who were of the view that the electoral predominance of the PNM was politically unhealthy for the political order. Democracy, they argued, was being subverted by a number of factors all of which reinforced the other, and prevented the deepening of democracy.

The first “fire wall’ that kept democracy in thrall was the demography of the society which served to concentrate the Indo Trinidadian community in central and most of the south, leaving the Afro Creole element concentrated in the urban areas and along the East-West Corridor. Of equal importance as a constraint on democracy was the first-past-the-post electoral system, (FPP) which served to over represent majority parties and under represent minority parties.

Those negatively affected felt that the only way to deal with the issue was to substitute proportional representation for FPP. This proposal was promoted by groups which appeared before the Wooding Constitutional

Commission which sat in 1971 to 1974. The advocates of PR were never concerned with internal democracy. Their concern was with group representation.

The PNM, and Dr Williams in particular, was strongly opposed to PR, arguing that its aim was to break up the PNM majority. And he was right in that regard. A majority of the Wooding commissioners were in favour of PR, though none wanted to break up the PNM majority as Williams alleged. Williams was however suspicious of the ideological positions of several members of the reform team.

There were, however, several other factors that sustained the PNM in power and made it appear almost impregnable. There was the personal dominance of Dr Williams who bestrode the political order like a colossus. He was the maximum leader extraordinaire. When one said cometh, he/she cometh, and when one said goeth, one most goeth. It took a massive show of street power in 1970 to shake the PNM foundation.

The opposition was partly responsible for locking the PNM into the citadels of power. The chronic inability of the various opposition parties and elites to forge and sustain any meaningful political alternative to the PNM served to make Williams appear as a permanent fixture. The instability was both within the leadership ranks of the opposition parties and as well as between them. Williams also bought off some of the principal players within the opposition. He bought and sold state owned real estate when he wished to neutralise a political rival or someone whom he wanted to use.

To many, the only meaningful exit from PNM dominance was for the various opposition groupings to form united fronts from below or from above. This however proved difficult to achieve. The imperative of unity was frustrated by the unwillingness of the leaders of the various splinter parties to forego their separate existences and confront the PNM as a monolith. Instead, alliances and accommodations of one sort or another sallied forth to challenge the PNM political Goliath. The result was that the PNM continued to win with pluralities or near majorities, leaving the disunited opposition to continue their frustrating and powerless sojourn in the wilderness. We saw the effects of this in the tragedies of the Organisation for National Reconstruction (ONR) in 1981 and in the Congress of the People (COP) in 2007. Both parties got over 20 per cent of the votes cast, but won not a single seat.

Not until 1986 did a united opposition emerge as a credible alternative to the PNM. In that iconic election, the National Alliance for Reconstruction (NAR) won 33 seats and the PNM three. Many felt that

Trinidad had finally found the key to unity in a “one love” democratic political merger. For a variety of reasons, however, the NAR formula did not work well. The constituent groupings and their leaders all wanted to control the government. It was a classic example of how not to govern a coalition or a merger. Democracy ran riot. There were endless disputes among the leadership as to what was meant by democracy, and collective responsibility. The achievement of the NAR, however, served as a dream to be achieved, a dream which seemed beyond the capacity of the opposition. It was also a warning as to what could happen if representation trumped the need for party discipline.

The UNC would eventually succeed in ejecting the PNM from office in 1995, but only succeeded in doing so because there was a 17-17 tie, and because the DAC, which had won two seats in Tobago, chose to join it in a coalition. The coalition was superseded by two floor crossings which allowed the UNC to cling to power. The UNC won the millennium elections of 2000, but internal splits within its ranks caused it to lose power. Again, the determination on the part of the UNC to stage intra party elections to establish the fact that it was different to and more democratic than the PNM was to prove its undoing. This led inexorably to fissures in the Party and to its ultimate collapse and an 18-18 hung parliament.

The PNM regained power following the elections of 2002 and again in 2007, and held it until May 2010, following Mr Manning’s puzzling decision to call elections some 30 months before they were constitutionally due. The PNM was defeated by the Peoples Partnership (PP), a coalition of five parties which successfully recreated the NAR experiment. The PP’s Victory was made possible mainly because of Mr Manning’s unpopularity, but also because the opposition parties all agreed to accept Mrs Kamla Persad-Bissessar, the UNC political leader, as the standard bearer of the coalition in which all the opposition figures agreed that they would not compete with each other electorally, and would instead agree to share seats among themselves.

We turn next to the question which we were asked to answer. What, if any, was the political role of parties in the development of democracy in Trinidad and Tobago? The question presumes that we have, and have had a democratic political system in Trinidad and Tobago, and that the numerous political parties catalogued above played meaningful roles in the development of the system. Not everyone is agreed that our political parties have played a meaningful role in creating and sustaining our democracy.

Some would argue that such democracy as we have, was achieved in spite of the activities of our political parties. Some indeed argue that given the record of their performances, political parties are no longer necessary or desirable, particularly at the local government level. Few also believe that there should be public funding for political parties.

Before dealing with these issues, let us look at what roles democratic political parties are traditionally expected to perform. Parties in western democratic political theory have been assigned a variety of functions. Among the most important are the recruitment function, the sustaining of those who have been recruited to provide leadership, and the provision of the channels through which interests and opinions are articulated, aggregated, and deliberated upon and brought into the policy market place. Most importantly, they are also expected to organise themselves and to take part in competitive struggles for the people's vote in what we call "elections." Elections are a ritual re-enactment of war.

There are some who regard elections as that which distinguishes the democracy from other systems. Joseph Schumpeter, the distinguished Austrian theorist sees the electoral role as the essence of the democratic process. Democracy is not about public policy choices or social justice. It is about the integrity of the electoral process. Elections must be free and fair. The ends of policy could be achieved by other methods. As he wrote, "democracy is an institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."

The Italian scholar, Gaetano Mosca, goes further. Democracy, he tells us, is not about voters having views and policy preferences which they seek to promote in the political market place. The reverse is the case. "What happens in reality is that an organised minority imposes its will on a disorganised majority. When we say that the voters choose their representatives, we are using a language that is very inexact. The truth is that the representative was himself elected by the voters." We recognise Mosca, Pareto, and Schumpeter in our political parties.

Parties in Trinidad and Tobago have performed the recruitment function reasonably well, whatever we might think of them. They have mobilised the resources to enable them to compete for the peoples vote in elections that have been generally free and fair. They have however not done very well in providing opportunities for members to debate and discuss issues and policies which are generated by and of concern to the people. The latter function has in the main been dealt with by the parties' political leaders and its selected or appointed officials and

technocratic advisers. The role of the party has invariably been to amplify decisions made either unilaterally by the leader, official cadres or financial advisers. Mr Manning was explicit about the party being there to “support the leader”. Mr Panday would say the same thing.

The fact is that masses of people cannot act efficiently and economically unless they are organised. As they seek to become coherent, oligarchy enters the back door. What happens in practice has been defined by the French political theorist, Roberto Michels, who argued that the dynamics of democratic parties inevitably make them oligarchic rather than democratic, in the classic sense in which that word is understood – of the people, by the people, for the people.

What Michels observed as he looked at mass parties in Europe is also true of contemporary Trinidad and Tobago; “It is the organisation which gives birth to the dominion of the elected over the electors, of the mandatories over the mandators, and of the delegates over the delegates. Who says organisation says oligarchy. Organisation is the weapon of the weak in their struggle with the strong.” Michels further noted that parliamentary type democracy increases the tendency towards oligarchy. As parties struggle to achieve power via elections, ideology and policy are sacrificed. In this quest, professional leaders emerge, spin myths about themselves, capture the party media and its treasury, and urge the masses to abandon primary goals in order to win and keep power.

Given their command of the resources of political battle, leaders are hard to remove. Dissidents who challenge the leader are tarred and feathered and called all sorts of names. Both Dr Williams and Mr Panday used these tactics. Dr Williams called Mr Robinson a “traitorous deputy” and Mr Panday called Ramesh Lawrence Maharaj a “Jackass” who was stupid enough to challenge the political leader. To quote Panday, “there was always some jackass who would challenge the leader. It was a phenomenon with which Eric Williams, George Chambers, A.N.R. Robinson and others had to deal ... No Political leader will allow a Judas to remain on board.”

In modern democratic parties, the policies that are formulated and ascribed to the party, are supposed to be informed by party manifestoes that reflect the opinions of party members and supporters. In practice, this rarely happens. The manifesto is formulated by the professional leadership and is then ratified and endorsed by the “party in the country”. An examination of the internal politics of the PNM, the UNC and the other parties to which we have referred, above would indicate that there was little democratic deliberation. The masses followed their leaders who were assumed to know what was good for the party.

Much else has been said that is negative and derisory about our political parties. There is a widespread trans ethnic view that they are tribal, patriarchal, androcentric, and oligarchic in their behaviour, and that they do not add much value to our good governance account. It is also widely believed that their leaderships over the years have been corrupt and not to be trusted. As one leader put it, "politics has its own morality." One must be prepared to sleep with the devil, if necessary, to win and retain power. Political parties, trust, and good governance are seen by many to be an oxymoron.

Let us look at the future roles of parties. Some critics argue that given the new technologies that are available to raise funds and mobilise people and opinion, monolithic multi-issue political parties are no longer necessary nor desirable. Social media has brought into being a new Gutenberg. Parties should thus be disestablished and replaced by shifting coalitions in civil society, coalitions which form and dissolve as issues emerge and become policy. What is now needed in this "spring coming" it is said, is self-representation, decentralisation, and less dominance by national party elites. In this view, Hobbes and Locke are dead. Long live Rousseau and the permanent mobilisation.

We recall here the suggestion made by the late Lloyd Best and the late Dennis Pantin and the Tapia cohort about a "macco senate" that would be in "permanent" session and which would change its membership as issues change. This suggestion, which was widely derided, however might create as many problems as it solves. While one agrees that our political parties have not been models of good representative governance, broad based multi-issue parties remain politically essential, if only to ensure stability. One should therefore not throw out the baby, however deformed, with the bathwater. Civil Society activism without parties might create dangerous vacuums and open the door to political adventurism, demagoguery or worse. Note the rise of the new saddhus in Indian politics who are prepared to fast to the death to get their way on a particular issue.

In my view, there still is a need for organisations which recruit political elites, aggregate opinions and interests, and make and unmake policy. Realism recognises that policy-making is continuous and not episodic: party organisations are not all driven by single issues; not all members of parties are venal, nepotistic and consumed by material greed. Parties, like most organisations, house those who are good and those who are bad, those who are ambitious and change oriented, and those who are basically satisfied with the status quo. Countries need both types in order

to survive over time. Representation is not the only value needed to achieve good governance.

Having said all this, one must insist that given their importance, political parties cannot be left in splendid isolation and as unregulated as they currently are. Given their importance, they must be registered and made to subscribe to rules of good public behaviour, rules which are subject to the law.

As it is now, parties are in private organisations and are constitutionally unregulated. There are no rules about how much money they can raise for elections or to meet operational expenses, or how much they can spend. Such regulations and disclosures as exist, relate to candidates and not to parties.

Juridical, political parties, as parties, hardly exist in the Caribbean except when asked by the President to help in choosing someone to be prime minister or leader of the opposition. Candidates and not parties are however, electorally regulated by the Representation of the Peoples Ordinances. Barbados and Suriname are the exceptions.

Conclusion

Let me conclude by answering a question recently asked by Professor Anthony Maingot, a Trinidadian sociologist based at Florida International University. Prof. Maingot wondered whether the decline of two party systems, and the rise of coalition politics was a threat to democracy. According to Maingot:

There is in progress a worldwide collapse of the two party system and its replacement by coalition politics. Far from threatening democracy, the collapse of the two-party system has opened up the possibility of “real” politics by inviting all groups to enter the tent we call the political arena – as long as they accept the rules of the democratic game. This pluralism of membership puts special emphasis on the quality of leadership, on the skills of negotiation and compromise of all the elites in the coalition. No longer secured by a supporting oligarchic coalition, leaders have to live by that not-so-frivolous cliché’ attributed to Bismarck: “Politics is the art of the possible ... and the art of the next best”. You will agree that “the best” is invariably the enemy of “the good”. Good governance should aim for the best but never disdain the good. Around the globe we are witnessing the fact that this “art” requires at a

minimum' greater awareness of emerging groups and their particular demands. The emergency of the "Greens" with their ecological concerns, of women breaking "glass ceilings" everywhere, and of popular demands for greater accountability and transparency. It is no longer the threat of a predictable ideological enemy of democracy, but of those who would use democracy to undermine its very foundation."

It is, however, not evident that there is any worldwide trend towards coalitions. It is also not clear that there is a "no party" trend, though we have seen these movements appear recently in Scandinavia and Germany. The evidence indicates that several trends are occurring at the same time. The evidence also shows that all systems have their dysfunctional characteristics; coalitional systems can become ungovernable. Proportional representation and coalitions have led to the formation of ruling party cartels and extremist outbidding in Suriname and near collapse and instability in Greece and Italy. Canada has shown that coalitional systems can be reversed and replaced by majoritarian systems.


Our party system over the past fifty-four years has had its blemishes. We have seen parties rise and disappear into the mist. We have seen others which have survived their founders and "fathers." We have seen parties with patriarchal leaders who have been pushed aside by their "chelas," and we have seen yet others which have changes of leadership, but yet survive. We are now experimenting with a new formula. The system is still new and the outcomes are unpredictable. The PP seems to have swallowed its partners, but shows no signs as yet of indigestion or the disintegration which many feared, while the PNM which was expected to prevail forever or liver longer than the Papacy, is experiencing types of behaviour that was once characteristic of its rivals.



A PARLIAMENT FOR THE PEOPLE: CONSTITUTION REFORM AND THE ROLE OF PARLIAMENT

Dr Olabisi Kuboni

*Parliament and Constitution Reform Forum
Point Fortin Town Hall, 7th December 2011*



AS WE BRING TO A CLOSE THE SERIES OF LECTURES TO commemorate the fiftieth anniversary of Bicameralism in Trinidad and Tobago, I want us to look towards the future to envision the kind of Parliament we would like to have moving forward through the next fifty years and even beyond. This is not an attempt to come up with some clearly defined structure that would remain fixed indefinitely. On the contrary, such a move would be most counter-productive. Rather what I will be attempting to do this evening is to lay out some broad principles that I feel should form the basis for any rethinking of the role and function of Parliament in our society. I am saying further, that fundamental to such principles must be a clear vision of a Parliament that is shaped by, and responsive to, the ideas and aspirations of the people.

Setting the framework for new thinking about Parliament automatically brings into focus the issue of constitution reform since it is only in the context of the latter that we can truly begin to envision the former. We have had constitutions in the last 30 years – the Independence constitution of 1962 and the Republican constitution of the 1970s; and in neither case, have we taken the bold step of reshaping our constitution, we are still grounded in the traditions of our former colonial masters. So the basic step that we are taking when we talk about rethinking the role and function of Parliament, in the context of constitution reform, is that we are seeking to conceptualise a parliament that mirrors our reality as people of Trinidad and Tobago. That's why I think it is important for us to start thinking outside of the box.

Whether we recognise it consciously or not, we still fall back automatically on the British model as the default model. Some analysts argue that we no longer really have a Westminster system and that we have evolved beyond that. But interestingly enough, whenever we find ourselves in any difficulty, we talk about respecting the Westminster model. So we always feel that it is default that we should fall back on in terms of defining our Parliament.

We have to make the effort to get our minds out of the frame, to begin to envisage the possibilities of a constitution and a Parliament, that are grounded in our own experience and that are not the legacy of a past era that is no longer relevant. And so, against that background, my presentation this evening is going to follow this format:

- Parliament and the Constitution – understanding the basis
- Enhancing the constitutional role of Parliament
- Constitutional arrangement required to support the enhanced role of Parliament
- The role of the people

Parliament and the Constitution – understanding the basics

We often talk about Parliament as one of the major institutions in our society. To ensure that we are all on the same page, I would like us to start at ground zero to ensure that when we talk about certain terms in our discussion this evening, we all mean the same thing. When we talk about Parliament as an institution, what do we mean? And what does constitution mean to all of us.

Parliament an institution

First of all, institutions- normally, when we think of that word, what comes to mind is something with a distinct organisational form, which belongs in a particular context, and performs certain functions. With that understanding in mind, we can readily recognise the school, the family, and organised religion as institutions. At a wider level, we may include the media, the judiciary, the government and yes, parliament. One thing that is common to all of these entities is that they are built around people. However, when we talk about institutions, we go beyond the people and focus on the relationships among them. In particular, we look at how those relationships are structured, how they are organised, what fundamental principles underpin the organisation of those relationships that lead to roles and functions that the people have in relation to one another. So therefore when we think about Parliament, we don't just see Speaker, Leader of Opposition, Leader of Government Business, Chief Whip, Members of Parliament, Prime Minister and so on, we look beyond that to try to understand the structure of the relationships among them.

In addition to these structured relationships, institutions are also defined by shared values, norms and practices. It is therefore not surprising that they are often viewed as the bedrock of society: the strength of the society derives from the strength of its institutions. Parliament, in my view, is the primary institution that we have in the society. We will go into that in more detail later.

Constitution: what it is

Now coming to constitution- what do we understand by Constitution? The Constitution Reform Forum (CRF), of which I am a member, defines it this way:

The constitution is a social contract, voluntarily entered into by members of a society, based on a common vision and reflecting the expectations, obligations and aspirations of the society.

The idea of a contract means that there is common agreement about certain fundamental terms and conditions that are binding on all of us who have entered into the contract. Entering into a contract is normally a voluntary act; no one is forced to do so. Further, in the case of the constitution, it is a social contract since the parties involved are the members of the society who have collectively shaped this contract to reflect what they view as important to them. In a real sense therefore saying that we have a constitution implies that it is functioning as a social contract, emerging out and functioning on behalf of the people.

Professor Simeon McIntosh of the Cave Hill campus of the University of the West Indies, provides us with another important way of viewing the constitution. He says that it is foundational; in other words it is the base on which everything else is built. According to McIntosh, the constitution concerns the most basic arrangements of political power, and that it is an agreement of the people... as to how they wish to live their collective lives. (McIntosh, 2002, pp. 53, 61). I think he is extending on the notion of contract and at the same time, introducing the important notion of the arrangement that we agree on for exercising political power – the power to make and implement decisions that affect all of us, that affect the entire society.

What is interesting about these two interpretations and important for us to remember, is that a constitution cannot be handed down. It is what all of us agree on, how we are going to make decisions, to make this

society work. Fundamental to that notion is that all the people must be involved in the process of constitution making or remaking. So if we really view the constitution in the way it is supposed to work, it is by the people, for the people and of the people. That is how I would like us to think of the constitution and the institution of parliament that is defined within it.

Parliament as reflected in two constitutions

In my view, Parliament is the primary institution defined within the constitution as it is the one that is supposed to be most directly linked to the people. To get a better sense of where we are now and where I am suggesting we should go, I want us to look at what two constitutions say about this institution. One of them is the constitution of the Republic of Kenya and the second is our own current Republican constitution.

First, some brief background information about the Kenyan constitution. In 2010, Kenyans voted in referendum to adopt a new constitution which is drafted in the aftermath of the widespread ethnic violence that erupted during the 2007 presidential elections. It was felt that there was so much division in the society, that there was need to take a closer look at existing constitutional arrangement with a view to coming up with a constitution that more closely mirrored the reality of Kenyan society.

Following are excerpts from two sections namely (i) The Establishment and Role of Parliament and (ii) Composition and membership of Parliament.

There is established a Parliament of Kenya, which shall consist of a national assembly and a senate

...

The legislative authority of the Republic is derived from the people... and is vested in and exercised by Parliament

Parliament manifests the diversity of the nation, represents the will of the people and exercises their sovereignty

...

Parliament shall protect this Constitution and promote the democratic governance of the Republic

....

The National Assembly consists of

Two hundred and ninety members, each elected by the registered voters of single member constituencies

...

*Parliament shall enact legislation to promote the representation
in Parliament of
Women
Persons with disabilities
Youth
Ethnic and other minorities
Marginalised communities*

Now let's turn to the 1976 Republican constitution of the Trinidad and Tobago. Following are excerpts from Chapter 4 dealing with (i) the Composition of Parliament and (ii) Powers, Privileges and Procedure of Parliament.

There shall be a Parliament of Trinidad and Tobago, which shall consist of the President, the Senate and the House of Representatives

...

The Senate shall consist of 31 members who shall be appointed by the President in accordance with this section

...

Subject to Section 42, a person shall be qualified to be appointed as a Senator if, and shall not be qualified unless, he is a citizen of Trinidad and Tobago of the age of twenty-five years or upwards.

...

A member of the House of Representatives shall also vacate his seat in the House where-

...

He is absent from the sitting of the House for such a period... as may be prescribed in the rules of procedure of the House.

...

Parliament may make laws for the peace, order and good government of Trinidad and Tobago...

...

Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Senate and the House of Representatives, there shall be freedom of speech in the Senate and the House of Representatives.

When we compare the two sets of excerpts, it is evident that while there is some similarity, there is a fundamental difference in their approaches to defining Parliament. In the Kenyan constitution, there is a clear focus

on the values and the ideals in which the institution is supposed to be grounded, and its role emerges out of those values and ideals. Moreover, there is a clear intention to show Parliament as being responsive to the realities of the Kenyan society. In the case of the Trinidad and Tobago constitution, the focus is narrower, dealing primarily with the specifics of the composition of the body as well as the rules to regulate the actions of its members. In fact, even though the Kenyan constitution also deals with these basic details, it goes beyond the basics and draws attention to the requirement of Parliament to recognise the diversity in the society and to ensure that diversity is reflected in its composition.

I am suggesting therefore that in the Trinidad and Tobago context, there is need to enhance the role of Parliament, and the notions of Parliament as set out in the Kenyan constitution offer some important food for thought.

Enhancing the constitutional role of the Parliament

Against this background, I would like to propose three ideas that we can consider in rethinking the role of Parliament.

Parliament as primary institution of democracy

The first is that it is the primary institution of democracy of the State. The Inter-Parliamentary Union (2006), in its publication *Parliament and Democracy in the twenty-first century*, highlights this perspective and in that context, outlines the following as key attributes of a democratic Parliament.

1. It is representative of the diversity of the people.
2. A democratic parliament is transparent in the conduct of its business.
3. It is accessible to the public, meaning that it involves the public in its work.
4. It is accountable, in that the individual members of Parliament must be accountable to their electorate for their performance.
5. It is effective in that it functions in a manner that serves the needs of the whole people.

I want to reflect on the issue of Parliament representing the diversity of the population. We saw the steps outlined in the Kenyan constitution to

have this feature embodied in Parliament. In Trinidad and Tobago, almost every day some issue emerges that challenges our collective capacity to handle conflict among competing interests, in particular when those interests distinguish themselves along ethnic lines. The Constitution Reform Forum feels very strongly that our constitution must acknowledge and respect our diversity, of that Parliament, both in its composition and function, must be required to adopt and implement strategies that allow for the management of the diversity and the sharing of power among different interest groups.

Another feature of the democratic Parliament that I think deserves attention is the requirement that it must be transparent in the conduct of its business as well as accountable. Democracy in the country as a whole, as reflected in the twin characteristics of transparency and accountability, was put gravely to the test with the Transparency International does not claim that the CPI is a measure of reality. They are quick to point out that it is an index of perception. However outside of the CPI, we ourselves are always involved in discussion about corruption in our society. We are convinced that it is all-pervasive. So whether we have the CPI or not, we have a gut feeling that corruption has infiltrated various aspects of our national life.

Now why am I raising this in a discussion about the democracy of Parliament? Remember, earlier I said that institutions are the bedrock of society and that strong institutions provide the foundation for strong societies. Further, there is the thinking that Parliament is the primary institution of democracy. So following that line of thinking, to what extent does the likelihood of corruption in our society say something about the institution of Parliament itself? To what extent does it say something about Parliament's ability or lack of ability to live up to the criteria of transparency and accountability? I am just raising these questions as we reflect on Parliament as it exists now, and as we project to a Parliament that we want to see in the context of a reformed constitution.

Parliament promoting the right to the people to know

We go on the second idea of Parliament, namely that it recognises and promotes the idea of the right of the people to know. No cover up. No spin-doctoring. No twisting of facts. I am proposing that the right of the people to know is a responsibility of Parliament. Some may think we have this already – we have a Freedom of Information

Act. But what I am talking about goes beyond that Act. It goes beyond the individual's right to be able to go into any office and request a document and get it. That is important and I am not denying the importance of making documents of government offices available for any citizens to peruse.

However, I am making a distinction between the right to be granted access to request documents and the fundamental human right to be provided with the opportunity to acquire the knowledge we need to make appropriate decisions and choices to run our lives. For examples, in our relationship to the state, we are saying that constitutionally, Parliament has a responsibility to recognise the people's right to know, in order to enhance our control over the political process and to empower us to hold public officials accountable.

Now when we talk about the role of Parliament in facilitating the right of the people to know, immediately the issue of the media comes to mind. Yes, it is important to recognise the role of the media to inform and educate the population. So the question that arises is, is there really a role for Parliament in this area?

In our country we have a large number of media outlets, in particular radio stations. Within recent times the social media have also gained prominence. As far as I am concerned, what drives the conventional commercial media is ratings. Any responsibility to supporting the people's right to know is secondary. This is not to disregard the fundamental of media's role in society. However, Parliament, in my view, has a clearly defined role, in particular as it relates to informing the population on matters related to the functioning of the state.

Take the issue of the Caribbean Court of Justice (CCJ) for example. Why hasn't Trinidad and Tobago accepted the CCJ as its final course of appeal? Our government is holding on the position that we still need to have the Privy Council in England even though all of us know that the Privy Council really wants to push us out the door. The view that I am advancing is that in critical issues like this one, that have to do with the governance of our state, Parliament should be constitutionally responsible for ensuring that they are brought to the table in a manner that allows not only the Parliamentarians but the population as a whole to make informed decisions about the issue at hand. Important decisions are based on the knowledge that we have, and our decisions will work in our interest, or they would work against our interest, depending on the quality and the veracity of the knowledge that we have.

Parliament as protector of the national patrimony

The third idea is the Parliament is supposed to safeguard the national patrimony and ensure that the people benefit from the natural resources of their country. The resources of this country belong to us citizen, therefore our highest institution of democracy is supposed to be constitutionally bound to protect the national resources on our behalf.

Safeguarding the national patrimony is written into the 1987 constitution of the Republic of the Philippines. Not only is it written in there, but Congress (read Parliament) has a particular role to play in this regard. Following are excerpts from the constitution pertaining to this matter:

The goals of the national economy are a more equitable distribution on income and wealth. The state shall protect the nation's marine wealth.

The President may enter into agreement with foreign-owned corporations.

The President shall notify Congress of every contract (with foreign owned corporations) entered into within 30 days of its execution.

The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.

Do we want to see something like this firstly written into our constitution, and secondly as a function of our Parliament, a constitutional function of the Parliament of Trinidad and Tobago?

A recent matter, about some eight to ten years arrears in taxes owed by a foreign corporation to the government of Trinidad and Tobago warrants some attention here. That company recently handed over a cheque to our Prime Minister for a part of those arrears. The question that arises is, how did a foreign corporation manage to have arrears of taxes that it owes the people of Trinidad and Tobago over such a very long period of time? Where was Parliament over the last eight to ten years? Should Parliament have a role to play in situations like this? When you talk about patrimony, it is not just about resources, although 'resources' is the more usual word, Patrimony is what is MINE by right. That is what patrimony is all about. And so, how do we deal with foreign corporations when they

are in our country and exploiting our resources that represent our patrimony? Do we lay down some strict ground rules and should those ground rules be written in our constitution? And do we say that Parliament has a responsibility to ensure that those ground rules are adhered to?

Constitutional arrangements to support the enhanced role of Parliament

Now how are we going to implement these ideas? What are the mechanisms that we are going to put in place to ensure that we get Parliament functioning in the way I am suggesting? It is important that we put certain mechanisms in place and these should also be enshrined within the constitution. I will briefly mention three, all of which are discussed in the CRF's (2007) publication.

First, in order to enhance the representatives of Parliament, the CRF proposes a mixed electoral system given the limitations of the first past the post system used on its own. In combining it with a proportional representation system, then it is likely that we will have greater representation.

The regulation of political party financing is another area that should be dealt with in the constitution. The influence of financiers on the political life of our country is just something that we have to deal with as it undermines what we have been saying all the time about the democracy of our parliament.

The third has to do with the role of civil society in an enlarged senate. We in the CRF view this, among other things, as another important mechanism for minimising the influence of party politics. Frankly, party politics is eroding the democracy of the parliament. And we have to think clearly about doing something about the structure of our parliament. We can't get away from political parties, but we need to minimise the element of self-interest that they bring to the Parliament. So from the point of view, we in the CRF are saying we want a stronger civil society component in the Senate to bring some balance, as well as some oversight of the process in the House of Representatives that is based on party politics.

So the rationale for these arrangements is to make Parliament more representative of a wider cross section of the population, to limit the effects of party politics, as well as the influence of financiers, and to give the people a greater voice in Parliament.

The role of the people

Finally, what is the role of the people in all of this? There is a general feeling that people are not interested in matters related to constitution reform. I hope that as a result of our sharing of thoughts this evening, that we can re-energise ourselves for getting into the process of the reshaping of our constitution, in particular since we are the only ones who are able to bring that value system that is required to shape a constitution and by extension to shape a Parliament that is reflective and representative of our reality as a people.

BIBLIOGRAPHY

- Constitution Reform Forum (2007). *The People's Manifesto of Constitution Reform*
- Inter-Parliamentary Union (2006). *Parliament and Democracy in the 21st century: a guide to good practice.*
- McIntosh, S.C.R. (2002). *Caribbean Constitutional Reform: rethinking the West Indian polity.* Kingston, Jamaica: The Caribbean Law Publishing Company Ltd.
- Mugoya, B.C. (updated). Devolution and conflict resolution: assessing the potential role and capacity of county governments in enhancing local peace in Kenya.
<http://www.federalism.ch/files/FileDownload/956/CONRAD%20BOSIRE.pdf>
- The Constitution of the Republic of Trinidad and Tobago. <http://www.ttparliament.org>
- The Constitution of Kenya.
<http://www.kenyaembassy.com/pdfs/The%20Constitution%20of%20Kenya.pdf>
- The 1987 Constitution of the Republic of the Philippines.
<http://www.chanrobles.com/philsupremelaw2.html>



EVOLUTION OF A NATION: TRINIDAD AND TOBAGO AT FIFTY





THE ROLE OF THE HEAD OF STATE IN A BICAMERAL SYSTEM OF GOVERNANCE

His Excellency Professor George Maxwell Richards TC, CMT, PhD
President of the Republic of Trinidad and Tobago
Lord Kitchener Auditorium, National Academy for the Performing Arts
19th December 2011

AS I PONDERED WHAT I WOULD SAY TODAY, IT OCCURRED TO me that perhaps, in a few short sentences, I could dispose of the topic that was placed before me: “What is the role of the Head of State in the Bicameral System of Governance from Independence to the present?” However, that would hardly do for a feature address. My understanding is that the occasion requires a bit more, but I will not detain you long.

First of all, is the vast majority of the population at all aware that the Head of State has a role as Head of the Parliament? Or is it merely that some people realise that he must have something to do there, because they have come to dread the inconvenience, at the Opening of Parliament, when the traffic is snarled, as he makes his way to Parliament, inspects a guard of honour, anthems ring out, some hear, on television, an address to Members of Parliament and imagine that there may be refreshment as well?

Some, but only some, of us know that Chapter 4, Section 39, of our Republican Constitution states as follows: “There shall be a Parliament of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives.” The words “shall consist of” suggest an element of which we may wish to be a little more conscious.

Apart from that, the Constitution sets out certain responsibilities of the President vis a vis the Parliament, for example: to appoint members of Parliament such as Senators, according to Section 40, to assent to Bills, according to Section 65, to lay reports of Service Commissions in Parliament, according to Section 66 B, C and D’ and to summon, prorogue and dissolve Parliament, according to Section 67’. This is what some people know, but the President as part of the Parliament is not in the consciousness of the people. The President is regarded, at best, as a purely ceremonial figure and few persons are aware of the provisions of the Constitution in so far as the President is concerned. We are not yet a reading public.

At the end of World War II, there was a dramatic increase in the nationalist movement that inevitably reached Trinidad and Tobago. Internal self-government eventually led to Independence. A constitutional

monarchy following closely the Westminster model, or, as some would prefer, the Whitehall model, was established, with Sir Solomon Hochoy, as Governor, representative of the Queen and titular Head of the Parliament. The 1976 Constitution created a President with the same intent of titular Head of the Parliament.

As we came out of the colonial system, we clearly had to seek a model that suited us best, first for internal self-government, then independence. Eric Williams, tells us, in "Inward Hunger", that, in a broadcast on 8th April 1962, he "sought to remove fears on the powers proposed for the Prime Minister in respect of the Chief Justice, the Public Service Commission, the Boundaries Commission and showed how impossible it was to contemplate, as some suggested, transfer of some of these powers to the Governor General".

Further, he states that, at a meeting of citizens held at Queen's Hall, on 25th to 27th April 1962, he said: "we have talked a lot about safeguards at this meeting. I think we have found here, in this meeting in Queen's Hall, the greatest safeguard that we could possibly have in Trinidad and Tobago, and one which few countries that I can think of in this part of the world can boast of, and that is an alert public opinion.

The task for the future, as I see it, is to keep that public opinion alert. If we do that, Ladies and Gentlemen, we have found our greatest safeguard". So we see that, at the outset, there was a necessary preoccupation with putting in place the best possible arrangements for political governance which would be insulated from authoritarian abuse. The retention of an office outside of the judicial and the political arms was seen as critical by many.

Having transitioned from Chief Minister to Premier to Prime Minister, it took us fourteen years to move from Constitutional Monarchy to Republic. The unicameral Legislative Council represented colonialism and clearly, that had to go and as Dr Hamid Ghany mentioned in his paper titled "Presiding Officers as the Head of State in Trinidad and Tobago: The Creation of a Westminster/Washington Hybrid", the removal of the Monarchy meant it was necessary to preserve the accepted impartiality of the Crown with an indigenous presidency. The transfer of the Royal Prerogative to the Republic was an expression of nationalist sentiment as we sought our own identity.

In creating a body to elect the President, local government representatives were excluded, which, in effect, gives the government in power control over the election of a President. The view has been expressed that creation of the Electoral College for the purpose of electing

a President was done in such a manner as to obviate any challenge to the Government in the parliamentary system. It is not strange, therefore, that many of our citizens, if not the majority, in and out of public office, regard the President as a creature of the ruling party. The negative fallout from that position cannot be overstated.

What was intended was that the presidency maintains a character of impartiality, bearing in mind its historical antecedent in the office of Governor General. It was intended also, that the presiding officers of both houses of Parliament who are in the chain of command to act as President manifest this impartiality, without any hint of political bias. The reality is that the method of selection of presiding officers is not entirely insulated from partisan considerations, so the impartiality of an acting president can come under close scrutiny.

Within recent times, the electoral process has thrown up interesting situations. For example, in 1995 and 2001, two candidates who were defeated at the polls were elected as Speakers of the House of Representatives. Potentially, they could have been asked, if the need arose, to serve as Acting President and titular Head of the Parliament thereby thwarting the will of the population and tarnishing the dignity, and possibly the legitimacy, of the Parliament of which the President is a part.

In fulfilling his functions, the Head of State may be hampered, depending on the conduct of business in the Parliament. If there is no Speaker, as happened within recent history and Parliament is dissolved, the chain of command cannot go beyond the Vice President of the Senate. In that circumstance, if the House must convene to debate, for example, a proclamation, by the President, of a State of Emergency, there can be a serious challenge beyond the initial fifteen-day period. Qualifications regarding age also give pause for thought. For example, the minimum age requirement for election as a Member of the House of Representatives is 18 years. It is legally possible that a Speaker who is 18 years of age could act as President and consequently titular Head of the Parliament. Meaning no disrespect for our youth, would the culture of our people permit us to receive such a situation without ridicule?

The President must be manifestly above the political fray, his position not being one of competition with the political directorate. That position must not be assailed. As titular Head, the President may make requests but can make no demands of the Parliament. The history of the Parliaments convened from 1961 to the present time tells a story that brings us clearly into that place of dignified apartness.

In the first, second and third Independent Parliaments, 1961–1966, 1966–1971 and 1971–1976, at sittings of the House of Representatives and the Senate, the then Governor and Governor General respectively, delivered what were recorded as Throne Speeches in which reference was made to “my government” and to the programme of legislation. The pattern of addressing the Parliament continued into the 1st Session of the 1st Parliament of the Republican era, 1976 -1981, when in what was described as a President’s Address, the then President made reference to the “New Government”.

Thereafter, no Addresses are recorded until 12th January 1987, when the pattern of Ceremonial Openings resumed with a Throne Speech in which reference was again made by the then President, former Governor General, H.E. Sir Ellis Clarke to “the New Government”. Thereafter, from 8th January 1988 to the present, the term “Throne Speech” ceased to be used by Heads of State who spoke as they saw fit.

In this context, for the most part, Heads of State have used the occasion of the Ceremonial Opening of Parliament to congratulate, advise, urge and even, perhaps subliminally, warn Members of Parliament. It is interesting to note that some of the advice given from “The Throne,” as far back as 1962, bears relevance to what is being offered, within recent times. I am quite certain that every Head of State, elected under our present Constitution, has had no difficulty in understanding his role and function and the attendant duties, indeed responsibilities, as well as the parameters. These may not always have been as clearly understood as they might have been, all round.

As we approach our 50th Anniversary as an independent country, we need to take stock, in the nation and in the Parliament in particular, as to how far we have reached, in building our nation through leadership in that august body. How do we see ourselves, through our institutions, our systems and in the area of our own personal responsibility? The meaning of Titular Head of the Parliament is quite clear, but in our interpretation of the term, are we all really embracing that dignified independent indigenous identity that we sought? It is a question that we might do well to ponder as we go forward beyond our fifty years.

I wish you all and your loved ones, God’s richest blessings, in this season of fellowship and good will and continuing throughout the New Year. Thank you for the courtesy of your attention and may God bless our Nation.



