



ADDRESS TO PARLIAMENT

Some Aspects of Our Parliamentary Democratic Institutions

BY

HIS EXCELLENCY SIR CLARENCE SEIGNORET, OBE

President of the Commonwealth of Dominica

ON THE OCCASION OF THE

OPENING OF THE FIRST MEETING

OF THE FIRST SESSION OF THE THIRD PARLIAMENT

ON MONDAY, 12th AUGUST, 1985

Madam Speaker,

Honourable Members of the House of Assembly

I take this opportunity to convey to Honourable Members, and all the people of Dominica, the affection and goodwill of my wife and myself. May I too, offer our sincere congratulations to the Honourable Prime Minister and her Government, The Leader of the Opposition and all other elected and appointed Members of this Legislature. I offer my warmest congratulations to Mrs. Marie Davis-Pierre, on her re-election to the Speaker's Chair. I have no doubt that you all will live up to the power and responsibility given to you. I wish this Legislature a most successful term.

In extending congratulations, I wish to observe that nothing is more important than the unity and integrity of our Nation. Our greatest wealth is our people and we all must strive to enable individuals and families to realize their potential to the fullest. There is no subject more interesting to every citizen than the subject of Government, - his security and his prosperity. It is therefore our duty to try to make everyone acquainted, not only with its principles, but with what the ideal ought to be. Members of this Honourable House should function in the role of teacher, adviser and messenger, and membership provides you with a singular opportunity to work for the overall development of the Dominica and all its people.

I consider the convening of a new Parliament an appropriate occasion to address this Honourable House on some aspects of our Parliamentary democratic institutions. I propose therefore, to discuss certain features of our Constitution.

Often we make reference to the Westminster Model of Government in relation to our form of Government. In its widest sense this may be understood to comprise all the main features of the British Constitutional System. These of necessity, have been adapted to meet our local needs and particular circumstances the aim being, to capture the true spirit, and the best practices and traditions, of older and more experienced British Institutions. What one hopes for is that there will be variations which do not infringe hallowed and fundamental principles.

Madam Speaker,

Honourable Members

The Dominica Constitution

The Dominica Constitution Order 1978, defines and establishes the principal organs of Government; it is the source of their authority; it provides the manner in which, and the limits within which, their functions are to be exercised, and it determines their interrelationship. In this sense it is a body of fundamental law. Moreover it is eminently superior to rules of law enacted by the Legislature, except in so far as they have been made in a manner and form which, in terms of the Constitution itself, clothes them with equal validity. The Constitution is the sole source and

guarantee of national freedom, and we believe that the safest place to enunciate and interpret the Constitution is the Courts.

Indeed, the Constitution confers upon the superior courts jurisdiction to decide questions of constitutional interpretation.

The status of the Constitution as supreme law is determined by the procedures prescribed for its amendment. Those provisions which are thought to be especially important are protected from alteration by legislation passed in the ordinary manner and form. We must appreciate that the Constitution is founded on principles which acknowledge the supremacy of God, a belief in Democracy, and extends certain fundamental rights and freedoms to all citizens who are entitled to equal treatment and equal protection under the law.

The time has come for us to pause and consider just what these freedoms mean. This brings to mind the proverb "To be free is to live under a Government by law." If our actions were not controlled and regulated we would cease to be a civilized community and the law of the jungle would prevail. If we are to live together peacefully and safely each one of us must give up some portion of his rights to do as he likes. The truth is that the more civilized we become, the greater our dependence on one another, and the wider is the extent of the regulation that we have to accept. A century or more ago, John Stuart Mills said that : "The only freedom which deserves the name is that of pursuing our own way so long as we do not attempt to deprive others of theirs or their efforts to obtain it." Without order and discipline there is no society.

Madam Speaker,

Honourable Members

Parliament

Our country is a sovereign democratic republic within the Commonwealth, styled the "Commonwealth of Dominica." It is a parliamentary democracy with a President as its Head of State. The Constitution reads: "There shall be a Parliament of Dominica which shall consist of the President and a House of Assembly." Our Parliament should be regarded as part of the birthright of every citizen, the mirror of the peoples' minds and the guardian of their liberties. We are, each and all of us, the custodians of the dignity of this famous national institution.

The executive authority of Dominica is vested in the President, and as Head of State he serves as an impartial and unifying symbol of Government. However, lacking real political power, he exercises most of his responsibilities on the advice of Government Ministers who are required to keep him informed. Indeed, the Constitution casts an obligation on the Prime Minister to keep the President fully informed concerning the general conduct of the Government, and to furnish him with such information as he may request with respect to any matter relating to Government affairs. But Ministers are collectively responsible to Parliament for any advice given to the President by,

or under the general authority of Cabinet. So long as they retain the confidence of the House of Assembly, the advice which they tender to the President must be accepted, and action must be taken in accord with it. It is not for the President to initiate action. In this way the President as Head of State is raised above party strife and is left to play his invaluable role in the life of the Nation. The President's term of office is for five years, and he may serve for not more than two terms.

The functions of Parliament are to watch, and where necessary, to make new laws for the national implementation and to provide by taxation, the means of pursuing the work of Government. Parliament can pass, alter and annual any law, and its sovereignty is the main characteristic of the Constitution. I believe it was the second Earl of Pembroke, who in the seventeenth century said: "A Parliament can do anything but make a man a woman, and a woman a man."

The Dominica Parliament is unicameral with a House of Assembly consisting of twenty-one elected Members. In addition, nine Senators are appointed by the President, five on the advice of the Prime Minister and four on the advice of the Leader of the Opposition.

Madam Speaker,

Honourable Members

The Office of Speaker

Naturally, the first duty of the House of Assembly in a new Parliament, is to elect a Speaker; the person may or may not be a member of the House, provided that he or she, as the case may be, is not a Member of Cabinet or a Parliamentary Secretary. The Speaker is so essential that without someone in the Chair, the House has no constitutional existence. In fact, the Constitution specifically provides that "No business shall be transacted in the House (other than the election of a Speaker), at any time when the Office of Speaker is vacant." Of course, there is provision for election of a Deputy Speaker.

Madam Speaker not only presides over the House, but is also responsible for its administration. She is the guardian of its power, liberty, dignities and privileges. It is her duty to guide the proceedings impartially, to keep order, to ensure that Government is not unfairly obstructed, yet also, to see that every point of view is adequately expressed.

The Speaker's position is one of notable antiquity and dignity, and the adoption of the concept of an impartial Speaker in nearly all countries is a remarkable tribute to this peculiarly British contribution to the progress of parliamentary democratic evolution throughout the western world. The Speaker is the representative of the House in its powers, proceedings and dignity. In debate, all speeches are addressed to the Chair. If Madam Speaker gives a ruling upon a doubtful point or for any other reason, she must be heard in silence. It is the function of the Speaker to guard

carefully against abuse of procedure or any infringement of rights. Madam Speaker also has certain powers to check irrelevance and repetition and to control proceedings in various other ways.

The following passage from the book "The Office of Speaker" by Philip Lundy, an authority on the subject, illustrates this point – quote:- "Excepting only the Sovereign herself no personage throughout the structure of British Parliamentary Government occupies the higher pinnacle of prestige than the Speaker of the House of Commons. He embodies in his own person the dignity of the Nation's representative Assembly. The honour which is accorded his office is such as to sustain the authority of any incumbent, weak or strong alike." – Such is the tradition of the British speakership. An affront to the Speaker should be regarded as an affront to the House. I therefore urge Members to uphold at all times, the worthwhile traditions of this Honourable House.

The Speaker's dignity is outwardly manifested through a variety of visual symbols. He or she always ranks high in the Official Order of Precedence. In many countries the Speaker's robes are designed to impress. In the House, the Speaker occupies a place of eminence which again is indicative of his/her exceptional status. Madam Speaker occupies an impressive chair, mounted on a dais, thus affording her a commanding view of the entire Chamber. Madam Speaker exercises a considerable authority in shaping the form of deliberation, by keeping the 'cut and thrust of debate relevant and orderly, and by allocating time fairly so that a variety of points of view from all sides may be heard. On the other hand the Speaker is regarded as the servant and not the master of the House, and depends on its confidence.

Subject to the provisions of the Constitution, the House may regulate its own procedure and may in particular make rules for the orderly conduct of its own proceedings. It follows that Honourable Members must comply with these rules at all times, so as to ensure the orderly conduct of proceedings.

The Mace

Madam Speaker's symbol of authority is the Mace and it is generally accepted that, fundamentally, the Mace represents the authority of the President. It is carried in procession to prayers which open each sitting of the House. There is a saying:- "When the Mace lies upon the Table the House is a House, when under it is a Committee; when out of the House, no business can be done; when from the Table and upon, the Serjeant's shoulder, the Speaker alone manages."

In its leading article of 8th December, 1961, the London Times observed the following:-

"The trouble about constitutional symbols is that unless there is a lively respect for what they represent the symbols themselves can lose their gravity and become faintly comic." This we must guard against. Experience has shown that the surest way to uphold the dignity of any institution is to preserve its historic continuity.

Madam Speaker,

Honourable Members

Public Opinion

Parliament must be sensitive to public opinion, and although the validity of an Act of Parliament that has been duly passed, legally promulgated and published by the proper authority cannot be disputed in law courts, no Parliament should enact legislation which it knows would receive no public support. Our system of party Government should ensure that the Parliament always legislates with its responsibility to the electorate in mind.

Madam Speaker,

Honourable Members

Parliamentary Sessions

Constitutionally, the legal existence of Parliament depends upon the exercise of the President's prerogative, exercised through and on the advice of Ministers responsible to Parliament. Parliament is normally summoned, prorogued and dissolved by Presidential proclamation on the advice of the Prime Minister.

Dissolution of Parliament takes place either at the end of its five years term, or when a Government requests a terminal date, or when the office of Prime Minister is vacant with no prospect of an appointment within a reasonable time. The Prime Minister naturally chooses a time advantageous to Government.

Just as Parliament cannot be assembled except by an act of President, so too, is the President's assent required before any legislation can take effect. It must be understood however, that no provisions exist whereby the President may refuse to give his assent to any bill submitted in accordance with the provisions of the Constitution. Even in British, the mother of Parliaments, the Sovereign's right to refuse assent has not been used since 1708.

It is important to note that there must be a session of Parliament at least once in every year and the Constitution prescribes that "There shall be a session of Parliament at least in every year, so that a period of six months shall not intervene between the last sitting of the House in one session and the first sitting thereof in the next session."

Leader of the Opposition

Recognition of the right of organized dissent, has led to the principle that a special parliamentary status be conceded to the elected member of the House of Assembly who commands the support of a majority of the elected members of the House who do not support the Government. Moreover, this individual is potentially the next Prime Minister. It is therefore reasonable to acknowledge formally the importance of the office of the Leader of the Opposition. By convention and

constitutionally he enjoys a status which enables him to have a say in many matters of State and this carries with it the expectation that the Prime Minister will offer to consult him from time to time on other problems of national concern.

An opposition in any Parliament should not merely confine itself to the question of exposing Government's failures and trying to remove it from power; it needs to know that it is an alternative government and is therefore expected to act responsibly. It is the people who are affected, often adversely, when Government and Opposition are dedicated to the destruction of each other, rather than to the improvement of society. The right attitude therefore, must be adopted by all concerned if the Country is to work out its salvation its future.

An occasion may arise when no person is both qualified for appointment, or willing to accept appointment as Leader of the Opposition, in such an event, the President can act in his own deliberate judgement on any matter which he would otherwise have acted on the advice of, or after consultation with, the Leader of the Opposition.

Madam Speaker,

Honourable Members

The Public Service

An important characteristic of our Public Service is that it is permanent and unaffected by the fortunes of governments. The political neutrality of the Public Service is a cardinal feature of our democratic form of Government. The control of the Public Service is kept outside the political arena in order that they may perform their duty un-influenced by fear or favour.

The fact is that the success of constitutional development and nationhood depend in a large measure upon the existence of an efficient and incorruptible administrative service.

As Lord Hailsham, speaking of the British Civil Service said over two decades ago: - "The Civil Servants exists to translate the impossible demands of politicians and populace into the actuality of effective Government. He is thus alike the politicians' natural enemy and indispensably ally – natural enemy because it is he who provides the unruffled evasions and the practical objections which form the Minister's Siegfried Line of Defence against importunate backbenchers; indispensable ally, because without his patient, loyal, and unselfish co-operation, none of the aspirations and ideals of the politician would be worth the breath in which they are expressed."

The Civil Servants are expected to make every effort to rise to their responsibilities. The conclusions of the "Masterman Report" on the Political Activities of Civil Servants in the United Kingdom published some years ago, is equally applicable in Dominica; I quote: _ "Any weakening of the existing traditions of political neutrality would be the first step towards the creation of a 'political' Civil Service, with the inevitable unfavourable implications. As a result all Civil Servants

are expected to maintain the traditional reserve in political matters." Indeed, I know of one independent State within the O.E.C.S grouping which regards lapses by Civil Servants as serious misconduct, who are liable to disciplinary measures.

The watchword of the Civil Service should be "Service," – dedicated, inspired, and inspiring. The task is to make Government more efficient and to help build a strong State and strive increasingly for progress, peace and justice. This is of extreme importance and has led to the establishment of independent bodies, The Public and Police Services Commissions to organize recruitments, transfers, promotions and discipline. Provision is also made for a Public Service Board of Appeal. The Commissions and the Appeal Board, shall, in the exercise of their functions under the Constitution, not be subject to the direction or control of any other person or authority.

Madam Speaker,

Honourable Members

I believe that we in Dominica are experiencing the dawn of a realisation that instead of divisions and dissensions we need unity; instead of vituperation, we need co-operation; and in place of old frustrations and despair, we need the dynamism of constructive thinking and co-operative endeavour. Above all we need at least a truce in which to build the blueprints of new dynamic society. It should be both a worthwhile and necessary exercise for us all to regularly ponder upon the true significance and meaning of the more important pillars on which our Nation is founded. This should assist us to both legislate and act more responsibly, and indeed help bring unity, prosperity and development in large measure and increasing abundance. May we continue to face the future together, and may we prove equal to our responsibilities.

Madam Speaker,

Honourable Members of the House of Assembly

The final message I wish to leave with you is in the words of George Washington, the first President of the United States of America; I quote: - "If, in the opinion of the people, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way in which the Constitution designates. But let there be no change by usurpation; for although this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."

May the Almighty guide your discussions and bless the work of this Honourable House.