

# **REPORT OF THE TRINIDAD AND TOBAGO INDEPENDENCE CONFERENCE, 1962**

Presented to Parliament by the Secretary of State for the Colonies by  
Command of Her Majesty

June 1962

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## **REPORT INTRODUCTION**

1. Since a Ministerial system of government was introduced in 1950 responsibility for the conduct of the internal affairs of Trinidad and Tobago has passed progressively to elected Ministers. In December, 1961, full internal self-government was attained, following a general election at which the People's National Movement, led by Dr. Eric Williams, gained 20, and the Democratic Labour Party, led by Dr. Rudranath Capildeo 10 of the 30 seats in the House of Representatives.

2. Attention was then turned to the future of Trinidad and Tobago in the light of the situation created by Jamaica's decision to withdraw from the Federation of The West Indies. On 14th January, 1962, the General Council of the People's National Movement unanimously approved a resolution that Trinidad and Tobago should not participate in any new federation of the East Caribbean which might be formed but should proceed forthwith to independence without prejudice to the possibility of the territory's future association in a unitary state with other territories in the East Caribbean. The resolution also requested the Government to take the initiative in proposing the maximum possible measure of collaboration between the finer members of the Federation of The West Indies regarding common services, and to declare their willingness to take part in and work for a Caribbean economic community. This resolution was endorsed at a special convention of the party held towards the end of January, and the Government accepted the terms of the resolution as their policy in this matter. In April the Secretary of State for the Colonies, in reply to a dispatch from the Governor, agreed that Trinidad and Tobago should become independent as early as practicable in 1962, and proposed that, provided that the necessary steps could be taken in time, an independence conference should be held in London towards the end of May to agree upon a constitution and the date of independence.

3. Meanwhile, in February, the Government of Trinidad and Tobago had published the first draft of an independence constitution: this was distributed widely in the territory, and organizations and the general public were invited to submit written comments on it by 31st March. Over 160 memoranda were received, and from 25th to 27th April the Government held meetings with those who had submitted memoranda, at which the draft constitution was considered. The draft constitution, as amended in the light of these consultations, was considered by a Joint Select Committee of the Senate and House of Representatives, after which it was debated and, on 11th May, approved by a majority of 16 to 9 in the House of Representatives.

4. The revised draft of the independence constitution, as approved by the Legislature, formed the basic document at the Trinidad and Tobago Independence Conference which opened at Marlborough House in London on Monday, 28th May, 1962, under the Chairmanship of the Secretary of State for the Colonies, the Rt. Hon. Reginald Maudling, M.P. Thereafter the Conference met regularly, on most occasions under the Chairmanship of the Parliamentary Under Secretary of State for the Colonies, the Hon. Hugh Fraser, M.P. The last session was held with Mr. Maudling in the Chair on Friday, 8th June. A list of those who attended the Conference is at Appendix A.

5. The principal conclusions of the Conference are set out in the following paragraphs of this Report.

## **DATE OF INDEPENDENCE**

6. It was agreed that Trinidad and Tobago should become independent on 31st August 1962.

## **MEMBERSHIP OF COMMONWEALTH**

7. The Trinidad and Tobago Delegation unanimously expressed the wish that on achieving independence Trinidad and Tobago should be accepted as a member country of the Commonwealth.

8. They also stated that it was the firm wish of the people of Trinidad and Tobago to continue after independence in their allegiance to Her Majesty the Queen as Queen of Trinidad and Tobago.

9. They further expressed the hope that the United Kingdom Government would be prepared to support with the other members of the Commonwealth the application of Trinidad and Tobago to be accepted as a fellow-member. This the United Kingdom Government willingly undertook to do.

## **THE CONSTITUTION**

### **CHAPTER I**

#### **RECOGNITION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

10. The constitution will include provisions safeguarding the fundamental freedoms of the individual, irrespective of race, place of origin, political opinions, colour, creed or sex. These fundamental freedoms will include the right to life, liberty, security of the person and protection from arbitrary arrest; the enjoyment of property and the protection of the law; freedom of conscience, movement, expression and assembly; and respect of private and family life.

11. Provision will be made to permit, subject to safeguards, derogation from the fundamental freedoms in time of war or during an emergency. Provision will, however, also be made, subject to the permitted degree of derogation, for the continued enforcement by the Courts of the fundamental freedoms. In particular, it will be made clear that the Courts can declare void a law which infringes or abridges the rights referred to in section 2 of the draft constitution; and there will also be a provision whereby there can be an appeal to the Courts to obtain a decision whether a law, passed during a period of emergency, which derogates from the fundamental rights and freedoms, is reasonably justifiable for the purpose of dealing with the situation that exists during that period. The period during which a proclamation of a state of emergency can remain in force, without being extended by a vote of a majority of the House of Representatives, will be limited to six months.

## **CHAPTER II**

### **CITIZENSHIP**

12. Provision will be made for citizenship of Trinidad and Tobago. All persons born in Trinidad and Tobago after independence will automatically acquire citizenship of Trinidad and Tobago and there will be provision for the acquisition of citizenship by persons born outside Trinidad and Tobago of parents who are citizens of Trinidad and Tobago. Persons born in Trinidad and Tobago (or persons born outside Trinidad and Tobago of parents born in Trinidad and Tobago) before independence who, immediately prior to independence, are citizens of the United Kingdom and Colonies will also automatically become citizens of Trinidad and Tobago.

13. Appropriate provisions will be made permitting certain persons who will not automatically become citizens of Trinidad and Tobago to be registered as such.

14. The requirement that any person who is already a citizen of another country must renounce that citizenship before he can be admitted to citizenship of Trinidad and Tobago will not apply to any person who would thereby be rendered stateless.

15. The power of Parliament to deprive of his citizenship of Trinidad and Tobago a person who is a citizen of Trinidad and Tobago will not extend to persons who automatically acquire such citizenship on independence.

## **CHAPTER III**

### **THE GOVERNOR-GENERAL**

16. The Governor-General will be appointed by the Queen and will hold office during Her pleasure. Provision will be made for the Governor-General's functions to be performed by such person as Her Majesty may appoint when the office of Governor-General is vacant or the holder of the office is absent from Trinidad and Tobago.

## **CHAPTER IV**

### **PARLIAMENT**

17. The existing bicameral form of Legislature will be retained. The Senate

18. The Upper House will consist of twenty-four Senators, of whom thirteen will be appointed by the Governor-General on the advice of the Prime Minister, four by the Governor-General on the advice of the Leader of the Opposition and seven by the Governor-General on the advice of the Prime Minister after consultation by the latter with those religious, economic or social bodies or associations from which the Prime Minister considers that such Senators should be selected. (The Opposition delegates did not accept the provisions of this paragraph.) The House of Representatives

19. This will consist of thirty members elected by universal adult suffrage, but provision will be included to permit the number to be varied (see paragraph 3). The President and Deputy President of the Senate

20. The President and Deputy President of the Senate will be elected by the Senate from within their own membership. The Speaker and Deputy Speaker of the House of Representatives

21. The Speaker of the House may be elected either from among the members of the House who are not Ministers or Parliamentary Secretaries, or from outside the House. A Speaker elected from within the House will have a casting vote only. A Speaker elected from outside the House will have neither an original nor a casting vote, and if on any question the votes of members are equally divided, the motion will be lost. The Deputy Speaker will be appointed from within the House. Qualifications for Appointment or Election

22. A person will be qualified for appointment to the Senate if he is a citizen of Trinidad and Tobago and is aged 30 years or more. A person will be qualified for election to the House of Representatives if he is a citizen of Trinidad and Tobago, is aged 21 years or more and has either resided in the territory for a period of two years immediately before the date of his nomination or is domiciled and resident in the territory at that date.

23. Persons holding or acting in public office; Judges of the Supreme Court; and persons who are under allegiance to another state, undischarged bankrupts, of unsound mind, under sentence of death, serving a sentence of imprisonment exceeding twelve months without the option of a fine or disqualified by or under any law for the time being in force relating to offenses connected with elections, will be disqualified for appointment as Senators or for election as members of the House of Representatives. Qualifications of Voters

24. Subject to such disqualifications as Parliament may prescribe, a person will be qualified to vote at an election of members to serve in the House of Representatives if, and will not be qualified to vote at such an election unless, he is a Commonwealth citizen aged 21 years or more and has such other qualifications regarding residence or registration as may be prescribed by Parliament. Amendment of the Constitution

25. The principal provisions of the constitution will be entrenched, and of these the most important will be specially entrenched. The ordinarily entrenched provisions may be amended by an affirmative vote of not less than two-thirds of all the members of each House. The specially entrenched provisions may be amended by an affirmative vote of not less than three fourths of all the members of the House of Representatives and not less than two-thirds of all the members of the Senate. A list of the entrenched clauses of the constitution is at Appendix B. The other provisions may be amended by a simple majority of each House. Prorogation and Dissolution of Parliament

26. Parliament will be prorogued or dissolved by the Governor-General on the advice of the Prime Minister, provided that, if the House of Representatives, by a majority of all its members, passes a resolution that it has no confidence in the Prime Minister of Trinidad and Tobago, and

the Prime Minister does not within seven days either resign or advise a dissolution, the Governor-General shall revoke the appointment of the Prime Minister.

27. In any event Parliament shall not continue for more than five years from the date of its first sitting after any dissolution. In time of war, however, Parliament itself may extend its life for a period not exceeding twelve months at a time up to a maximum of five years.

#### Immunity of Members of the Legislature

28. There will be a provision in the constitution ensuring that, in all the proceedings of the Legislature, members will enjoy immunity from all action, whether civil or criminal, in respect of anything said in the course of those proceedings.

## **CONDUCT OF ELECTIONS**

### **Elections Commission**

29. Subject to the provisions of the constitution, the qualifications of the electors and the rules governing elections will be laid down by or under the authority of Parliament. The constitution will, however, provide for an Elections Commission consisting of a Chairman and not less than two nor more than four other members appointed by the Governor-General on the advice of the Prime Minister. Members of either House of Parliament and public officers will not be eligible for appointment to the Commission; nor should they be persons who have been actively engaged in politics. The procedure for the removal of members will be similar to that for the Auditor General. The Elections Commission will be responsible for all matters relating to the conduct of elections, including the registration of voters. For example, it will be responsible for ensuring that, within the time specified by law before an election, the accuracy and competence of voting machines (if that method of voting is used) is fully tested in the presence of representatives of the political parties engaged in the election; and, once the accuracy and competence of the machines have been so established, for sealing them in the presence of the representatives of the political parties and keeping them sealed until after polling has been completed.

### **Boundaries Commission**

30. The delimitation of constituencies will be undertaken by a Boundaries Commission consisting of a Chairman and not less than two nor more than four other members appointed by the Governor-General on the advice of the Prime Minister. Members of either House of Parliament and public officers will not be eligible for appointment to the Commission; nor should they be persons who have been actively engaged in politics.

31. The Commission will periodically review the number and boundaries of the constituencies and submit its reports to the House of Representatives, which will take decisions on these matters in the light of the Commission's reports. Annexed to the constitution will be a schedule specifying the general principles which the Commission will follow in delimiting constituencies.

32. The existing constituencies will continue in effect until the Commission has been set up and the House of Representatives decides, after consideration of a report by the Commission, to make some change.

## **CHAPTER V**

### **EXECUTIVE POWERS**

#### **The Prime Minister**

33. The Governor-General will appoint as Prime Minister the member of the House of Representatives who, in his own deliberate judgment, is best able to command the support of a majority of the members of that House.

#### **The Cabinet**

34. The Cabinet will consist of the Prime Minister and such number of other Ministers as the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint from among the Senators and the members of the House of Representatives, provided that not more than two or, if the Attorney-General is appointed from among the Senators, not more than three Ministers will be appointed from; the Senate. Portfolios will be assigned to Ministers by the Governor-General on the advice of the Prime Minister.

#### **Attorney-General**

35. There will be an Attorney-General, who may be a member of the Senate or of the House of Representatives, who will be appointed by the Governor-General on the advice of the Prime Minister. He will have power to institute, conduct and discontinue criminal proceedings, and to take over and conduct or discontinue criminal proceedings before all Courts. The constitution will provide that in the discharge of these functions the Attorney-General shall be completely independent and not subject to the direction of any other person or authority.

#### **Leader of the Opposition**

36. There will be a Leader of the Opposition appointed by the Governor General from the House of Representatives who, in the Governor-General's own deliberate judgment, is the leader in the House of the party which commands the support of the largest number of members of the House in opposition to the Government.

#### **Exercise of the Governor-General's powers**

37. The Governor-General will be required to act on the advice of the Cabinet in the exercise of his functions except in respect of-



- (a) any function in respect of which he is required to exercise his own deliberate judgment, or
- (b) any function in the exercise of which he is required to act on the advice of persons or authorities other than the Cabinet.

38. The Cabinet will be summoned by the Prime Minister, who will preside at its meetings or appoint some other Minister to do so.

39. The Governor-General will be entitled to receive from the Prime Minister full information about the general conduct of the government of Trinidad and Tobago and information on any particular matter.

## **CHAPTER VI**

### **THE JUDICATURE**

#### **The Supreme Court**

40. There will be a Supreme Court consisting of a High Court of Justice and a Court of Appeal, with such jurisdiction and powers as may be conferred on it by the constitution or by any other law. The High Court

41. The High Court will consist of such number of Puisne Judges as may be prescribed by Parliament and the Chief Justice shall ex officio be a member of the Court. The jurisdiction of the Court and its powers will be those conferred upon it by the constitution or by any other law.

#### **Court of Appeal**

42. The Court of Appeal will consist of the Chief Justice, who will be President, and such other number of Justices of Appeal as may be prescribed by Parliament. The Court will be a Superior Court of Record and save as otherwise provided by Parliament, will have all the powers of such a Court. Judicature Act

43. A Judicature Act, which will come into effect on the date of independence, will prescribe the jurisdiction of the Courts and the qualifications of Judges. Appeals to Her Majesty in Council

44. An appeal, whether on matters of law or on matters of fact, will lie as of right from final decisions of the Court of Appeal to Her Majesty in Council where the matter in dispute is of the value of fifteen hundred dollars or more or where the appeal involves, directly or indirectly, a claim to or question respecting property or a right of fifteen hundred dollars or more; from final decisions regarding dissolution or nullity of marriage; from final decisions in any civil, criminal or other proceedings on questions as to the interpretation of the constitution, and in such other cases as may be prescribed by Parliament. Appointments

45. The Chief Justice will be appointed by the Governor-General acting on advice of the Prime Minister.

46. The qualifications for appointment as Judges of the Supreme Court will be such as may be prescribed by any law of Trinidad and Tobago for the time being in force. Judicial and Legal Service Commission

47. The Commission will consist of the Chief Justice, who will be Chairman, a Judge of the Court of Appeal or of the High Court appointed by the Governor-General on the advice of the Prime Minister, the Chairman of the Public Service Commission, and two other members who will be appointed by the Governor-General on the advice of the Prime Minister. One such member will be a Judge or an ex-Judge of Q court of unlimited jurisdiction and the other will be selected by the Prime Minister after consulting with appropriate bodies and organizations.

48. The Commission will advise the Governor-General on appointments to public offices for appointment to which persons are required to possess legal qualifications as prescribed by Parliament. A special procedure will be provided for the removal from office of a Judge.

49. An appointment will not be made to the office of Solicitor-General Registrar-General, Crown Solicitor or head of the Legal Drafting Division if the Prime Minister signifies to the Commission his objection to it.

## **CHAPTER VII**

### **FINANCE**

50. The authority for expenditure from public funds will be an Appropriation, or Supplementary Appropriation, Act, which, when submitted to Parliament, will be supported by Estimates. The House of Representatives will have power to authorise expenditure for thirty days from the beginning of the financial year or until the coming into operation of the Appropriation Act, is the earlier.

51. There will be an Auditor-General, who will be a public officer. He will audit and report to the Minister of Finance on the Public Accounts of the Government of Trinidad and Tobago, and for this purpose will have access to all accounts and records. The Minister of Finance will lay before the House of Representatives the report of the Auditor-General within thirty days of its receipt by him; if he fails to do so the Auditor-General will send copies of his report to the Speaker of the House, who will present them to the House of Representatives. Special provision will be included in the constitution ensuring that the Auditor-General will be independent in the discharge of his functions, and for his removal.

## **CHAPTER VIII**

### **THE PUBLIC SERVICE**

#### **The Public Service Commission**

52. The Commission will consist of a Chairman and not less than three nor more than five other members as the Governor-General, acting in accordance with the advice of the Prime Minister,

may decide, and the members will be appointed by Governor-General acting on the advice of the Prime Minister. No person will be eligible for membership of the Commission if he is a member of either House of Parliament or holds or is acting in any public office other than the office of member of the Judicial and Legal Service Commission or member of the Police Service Commission.

53. The Commission will be responsible for advising the Governor-General on appointments to public offices and for removing and exercising disciplinary control over persons holding or acting in such offices. An appointment will not be made to the office of Permanent Secretary, Director of Personnel Administration, head of a Government Department, chief professional adviser in a Ministry or the deputies of these officers, if the Prime Minister signifies to the Commission his objection to it.

54. Section 86 of the draft constitution will be deleted and section 85 will be amended to provide that the Public Service Commission may, with the approval of the Prime Minister, and subject to such conditions as it may think fit, delegate any of its powers under this section by directives in writing to any of its members or to any public officer. The special position of teachers and the substance of the agreement (commonly called "The Concordat") with the Denominational Boards of Management of Assisted Primary Schools will be reflected in regulations made by the Public Service Commission with the consent of the Prime Minister.

### **Police Service Commission**

55. The Police Service Commission will consist of a Chairman and four other members appointed by the Governor-General acting on the advice of the Prime Minister. No person will be eligible for membership of the Commission if he is a member of either House of Parliament or holds or is acting in any public office other than the office of member of the Judicial and Legal Service Commission or the Public Service Commission. The Commission will be responsible for advising the Governor-General on appointments to all in the Police Force and for exercising disciplinary control over all members of the Force. An appointment will not be made to the post of Commissioner or Deputy Commissioner of Police if the Prime Minister signifies to the Commission his objection to it. Procedure for Reviews and Appeals

56. Provision will be made in the machinery of the Public and Police Service Commissions for review and appeals in disciplinary cases.

## **SECOND SCHEDULE**

### **Boundaries of Constituencies**

57. The first rule will be amended to provide that the electorate will, so far as is practicable, be equal in all constituencies but that it will not in any constituency (other than constituencies in Tobago) exceed 110 per cent. nor be less than 90 per cent. of the total electorate divided by the number of constituencies. The same general principle will apply to Tobago, provided that Tobago shall have not less than two seats.

## **GENERAL**

### **General Elections**

58. The next general election will be held under the provisions of the independence constitution. Consultation between Government and Opposition

59. After hearing an important statement by the Premier of Trinidad and Tobago the Conference agreed that it was a matter of great importance to honour the convention whereby the Prime Minister consults the Leader of the Opposition on all appropriate occasions, in particular on all matters of national concern, including appointments to suitable offices of a national character-for example, the chairmanship of the Elections and Boundaries Commissions. Inheritance of International Treaty Rights and Obligations

60. It was agreed that at independence the Government of Trinidad and Tobago would conclude an Exchange of Notes with the United Kingdom Government under which the newly independent State would assume all treaty rights and obligations relating to it entered into on its behalf before independence by the United Kingdom Government and the former Government of the Federation of the West Indies. The Conference recognised that by such an arrangement the Government of Trinidad and Tobago would, of course, also assume the right to question the validity or efficacy of the provisions of any treaty, in so far as it applied to Trinidad and Tobago, to the same extent that immediately prior to independence the Government of the United Kingdom might under the terms of the said treaty lawfully have exercised such right.

### **International Organisations**

61. The Conference considered Trinidad and Tobago's membership of international organizations. The United Kingdom Government undertook to use their best endeavours to facilitate Trinidad and Tobago's application to join whatever international organizations it wished. The Government of Trinidad and Tobago agreed to notify the United Kingdom Government in due course of the international organizations which they wished to join.

### **Compensation for Certain Categories of Public Officers**

62. The existing scheme for conditional retirement will continue in force with minor modifications. A scheme embodying the principle of voluntary retirement will be introduced for

permanent and pensionable expatriate officers who are members of Her Majesty's Overseas Civil Service, and for pensionable officers designated before independence under any Aid Scheme Agreement which may be concluded between the United Kingdom Government and the Government of Trinidad and Tobago. Legislative provision for these arrangements will be made before independence.

### **Discussion of Economic, Financial and Defence Matters**

63. Before the date of independence there will be discussions between the United Kingdom Government and the Government of Trinidad and Tobago concerning financial, economic and defence matters.

## **APPENDIX A**

List of Those Attending the Trinidad and Tobago Independence Conference, 1962

### **UNITED KINGDOM**

The Rt.Hon. Reginald Mauling, M.P.  
The Hon. Hugh Fraser, M.B.E.,  
M.P.Sir Hilton Poynton, K.C.M.G.  
Mr. A. R. Thomas, C.M.G.  
Mr. J. A. Peck  
Mr. D. Williams  
Mr. I. H. Cruchley  
Mr. J. E. Whitelegg  
Mr. L. B. Walsh-Atkins, C.M.G.  
Mr. E. Norris  
Mr. S. J. G. Fingland  
Mr. C. W. F. Footman, C.M.G.  
Mr. C. Diggines  
Sir Charles Dixon, K.C.M.G.,K.C.V.O., O.B.E.  
Sir Orby Mootham  
Mr. H. Oxley  
Mr. P. R. Noakes

### **TRINIDAD AND TOBAGO**

Dr. E. Williams  
Mr. G. A. Richards  
Mr. S. Mohamrned  
Mr. W. J. Alexander  
Dr. R. Capildeo  
Mr. A. Sinanan  
Mr. T. Hosein  
Sir Padlock Hobson  
Mr. J. Rotas  
Mr. M. T. I. Julien,  
Sir Learie Constantine, M.B.E.  
Mr. E. E. I. Clarke, C.M.G.  
Mr. J. O'Neill Lewis  
Mr. S. C. Maharaj  
Mr. L. F. Seukeran  
Mr. P. G. Farquahar  
Mr. O. Mathurin

### **SECRETARIAT**

Mr. A. M. MacKintosh, C.M.G - Secretary-General  
Mr. D. F. Milton - Secretary  
Mr. D. J. Burr - Secretary  
Mr. D. Wyllie - Secretary

Mr.G.O.Young - Secretary  
Mr. R. W. Francis - Secretary  
Mr. K. J. Hanford - Press Officer  
Mr. R. S. Paveley - Press Officer  
Mr. T. Empson -Conference Officer

## **APPENDIX B**

### Entrenched Provisions of the Constitution

#### **Ordinarily entrenched**

Provisions relating to human rights and fundamental freedoms.

Prorogation of Parliament.

Appointment, dismissal and disciplinary control of judicial officers.

Establishment of office and functions of Auditor General.

Public debt.

Public Service Commission.

Appointment, dismissal and disciplinary control of public officers.

Appointment and removal of principal representatives of Trinidad and Tobago abroad.

Auditor-General.

Tenure of office of Auditor-General.

Police Service Commission.

Appointment, dismissal and disciplinary control of police officers.

Protection of pension rights.

Powers of Commissions in relation to grant of person, etc.

#### **Specially entrenched**

Office of Governor General.

Establishment of Parliament.

Composition of Senate.

Composition of House of Representatives.

Amendment of Constitution.

Annual meetings of Parliament.

Dissolution of Parliament.

General Elections and Appointment of Senators.

Boundaries Commission.

Procedure for Review of Constituency boundaries.

Establishment of Supreme Court.

Constitution of High Court.

Appointment of Puisne Judges.

Tenure of office of Puisne Judges.

Constitution of Court of Appeal.

Appointment of Judges of Court of Appeal.

Tenure of office of Judges of Court of Appeal.

Appeals from Court of Appeal to Her Majesty in Council.

Judicial and Legal Service Commission.

Remuneration of Governor-General and certain other officers.

Elections Commission.

Universal adult franchise subject to the qualifications laid down by Parliament.

Freedom of Speech in Parliament.

Interpretation (so far as it relates to the foregoing).

The Trinidad and Tobago Independence Act, 1962.



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