



Address to Parliament by
His Excellency Dr. Nicholas J. O. Liverpool, D.A.H., O.C.C
President of the Commonwealth of Dominica
On the occasion of the opening of the
First Meeting of the First Session of the Eighth Parliament
on Thursday 4th February 2010

Aspects of Law Making

Introduction

Madam Speaker

Honourable Members of the House of Assembly

I am grateful for the opportunity to address this Honourable House, and I am thankful for the invitation extended to my wife to attend this sitting.

I take this opportunity to congratulate you, Madam Speaker, on your re-election to the Speaker's Chair; and pray that God's spirit will guide you in your deliberations. I have every expectation that you will use the power and responsibility given to you by Parliament under the Standing Orders of the House to guide the proceedings of this Honourable House with dignity and firmness, and with an even hand.

I offer sincere congratulations to all candidates who contested seats at the recent general elections, and also to the appointed Members. I offer also warm congratulations to the Honourable Prime Minister and his Cabinet on their assumption of the duties of the Executive. To all of you I extend my wish for your continued good health and that of your families.

In extending congratulations, I must draw to your attention the importance of the duties and responsibilities that you, as representatives of the people, have taken unto yourselves, and to express the hope that you will not be found wanting in the proper exercise of those duties and responsibilities.

I also wish to congratulate the electors on the disciplined exercise of their democratic rights; and to compliment the Electoral Commission, the Chief Elections Officer and all the electoral officers and administrative staff for their methodical, systematic and efficient conduct of the recent elections.

Madam Speaker

Honourable Members of the House of Assembly

There is no subject more interesting to the citizen than that of Government. It is therefore our duty to try to make everyone acquainted, with its principles, institutions and practices. Membership of this Honourable House provides you with a singular opportunity by honest and intelligent debate, to impress on the minds of our people the principles and practices of good governance. Nothing is more important for the orderly development of our nation and its people than that we all understand the principles that guide our actions, and what harm the absence of these principles can do to the welfare and orderly progress of our country.

Leadership of the Opposition

Madam Speaker

Honourable Members of the House of Assembly

Recognition of the right of organized and responsible dissent has led those who framed our Constitution to the acceptance of the principle that a special parliamentary status be conferred on the elected member of the House who commands the support of the majority of the elected members who do not support the Government. This individual is potentially the next Prime Minister. The fact that one has not yet been appointed should not prevent us from acknowledging the importance of the office of the Leader of the Opposition.

Constitutionally and also by convention the Leader of the Opposition enjoys a status which enables that person to have a say in many matters of State; and this also carries with it the expectation that the Prime Minister will consult him from time to time on important problems of national concern, such as constitutional change; electoral reform; territorial integrity; environmental protection and climate change, and regional and sub-regional integration.

If an occasion arises when no person is both qualified and willing to accept appointment as Leader of the Opposition, the Constitution empowers the President to act in his own deliberate judgment on any matter in which he is required to act on the advice of, or after consultation with, the Leader of the Opposition.

Since there is no Leader of the Opposition and the elected Members who do not support the Government have not yet taken their seats, this places an additional burden on you the Honourable Members here today to be scrupulous in your conduct of the proceedings of this Chamber, and to

always bear in mind that the population would expect of you an even greater sense of magnanimity, responsibility and good judgment than would otherwise prevail.

Amending the Constitution

Madam Speaker

Honourable Members of the House of Assembly

Concerns have been expressed about the potential risks to our Constitution when a Government holds more than three-quarters of the membership of the House. This concern was dealt with clearly and extensively in the Report of the Constitutional Review Commission which reported in February, 1999, and I have referred to this matter in previous addresses to this Honourable House. The pertinent sections of paragraph 19 of that significant Report are repeated here for emphasis -

"19.1 There are two levels of entrenchment of the provisions in the Constitution. The lower level of entrenchment requires that a Bill to amend the relevant provision of the Constitution shall not be regarded as passed in the House unless supported by the votes of not less than two-thirds of all the elected members of the House. Additionally, there must be an interval of not less than 90 days between the introduction of the Bill in the House and the beginning of the proceedings in the House of Assembly on the second reading of the Bill.

"19.2 There is a deeper level of entrenchment which protects many areas of the Constitution. These include the fundamental rights and freedoms, the institution of the Presidency, the composition of Parliament, the Electoral Commission, the power of Parliament to make laws, the method of enacting Bills into law, the frequency of sessions of Parliament, its prorogation and dissolution, the delimitation of constituencies, the Constituency and Boundaries Commission, the Public Services Commission, the offices of Auditor General and Director of Public Prosecutions, the relevant provisions of the Courts Order and the Parliamentary Commissioner.

"19.3 At that level, the Bill to amend must be supported by a majority of three-quarters of all the elected members of the House. The same interval must elapse between presenting the Bill on the first reading and the commencement of the debate on the second reading. Additionally, before being presented to the President for signature, the Bill must have been approved in a referendum held in accordance with such provision as may be made in that behalf by Parliament by a majority of the votes validly cast in that referendum.

"19.4 It should be noted that the Constitution itself was not subjected to ratification by the people of Dominica by way of referendum. It was a compact agreed by the acknowledged political representatives of the people acting on their behalf.

"19.5 It would be reasonable to infer that the provisions for a referendum were inserted because of the fear that some party could conceivably win three-quarters of all the elected seats in the House and thus control the power to change the provisions of the Constitution without consultation with any of the other political parties and certainly without their agreement. As has been mentioned under the section dealing with the system for elections, it is possible for a party to win all the seats in the House while securing a bare 50.1% of the votes cast. In such a situation there is a very good chance that that party would succeed in a referendum as well – although that is not at all certain. In any event the mere fact that a referendum would have to be held would act as a disincentive to attempting an amendment.

"19.6 It is important that the passage of Bills to amend the Constitution should be made more difficult than the passage of ordinary Bills. The Constitution is the Supreme Law of the land, usually adopted after detailed discussion, and so serious consideration should be given before changes are made. For that reason, special majorities are absolutely necessary. Also necessary is ensuring that a reasonable period elapses between the original presentation of the Bill and the start of the debate. This should alert the electorate at large to the fact that an amendment is proposed and provides the opportunity to make its views known. Nonetheless, a modicum of flexibility is needed."

The substantive provisions that can be amended by a Parliament which controls two-thirds of the elected members, and which would therefore not require the holding of a referendum are:

- a. All the provisions relating to the office of President except the establishment of the office, and the provisions governing the appointment of an Acting President.
- b. The qualifications and disqualifications for Representatives and Senators.
- c. Questions relating to the appointment or election of Senators, the tenure of office of Representatives and Senators, and provisions relating to the Speaker and Deputy Speaker, and the Clerk of the House of Assembly.
- d. Matters relating to the powers, privileges and immunities of the House and of its Committees and Members. The oath to be taken by Members. Who should preside at a sitting of the House.

The method of voting in the House. The effect of vacancies in the membership of the House; and the penalty imposed, upon any person who is unqualified, for sitting or voting in the House.

- e. Provisions relating to restrictions imposed on the introduction of certain financial measures in the House, and the requirement for the scrutiny of proposed electoral legislation by the Electoral Commission and the Chief Elections Officer.
- f. All matters pertaining to the conduct of the executive authority of the State, except those relating to the office of the Director of Public Prosecutions.
- g. Matters relating to the Public Service Board of Appeal and its jurisdiction in appeals brought before it; and
- h. Questions relating to citizenship.

Madam Speaker

Honourable Members of the House of Assembly

It is convenient at this juncture to refer briefly to the method adopted in passing Bills for the information of the members of the public.

The First Reading

Bills become law after they have been read three times in the House of Assembly and passed. The normal method of introducing a Bill into the House of Assembly is by its Ministerial sponsor requesting that the Bill be read a first time. This is done after the Bill has been published in the Gazette and circulated to Members.

The Clerk of the House then reads the Short Title of the Bill aloud, and it is then recorded as having been read a first time. This is a very formal affair, as the object, at this stage, is to notify Members that the Government intends to proceed at some later stage with a discussion on the merits of the Bill. No Bill should be read a second time unless it has been printed in the Gazette and circulated to Members.

The Second Reading

The occasion provided for Parliamentary debate on the general principles of a Bill is at the second reading stage. No amendment to individual clauses is then permitted.

If the motion to read the Bill a second time is carried, it is referred to a Committee of the whole House to be considered clause by clause, unless the House decides that it should be referred to a Select Committee.

At the Committee stage the general merits and principles of the Bill are not discussed. This is the opportunity to discuss the details of the Bill. Amendments and additions which are relevant to the subject matter of the Bill may be proposed and passed at this stage.

Then follows the Report stage, when the Chairman of either the Committee of the whole House, or of the select Committee reports to the House on the proceedings which took place at the Committee stage.

The Third Reading

On the resumption of the House after the Committee stage, the Bill may be read a third time. Thereafter a printed copy is signed by the Clerk and forwarded to the President for his assent.

Three points of importance should be remembered. The first is that the House must not proceed to discuss a Bill, an amendment to a Bill or a motion for leave to introduce a Bill if, in the opinion of the Speaker it will contravene the provisions of Section 50 of the Constitution. This section provides that except on the recommendation of the President, signified by a Minister, the House is restricted in the discussion of certain financial measures.

The second point is that a motion for the second reading of a Bill which seeks to alter the Constitution must not be made unless there is an interval of not less than ninety days between the introduction of the Bill in the House and the date on which the motion for the second reading is made.

The third point is that a Bill to alter any of the provisions of the Constitution must not be submitted to the President for his assent unless it is accompanied by a certificate from the Speaker stating that the procedures required by section 42 of the Constitution have been observed. This section deals with the steps to be taken in altering the Constitution.

Madam Speaker

Honourable Members of the House of Assembly

As you settle down to the serious business of governing our country, let us give thanks to Almighty God for blessing us with an island and a people that many others in the rest of the world have viewed with envy for the beauty and tranquility that is ours. It has constantly been maintained that nowhere in the American tropics can a better display of the luxuriant rainforest be seen than in the interior of Dominica. Many eminent writers have at various times visited our country and have written with wonder and praise of all the things with which we are blessed, and that we take for granted.

The author Adam Nicholson tells us that John Layfield who was among the men who had translated the opening chapters of Genesis for the King James' version of the Bible, and who had visited Dominica with an expedition in 1596 must have had this island in mind when the Garden of Eden was described.

Thomas Atwood writing in 1791, in his book "The History of the Island of Dominica"; describes a morning scene in these incomparable words:

"Rising early in the morning in this country, you have the delightful pleasure of exploring the wonders of the heavens; the morning star, with a rapidity that exceeds all bounds of conception, running its daily courses; the sun emerging from the sea, all glorious to behold; and in the words of the psalmist, 'coming forth like a bridegroom out of his chamber'; and all the lesser plants twinkling into obscurity".

What was said by these and other writers is still mainly true today, for in the grandeur of her mountains, the lushness of her vegetation and the lavishness of nature, Dominica remains unsurpassed.

We have reason, therefore to be proud and thankful; but that same reason places on us the important responsibility to be worthy of what we have; that paramount in all we do is concern for the general welfare of our community as a whole; that above all, we put public interest before self; and that we ensure justice for all. Only by so doing will the natural tranquility of this island be preserved for many generations to come.

Our greatest asset is our people. We should therefore strive to keep our people united, and provide them with equal opportunities to enable individuals and families to realize their potential to the

fullest; so that our nation can grow in prosperity, with just and equitable sharing of the benefits of our collective endeavours.

Madam Speaker

Honourable Members of the House of Assembly

I fully endorse the words of a former President of Dominica, His Excellency C A Seignoret who reminded us almost twenty-five years ago of the importance of unity and compromise in national development. In words which continue to be relevant to our present situation, he said:

"I believe that we in Dominica are experiencing the dawn of a realization 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 a 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."

With the vast amount of talent available in this country, I believe we can meet the challenges that confront us with confidence, and accomplish the tasks that lie ahead, if we continue to place the national good above any sectional interests.

May the Almighty God guide your deliberations and bless the work of this Honourable House during this Session.