

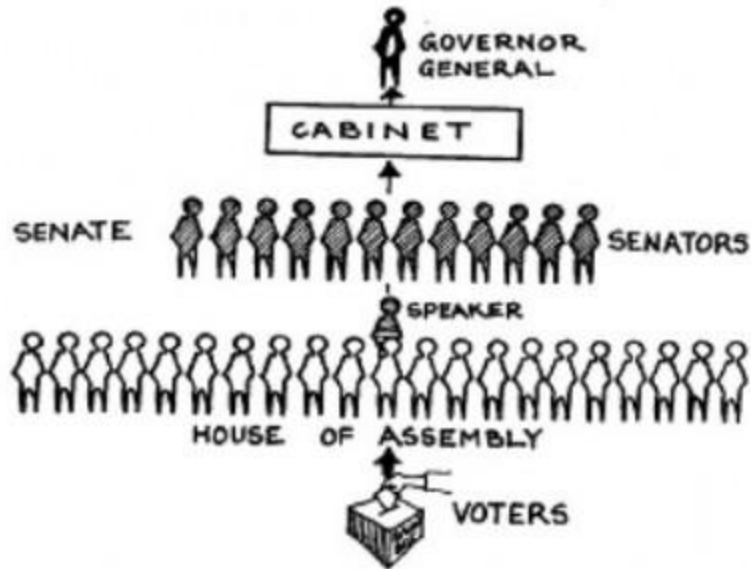
The evolution of the Constitution: Urgent constitutional amendments required for the Presidency

Dr. Lennox Honychurch, PHD - Friday, September 14th, 2012 at 11:55 AM



Delegates at the Constitutional Conference at Marlborough House, London, May 1977. From L to R: Dr Claudius Thomas, Eastern Caribbean High Commissioner; Vernon Shaw, Cabinet Secretary; Victor Riviere, Minister of Finance; Leo Austin, Attorney General; Richard Posnett, FCO adviser; Premier Patrick John; Michael Douglas, Minister of Communications and Works; Evans Luard MP, British Under-Secretary of State FCO; FCO official; EO Le Blanc; Eustace Francis; Arden Shillingford, future Dominica High Commissioner in UK; Lennox Honychurch; M Eugenia Charles, Leader of the Opposition; Antony Moise.

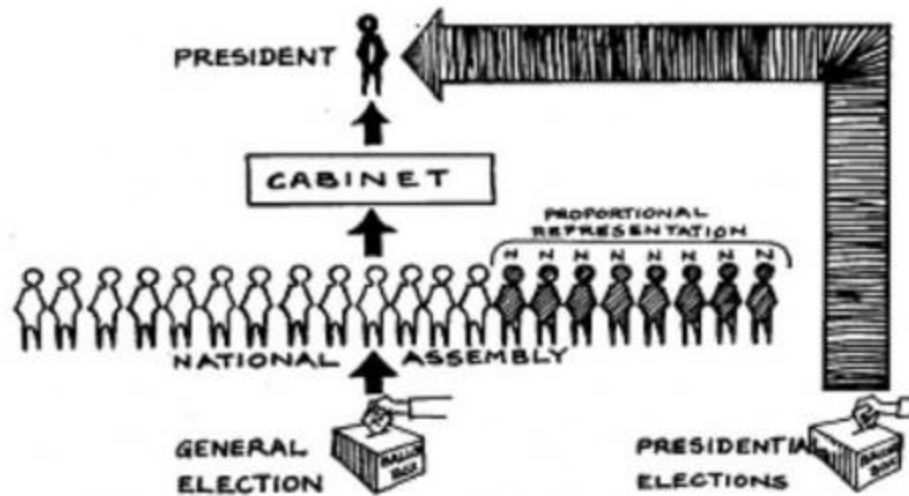
On 29 August 1976 Premier Patrick John announced in the "Salisbury Declaration" that his government intended to take Dominica to independence. A draft constitution following the monarchical system was issued by government.



This is how government's first draft constitution for independence outlined the system. They wanted two chambers: a House of Assembly of 21 and a Senate of 12 members. These Senators would be nominated. Ministers would be chosen from both chambers. The Freedom Party said that this would be much too many members for the island to support and that the Senate would just be a rubber stamp serving no useful purpose.

There were preliminary meetings in London in March 1977 and then delegates of both the DLP Government (7) and the DFP Opposition (3) returned for the full conference in May.

At this conference, held at Marlborough House, both the DLP and the DFP representatives stated that they were in agreement on the principle of seeking independence, although the conference failed to resolve a number of serious differences between them on the details of the proposed constitution and on the method and timing of its introduction. The DFP proposed a referendum, the DLP favoured an 'Order in Council' passed in the British Parliament. Both options existed in the 1967 Constitution.



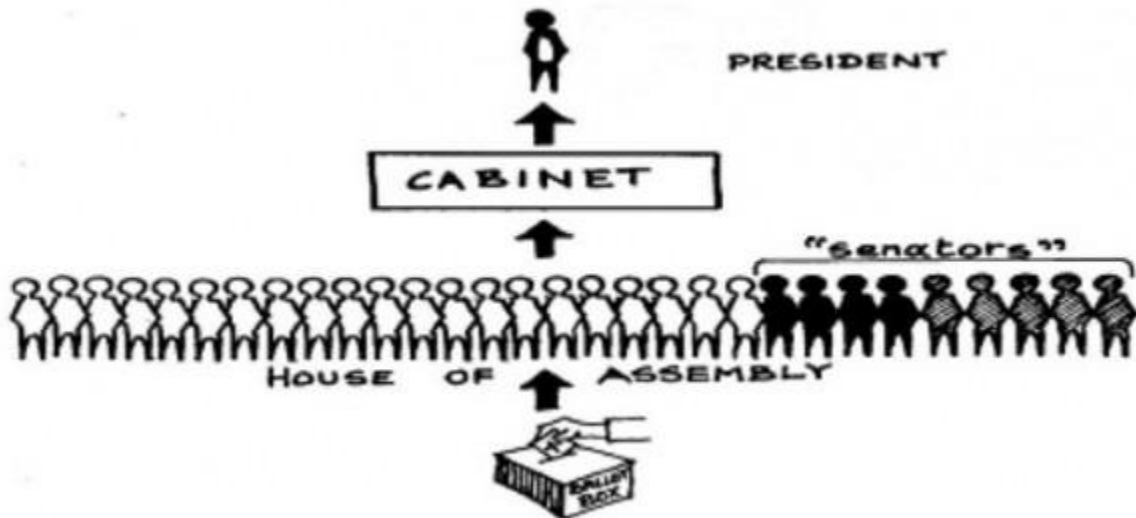
This is the Freedom Plan. The number of constituencies would be reduced to 13. There would also be 8 members nominated by proportional representation. This would mean that the percentage of all the votes cast at a general election would be assessed and the 8 nominated seats would be divided among the parties according to the overall percentage gained by each party. The President would be head of state and would be elected by the people at a separate election. To gain nomination to run for the Presidential Elections, a person would have to be supported by the signatures of 1,000 registered voters.

The main point of contention was over the proposal by the DFP that Dominica should move to full republican status with a President as head of state rather than the British monarch. The government eventually accepted this some time after the conference was over but there were differing opinions on how the President should be chosen. The size and type of parliament was also a cause for dissent. The government had originally wanted two chambers one of which would be an upper house composed of senators.

The DFP objected and finally a single chamber was adopted with nominated 'senators' being members of that one House of Assembly. Perhaps the DFP's most crucial demand related to the conduct of elections and their proposal for a politically balanced Electoral Commission was eventually adopted.

The requirements for citizenship and other more general sections of the proposed constitution also received lengthy consideration. The outcome of the conference was inconclusive. The conference chairman stated that inter-party discussions should be resumed in Dominica and that a further process of consultation might be necessary if these failed to produce broad agreement.

Because of the inconclusive outcome of the constitutional conference as well as internal problems, the government put back its target date for independence from November 1977 to 'early 1978'. By early 1978 some progress had been made however in resolving the areas of difference relating to the Independence Constitution.



The final plan as contained in our Independence Constitution Order 1978

On 12 July a resolution requesting and consenting to the order for termination was passed by the Dominica Assembly. On 21 July it was debated in the British House of Commons.

On 24 July it was debated in the House of Lords and the formal Order was made on the following day 25 July, by the Privy Council in the presence of Queen Elizabeth II.

The Order would take effect on 3 November 1978.

THE PRESIDENT

There was much discussion on the nature of the Presidency. Soon after independence it was realized that sections in relation to the position of President had major gaps in that they did not give clear provisions on a range of possible eventualities that might influence a change of President. These included the possibilities of death in office, resignation in case of illness, disappearance from the state etc.

There were two Constitutional Review Commissions, the first in 1983 chaired by Albert Matthew, and the second in 1998 chaired by Telford Georges, recommended reviews of aspects of the Presidency. But no action was taken, hence some of the issues that we have today. It is my view that the relevant sections have to be reviewed and rectified by amendment of the Constitution as a matter of urgency.