

FROM “EXILE” TO “RE-UNION 08”

This background discussion paper in celebration of RE-UNION '08 is respectfully submitted by the Diaspora Affairs Committee of the Dominica Academy of Arts and Sciences, to the Honourable Minister for Trade, Industry, Consumer Affairs, Private Sector Relations, CARICOM, OECS and Diaspora Affairs. It is the hope that its merits and contents will be assessed by the Government of Dominica in consultation with DAAS, towards addressing the disabilities outlined through early Constitutional reform.

The practice of banishment into exile has had a long and ignoble history. It was believed during its heyday that there were fewer more painful punishments for a citizen-patriot than to be removed from his native land, to be deprived of full participation in the life of his country, and to suffer the real physical pain of “homesickness”, as well as the emotional trauma of “nostalgia”. The practice of “exile” was traditionally one of forced relocation to an island—a place of separation, exclusion, isolation, loneliness and control.

Those of us who have emigrated from our island homes of the Caribbean, and more specifically Dominica, in search of brighter career opportunities and self-improvement may occasionally feel like exiles, suffering all the pangs of separation and anxiety. Those of us who believe that it was necessary to assume citizenship in our foreign, adopted countries in order to secure full civil status; to fully exercise and assume our civic responsibilities; to safeguard our careers; to protect our financial interests; to empower our children, know how deeply the wounds of exile run.

This sense of alienation has been exacerbated by attitudes and even legislation in our homeland that give expression to the reality of exile or the relegation to second-class citizenship for those

Dominica nationals who have assumed citizenship of a foreign country by their deliberate action.

The Constitution Act for the Commonwealth of Dominica provides:

“ A person shall not be qualified to be elected nor appointed as a representative (of the Legislature) or a Senator ...if he

(a) is by virtue of his own act under any acknowledgement of allegiance, obedience or adherence to a foreign power or state.” [Se. 32(1)].

Similar provisions apply to the office of President of the Commonwealth. Out of interest, other categories of persons to whom equally such disbarment applies include criminals, bankrupts, the mentally insane, and in the case of the Presidency, ministers of religion are likewise excluded.

While initially, one is tempted to dismiss these provisions as another instance of eccentric aberrations borne out of the exhilaration of independence and a protection against direct or indirect intervention of foreign influence in national affairs through their citizens elected to high office in Dominica, the time has come for a more sober and perceptive assessment of the real implications of these provisions.

One assumes that the rationale for these provisions was to avoid split allegiances and divided, even conflicting, loyalties of elected officials. Presumably, it might have been argued that had these provisions not existed, affected persons could be subject to external pressures and/or inducements contrary to the Dominica public interest.

Recent discussions on this subject among persons at home and in diaspora (incidentally, the word “diaspora is from the Greek meaning, persons in exile), seek to establish a parallel justification of the Dominican constitutional provision with that of the United States constitutional preclusion of persons not born in the United States from the office of President. This attempt at a comparison is obviously not tenable, and even if such a comparison could be made, does not provide validity. Native born Americans are not precluded from aspiring to the presidency of their country. Not so in Dominica!

Citizenship law recognises no claim more basic and privileged than that of a citizen having the right of return to the land of his birth (*ius solis*). Indeed, the state of the law as many Caribbean jurisdictions know only too well has permitted native-born Caribbean persons, even though naturalized in a foreign country, to be deported to the country of birth for cause.

It is true that some countries do have provisions similar to the Dominica case that disenfranchises native-born persons who have obtained citizenship in another country through naturalization. Such circumstances are complicated by a number of factors that do not warrant extended discussion here. These include, whether or not there has been deliberate renouncement; whether or not the person’s country of birth and/or naturalization is a member of the Commonwealth of nations; the national importance of maintaining access to the fund of knowledge, skills and investment of overseas nationals, to name a few. These factors, and others, work themselves out in different dynamics in different countries. For Dominica, the circumstances do not seem to warrant the prohibition.

The Dominica Constitution Act does not prohibit dual citizenship. Consequently, full rights of citizenship, including sitting as an elected representative or holding the position of President, is

available to non-native-born persons who become Dominican nationals by naturalization, with or without renunciation, This right is denied native-born Dominicans who have assumed foreign citizenship, even without renouncing their Dominican citizenship!!

Noticeably also, the legislation only applies to Dominican citizens who by a conscious act swear allegiance to a new and different country. It does not apply to native-born Dominicans (*ius solis*) who have inherited foreign citizenship through a parent (*ius sanguinis*). This class of persons are presumed by the Dominican Constitution to be more deserving and more trustworthy guardians of the public interest!!

Taken to its natural and ridiculous conclusion, a native-born Dominican who relocates to a foreign country temporarily and in that process assumes foreign citizenship “by his own act” cannot hold high public office as defined. However, his son, born in a foreign country of Dominican parentage may do so. Wherein lies the logic? A person born to non-Dominican parents (alien) abroad who becomes a naturalized Dominican citizen, even without renunciation, may hold high office as defined. In contrast, a Dominican-born person who is naturalized in a foreign country is prohibited. Where is the justice in that?

The current state of the law in Dominica would suggest, “relocate overseas if you will; assume foreign citizenship if you must; contribute to Dominican development as you should; but, assume high public office, you won’t”!!

In these times of sensitivity to foreign (non-national) influences as represented by ethnic, racial, religious, and foreign national minorities in metropolitan countries, one immediately places oneself under a cloud of suspicion and questioning by refusing, for no good reason, to assume citizenship in the host country. Secondly, in most countries, one’s promotional and career

prospects are severely limited unless as a candidate for nationally sensitive or influential positions, one swears allegiance to the national jurisdiction involved. Incidentally, it is those very same persons who, by their knowledge, skills, experiences, financial assets and networks are able to promote Dominica, assist its development efforts abroad and invest in Dominica at home. Yet, they are penalized for attaining that capability by the provisions of the Dominica Constitution Act.

Even the most cursory look at events occurring in many of the metropolitan countries where Dominicans and West Indians in general have made their home will show our first generation of “exiles”, as full citizens of these countries are rising in increasing numbers to positions of social, political, economic and institutional prominence. They could only have performed so well by swearing allegiance to full citizenship. In these positions, they are able to influence, promote, assist the development of policies and programs with openness, transparency and sensitivity and without prejudice to their host countries, but to the benefit of their homelands wherever possible..

Some have suggested that even if the “exile” is required to swear allegiance to his host country during working years overseas, nothing precludes his renouncing those ties on his return and thereby reclaim his “birthright. Wrong!! Foreign ties and obligations will remain long after such a return. These range from the personal such as the continuing, uninterrupted access to children and grandchildren still remaining overseas; the need to preserve earned financial, social, health and even political privileges. It would be foolhardy and irresponsible for any intelligent person to place such hard-earned entitlements in jeopardy.

At the end of the day, there remain some basic questions that lie at the root of resolving this dilemma:

- (1) Does Dominica see its sons and daughters “in exile” necessary in contributing to its development?
- (2) Has this nation, after 29 years of independence, matured from post-colonial insecurity to exhibiting the discerning confidence and resilience that maturity requires?
- (3) Is it now time to review and, if necessary, revise these provisions (and other similarly, archaic legislation) which are not justified because they are blatantly unfair and counterproductive, and which potentially frustrate the national development effort?
- (4) How can the country open its doors to receiving its “exiled “ sons and daughters in REUNION, and still ensure no adverse impact or risk to the country thereby?

No one denies that there are indeed allegiances which are potentially and realistically much more injurious to Dominica’s national interest than those of dual citizenship assumed by Dominica-born persons. Indeed, as more and more Dominica becomes a cosmopolitan country, with citizens drawn from a widening range of races, religions and cultures and political traditions, these types of associations and affiliations are likely to raise more issues of concern than those ever contemplated and anticipated by the Constitution Act, back in 1978. Some would even further argue that there are considerably more alluring allegiances which are capable of tempting those in authority, dual citizenship or not.

Theoretically, under the current parliamentary democracy model, such abuses should be minimized, if not eradicated. But this

requires rigorous procedures of parliamentary oversight, cabinet responsibility, administrative transparency and public accountability. In practice, even the most well-intentioned procedures are subject to abuse arising not from allegiances to a foreign entity but to the corruptive influence of personal greed or power. Governments of all stripes and the society at large is right in being vigilant for such abuses at whatever level and from whatever quarter they emanate. But if a perceived risk to the public interest yet remains, and if pre-emptive measures are deemed necessary, are there not grounds for requiring all holders of public office, particularly those in sensitive positions, to place themselves exclusively and unequivocally under Dominican jurisdiction for the duration of their public service (and a reasonable period following) with regards to abuses of their positions while in office?

The early Greeks, considered the architects of democracy, as we know it, recognized that full citizenship required unrestrained access of citizens to seek positions of leadership should they so desire. Indeed, anyone who allowed himself to be unreasonably barred or who would not volunteer to serve, thereby allowing less qualified persons to stand in his place was labelled an “idiot”. The denial of the right to be represented and to seek to represent others was in part responsible for the American War of Independence. It is inconceivable that these principles need to be reargued or re-fought today.

Asking overseas nationals to return home to re-acquaint themselves with their homeland or the homeland of their parents is strongly supported. Asking them to invest in the development of their country or to contribute to worthy causes at home is nothing less than their patriotic obligation. Encouraging a more permanent return “from exile” to contribute on the local scene is an indispensable part of the development effort towards a new Dominica. However, instituting a policy of return as full citizens

but only for those who have never sworn an oath of allegiance to a foreign power while they were away, denies the very conditions that contributed to making them valuable citizens today, and for the reasons discussed, is demeaning and indefensible. It does not engender a true REUNION. In this regard, the Constitution Act needs to be amended!!