

## **BICAMERALISM IN SMALL STATES: THE EXPERIENCE OF THE COMMONWEALTH CARIBBEAN**

### **Abstract**

Almost half of the bicameral legislatures in the Commonwealth are located in the Commonwealth Caribbean. Why so many bicameral legislatures are located in a relatively small geographic region, which is composed of countries that manifest characteristics more usually associated with unicameralism – small size, a unitary state, and homogeneity – is puzzling. Scholars have offered two possible explanations. The first concerns the presumed wish of the region's political leaders upon independence to replicate the values and institutions of their colonial mentor, Britain. The second concerns the presumed need to prevent one-party dominance by guaranteeing the representation of opposition parties in the second chamber. This paper challenges both these explanations. By examining the origins of bicameralism in the region with the arrival of the first settlers in the seventeenth century, its demise during the era of crown colony rule in the nineteenth century, its renaissance in the 1950s and 1960s, and its survival in the post-independence era this paper will offer a more multi-layered explanation. This entails taking account of the complex relationship between these former colonies and their imperial past, the wide range of views expressed both locally and within the Colonial Office about the suitability of bicameralism in the debates that accompanied the transition from colonial rule to independence, and, finally, the very distinctive nature of Caribbean bicameralism.

Almost half of the bicameral legislatures in the Commonwealth are located in one, relatively small, geographic region – the Commonwealth Caribbean. While this is in itself a striking statistic, what makes it even more striking is that most of these countries manifest characteristics which are more traditionally associated with unicameralism: small size,<sup>1</sup> homogeneity,<sup>2</sup> and limited resources.<sup>3</sup> Moreover, the majority of these countries attained their independence in the 1960s and 1970s; a period when second chambers were being castigated in progressive circles as 'redundant, reactionary or undemocratic.'<sup>4</sup>

The prevalence of bicameralism in the Commonwealth Caribbean – with eight out of the 12 independent countries in the region having second chambers – therefore requires some explanation.<sup>5</sup> The one usually offered by scholars is that at the time of independence these countries were simply seeking to replicate the values and institutions of their colonial mentor, Britain, and its second chamber,

the House of Lords.<sup>6</sup> An alternative explanation assumes that second chambers were established to prevent the dominance or predominance of any one party in the legislature by enabling a weak opposition to strengthen its representation through its power of appointment of senators in the Upper House.<sup>7</sup>

In this article I will argue that while there are elements of truth in both of these explanations they are, at best, only partial explanations. The first, for example, fails to take account of the different constitutional antecedents of the settled, ceded and conquered islands that made up Britain's Caribbean empire. It also relies on too close an identification between the region's senates and the British House of Lords. The alternative explanation, on the other hand, focuses too closely on only one of the many considerations that were in play in the decision to adopt bicameral legislatures during the transition from colonial rule to independence; and fails to appreciate that the composition of the region's senates actually increased the governing party's dominance over the legislature as a whole. Moreover, neither of these explanations is sufficient to account for the endurance of bicameralism over fifty years after the first countries in the region attained independence.

The aim of this paper is, therefore, to offer a more multi-layered explanation for the prevalence and endurance of bicameralism in the region. This will entail examining the complex nature of the relationship between these former colonies and their imperial past. It will also entail taking full account of the wide-ranging debate about bicameralism that accompanied the establishment of the region's senates in the period leading up to independence. Finally, it will entail recognising the distinctive nature of Caribbean bicameralism and how, counter-intuitively, the small size of these states has actually contributed to the survival of their senates in the post-independence era.

An understanding of the chequered history of bicameralism in the region and the reasons for its endurance in the post-colonial era will, it is hoped, contribute to the scholarly literature regarding the transplantation of the Westminster model to the Caribbean and other Commonwealth countries. It will

also, it is hoped, inform future debate about reform of the region's legislatures as well as reform of the legislatures of other small states wrestling with the question of whether bicameralism or unicameralism is better suited to their needs.

### **The rise and fall of bicameralism**

The origins of bicameralism in the region are inextricably intertwined with the region's colonial antecedents - whether a colony was a settled, ceded or conquered colony and, whether it came into British possession before or after 1793 - with Belize (formerly British Honduras) and Guyana (formerly British Guiana) serving as outliers in so far as they did not originally conform to the system of colonial rule common to other British colonies in the region.

### ***The Old Representative System***

In accordance with the principle that an Englishman carried with him English laws and liberties into any unoccupied territory in which he settled, the first colonies in the region to be settled by the English (Barbados, the Leeward Islands,<sup>8</sup> the Bahamas and Jamaica) were all governed under what came to be known as the Old Representative System (ORS). This was a bicameral system based on the constitution of England in its classic form following the revolution of 1688.<sup>9</sup> The ORS was subsequently extended to the ceded islands of Grenada, Dominica, St Vincent and Tobago when they came into British possession in 1763,<sup>10</sup> on the new understanding that British constitutional rights 'were not the exclusive privilege of Great Britain and their descendants at home and overseas, but that they rightfully belonged to all those under the British flag.'<sup>11</sup>

The ORS comprised three 'estates': the Governor (representing the king) as the head; a Council of gentlemen appointed by the King; and an Assembly comprising the 'representatives' of the people, elected by the freeholders. <sup>12</sup> The

Council was composed of a selection of 'the most loyal and substantial inhabitants of the colony,' usually members of the sugar-planting aristocracy, who were chosen not for their representativeness, but for their conservatism and their willingness to support the Governor.<sup>13</sup> Initially, at least, the Council combined elements of the House of Lords and the early Privy Council in England, performing a multiplicity of functions.<sup>14</sup> In its executive capacity, the Council advised and assisted the Governor who was bound, in theory, to secure the Council's advice and assent before he could perform certain of his duties. In its legislative capacity the Council served as the Upper Chamber of the colonial legislature, 'the nominated counterpart of the hereditary Upper House in England.'<sup>15</sup> In its judicial capacity the Council served as the highest upper court of appeal in the colony.<sup>16</sup>

In theory, each part of the legislature under the ORS was to have the same powers as its English analogue, with the Council claiming to possess equal legislative authority to the Assembly. However, the Assembly, by depriving the Council of the right to initiate or amend Money Bills, gradually gained the ascendancy.<sup>17</sup> By winning control of finance, the Assembly was also able to subvert the authority of the Governor who relied upon the supply of funds being approved by the Assembly in order to carry out his instructions from London. The Assembly could thus thwart any policy that the Governor wished to implement if it was deemed not to be compatible with the interests of its members and those whom they represented. In the ensuing struggle between the Assembly and the Governor the Council, having no independent role, and expected to support the Governor, became increasingly overshadowed. Though it was to survive for another century its importance was much reduced.<sup>18</sup>

### ***Crown colony rule and the demise of bicameralism***

The Anglo-French War of 1793-1815 transformed the British Empire. It now included considerable minorities of other European nationalities and an enormous dependent non-European population. <sup>19</sup> This necessitated a new system of colonial government for these newly conquered colonies. This new system, which came to be known as *crown colony* rule,<sup>20</sup> was different in at least

three significant respects to the ORS. Firstly, it was based not on the English common law, but on the maintenance of the existing laws and institutions of the colony. Secondly, it made no provision for a representative legislature. This meant that the Crown could legislate directly for the colony concerned by way of orders-in-council. Thirdly, power was concentrated in the hands of the Governor, who was liberated from the financial control exerted by a hostile Assembly.

This new system was considered particularly appropriate in the context of Britain's Caribbean colonies where the Crown was working to abolish the slave trade in the face of the opposition of local Assemblies. The French revolution and the slave revolt in Haiti had also impressed upon the Colonial Office the need for firm control of the government of its newly acquired Caribbean colonies.<sup>21</sup> Thus when Trinidad and St Lucia came into British possession, following their capture in 1797 and 1803, respectively, they became the first of the British colonies in the region not to be granted a representative legislature.<sup>22</sup> Instead, they were ruled by a Governor assisted by an Advisory Council composed of landed proprietors, whose advice he was free to disregard.

This system of crown colony rule was modified in Trinidad in 1831, and St Lucia in 1832, as the Advisory Council was replaced by a Legislative and an Executive Council. The former was not, however, the equivalent of the Assembly under the ORS. Instead, the Legislative Council was a unicameral body with no elected members, being composed of an equal number of official and non-official members nominated by the Governor. Meanwhile, the Executive Council was composed of three ex officio members and two or more non-officials nominated by the Governor.<sup>23</sup> Within the next four decades, this was the system that came to prevail across the region as pressure was brought to bear by the Colonial Office on local Assemblies to abandon their jealously guarded liberties under the ORS in favour of crown colony rule.

The dismantlement of the ORS is usually traced to the Morant Bay rebellion of 1865 in Jamaica and its brutal suppression by Governor Eyre, which included the execution of nearly 500 former slaves.<sup>24</sup> The Morant Bay rebellion exposed the flaws of the ORS, which were now evident even to members of the

Assembly who had been alarmed by the intensity of the rebellion and who feared that Jamaica might become a second Haiti. Persuaded by the entreaties of Governor Eyre that radical constitutional reform was needed and that this entailed abolishing the existing bicameral legislature, the Assembly initially proposed replacing the Council and the Assembly with a unicameral legislature composed of 12 elected and 12 nominated members.<sup>25</sup> However, the Colonial Office favoured a wholly nominated legislature with power and responsibility vested substantially in the Governor, arguing that there was no real basis for representative institutions in Jamaica. Accepting that this was the best guarantee of the safety of their members and those whom they represented, the Assembly was eventually persuaded to entrust the task of prescribing a new constitution to the Crown.<sup>26</sup> As a result, on 11<sup>th</sup> June 1866 an Order in Council was issued,<sup>27</sup> establishing a nominated Legislative Council, composed of the Governor, six officials who held their seats *ex officio* and an unspecified number of unofficial members, of whom three were at first appointed. Jamaica thus joined St Lucia and Trinidad as the third of Britain's crown colonies in the region.

Post-Morant Bay, the Colonial Office came increasingly to realise that the government of their West Indian colonies, consisting of a majority of slaves and their descendants, could no longer be safely entrusted, even in part to the plantocracy. Since the alternative possibility of enfranchising the black population as a whole was unacceptable to both the Colonial Office and the white plantocracy, the only remaining possibility was the assumption of full responsibility by the Crown.<sup>28</sup> Thus, by 1866, all the Leeward Islands (which now included Dominica) had been persuaded to replace their Assembly and Legislative Council with a single chamber, partly nominated and partly elected, as a preliminary to achieving the Colonial Office's larger objective of establishing a Federation of the Leeward Islands.<sup>29</sup> By the close of the century all of these islands' single chambers had sacrificed their elective character entirely as they became crown colonies. A similar process was underway amongst the Windward Islands with the objective of achieving a Confederation of the Windward Islands. The new unicameral legislature of Tobago surrendered its powers in 1876 and St Vincent followed suit in 1876-77. Finally, the Assembly of Grenada, having

thrown out a Bill to replace its bicameral legislature in June 1875, adopted a single chamber four months later, before giving way to crown colony rule in 1876. This constitutional regression was in marked contrast to developments in other parts of the British Empire, such as Canada, Australia and New Zealand, which retained bicameral legislatures and where representative government evolved into responsible government. In Britain's Caribbean colonies, however, the fear of Black majority rule meant that representative and responsible government was inconceivable.

### ***The survival of bicameralism in Barbados and the Bahamas***

As a consequence of the extension of crown colony rule bicameralism had been extinguished in virtually all of Britain's Caribbean colonies by the end of the nineteenth century. However, it survived in the islands of Barbados and the Bahamas which retained their representative Assemblies under the ORS. According to Wight, this was because these colonies had managed 'to detach themselves from the general social problems that affected Britain's other colonies in the region.'<sup>30</sup> While this may have been true of the Bahamas, it grossly misrepresents the political situation in Barbados.

The reality is that relations between the Governor and the Assembly were as dysfunctional in Barbados as they were in other colonies governed under ORS and the Colonial Office harboured exactly the same federal ambitions for Barbados as for its other Windward Islands. In pursuance of this ambition the Colonial Office, through the pressure applied by successive Governors,<sup>31</sup> sought to persuade Barbados to follow the lead of the other Windward Islands by abandoning its bicameral legislature and joining a Confederation of the Windward Islands, similar to the Federation of the Leeward Islands. Once this had been achieved, it was hoped it would lead, ultimately, to the establishment of a Confederation of the entire British West Indies.

Whilst the idea of a Confederation of the Windward Islands was supported by the majority black population, who believed that it would improve the quality of their lives by offering the prospect of emigration to other islands where there were greater employment opportunities, it was fiercely resisted by

the Barbados Assembly and by organisations such as the West India Committee and the Barbados Defence Association, which was established in 1876 with the objective of preserving the 'free constitutional and representative form of government which the people of this colony have had the privilege to enjoy for more than 200 years.'<sup>32</sup>

An intense battle between the Confederationists and the anti-Confederationists ensued, which led to the outbreak of rioting on the island in April 1877, resulting in the death of eight persons and the wounding of 30 others. In December 1877, the Colonial Office, persuaded that whatever the perceived benefits of a Confederation of the Windward Islands they were not the worth the antagonism that the proposal had stirred up, and having received undertakings from the Assembly to cooperate in measures to remove the existing defects in constitutional practice and to improve the island's network of public institutions, agreed to leave the existing bicameral legislature intact, subject only to one minor modification. The modification would require the Assembly to pass an Act declaring that two salaried officers of the Government would be entitled to sit and speak in the Assembly even if not elected. Even this modest reform was, however, rejected by the members of the Assembly who argued that it would destroy the representative character of the legislature. Instead, a compromise was reached which involved the introduction of an Executive Committee, similar to one which had earlier been tried and failed in Jamaica. In this way Barbados, alone amongst the Windward Islands, successfully retained its bicameral legislature.

### ***British Guiana and British Honduras***

British Guiana and British Honduras, which came into British possession at the end of the eighteenth century, defy easy classification and were amongst the last of Britain's colonies in the region to be subjected to crown colony rule.

British Guiana, which comprised three settlements that were united in 1831, had been ceded to the British by the Anglo-Dutch Treaty of 1814. For over a century the pre-existing Dutch system of government was preserved. Under this system power was divided between a legislative assembly which could not

tax – *the court of policy*, and a financial assembly which could not legislate – *the combined court*. The difficulties of this arrangement, however, eventually outweighed its advantages and by the 1920s it had become ‘increasingly unwieldy and corrupt.’<sup>33</sup> Following the report of two imperial commissions, in 1927,<sup>34</sup> the old Constitution was abolished and British Guiana too became a crown colony.<sup>35</sup>

British Honduras presented even more of an anomaly. Originally inhabited by a small group of ‘baymen’ engaged in log cutting, by the time it fell into British possession towards the end of the eighteenth century it had already developed a primitive form of democracy by way of a ‘Public Meeting’ of the free inhabitants, at which magistrates were elected who were responsible for the administration of justice and the control of finances and laws were passed. In 1786, a Superintendent was for the first time appointed by the British Government, but the Public Meeting system was retained. This ‘republican’ form of government made the task of the Superintendent difficult as he had no means of enforcing his will and successive Superintendents, with the backing of the Colonial Office in London, pursued a vigorous policy of restricting the powers of the magistracy and the Public Meeting, with a view to bringing the constitution into line with those of Britain’s other colonies in the region.<sup>36</sup> When this proved insufficient to secure British control over the colony the elective magistracy was abolished and replaced by an Executive Council in 1840. In 1853, the Public Meeting was replaced by a Legislative Assembly comprising 18 elected and three nominated members. In 1862, British Honduras was finally declared a British colony and within a decade it had joined the ranks of Britain’s other crown colonies in the region as the Legislative Assembly was replaced by a Legislative Council with five official and four unofficial members.<sup>37</sup>

### **The resurrection of bicameralism**

As we have seen in the preceding section, the tradition of bicameralism, which had been an integral element of the ORS, had been more or less eradicated in the region by end of the nineteenth century. However, in a period spanning thirty-

five years, from 1944 to 1979, bicameralism enjoyed a remarkable renaissance and not only amongst the countries that had previously been governed under the ORS. During this period four countries, which had no previous experience of bicameralism, established second chambers: Trinidad and Tobago, St Lucia, British Guiana (albeit for a very brief period) and British Honduras. In addition, for its very short life, from 1958 until it was dissolved in 1962, the West Indies Federation (an unsuccessful attempt by the British Government to unite its colonies in the region into a single West Indian state) included a bicameral federal legislature.

As we will see, however, in the sections that follow, the resurgence of bicameralism during this period was not universally popular. Both within the Colonial Office and within the colonies themselves opinion was divided about its suitability in the transition of these small states from crown colony rule to independence.

### ***Jamaica***

In 1939, a select committee of the Legislative Council had been tasked with recommending proposals for constitutional reform, 'bearing in mind the precedent of representative government that had existed in Jamaica prior to 1865.'<sup>38</sup> Unsurprisingly, given its remit, the new Constitution proposed by the select committee, known as the 'Smith Constitution',<sup>39</sup> was remarkably similar to the Constitution that had been in operation in Jamaica between 1854 and 1866. The 'Smith Constitution' thus called for the creation of a bicameral legislature, consisting of an elected House of Assembly with 14 members and a Legislative Council of ten members nominated by the Governor, which would act as 'a check upon the House of Assembly and provide a means of giving further time for the country to consider any legislation passed by the...Assembly, which the country may think requires further consideration or may not be in the best interests of the colony.'<sup>40</sup> Though this proposal was supported by a majority of the select committee, not everybody hankered for a return to the ORS. Norman Manley, the leader of the People's National Party (PNP), for example, argued that the ORS 'had been a compromise, an abortion, which gave – and rightly so – no responsibility to the people who then had political power, a narrow little class

composed of wealthy men.’<sup>41</sup> In Manley’s view ‘anybody who goes back to those days and tries to apply it to the Jamaica of today is living in dreams.’<sup>42</sup> Richard Hart, a Marxist and founding member of the PNP, was equally unenthusiastic about having a second chamber, but resigned himself to it on the basis that if nominated members were to be retained it was better they were removed to another chamber ‘the authority of which is limited.’<sup>43</sup>

Independently of these proposals, the Governor, Sir Arthur Richards, had received a despatch from the Secretary of State for the Colonies, Baron Moyne, who, prior to his appointment as Secretary of State, had chaired a Royal Commission to investigate the causes of the wave of strikes and civil disorder that had engulfed the region in the 1930s.<sup>44</sup> Moyne’s despatch to Governor Richards made no reference to the ‘Smith Constitution’ or to the introduction of a bicameral legislature, but instead proposed an enlargement and remodelling of the existing Legislative Council.<sup>45</sup> These proposals were, however, unanimously rejected by the elected members of the Legislative Council in 1941.<sup>46</sup>

In a second despatch from Moyne to Governor Arthur Richards, on 5<sup>th</sup> January 1942,<sup>47</sup> which expressed his ‘great disappointment’ at the Legislative Council’s response to his proposals, the Secretary of State remained steadfast in his opposition to the introduction of a bicameral legislature, arguing that he could not overlook the previous, ‘not altogether fortunate’ experience of bicameralism in Jamaica.<sup>48</sup> In Moyne’s view, with the introduction of adult suffrage, the experience of government among inexperienced councillors would be better gained in a single chamber of ex officio and nominated members. This view was not, however, shared by the elected members of the Legislative Council who submitted a memorandum to Governor Richards at the end of October 1942, defending the introduction of a bicameral legislature on the ground that it was ‘a form well suited in every respect to the conditions that locally prevail.’<sup>49</sup>

The strength of feeling expressed by the Legislative Council on this issue made it difficult for the Colonial Office to ignore and within a matter of months, in a despatch from the new Secretary of State, Oliver Stanley, to Governor Richards, it was announced that ‘in the light of the large measure of agreement

concerning the form of Constitution desired by the people of Jamaica' the Colonial Office was now prepared to accept the proposal for a bicameral legislature.<sup>50</sup> However, it would consist of 15 rather than the 10 members proposed in the Smith Constitution 'in order that the opportunities of public service could be spread more widely throughout the community.' As Colin Palmer has argued, from a Colonial Office perspective, some form of brake was needed against the potential excesses of a wholly elected House of Representatives: an Upper House composed of the more conservative and educated Jamaicans was a more attractive brake than a gubernatorial veto, the exercise of which might be required so often as to bring the Constitution into disrepute.<sup>51</sup>

The new Constitution, which came into force in 1944, was, accordingly, bicameral in form, with an elected House of Representatives and a nominated Legislative Council composed of ten non-official members nominated by the Governor, three ex officio members and two official members. The new Constitution was intended to be an experiment that would endure for one electoral cycle, following which it would be reviewed.<sup>52</sup> However, at the end of the five-year period the two main political parties, while talking a great deal about constitutional change, appeared reluctant to take this forward.<sup>53</sup> For his part, the new Governor General, Sir Hugh Foot, was also reluctant to engage in a full constitutional review, which he considered would distract from the more pressing economic problems facing Jamaica.<sup>54</sup> This constitutional inertia should not, however, be taken as an indication that the re-introduction of a bicameral legislature had been adjudged a success.<sup>55</sup> At the Montego Bay Conference in 1947, to consider a proposal for the creation of a West Indies Federation, Bustamante, the leader of the Jamaica Labour Party, who had previously approved of the 1944 Constitution, demanded the abolition of the Legislative Council. In his view, the Governor, when making appointments to the Legislative Council had nominated 'every man who did not sympathise with the smaller man.'<sup>56</sup> The Colonial Office too was of the view that the Legislative Council was not functioning as a revisionary chamber, but rather as 'a forum for pronouncements mainly destructive and often as irresponsible as in the House –

by a group who have little popular support.’<sup>57</sup> Nevertheless, the Colonial Office acknowledged that for the present there was insufficient demand for its abolition. This was confirmed by the interim report of the Select Committee of the House of Representatives, in September 1954, which decided that any decision as to the future of the Legislative Council should await the formulation of a constitution providing for Dominion status for Jamaica.

By 1956, the Colonial office in conjunction with the Governor, Sir Hugh Foot, had begun to revise its views on the utility of the Legislative Council; now regarding it as desirable to retain the Legislative Council, at least for the first few years in which the Jamaican Government had complete responsibility for its internal affairs.<sup>58</sup> Following a further Select Committee report, published in February 1958, which recommended the retention of the Legislative Council, subject to certain modifications to its composition, the Legislative Council was enlarged to include 18 members appointed by the Governor after consultation with persons speaking for the differing political points of view of groups represented in the House of Representatives, and not more than three nor less than two members nominated by the premier.<sup>59</sup>

Upon independence in 1962, the Legislative Council, now renamed the Senate, was further enlarged to comprise 21 senators. However, the method of selection of senators became even more politicised, with 13 senators being appointed by the Governor General on the advice of the Prime Minister and the remaining eight being appointed by the Governor General on the advice of the Leader of the Opposition.<sup>60</sup> In the process, the Legislative Council was transformed from a body the composition of which was almost entirely within the discretion of the Governor to one of entirely political nominees, the majority of which were appointed upon the recommendation of the Prime Minister.

### ***British Guiana***

The precedent set by Jamaica was followed, nine years later, in British Guiana, but here the introduction of bicameralism proved to be much more contentious and was abandoned within a decade.

The Constitutional Commission (usually referred to as the Waddington Commission) that had been appointed in 1951 to consider reforms to the governance of the colony had been divided on the issue of whether to establish a bicameral legislature. Two of the three members of the Commission<sup>61</sup> were in favour of bicameralism, based on a majority elected House of Assembly and a nominated State Council. However, the third member, John Waddington, who was the Chair of the Commission, was not. In this he was supported by the Governor, Charles Campbell Woolley, who was of the view that the increased elected element in the House of Representatives could be checked far more effectively by strengthening the Governor's powers than by appointing nominees to a subordinate second chamber. Woolley, in particular, questioned whether the limited powers of the second chamber would 'effectively provide those checks and balances which the Commission considers essential and rightly point out are an integral feature of democratic Government as Western civilisation understands it.'<sup>62</sup>

The creation of a second chamber, composed exclusively of nominees, was also opposed by the socialist People's Progressive Party (PPP), led by Cheddi Jagan, who feared that such a body 'could only serve the reactionary and undemocratic purpose of curbing the will of the people.'<sup>63</sup> The majority view of the Commission, however, prevailed with the support of the Colonial Office. The 1953 Constitution thus made provision for a State Council comprising nine members to be appointed by the Governor: six to be appointed by the Governor at his discretion, two on the recommendation of the elected members of the Executive Council, and one appointed after consultation with the independent and minority party members of the House of Assembly.

As if to confirm Jagan's fears about the 'reactionary' nature of the State Council the first six members appointed by the new Governor, Alfred Savage, were archetypal representatives of the colonial establishment to which the PPP was so bitterly opposed.<sup>64</sup> By contrast, the two representatives recommended by the PPP were 'essentially working-class men',<sup>65</sup> earning the scorn of Governor Savage who told the PPP's leaders he hoped their two nominees 'would not be

dummies but people with ability who could serve to help but not break the Constitution.’<sup>66</sup>

Dominated by members of the ruling class, the State Council twice stood in opposition to the policies of the PPP in the very short period of its existence. The first occasion was when it managed to delay the annulment of the Undesirable Publications Act, which had been designed to prohibit the importation of socialist or communist literature into the country.<sup>67</sup> The second was when it denounced the involvement of Government ministers in a strike by sugar workers. A motion proposed by Archbishop Knight, describing the participation of Government ministers ‘in promoting and sustaining this strike’ as ‘a grave danger to the constitution,’ and requesting the colonial secretary ‘to take such action as he may see fit to ensure confidence in the Government,’ was approved by all but the two PPP members of the State Council.<sup>68</sup> Four days after the passage of this motion, the Secretary of State for the Colonies, Oliver Lyttleton, suspended the Constitution and reinstated crown colony rule, justifying his actions on the ground that a communist takeover was imminent.<sup>69</sup> In place of the House of Assembly and the State Council, a unicameral body, the Legislative Council, was reintroduced, composed entirely of officials and nominated members.<sup>70</sup>

The question of whether British Guiana should have a unicameral or bicameral legislature was, however, revisited within a year by the so-called ‘Robertson Commission’,<sup>71</sup> which had been appointed by Lyttleton to consider and recommend, in the light of the circumstances which made it necessary to suspend the 1953 Constitution, what changes were required to that Constitution. Since the Robertson Commission was not bound by the structure of the 1953 Constitution it was willing to hear a variety of opinions about the nature of the representative institutions to be constructed. On this occasion, a nominated second chamber was supported by business interests, such as Demerara Bauxite, the Shipping Association of Georgetown, and the influential Sugar Producers Association, and by the editor of the conservative *Daily Argosy* newspaper, F Seal Coon, who argued that it would serve as a check on the potential excesses of an elected House of Assembly, would represent groups not included in the

Assembly, and would act more responsibly in the conduct of the colony's affairs.<sup>72</sup>

In its final report, the Robertson Commission recommended that the basic structure of the Waddington Constitution should be retained, including the State Council, but with a different configuration.<sup>73</sup> Though this recommendation was not immediately implemented, the 1961 Constitution, which granted full internal self-government for the first time, did make provision for a bicameral legislature with a Senate which comprised 13 members nominated by the Governor: eight on the advice of the Premier, three after consulting opposition groups, and two at his discretion. Its purpose, according to the report of the 1960 Constitutional Conference, was 'to provide the opportunity for persons of wisdom and experience, who might be unwilling to stand for election, to participate in the government of the country.'<sup>74</sup> This body proved, however, to be almost as short-lived as the original State Council, though the explanation for its abolition just three years after its introduction is a matter of dispute.

At Constitutional Conferences in London in 1962<sup>75</sup> and again in 1963<sup>76</sup> to discuss the issue of independence, the leaders of the three main political parties (Jagan for the PPP, Forbes Burnham for the People's National Congress (PNC) and Peter D'Aguiar for the United Force (UF)) failed to reach agreement on the question of whether elections should henceforth be fought on the basis of proportional representation instead of the existing first past the post system, whether the voting age should be lowered to 18, and whether fresh elections should be held on independence. The three political leaders, therefore, agreed 'to ask the British Government to settle on their authority *all outstanding constitutional issues* (emphasis added)' and 'undertook to accept the British Government's decision on these issues.'<sup>77</sup> Though it was not alluded to in the report of the 1963 Constitutional Conference as an *outstanding constitutional issue*, the subsequent British Guiana (Constitution) Order 1964, provided not only for elections henceforth to be conducted on the basis of proportional representation, but also for the substitution of the existing bicameral legislature with a unicameral legislature comprising a House of Assembly composed of 53 members.

The Colonial Office's explanation for the inclusion in the 1964 Constitution Order of reforms to the existing bicameral legislature is that it had been the unanimous wish of all three parties at the 1962 Conference that the introduction of a system of proportional representation in British Guiana should be accompanied by a change to a single chamber legislature.<sup>78</sup> This does not, however, correspond with Jagan's recollection of events as recorded in a letter to the British Prime Minister, Alec Douglas-Hume, on 24<sup>th</sup> June 1964. According to Jagan, he had proposed that 'the Upper House should be reconstituted...on the basis of parity between the Government and Opposition and later on the basis of elections, possibly under proportional representation.'<sup>79</sup> In the same letter, Jagan recalls that it was the opposition parties, the PNC and UF, which had proposed replacing the bicameral legislature with a single-chamber wholly elected legislature (even though at the 1960 Conference the opposition parties had insisted on the replacement of the then single-chamber legislature by a bicameral legislature).<sup>80</sup>

Regardless of which is the correct version of events, the Colonial Office had by then reached the view that there was an advantage in having one reasonably sized Assembly rather than two smaller ones and this was enshrined in the 1964 Constitution Order. <sup>81</sup> At the subsequent independent Conference in 1965, a coalition of the PNC and UF having won the most recent elections, which were fought on the basis of proportional representation, and the PPP having boycotted the Conference, it was agreed that British Guiana would retain a unicameral legislature as it embarked upon independence.

### ***Trinidad and Tobago***

Two years after bicameralism had first been introduced in British Guiana, the idea that Trinidad and Tobago should follow suit was rejected by a Committee on Constitutional Reform.<sup>82</sup> This was, in part, because the reduction in the legislative jurisdiction of the island legislature that the imminent establishment of the WIF would entail meant that the additional cost of a second chamber could not be justified. It was also, in part, because the Committee considered that it was too early to depart entirely from the framework of the old Constitution,

which had proved to a workable one and 'suited to the country in its present state of development.'<sup>83</sup>

At around the same time, however, in a series of lectures delivered throughout Trinidad and Tobago in 1955, Eric Williams, a Rhodes scholar who had graduated from Oxford with a first class degree in history, was presenting a compelling case for the introduction of bicameralism. One of Williams' tutors at Oxford had been Vincent Harlow, one of the two members of the Waddington Commission who had recommended the introduction of bicameralism in British Guiana. In Williams' view, the case for bicameralism was self-evident. Unicameralism, which had first been imposed on Trinidad in 1810, was 'colonialism in conception, form and operation.' The presence of official and nominated members in a unicameral legislature was:

[I]ndefensible in principle...an ineffective check and balance in practice, tends to limit the responsibility of the elected members, and is an obstacle to the effective use of a device which, in a second chamber, can be suitably expanded and converted into a potent instrument of good government.<sup>84</sup>

Williams was opposed to any attempt 'to patch up the existing system by increasing the number of elected members within the framework of a unicameral legislature.'<sup>85</sup> Instead, he proposed a bicameral legislature with a nominated second chamber of 16. In addition to three ex officio members this would include representatives of special economic interests, the main religious denominations, and two men or women of distinction in public life.<sup>86</sup> Such a proposal was designed to appeal particularly to the moderate middle class and the upper class with planting or commercial interests, who would otherwise have had little hope of entering the legislature by winning seats in an election conducted on the basis of universal suffrage.<sup>87</sup>

At this point Williams was no more than a private citizen, albeit one capable of drawing crowds of 3,000 to his lectures and persuading 27,000 of his supporters to sign a petition to the Secretary of State for the Colonies demanding the introduction of a bicameral legislature. Within a year, however, as leader of the newly formed People's National Movement (PNM), Williams had narrowly

won the general election and now had the chance to put his vision of bicameralism into practice. As a member of the PNM-dominated Select Committee on Constitutional Reform, which was appointed in 1958 to draft a constitution suitable for full internal self-government, Williams repeated his demand for a bicameral legislature, though its composition was rather different to the one he had originally advocated. He now favoured a senate in which all the members were appointed by the Governor on the advice of himself as the Chief Minister. Williams hoped that this would not only help to create political stability, but would also provide plentiful opportunities for political patronage, thereby guaranteeing the continued dominance of the PNM. Though the representatives of the opposition Democratic Labour Party (DLP) and the Butler Party on the Select Committee were opposed to the introduction of a second chamber, the Select Committee's recommendations were approved by a majority of the Legislative Council.

At the subsequent Constitutional Conference in London in November 1959, the Colonial Office publicly claimed to be neutral on the issue of a second chamber, but privately acknowledged that a second chamber would allow those who were not prepared to subject themselves to the ordeal of an election to continue to participate in the legislature and would enable the Governor to ensure that business and other interests had some say in the government of the country.<sup>88</sup> The Colonial Office could not, however, accept the PNM's proposal that all the members of the senate should be appointed by the Governor on the advice of the Premier. In the Colonial Office's view, this would enable the Government of the day to pack the upper House with its own supporters and perhaps lead to a situation where membership of the senate would be handed out by the premier of the day to his loyal supporters by way of reward. Instead, the Colonial Office favoured something along the lines of the Jamaican Senate as it was at that time configured; that is a small number of members appointed by the Governor on the advice of the Premier and the remainder appointed by the Governor after consultation with such persons as he considered could speak for the differing political points of view of groups represented in the lower elected House.

In the absence of agreement on this and other issues, the Conference in London was adjourned and discussions were resumed during a visit to Trinidad by the new secretary of State for the Colonies, Iain McLeod, in June 1960. During these discussions Williams conceded that only a proportion of members of the senate should be appointed on the Chief Minister's advice, and that certain members should be appointed on the advice of the Leader of the Opposition, provided that that the Government would still have a clear majority.<sup>89</sup> Though this was still not enough to satisfy the DLP, the Colonial Office formed the view that the DLP had 'really tried to play the game in discussing the new constitution, and that some of them (including their leader, Albert Gomes) really wanted a senate but felt that there was political capital in opposing one at the election.'<sup>90</sup> Accordingly, at the conclusion of the Conference the Colonial Office announced that the new Constitution would make provision for a bicameral legislature with a Senate composed of 21 members appointed by the Governor: of whom 12 were to be appointed accordance with the advice the Premier (the new title bestowed on the Chief Minister); two in accordance with the advice of the opposition; and seven to represent religious, economic or social interests in the Territory, after consultation by the Governor with such persons, as, in his discretion, he considered could speak for these interests and ought to be consulted.<sup>91</sup> This version of the Senate was retained in the 1962 independence Constitution.

### ***British Honduras***

With the grant of independence to Britain's two largest crown colonies in the region, Jamaica and Trinidad and Tobago, and with the third largest, British Guiana, on the cusp of independence, the main political party in British Honduras, the People's United Party (PUP), led by George Price, began, in 1962, to press the case for internal self-government. It was, accordingly, arranged for a Constitutional Conference to be held in London in July 1963 to discuss the revisions necessary to the 1960 Constitution to provide for this.

In anticipation of this Conference, the Legislative Assembly, which was dominated by the PUP, on the 7<sup>th</sup> June 1963 appointed a select committee to take evidence from the public about the proposals for the new Constitution and to

report back to the Assembly on 17<sup>th</sup> June. Amongst the proposals that the select committee was asked to consider was a proposal by the PUP that British Honduras should follow the lead of Jamaica, Trinidad and Tobago and British Guiana by establishing a bicameral legislature. The upper Chamber would comprise seven members, to be elected by the House of Representatives with power to initiate legislation, but no control over finance 'which is in keeping with other constitutional countries (sic).'<sup>92</sup> The main opposition party, the National Independence Party (NIP), did not submit any proposals to the select committee and did not attend either of its sittings on the 11<sup>th</sup> and 12<sup>th</sup> June. Nevertheless, the Governor, Sir Peter Stallard, reported in a letter to the Colonial Office, following the delivery of the select committee's report to the Legislative Assembly, that the creation of a bicameral legislature 'seems to have won universal support and so far as one can judge even the NIP support it.'<sup>93</sup>

By the time of the Constitutional Conference in London the British Government was, accordingly, ready in principle to agree to the reconstitution of the legislature with a second chamber.<sup>94</sup> All that remained to be agreed was the method of selection of the upper Chamber. The PUP wanted five of the seven members to be appointed by the Governor General on the advice of the Premier and the remaining two to be appointed on the advice of the Leader of the Opposition. The Colonial Office, however, wanted to have at least one member nominated by the Governor in order to ensure that 'a person of standing with no political affiliations could be brought into the legislature.'<sup>95</sup> In order to allay the PUP's concerns that this would leave an unmanageably small government majority, it was eventually agreed that the number of senators would be increased to eight; the eighth member being appointed by the Governor after consultation with such person as he considered appropriate. Subject to one relatively minor modification this was the version of the Senate that was enshrined in the independence Constitution in 1981.<sup>96</sup>

Thus British Honduras, which along with British Guiana had originally been one of the outliers amongst Britain's colonies in the region, joined the ranks of settled colonies, such as Barbados and the Bahamas, and the newer

independent countries, such as Jamaica and Trinidad and Tobago, in having a bicameral legislature.

***The Associated States: Antigua and Barbuda, Grenada and St Lucia***

Following the dissolution of the WIF and the grant of either independence or internal self-government to Britain's other colonies in the region,<sup>97</sup> there remained the problem of what Britain should do about its eastern Caribbean colonies – Antigua and Barbuda (Antigua), Dominica, Grenada, St Kitts and Nevis (St Kitts), St Lucia, and St Vincent and the Grenadines (St Vincent). On the one hand, these islands were adjudged to be too small to be capable of standing on their own feet if granted independence. On the other hand, Britain was obliged by articles 73 and 74 of the United Nations Charter to assist in developing appropriate forms of self-government for each of these territories, taking into account their political aspirations and stages of development and advancement. The solution eventually adopted was to confer upon these islands the status of 'Associated Statehood' until such time as they were ready for independence.

Associated Statehood involved the grant of virtual autonomy in internal affairs, with the United Kingdom remaining responsible for external affairs and defence. Within this general framework individual territorial constitutions could differ widely from one territory to another. Specifically, it was envisaged that some territories would opt to have unicameral legislatures whilst others would opt for a bicameral legislature.<sup>98</sup> The British Government had no firm view on the matter, but hoped that at the Windward Islands Constitutional Conference (WICC), to be held in London in 1966 to discuss the constitutional arrangements to be adopted on the grant of Associated Statehood, 'each territorial delegation would be able to present a single point of view in favour of one or the other.'<sup>99</sup> This only proved possible, however, in the case of three territories: Antigua, which was at the time a one-party state and which it was presumed, therefore, required two chambers;<sup>100</sup> Grenada, where the opposition Grenada United Labour Party supported the governing Grenada National Party's proposal to introduce a bicameral legislature on the basis that 'the privilege of nominated members in the popular House was causing a great measure of frustration

amongst elected members;<sup>101</sup> and St Kitts, where the proposal to have a unicameral legislature containing a nominated element was not even debated at the 1966 WICC.

In the remaining three territories – St Lucia, Dominica, and St Vincent – the delegates representing the governing and opposition parties were unable to reach agreement. In the case of St Lucia, the opposition St Lucia Labour Party (SLP) argued that an Upper Chamber with delaying powers was necessary to provide time for consideration of decisions of the lower chamber and as a means of restraining a majority party in the lower chamber from ‘abolishing the entrenched provisions of the Constitution or going outside the normal democratic processes.’<sup>102</sup> The governing United Workers Party (UWP), however, favoured a single chamber with a nominated element, arguing that this would allow for the representation of special interests which could probably not secure representation in an entirely elected legislature.<sup>103</sup> In order to break the deadlock John Compton, on behalf of the UWP, proposed the inclusion of a dormant provision in the Constitution which would permit the creation of a second chamber at a later date. Though initially rejected, this proposal was subsequently accepted, albeit reluctantly, by the SLP on condition that the dormant provision could be activated by a resolution supported by a simple majority of the House of Assembly.<sup>104</sup>

There was a similar stand-off between the delegates from the governing Labour Party and opposition Freedom Party at the Conference to discuss Dominica’s Associated State Constitution. On behalf of the Freedom Party, it was argued that recent events in Dominica had shown that there was a strong possibility of de facto one party government. In ‘a small independent island during a transitional phase’ provision should, therefore, be made in the Constitution for a second chamber to safeguard ‘the machinery of two party expression’ A second chamber would provide ‘a valuable source of mature advice.’ It could also represent minority points of view: ‘for example the interests of Caribs, and religious commercial and agricultural interests.’<sup>105</sup> Representatives of the Labour Party, however, argued that it was not necessary for the Constitution of Dominica to follow so closely the United Kingdom pattern.

Dominica was a small country 'where most views are widely known' and it was unnecessary 'to make special provision for minority opinion to be expressed.'<sup>106</sup> The Caribs did not seriously merit special protection, which would in any event be 'against the principles of an integrated nation.'<sup>107</sup> Instead, the money to be spent on a second chamber would be better devoted to social services.<sup>108</sup> As a way of breaking the deadlock, the Chair, Sir Hilary Poynton,<sup>109</sup> suggested the inclusion of a dormant provision, similar to that which had been included in the St Lucian Constitution.<sup>110</sup> However, this proposal having been rejected by the Labour Party on the ground that any such change to the Constitution would be so fundamental as to require a referendum, the Secretary of State concluded that the only practicable solution was for the existing proposal to stand and for the Opposition to make the creation of a second chamber an election issue if they so wished.<sup>111</sup>

In the case of St Vincent, the Leader of the Opposition People's Progressive Party argued that a second chamber would give representation to minority groups and 'would ensure that the advice of persons who would not otherwise be members of the legislature would be available to the administration.'<sup>112</sup> A second chamber would also afford the opportunity to delay legislation.<sup>113</sup> Moreover, if nominated members sat in the House of Representatives, as the governing St Vincent Labour Party were proposing, 'their pronouncements would be scrutinised closely by the group which had recommended them.'<sup>114</sup> Once again, in order to break the deadlock between the parties it was proposed that the Constitution should include a dormant provision permitting the creation of a second chamber at a later date, but before the provision could be implemented there was a change of government in St Vincent and it was omitted from the Associated State Constitution.<sup>115</sup>

While the subsequent independence Conferences afforded the opportunity to revisit the question of whether to adopt a unicameral or bicameral legislature, each Associated State chose to retain its existing legislature, with only one exception. The exception was St Lucia, where the governing UWP, which 12 years earlier had been in favour of a unicameral

legislature with a nominated element, now supported the establishment of a nominated second chamber.

### **The Endurance of Bicameralism**

In the fifty odd years since Jamaica and Trinidad and Tobago became the first countries in the region to attain independence, the question of whether to retain a bicameral legislature has been continuously debated. But whilst numerous constitution review commissions have recommended fundamental reform or outright abolition of their country's second chamber,<sup>116</sup> the region's senates remain virtually unchanged since independence. As we have seen, in the majority of countries, the introduction of bicameralism was very much associated with the transition to independence, and might have been expected to have been abandoned soon after independence had been achieved and any residual colonial influence had long since disappeared.

One possible explanation for its endurance is that reform or abolition of each country's second chamber would require an amendment of the constitution and in almost all of the countries in the region with bicameral legislatures this entails securing the requisite majority of votes in a referendum.<sup>117</sup> Though no country has as yet held a referendum on this issue, the rate of success in referendums for constitutional reform generally in the region is, to say the least, low. Since independence only one government, the PNC in Guyana, has succeeded in obtaining a majority in a referendum on constitutional reform, and it is widely suspected that the PNC only managed to achieve this by manipulating all aspects of the referendum process.<sup>118</sup> The governments of St Vincent, the Bahamas and Grenada have all failed in their efforts to reform their respective constitutions because they could not obtain the requisite majority in a referendum.<sup>119</sup> In countries that have not yet held a referendum the loss of a governing party's political capital following a failed referendum is likely to have dampened, if not entirely extinguished, any enthusiasm for reforming the legislature.

The second, and I would submit, equally persuasive explanation for the endurance of the region's senates has to do with the very distinctive nature of Commonwealth Caribbean bicameralism which is a function of the combination of two factors: the small size of these states and the composition of their senates. The latter is quite different from the composition of other Commonwealth senates, which are composed of members that are elected either directly or indirectly.<sup>120</sup> Their composition also represents a significant departure from the British House of Lords, which is composed of hereditaries, life peers, Lords Spiritual and Lords Temporal.<sup>121</sup> Caribbean senates, by contrast, are composed entirely of nominated members appointed by the Governor. With the exception of two countries, the region's senates contain three categories of nominees: those recommended by the Prime Minister, who formed the majority; those recommended by the Leader of the Opposition; and, finally, the 'independents', being those senators appointed by the Governor, usually in his own deliberate judgment, to represent an assortment of interests - religious, economic or social. The exceptions to this rule are Jamaica and the Bahamas, where all the senators are political nominees, appointed on the recommendation of either the Prime Minister or Leader of the Opposition.<sup>122</sup> Commonwealth Caribbean senators are appointed for a fixed term, usually of five years, but their appointment can be revoked at any time upon the recommendation of whomever was responsible for nominating them in the first instance, whether the Prime Minister or the Leader of the Opposition. Moreover, Caribbean senates can be dissolved at any point on the advice of the Prime Minister.

Since the constitutional provisions governing the composition of Caribbean senates guarantee that the government always enjoys an inbuilt majority, and since Prime Ministers can revoke, and in a number of instances have revoked, the appointment of any delinquent senator whom they have recommended,<sup>123</sup> the government has no fear that the senate will act as a check on their executive power. There is, therefore no incentive for the government to reform either their powers or their composition. On the contrary, their composition has tended to reinforce the governing party's hegemony and to enhance the status of the Prime Minister, who can use their power to reward the

party faithful by appointing them as senators.<sup>124</sup> This is especially valuable in these very small states where the state occupies a disproportionately large space in the life of its citizens,<sup>125</sup> and where opportunities for career advancement outside the public sector are very limited.<sup>126</sup> Since there is no prohibition against senators being appointed government ministers and, indeed, no cap on the number of senators who can be appointed ministers, having a nominated second chamber has also increased the pool from which Prime Ministers can draw when appointing members of their Cabinet; an important consideration in small countries where the number of able and willing citizens may be very limited.

## **Conclusion**

As we have seen, there is no single overarching explanation for why, having almost disappeared from the region at the end of the nineteenth century, bicameralism resurfaced in the period leading up to independence or why, post-independence, it has taken such deep root in the region.

In terms of its re-emergence following the Second World War there was clearly a link between bicameralism and the region's colonial past, but the link is complex: not all countries had the same colonial antecedents and not all countries viewed their colonial past in the same way. For some, such as Barbados and the Bahamas, which had an unbroken history of bicameralism, the association with their colonial past was more positive. For Jamaica, where bicameralism had been interrupted by almost a century of crown colony rule, the association of bicameralism and its colonial past was not universally positive. For the PNP, for example, it represented a retrogressive shift back to the era of slavery and minority rule by the white elite. In Grenada and Antigua, on the other hand, a consensus developed around the decision to reintroduce bicameralism because it made it possible to remove the nominated element from the Legislative Council, which had been such a despised feature of crown colony rule. In Trinidad and Tobago, a conquered colony with quite different colonial antecedents, a second chamber was presented by Eric Williams and the PNM as a progressive measure, being the antithesis to unicameralism, which was

inextricably associated with colonial rule. However, this was emphatically not how bicameralism was viewed by the majority political party, the PNP, in British Guiana, who saw the introduction of a second chamber as a colonial imposition and a reactionary institution which would stifle their ambitious plans to reform the country's economy along socialist lines. Though the PNP was subsequently to alter its views about having a second chamber, bicameralism never really took root in British Guiana.

Another factor that was prominent during the transition from crown colony rule to internal self-government, following the end of the Second World War, was the need to secure the representation of opposition parties in the legislature. However, as the debates that accompanied the introduction of internal self-government demonstrate, there were a number of other considerations at play: for example, the need to have a second chamber with revisionary and delaying powers, which could check the excesses of the lower House without the need for the exercise of a gubernatorial veto. There was also the need to find a place in the legislature for business and commercial interests, following the removal of nominated members from an exclusively elected lower House.

In terms of the endurance of bicameralism in the postcolonial era it is clear that, quite apart from the difficulty of effecting the necessary constitutional amendment to reform or abolish the second chamber, *realpoliticks* have been a significant factor. Not only do Caribbean governments have little to fear from their second chambers, but in the context of the small size of the states in which they function they also have much to gain from their singular composition.

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<sup>1</sup> The majority would be described as 'microstates', having populations of less than 250,000

<sup>2</sup> With the exception of Trinidad and Tobago and Guyana, which are divided along racial lines between their Afro-Caribbean and Indo-Caribbean communities.

<sup>3</sup> The region includes some of the poorest countries in the Western hemisphere, with only five countries appearing in the top 100 countries in the world ranked according to GDP per capita: Trinidad and Tobago (62), St Kitts (74) Antigua (76), the Bahamas (79) and Barbados (98). CIA World Fact Book available at <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2004rank.html>

<sup>4</sup> Louis Massicote, 'Legislative Unicameralism', 154.

<sup>5</sup> The four countries with unicameral legislatures are Dominica, Guyana, St Kitts and Nevis and St Vincent.

<sup>6</sup> See De Smith, *Microstates and Micronesia*, 95. See also Thorndike, 'Politics and Society in the South-Eastern Caribbean', 128

<sup>7</sup> See Anckar, 'Bicameral microstates: A Commonwealth Category', 367. See also Laundry, *Parliaments in the Modern World*, 10.

<sup>8</sup> St Kitts, Nevis, Antigua, Barbuda and Montserrat

<sup>9</sup> Wight, *The Development of the Legislative Council*, 31

<sup>10</sup> As a result of the Peace of Paris. See Wrong *Government of the West Indies*, 45

<sup>11</sup> Zimmern, *The Third British Empire*, 24.

<sup>12</sup> As described by Long, *History of Jamaica* cited by Wrong, *Government of the West Indies* 37.

<sup>13</sup> Wight, *op cit* 30.

<sup>14</sup> Wight, *op cit* 30

<sup>15</sup> Wight *op cit* 30

<sup>16</sup> Wight *op cit* 30

<sup>17</sup> Labaree, *Royal Government in America*, 296

<sup>18</sup> Wight, *op cit* 32.

<sup>19</sup> Wight *op cit* 47.

<sup>20</sup> According to LM Penson, the term crown colony did come into use until the second quarter of the nineteenth century. See. 'The Origin of the Crown Agency Office', 197.

<sup>21</sup> Harris, 'The Constitutional History of the Windwards' 160-176, 165.

<sup>22</sup> See Lord Liverpool to Governor Hislop, 27<sup>th</sup> November 1810; quoted in Manning, *British Colonial Government after the American Revolution, 1782-1820* 361-2.

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- 23 Wrong, op cit 71
- 24 For a more detailed account of the Morant Bay rebellion and its aftermath see *The Cambridge History of the British Empire* 735-737.
- 25 Jamaica Laws, 29 Vict. C.11
- 26 Jamaica Laws, 29 Vict. C.24
- 27 Under the authority of Imp. Act, 29 Vict. C.12
- 28 Hamilton, *Barbados and the Confederation Question*, xv.
- 29 Hamilton, op cit 32. This was accomplished with the enactment of the Leeward Islands Act 1871.
- 30 Wight, op cit 61
- 31 Rawson W Rawson and Sir John Pope Hennessy.
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- 33 Wight, op cit, 80.
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- 35 18 Geo.v.c.5
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- 37 Wrong, op cit 99.
- 38 Palmer, *Freedom's Children*, 286
- 39 Named after the Committee's chairman, JAG Smith.
- 40 Select Committee of the Legislative Council: Reports, 30 May 1938. See Madden and Darwin *The Dependent Empire*, 100
- 41 "Unite for Political Advancement, Mr Manley's Call to Jamaica" *Daily Gleaner* September 6, 1941.
- 42 Ibid.
- 43 R Hart, *Towards Decolonisation*, 219
- 44 See Report of the West India Royal Commission Cmnd 6607 (1945)
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- 46 Madden and Darwin op cit, fn 104.
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- 50 Sires 'The Experience of Jamaica with Modified Crown Colony Government' 150-167, 162
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- 52 Zeldenfelt, 'Political and Constitutional Developments in Jamaica', 512-540. 528
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- 58 Philip Rogers to Governor Sir Hugh Foot TNA:PRO, 12<sup>th</sup> September 1956 C.O. 1031/1366
- 59 Implemented by an Order-in-Council in November 1959.
- 60 s.35.
- 61 Vincent Harlow, an Oxford historian, and Rita Hinden, who had worked with the Secretary of State for the Colonies, Arthur Creech Jones, in the Fabian Bureau.
- 62 TNA: PRO, CO 111/812/1, British Guiana (Woolley) to Secretary of State, 20 September 1951. See Mawby *Ordering Independence* 85.
- 63 Ishmael, *Charting the Course for Democratic Change*.
- 64 They included the Most Reverend, Dr Alan J Knight, the 'rabidly anti-PPP' archbishop of the West Indies; William A Macnie, the Managing Director of the British Guiana Sugar Producers Association; Lionel Luckhoo, the 'anti-PPP General President of MPCA; and Edwin Frank Mc David, who had previously served as the colony's Attorney General.
- 65 UA Fingall, a clerk, and George Robertson, a trade unionist, an apprentice engineer, and a sailor. Note of a Meeting with the Governor, May 5, 1953, CO 1031/317. Quoted by Palmer, *Cheddi Jagan* 23
- 66 Ibid.
- 67 Spinner, *A Political and Social History of Guyana*, 39

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- 68 Ibid 42.
- 69 Mawby, op cit 90.
- 70 British Guiana (Constitutional) (Temporary Provisions) Order in Council 1953.
- 71 *Report of the British Guiana Constitutional Commission* (London: HMSO:1954)
- 72 Palmer op cit, 141 and 143.
- 73 10 members: three ex officios, five persons appointed by the Governor acting in his own discretion and two members named by Ministers elected by the House of Assembly.
- 74 *Report of British Guiana Constitutional Conference* 1960 Cmnd.998.
- 75 *Report of British Guiana Independence Conference* 1962 Cmnd.1870
- 76 *Report of British Guiana Independence Conference* 1963 Cmnd.2203
- 77 Ibid.
- 78 This explanation is provided in a Colonial Office briefing note for the Secretary of State for the Colonies, Duncan Sandys, in preparation for the debate in the House of Commons on the 1964 Constitution Order, TNA:PRO, 27<sup>th</sup> April 1964 CO 1031/4416.
- 79 Available at  
<http://www.mirrornewsgy.com/mirrornewsgy/index.php/component/k2/item/731-64-letter-from-premier-dr-cheddi-jagan-to-british-prime-minister-alec-douglas-hume>. Last accessed 30th August 2017.
- 80 Ibid.
- 81 n82 above.
- 82 Trinidad and Tobago Legislative Council, *Report of the Constitution Reform Committee 1955*, Council Paper No. 16/1956
- 83 Ibid.
- 84 See Williams, 'Constitution Reform in Trinidad and Tobago'
- 85 Ibid.
- 86 Ibid.
- 87 Ibid.
- 88 JE Whitlegg: Minute 30 September 1959, TNA:PRO, CO 1031/2289
- 89 Report of Trinidad and Tobago Constitution Conference Cmnd 1123. 1960.
- 90 In a letter from the DLP to Iain McLeod, dated 11 June 1960, the DLP acknowledged that they were not opposed to a second chamber in principle only to one with a majority nominated by the Prime Minister. See Madden, *The End of Empire Vol. 8*: 1202 and 1204.
- 91 Trinidad and Tobago Constitution 1961, section 15.
- 92 Report of Select Committee TNA:PRO, CO 1031/4428
- 93 Letter Sir Peter Stallard to RW Piper, TNA:PRO, 21<sup>st</sup> June 1963. CO 1031/4428
- 94 See Draft Paper Cabinet Overseas Committee British Honduras Constitutional Conference TNA:PRO, CO 1031/4428
- 95 Minutes of Second Plenary Session of Constitutional Conference TNA:PRO, 11<sup>th</sup> July 1963 CO 1031/4564
- 96 Under the 1981 Constitution, the eighth member of the Senate was appointed by the Governor after consultation with the Belize Advisory Council.
- 97 By 1966 Jamaica, Trinidad and Tobago, British Guiana and Barbados had all been granted independence, while British Honduras and the Bahamas had achieved internal self-government.
- 98 Brief No.2 Antigua Constitutional Conference 1966 TNA:PRO, CO 1031/5100
- 99 Sir Hilary Compton, Windward Islands Constitutional Conference 1966 (St Lucia) TNA:PRO, CAB 133/355
- 100 See comments of Ebenezer Joshua, Chief Minister, 27<sup>th</sup> April 1966, Windward Islands Constitutional Conference 1966 (St Vincent) Meetings and Memoranda, TNA:PRO, CAB 133/356
- 101 Memorandum 2<sup>nd</sup> May 1966, Windward Islands Constitutional Conference Meetings and Memoranda Grenada TNA:PRO, CAB 133/354.
- 102 West Indies Constitutional Conference 1966 (St Lucia) TNA:PRO, CAB 133/355
- 103 Ibid
- 104 Ibid.
- 105 Report of West Indies Constitutional Conference 1966 (Dominica), TNA:PRO, First Meeting 25<sup>th</sup> April 1966. CAB 133/353
- 106 Ibid.
- 107 Ibid.

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- 108 Ibid.
- 109 The Permanent Under Secretary of State at the Colonial Office.
- 110 Report of West Indies Constitutional Conference 1966 (Dominica), TNA:PRO, Third meeting 3<sup>rd</sup> May 1966, CAB 133/353
- 111 Ibid.
- 112 *Report of West Indies Constitutional Conference 1966 (St Vincent)*, Meeting and Memoranda, TNA:PRO, 27<sup>th</sup> April 1966. CAB 133/356
- 113 Ibid.
- 114 Ibid.
- 115 See *Report of Constitutional Conference St Vincent and the Grenadines* (London: HMSO:1969)
- 116 See, for example, Report of the Constitution Commission of Trinidad and Tobago (January 22, 1974); Report of Constitution Review Commission of Antigua and Barbuda (2002) 87; Report of Constitution Review Commission of Barbados (1998), Paragraph 9.4 and Report of St Lucia Constitutional Reform Commission (2011) 140. Available at <http://www.govt.lc/media.govt.lc/www/resources/publications/FINAL%20REPORT%2030-03-2011.pdf>; The Bahamas Constitutional Review Commission: Preliminary Report & Provisional Recommendations (2006) Paragraph 3.16. Available at <http://islandwoovivil.tripod.com/whatsupbahamas/id13.html>; and Report Trinidad and Tobago Constitutional reform Commission (December 27, 2013). Available at
- 117 This is the position in all but three countries in the region – Barbados, Belize and Trinidad and Tobago.
- 118 See O'Brien, 'Formal Amendment Rules and Constitutional Endurance', 293-312.
- 119 In referendums held in 2009, 2016 and 2016 respectively.
- 120 Australia and Kenya, for example, were made up of directly elected members. In India and Nigeria senators were indirectly elected, while the senates of Ceylon (now Sri Lanka) and Malaysia, were composed of a mix of indirectly elected and nominated members. See F Lascelles, 'The Second Chamber in Parliament of the Commonwealth' in Burns *Parliament As An Export*, 186.
- 121 Until the establishment of the Supreme Court in 2009, the list would also have included Britain's most senior judges.
- 122 See s35(2) and (3) Jamaican Constitution and s39(2), (3) and (4) Constitution of the Bahamas.
- 123 In Trinidad and Tobago, for example, in 2000, President Robinson was obliged, upon the recommendation of Prime Minister Panday, to revoke the appointment of two senators who had voted against legislation proposed by the Government. In 2016, in Antigua, the Prime Minister, Gaston Browne, revoked the appointment of a senator, Wigley George, who had spoken out strongly for the second time against a Government-initiated Bill as it made its way through the Senate. See *Antigua Observer*, 20 September 2016. Available at <http://antiguaobserver.com/breaking-news-ablp-senator-fired/>
- 124 This practice has aroused most controversy in Trinidad and Tobago where, following the 2000 elections, President Arthur Robinson refused to accede to Prime Minister Basdeo Panday's recommendation to appoint seven defeated electoral candidates as senators, knowing that some of them would subsequently be appointed as ministers. Eventually a compromise was agreed upon an undertaking by Prime Minister Panday that only two of the seven nominated senators would be appointed as ministers. See H A Ghany 'Defeated Parliamentary Candidates as Parliamentarians: A Comparative Study of Political Will vs. Electoral Will in Grenada and Trinidad and Tobago', Paper presented at a Conference entitled "Parliament : Meeting Public Expectations", Parliament House, Melbourne, Australia, 16th - 17th September, 2001.
- 125 Transparency International (2004) *Country Study Report*, 20.
- 126 See O'Brien, 'Small States, Colonial Rule and Democracy', 139-163.