

CARIBBEAN QUARTERLY

CONTENTS

	PAGE
EDITORIAL	
The Federal Principle	67
FOREWORD	69
CANADA'S FEDERAL EXPERIENCE	
Alexander Brady	71
AUSTRALIA—BACKGROUND TO FEDERATION	
F. W. Mahler	81
THE CONSTITUTION OF AUSTRALIA	
S. S. Ramphal	95
EARLY CONSTITUTIONAL HISTORY OF JAMAICA	
C. V. Gocking	114
THE ROAD BACK—JAMAICA AFTER 1866	
R. N. Murray	134
THE TEMPORARY FEDERAL MACE	
Bruce Procope	142
THE CONSTITUTIONAL HISTORY OF TRINIDAD AND TOBAGO	
H. O. B. Wooding	143
THE CONSTITUTIONAL HISTORY OF THE WINDWARDS	
Coleridge Harris	160
THE CONSTITUTIONAL HISTORY OF THE LEEWARDS	
Cecil A. Kelsick	177
FEDERALISM IN THE WEST INDIES	
S. S. Ramphal	210

The Constitutional History of Trinidad and Tobago

H. O. B. WOODING

If one is to have a proper appreciation of the constitutional history of Trinidad and Tobago, thought and attention must be given, I think, to the content, origin and significant characteristics of the people who make up their population. Like all history, that of the constitution of any territory is a history of people, of the influences to which they have been subject, the activities in which they have been engaged, the conditions in which they have dwelt, of their hopes and aspirations, their toils and triumphs. As Professor Greenwood said in his Preface to the *Symposium of the Social and Political History of Australia* which he edited

“ . . . history is synoptic. Whatever seems significant, whether it be the system of education, the calibre of political leadership, the character of industrial relations, the conventions of manners, or the forms of entertainment, must emerge in the pattern. What is more, the organic relationships of these components should, if possible, be discovered and demonstrated.”

Within the limitations of a single lecture on a subject so extensive in its scope, it is, of course, not possible to give more than a brief sketch of the people who make up the population of Trinidad and Tobago. In so doing, I shall deal more particularly with Trinidad.

After its discovery on 31st July, 1498, Christopher Columbus took possession on behalf of the Crown of Spain. The Island was at that time peopled by several tribes of Indians to whom it is usual to refer as Caribs, but the two principal tribes were in fact Arawaks and Chaimas. Their form of Government was absolute and hereditary, the office of the Chief, who was called “the Cacique”, descending matrilineally to the first son of the holder’s eldest sister. Their exposure to the Spanish attempts at colonization, and later to repeated raids made by the English, French and Dutch upon such Spanish settlement as there was, led to their almost complete extinction. By 1783 their numbers had dwindled to about 2,000, and today they are no more than an insignificant, although in some respects an interesting, historical survival.

Settlement by the Spanish was hardly more enduring. It was not until 1592 that they succeeded in establishing themselves as colonists, but the town of San Josephe de Oruna (now St. Joseph) which they founded in that year was not long afterwards razed to the ground when, in his quest for El Dorado, Sir Walter Raleigh landed at Cumacurapo (now known as Mucurapo), marched over the Laventille Hills and captured the Spanish Governor, Don Antonio de Berrio. Nevertheless, the Island remained Spanish until finally conquered by Sir Ralph Abercromby in 1797.

Meanwhile, in 1780 M. Philippe-Rose-Roume de Saint-Laurent, a Frenchman residing in Grenada, visited Trinidad and was so struck by the fertility of the soil and the paucity of the population that he made representations to the Government in Spain to allow the peaceful settlement of foreigners in the Island. Consequent on these representations, the King of Spain issued on 24th November 1783 a Cedula relating to the Island of Trinity (as it was called), the first articles whereof were as follows :

“Article 1—All foreigners, natives of nations and states in friendship with us, who would wish to establish themselves or are already settled in our said island of Trinity, must make it appear, by the means prescribed by our Government of the island aforesaid, that they profess the Roman Catholic religion; for without this indispensable condition they cannot be admitted to settle there. But this justification shall not be required from the subjects of our dominions, as no doubt can be harboured with respect to them on this head.

Article 2—Of foreigners who are admitted agreeable to the foregoing article, the Governor will receive the oaths of allegiance and fidelity by which they will bind themselves to observe and abide by those laws and ordinances of the Indies, to which the Spaniards are subject : in virtue of which oaths we will, in our royal name, grant unto them, gratis and in perpetuity, the lands they may be entitled to claim by virtue of the following regulation.”

There then followed Articles specifying the amount of land to be so granted: to each white person of either sex, ten quarrées (approximately 32 acres) plus half that quantity for each negro or mulatto slave that any such person should import with him, so that the more slaves a white person imported with him the larger the grant of land he obtained for himself, “gratis and in perpetuity”; and to any free negro or mulatto coming to settle “in the quality of an inhabitant and chief of a family”, half the area of land which would have been granted to him, if he were white, according to the calculation just mentioned. Provision was also made for the naturalisation of any of these immigrants conditionally upon their continuing established as settlers for a period of five years, and for the grant to them of certain tax and trading concessions so long as they remained resident in the Island.

The issue of this Cedula led to the immigration of large numbers of foreign agriculturists most of whom were French. This migration was boosted by the occurrence of the French Revolution in 1789 which had its repercussions in the French West Indian Islands and caused many refugees to seek an asylum among their brethren in Trinidad. This explains the existence of what I may call a French landowning aristocracy in an Island which at no time belonged to France—an “aristocracy” which remained a dominant minority exercising an influence far beyond its wealth and numerical strength, and which continued to exercise that influence for nearly a century and a half until it became submerged, suddenly but remorselessly, beneath the onrush of political advancement during the last thirty years.

On its capture by the British, Sir Ralph Abercromby and the Spanish Governor, Don Jose Maria Chacon, signed on the 18th February, 1797 the Treaty of Capitulation whereby the Island became, and has since remained, a part of the British Dominions. Two articles of the Treaty may be noticed here. The first is article 8, which preserved all private property to the inhabitants whether they were Spanish by birth or naturalization; and the second, article 12, which stipulated as follows:

“The free coloured people who have been acknowledged as such by the laws of Spain shall be protected in their liberty, persons and property, like other inhabitants, they taking the oath of allegiance and demeaning themselves as becomes good and peaceable subjects of His Britannic Majesty.”

It will be recalled that when referring to the Cedula issued by the King of Spain on 24th November, 1783, I mentioned that provision was made for the grant of land to any *free negro* or mulatto coming to settle *in the quality of an inhabitant and chief of a family*. It is reasonably certain that there were few, if any, such negroes. But apparently among those admitted and obtaining such grants of land were persons who were described as “free coloured”. They stemmed from the miscegenation of some of the landowners and certain of their slave women to whom they were physically attracted. It became a tradition with the French, not only to acknowledge the paternity of such offspring, but more, to hoist them into a position intermediate between the people of their father’s race and those of their mother’s. Hence, no doubt, Article 12 of the Treaty of Capitulation. Ranking beneath the “free coloured” were the comparatively large number of West African negroes who, or the ancestors of whom, had been uprooted from their homes and translated into slavery to cultivate the fertile fields which had proved such an allurements to M. de Saint-Laurent and his compatriots. Accordingly, when the British took over, there was a three-tiered community, comprising the land-holding “seigneurs” primarily French in origin and culture, the “free coloured” whose pride in their fathers so transcended any thought of their mothers that they might well have been born in the “land of the rooster’s egg”, and negro slaves from West Africa numerically strong but economically impotent. The significant character of this community was that it was divided pigmentically as well as economically; the less the pigmentation, the more they dominated the scene—Governmentally, economically, educationally, socially, and indeed in every other way. It is no wonder that the negro, deprived as he had been of family and cultural ties but retaining his gift of laughter as he has done throughout the ages, succeeded in lightening his toil by mimicking his “betters” and triumphed over his suffering by producing for his own entertainment the skit on social manners which we know today as “Dame Lorraine”.

The cession of Trinidad to His Britannic Majesty by His Catholic Majesty of Spain was confirmed by the Treaty of Amiens in 1802. At the same time and by the same Treaty, certain other West Indian Islands which had also been captured were restored to their former sovereignties. As soon as the Peace was signed, a number of English settlers descended upon Trinidad and, shortly afterwards, there was formed from among them what

was called "the English Party". The name is undoubtedly significant. It will be remembered that the Treaty of Capitulation had preserved to the inhabitants, Spanish by birth or naturalization as well as "free coloured", all the private property which they had theretofore owned. This had the effect of entrenching the French in a position of economic dominance and of securing to the "free coloured" a certain measure of independence. Further, population figures which were compiled in 1803 show a total of 29,254 inhabitants of whom 20,464 were slaves and 1,154 of original Indian stock. The remaining 7,636 included the whites and "free coloured". Of these more than half were French, the breakdown being : 4,018 French, 2,356 Spanish, and 1,262 English. This economic and numerical subordination to the French was not very palatable to the English. They not unnaturally took the view that British arms had conquered and, consequently, that theirs should be a larger share of place, privilege and power. Why should these Gauls over whom the Saxons had triumphed still remain dominant in spite of surrender?

The English Party wasted no time in embarking upon action. They realised that political power was a ready means by which they might redress the balance. Accordingly, they promptly submitted an address to the King praying him to accord to the Island what they described as "the blessings of a British Constitution". But the Governor, Sir Thomas Picton, resisted their demand and in 1804 supported his resistance by stating in a despatch to the Secretary of State that—

"since the restoration of the French and Dutch colonies, all the English insolvent adventurers who were settled about these settlements have fallen upon Trinidad, the capital of which had become the recipient of the scum and sediment of all the West Indies."

However, as the years progressed, an increasing number of persons of British stock were appointed to the highest official posts, led in the field of banking and commerce, monopolized such positions as large plantation managers and oilfield executives, and, generally speaking, became the dominant administrative group. Inevitably, they formed a discordance with the French landowning group who still regarded themselves as the cultural and economic superiors of the British residents.

After the abolition of slavery in 1834, a new discordance was introduced this time, at the other end of the population range. The freed slaves were no longer willing to work on the plantations, and the plantation owners were in any event so infuriated with the Imperial Government for emancipating their slaves that resort was had to new sources of under-privileged labour. Attempts were made to introduce indentured immigrants from Madeira and China, and to these Trinidad owes the first settlements of people of Portuguese and Chinese origin. Disappointingly for the plantation owners, the Portuguese and Chinese thus imported proved to be more particularly concerned with trade than with the land, and trading continues today to be their most significant characteristics. There was, therefore, a mass importation of labour from India which provided a steady flow of immigrants until the system of indenture was abolished in 1917. Unlike the West Africans who had preceded them, the Indians were permitted under the terms of their indenture to bring with them

their own religion, language and customs and, although at one time it appeared as if (at any rate so far as language and customs are concerned) they were beginning to integrate with the negro segment of the community, various causes not wholly dissociated with the emergence of India and Pakistan as independent nations have steadily been reversing this process. The trend at present is for them to cling to their separate identity, and most of them seem to be doing so with a tenacity which threatens to prevent any real fusion of what numerically are the two main elements of the population.

That, briefly, is the story of the people of Trinidad. It is a story of a people of divers origins, of a people brought together in circumstances which have bred tensions and discordances, of a people who remained throughout the nineteenth century largely segregated into distinct and separate communities. Fourteen years after the emancipation of the slaves, Lord Harris writing a despatch as Governor declared that "a race has been freed but a society has not been formed". That declaration held true until the First World War and to a great extent it still holds true today. Until that War, the several communities might be depicted in the way I shall now seek, in a sentence or two, to do. The French, never forgetting their aristocratic origin and seeking to maintain for themselves a cultural and economic dominance, kept aloof as an exclusive caste, jealous of the British, patronising those of mixed blood, and contemptuous but apprehensive of the masses of whose potential strength their fathers had passed on so many terrible memories. The British, proud of their conquest yet conscious of their responsibility, remained remote, acting the part of gracious and benevolent administrators, handing out favours to such as they thought deserving. The Africans, mindful of the enslavement and humiliation which doomed them to a social inferiority from which they saw no way of escape, found relief in the mimicry and satire that have given to Carnival in Trinidad a quality all its own. The Indian, toiling on the estates and in their rice fields, living under conditions that were a dire menace to health and safety, and finding few (apart from the official Protector of Immigrants) to whom they could turn with hope, cherished the togetherness of outcasts in the land to which they had come. The so-called "coloured", occupying an intermediate position, neither white nor black, and given advantages in the economic world which their darker cousins were denied, pirouetted upon the stage and convinced themselves, but nobody else, that they were "la crème de la crème". The Portuguese, Chinese, Syrian, Jew and the many more besides formed associations of their own, steering their own canoes into an economic haven and maintaining an unconcern about the difficulties that others might encounter.

It is no wonder that political progress and constitutional development found no achievement, or even beginning, at any time during the nineteenth century or, indeed, until after the First World War. Such progress and such development have little chance of taking firm and enduring root until a society begins to be formed.

Before I proceed further, let me say a word about the people of Tobago. Theirs has been a substantially homogeneous society. At various times settled by the English, the Dutch and the French, Tobago finally became British

on being ceded by the French in 1814. It was given at once, as it had had formerly when in the British hands, the old system of representative government which was then in vogue in almost all the other British West Indian possessions. Under that system the legislature was bicameral, the upper house being a wholly nominated council and the lower an entirely elected assembly. Responsibility for the conduct of the administration rested with the Governor, but control of finance lay in the hands of the assembly. This inevitably led to conflict since it was impossible always to avoid a clash between the imperial interests championed by the Governor and the refusal or unwillingness to vote supplies dictated by considerations of local interests. It was soon found, however, that the Island was too small and undeveloped to be administered as a separate entity, and so it was integrated as part of the Windward Islands administration in the year 1833. In another lecture in this series, some account will be given of its constitutional history as a constituent of that administration. There is, therefore, no call for me to recount it here.

From 1st January 1889 Tobago ceased to be administered as a part of the Windward Islands and became united with Trinidad as a single colony. It had fallen on a period of severe depression, and hopes were entertained that the union would result in economies in the cost of administration and that capital would be forthcoming from Trinidad to help restore its finances. These hopes did not materialise, and continuing economic decline led to further changes. For the first ten years of union Tobago had retained its financial board and treasury and its own statute book, but thereafter it was reduced to the status of a ward of the Colony of Trinidad and Tobago, and the revenue and government of the two islands were merged.

Both Trinidad and Tobago had become British by conquest. This means that the Crown thereby acquired absolute power to legislate for the order, peace and good government of the Islands so far as consistent with the treaty obligations into which it entered at the time of their capitulation or cession. This power extends to the making or establishing of such executive, legislative and judicial arrangements as the Crown thinks fit. But it is a principle of constitutional law that, when a representative legislature has been granted to any territory, the prerogative right to legislate cannot be exercised by the Crown so long as the grant remains in force unless, as is however generally the case, the right is expressly reserved in the grant, or authority so to do is conferred by Act of the Imperial Parliament. Constitutionally, also, the right revives if the grant of representative government is revoked. Hence on the loss of its grant of representative government, Tobago was relegated to the status of Trinidad which, as will be seen, had no representative institutions at all at central government level.

It is necessary now to consider the status of the constitution in Trinidad up to and beyond the year of 1899 when Tobago became a ward of the Colony. On its capture from Spain, Brigadier-General Sir Thomas Picton became its Governor and Commander-in-Chief, his appointment emanating from the General in command of the British forces in the West Indies. At first he ruled as a military autocrat. But in 1801, when he took office as Civil and Military Governor on appointment by the Crown, he set up a Council of Advice

comprising five of the leading inhabitants of his own selection. As its name implies, this body was advisory and had no other functions. In 1803 the "Council of Advice" was renamed "His Majesty's Council", and as such it continued in being until 1831 when it was replaced by a legislative council which was denominated the "Council of Government".

It will be recalled that the English settlers who descended upon Trinidad after its capitulation promptly demanded some form of representative government. It will be remembered also that Governor Picton strongly resisted this demand. They nevertheless persisted, but, it is to be observed, their proposals were aimed at excluding any but the white inhabitants from participation in the government. Moreover, the majority French group among the white inhabitants were not very interested in any institutions which savoured in the least of the democracy they dreaded. Accordingly in 1810 the Secretary of State decided against the English Party's demand. Giving reasons for his decision, he laid particular stress on the mixed nature of the population most of whom, he said, were—

"wholly ignorant of the British Constitution and unaccustomed to any frame of government which bears any analogy to it. In the case of Trinidad, therefore amongst the most numerous class of white inhabitants there can be no material prejudice, either of education or habit, in favour of such a system, and the partial and exclusive principle on which it is proposed by the white inhabitants to be founded, whereby the largest proportion of the free inhabitants of the island are to be excluded from all participation in its privileges, appears to defeat the object of it and to constitute in the point of justice, and upon the very principles of the system itself, a decided and insuperable objection against it".

The first advance made from this position came about as a result of a recommendation by a Royal Commission of Legal Inquiry which was appointed in 1823 to inquire into the administration of civil and criminal justice in Trinidad. Although, strictly, they were not expected to be concerned with the constitutional issue, they nevertheless reported that—

"It appeared to be the unanimous feeling of all classes of the inhabitants that no change which did not at the same time confer on them the benefit of a reasonable control over the taxation and expenditure of the colony, would be viewed by them as a boon from His Majesty's Government sufficient to satisfy their wants".

This recommendation was not particularly acceptable, however. The Secretary of State explained as follows :

"The benefits resulting from the election by the proprietary body, in every country, of the popular branch of the legislature are too familiar to require notice, and are so universally admitted as to preclude all controversy on the abstract principle. That principle is however wholly inapplicable to a state of society in which a very large majority of people are in a state of domestic slavery, and in which those persons who are of free condition are separated from each other by the indelible distinction of European and African birth or parentage".

In the result, a compromise was reached. A representative assembly was denied but, as already pointed out, a legislative council called the "Council of Government" was set up in 1831. It comprised the Governor who had an original and a casting vote, six officials appointed by virtue of their particular offices, and six unofficial nominated members selected from among the principal proprietors. There was also set up an Executive Council, a purely advisory body comprising the Colonial Secretary, the Attorney General and the Colonial Treasurer with the Governor as President.

Thus was introduced the form of Crown Colony government which became more or less a pattern to be followed in most of the British West Indian Islands when constitutional regression followed the abolition of slavery. Always the justification for the pattern was rested upon the ground that the backward state of the negro masses precluded them from active participation in political life and upon the impracticability, which was then acknowledged, of giving or entrusting those who considered themselves of a superior race with legislative authority over the inferior. On this score it might well be asked how this contention could be made to square with the appointment of nominated unofficials to the Council of Government. Let me quote the reply to this by the Secretary of State :

"Had the same powers been delegated to the same individuals by a constituency composed of the Proprietary Body of Trinidad, they would have proceeded to the exercise of them under an influence from which they are now comparatively exempt. Their conduct must have been in great measure controlled by the prejudices and the passions of the exclusive and privileged class from which their authority had been derived".

In effect, Crown Colony Government was rule by the Crown through the Secretary of State. The Governor was obliged to obey his instructions, whether in his legislative or his executive capacity, and whether in accordance with his personal views or not. Official members were similarly constrained. Indeed, it was prescribed that "an Officer, whose seat in the legislature is by law inseparable from his office, could not be continued in the office and the seat if his conscience should not permit him to give the Crown such measure of support as may be necessary to enable the Governor to carry on the business of Government in the Legislature on the principles and according to the intentions with which the Legislature was constituted". More freedom was allowed to nominated unofficial members, but even they, at first, were expected to co-operate with the Government unless in their individual judgments there were strong and substantial reasons for not so doing.

This system of Crown Colony government was devised avowedly to protect the underprivileged masses who were as yet unfamiliar with the working of governments and ignorant of the influence of the ballot box. It had as its objective the retention of full scope to the Crown to measure up to the responsibility it had assumed to deal with all fairly and justly. But it did not satisfy. The "coloured" intermediate group, about whose proposed exclusion from the representation being demanded by the English Party the

Secretary of State was so concerned in 1810, were now petitioning, forty years later, for political emancipation. A memorial addressed by them "to the Lords and Commons in Great Britain assembled" declared that "dissatisfaction has long been felt with the mode of government to which this rich and favourable island has been, and is, subjected", and it humbly and earnestly prayed that "some suitable degree of representation and self-government be conceded to the hitherto and still loyal inhabitants of Trinidad". The privileged whites from whom the nominated unofficials were drawn chafed at being merely advisory, at having no real powers or responsibilities, and at the failure of the system to secure a voice in the legislature for each of the counties into which the colony was divided. In the result, two additional nominated unofficials were appointed as from 1862, *subject however* to the express proviso that, should the unofficials (now in a majority of one) render the official vote nugatory by voting together habitually and as a party, two official votes would be added. Twenty-four years later, a Finance Committee was set up to enable unofficial members to participate in the framing of estimates, but it is to be noted that any recommendations they might make had to be referred to the Governor whose control of expenditure was in no way weakened. Then, from 1889 when Tobago was joined administratively to Trinidad, a system was adopted of assigning the unofficial members to represent the several counties, Tobago for this purpose being treated as a county, but, save as regards Tobago, this innovation was abandoned after a brief ten years. The preservation of a seat for Tobago was no doubt a recognition of its being a separate entity from Trinidad, but it may well have been also because up to 1924 no Tobago resident had even been able to spare the time to sit in the Legislature in Port-of-Spain!

The year 1925 is, and should remain, a landmark on the constitutional scene. It is the year in which, for the first time in its long history of Crown Colony rule, an elected element appeared in the Trinidad Legislature. It is the year which saw the restoration to Tobago of a measure of representation, albeit not of the representative system. It is thus the year which marks the first positive advance towards the attainment of an independent status.

The factors which led to this advance were many and various, chief among them being the following. Education had spread to all sections of the population although it was not nearly as available in the rural areas as one would have wished. The First World War had stimulated democratic sentiment and had called upon many men to die so that all should be free. The Bolshevik Revolution had given a certain living reality to the doctrine of Karl Marx and thereby was an impetus to workers to unite if they desired to achieve. Labour disturbances in 1921, in Trinidad as well as in other parts of the West Indies, gave resonant voice to the prevailing dissatisfaction. Timeously, just returned from the War was a leader who had captured the imagination and the devotion of the rank and file whom he had championed, Capt. Arthur Andrew Cipriani, fearless and indomitable, and possessing strong human sympathies, an unwavering urge to support any cause that needed assistance, and an undeniable reputation for espousing the claims of the underprivileged. Lastly Mr. E. F. L. Wood (later Lord Halifax) was then Parliamentary

Under-Secretary of State for the Colonies. Commissioned in that capacity to visit the West Indies so as to investigate at first hand the constitutional and other problems of the area, he, being the man that he was, brought with him and to his task a penetrating mind and understanding spirit.

Mr. Wood found that the commercial and planter classes were no longer eager for constitutional change. The economically secure and the privilege-entrenched seldom are. They found allies in the Indians, some of whom through their East Indian National Congress advocated communal representation of the Indian Community, and others expressed fears that any educational test of the fitness of voters (which many persons were advocating) would operate to the disadvantage of Indians who suffered most from the inadequacy of educational facilities in the rural areas. It was the emerging African group, and primarily the professional and (comparatively) educated middle class then coming into being who agitated the claim for some positive form of constitutional advance. Reporting on this, Mr. Wood said that their whole history "inevitably drives them towards representative institutions fashioned after the British model." His reference to their history was not to any indigenous social system which had come down to them or had been practised by or had become the tradition of their forefathers; it was rather to the fact that, deprived as their ancestors had been of language, customs and traditions, they themselves had been educated according to the British system and therefore looked for political growth to the only source and pattern that they knew and appreciated.

The advance then being demanded was only for a limited measure of representation, *not* for any real form of responsible government. Indeed, to have demanded the latter would have been startling in those days. Yet, Capt. Cipriani voiced the latent, even if little appreciated, aspirations of the masses. Coining what became his famous catchphrase, he called on them to "educate, agitate, federate", but even to him, as the order of his words implied, the goal must have seemed quite a long way ahead. In the view of Mr. Wood, four principal factors prohibited him from entertaining any immediate thought of early responsible government. These were: the mixed character of the population and the backwardness of large sections of it; the absence of a leisured class who could take a detached, objective and independent part in active political life; the necessity (as he saw it) for the Secretary of State to retain a controlling influence in order to secure uniformity of administration in the British West Indies generally; and (judging from the experience of the other islands) the very small number (actually and proportionally) of the active electorate. Writing on the mixed character of the population, he said that he found Trinidad to be the one community in the islands which lacked "any homogeneous public opinion. Socially it is divided into all kinds of groups which have very few relations with one another." He pointed out also that "the illiteracy of the East Indians in English and the multiplicity of Indian languages spoken . . . form a serious drawback to the East Indians", and he added that they who are the backbone of the agricultural industry are "the 'underdogs' politically when compared to the negroes, owing to the superior educational advantages of the latter."

Mr. Wood recommended against any form of communal representation which, he said, would merely "accentuate and perpetuate the differences which, in order to produce a homogeneous community, it should be the object of statesmanship to remove." His proposal was for a Legislative Council comprising the Governor as President with an original as well as a casting vote, twelve officials, seven elected representatives and six nominated unofficials. He stressed that "by retaining the system of nomination by the Crown, it will always be possible to secure representation on the Council of races or important interests not otherwise adequately represented by direct election." But the Crown Colony characteristic of the government was being maintained. Even if it could be envisaged that all the seven elected representatives and the six nominated unofficials should on any issue join forces against the view of the Crown as propounded by the Governor upon instructions from the Secretary of State, they were powerless to outvote the Governor, with his two votes, and his twelve officials who were obliged to vote as he directed. This was not as unreal or unlikely a situation as it seems. In the first year of the Council which was established on the acceptance of Mr. Wood's proposals, a select committee of the House was appointed to inquire into the desirability of introducing legislation to fix the hours of labour in any particular trade, business or industry in the colony, and the committee presented a unanimous report in favour of such legislation. But just about that time a new Attorney General arrived in Trinidad on promotion from somewhere in the East. Largely on his advice, based upon the view that Trinidad would disable itself against competition from places like Hong Kong if it accepted any such legislation, Government refused to take any action whatever except tabling the report. Nineteen months later Capt. Cipriani moved a resolution that Government should give effect to the report. Government's policy was to reject it. Accordingly, the official members of the House were instructed to vote for its rejection. Two of them had been members of the select committee, and both had subscribed to the report. Yet, they were forced to vote against it. More, at least one of them, the late Lt. Col. Arneaud de Boissiere who held the office of Protector of Immigrants asked the Governor for permission to absent himself from the debate so that he should avoid stultifying himself, but permission was refused as it was thought that the voting might be close. To my certain knowledge, Col. de Boissiere never overcame this humiliation to the day of his death.

It is manifest, therefore, that although I described 1925 as a landmark on the constitutional scene, it is so only because it marked the introduction of the elective system as a feature of the legislature of Trinidad and Tobago. The Government still remained essentially that of a Crown Colony. The Executive Council was not an instrument of policy, but was purely advisory. For the most part, it is true, the Governor was required to consult his Executive in the exercise of his powers and authorities, but he alone was entitled to submit questions to the Council for its advice and he was empowered to act in opposition thereto if he should think fit. In any such event however, he was required to report the matter to the Secretary of State as soon as

possible and any member of the Council might require that the grounds for any advice or opinion given by him and rejected by the Governor should be fully recorded in the minutes.

It must not be thought, however, that membership of the Executive Council was merely rubber-stamping or a waste of time. It was not usual for the Governor to disregard or act in opposition to the advice the Council gave. The truth of the matter is that decisions were often reached which represented a synthesis of the opinions expressed or a compromise of conflicting views. Nevertheless, the Executive Council remained, until recently, the object of frequent criticism on the part of elected members of the legislature and became so associated in the public mind with a supposed blind acceptance of the official Downing Street view that it became a pitfall for any elected member to enter in.

Membership of the Legislative Council also came to be regarded as merely time-consuming. The elected members were just so many individuals who had recommended themselves to their respective electorates, and they had no common programme accepted by all or by any group of them. Besides, it did not help to find themselves faced with the usual Crown Colony restriction which barred any member from proposing in the Council, even for the purposes of debate, any "law, vote, resolution or question the object or effect of which might be", as the Order in Council expressed it, "to dispose of or charge any part of Our revenue arising within the Colony or to revoke, alter or vary any such disposition or charge . . . unless the proposal of the same shall have been expressly allowed or directed" by the Governor. This restriction reduced the status of unofficial members to little more than that of advisers whose advice might be disregarded at will. In the result, Capt. Cipriani who was the elected Port-of-Spain representative on the Council used the Chamber as a platform from which to propound his ideas and to assist in building up a mounting public opinion that representation without at least some responsibility was no more than a sorry farce.

Capt. Cipriani succeeded further in awakening among the not yet enfranchised masses a profound interest in the movement towards political emancipation. His espousal of the cause of those whom he called his "bare-footed friends" made him at one time the hero and apostle of all the underprivileged. It thus very soon became impossible to continue any form of representation on the restricted franchise under which the 1925 elections were held. At those elections the qualifications for voters were the payment of rates on real property at the rate of \$2.40 for men and \$9.60 for women, or of rates on personal property at the annual rate of \$7.20 for men and \$9.60 for women, or the receipt of an annual salary or income of \$240.00 plus the occupation of premises rented at not less than \$4.00 per month. It is a revealing commentary on those qualifications that, however low they may appear today, the electorate thereunder comprised less than 6 per cent. of the total population.

Another factor contributing to the political emancipation of the masses was Capt. Cipriani's control and direction of the Port-of-Spain City Council in the twenties and thirties of the present century. His handling of issues

which arose between that Council and Government, and particularly his resolute and successful fight for the acquisition of the electricity and tramways undertaking which Canadian undertakers had been carrying on in Port-of-Spain, dramatised and spotlighted the conflict which from time to time arises between local and imperial interests and thereby played an important part in building up an ever-increasing popular demand for elections on a broader, if not, indeed, on the basis of universal, suffrage.

Before I pass on to the next stage of constitutional development, I think I should pay a tribute to those who served in the intervening years as nominated unofficial members. I do so because it became such a popular pastime to dub them as stooges that it is but fair in a historical review such as this to pause awhile to accord them their due. Hewan Craig in his work on the Legislative Council of Trinidad and Tobago made the point that "the uneven distribution of experience and knowledge of affairs, characteristic of Trinidad as of many other colonial societies, made it necessary that the representation on the Council of those persons best equipped in this respect should not, even under a limited franchise, be left to electoral hazard, especially in view of the small number of elective seats." Further, it was no doubt right that certain elements of the population, contributing as they did the major bulk of the annual revenue and, limited in numbers though they were, nevertheless being the most productively economic of the community, should be afforded some say, provided it was not the decisive say, in the conduct of the administration. To regard such men as stooges of any government is undeniably wrong. True, their acceptance of a nominated seat implied at least general agreement with government policy, but *Hansard* will show that when divisions were taken their votes were distributed more often than not both for and against the measure which had been debated.

I have sought earlier to set down my view of the importance of Capt. Cipriani in relation to the constitutional development of Trinidad and Tobago. It is perhaps a tragedy, and yet it so often happens, that he who contributed so much was cast aside by events of his own inspiring. He had fought for the recognition of trade unions but, because he secured that recognition minus the right of peaceful picketing, he dissolved his trade union and converted it into a political party. When, therefore, labour disturbances broke out in 1937, there was a dire lack of recognised machinery for collective bargaining and the trade union movement which sprang up to fill the void found him out of sympathy with, and to some extent resentful of it. His decline swiftly followed. But in his place arose those who articulated the workers' grievances and taught them to make a strong endeavour to measure up to the full height of their political power. Once again one is reminded of the grim truth of Lord Harris' dictum: a race, nay, indeed, two races had been freed, but a society had not been formed.

In consequence of the labour disturbances a Royal Commission was appointed under the chairmanship of Lord Moyne to investigate social and economic conditions throughout the region. They found that beneath the discontent of which the disturbances were the expression lay social and economic ills which called for urgent remedy. So far as this study is concerned,

it suffices to say that the Commission was satisfied that there was a widespread and rapidly growing political consciousness which could not be ignored. If West Indian society was to be reconstructed, as indeed it had to be, West Indians should participate actively in the work of reconstruction.

To achieve this result, the Commission recommended, and it was agreed, that for Trinidad and Tobago there should be a reduction in the number of official members of the Legislature from twelve to three, and that the number of elected members should be increased from seven to nine. Thus, the total membership of the Council was reduced from twenty-six to eighteen, of whom three were officials, nine elective and six nominated. The Governor was denied an original vote but retained his casting vote. At the same time, in case the necessity should arise, his ultimate control was secured by conferring upon him the "power of certification", by which was meant that he was accorded the power to give the force of law to any measure rejected by the Legislature which he considered necessary in the interests of order and good government. The Moyne Commission also recommended that the elected representation should be progressively extended and that early consideration should be given to broadening the voters' qualifications. As will be seen, both these recommendations were accepted.

The Executive Council was also enlarged, the number of members being increased from seven to eight, apart from the Governor who presided. A nominated official had first served on this Council in 1931, and continuously from then on (except for the years 1931-33) one such member was always on the Executive. During the excepted years 1931-33 an elected member served, but not thereafter until the increase in membership. Since 1941, however, the Executive Council has never been without at least one elected member of the Legislature.

Appointment to the Executive remained with the Governor, who also retained the initiative in formulating policy. Accordingly, the Executive continued to be in no way responsible to the Legislature. This situation was pregnant with embarrassment. Mr. Wood had recognised and pointed this out in his Report many years earlier when he said that—

"the position of an elected member on an Executive Council with the majority of which he perpetually disagrees, or, alternatively, the position of executive councillors perpetually overriding by a majority the elected members sitting there, would rapidly become impossible."

This proved to be so in practice and resulted in one instance in Capt. Cipriani resigning his membership, and in another instance (though at a very much later date) in another elected member being asked to withdraw. Nevertheless, it was felt that the inclusion of such members on the Executive was an essential part of the training for responsibility so that, by 1944, through elected members taking the place of others who went out, the Executive comprised the three *ex-officio* members, four electives and only one nominated unofficial.

Soon after the Legislative Council was re-constituted in 1941, a Franchise Committee was appointed to consider the whole question of the franchise. It did not report until 1944, and the report was not unanimous. The minority

report was accepted that elections should be held on a basis of universal adult suffrage, without any requirement for the voter to be able to understand spoken English, but subject to his qualification by residence for two years in the colony, and for six months in the electoral district, before registration as a voter.

The next elections were held in 1946, it having been previously agreed that, although the Legislative Council should have been dissolved in 1942, it should continue in being until one year after the end of the Second World War. They were held for the first time on the basis of adult suffrage, thereby setting up 1946 as another landmark on the constitutional scene. The effect of this change was that, whereas in 1938 less than 7 per cent. of the population was eligible to vote, in 1946 the electorate comprised 46 per cent. Tremendous excitement prevailed at and before the elections. Quasi-party groupings appeared, but none of them endured for any time after the elections—save only for what became known as the Butler Party. But the significant characteristic was that every candidate advocated political and economic reform, although in some instances the advocacy was so confused as to be almost meaningless. The significance, however, was that with the extension of the franchise the state of permanent opposition which the Moyne Commission envisaged would result as between elected members and government did in fact result, the contention of the self-named "opposition bloc" being that the constitutional limitations on the powers of elected members forced them into being a permanent opposition. I should add as a tail-piece here that yet another historical event took place : for the first time ever, a woman became a member of the Legislature.

It became increasingly clear that the recommendation of the Moyne Commission for progressive extension of the elected representation would have to be implemented without delay. Accordingly, as early as 1947, one year after the election of the new Legislature, a Committee was set up to consider the next stage of constitutional reform.

The Committee reported in 1948. It was by no means unanimous. But the majority report was accepted by the Legislative Council, with certain modifications introduced by the Government, and effect was given thereto by the Secretary of State. In accordance therewith, the Legislative Council comprised three *ex-officio* members, 18 elected and 6 nominated, with the Governor no longer presiding, his place being taken by a Speaker appointed from outside the Council, but with no voting rights whatsoever. The Executive Council ceased to be merely advisory and became the chief instrument of policy, responsible to the Legislature. Its members were the three *ex-officio* members, five electives elected by a majority vote of the Legislature, and one nominated member appointed by the Governor. It fell to be regarded as one of the most advanced in any territory which still occupied a colonial status. It was executive in fact as well as in name. Unlike its predecessors, it could be summoned on the written request of five of its members, no longer on the Governor's authority alone. And the five elected members, if they chose to work as a

team, could by their majority in this Council of nine determine the course that Government should pursue. The Governor's reserve powers were nevertheless preserved, but, as Governor Sir John Shaw declared :

"They are precautionary, nothing more : a man may keep a fire extinguisher in his home, but he hopes to go through life without having to use it."

The new Legislative Council came into being in 1950. That year, therefore, is the third great landmark on the constitutional scene.

In November 1954, the Legislature accepted a resolution for setting up yet another committee for the purpose of considering constitutional advancement. The committee was duly appointed in January, 1955 and reported in the same year. Its majority report, which was adopted, called for a re-constituted Executive Council comprising a Chief Minister, two *ex-officio* members and seven elected members, with the Governor presiding. There is no longer any nominated member appointed. The Governor has no original vote, but only a casting vote. Provision was made for the Governor on the advice of the Chief Minister to charge any elected member on the Executive with the portfolio of Finance. Accordingly, the Financial Secretary ceased to be a member of both the Executive and Legislative Councils. The Executive Council continued to be the chief instrument of policy, responsible to the Legislature.

As re-constituted, the Legislative Council was increased in membership from 27 to 31, of whom two are *ex-officio*, 24 elected and five nominated. The Speaker is no longer appointed by the Governor but is elected by the Legislature, and he may be chosen from among members of the House. If he is not, then the membership of the Council goes up to 32. The Speaker has only a casting vote. Not later than its third meeting after the elections, the Legislative Council must elect the Chief Minister and the seven other Ministers.

The significant advance made by the 1956 Constitution, for it was in that year that the recommendations were implemented, is the denial to nominated unofficials of any further voice in policy-making and, in effect, giving total power to the electives. The Governor retains his reserve powers, of course, but Sir John Shaw's remarks about the fire extinguisher continue to be true. Another, and perhaps even more, significant advance was the entrusting to an elected Minister of the Portfolio of finance. The purse has always been eloquent, and the public purse is certainly no less so.

One other significant feature appeared as a result of the 1956 elections. The Party which won the majority of seats did not consider it should accept the responsibility of government without being assured of the necessary legislative authority. It was not prepared to rely on the goodwill of the officials or of any freely-appointed nominated members. In those circumstances, the Secretary of State amended the Governor's instructions so as to permit him to nominate two Party Members and thus to assure the Party of the required majority. It is but one more triumph of the elective principle.

Thus, in the space of barely more than 30 years, Trinidad and Tobago has proceeded from the stage of complete non-recognition of the representative principle to the stage of almost complete responsible government. Little more advance is necessary to reach this goal and it is probable that it will be attained within the next year or two. Once attained, political emancipation will be achieved.

But what of the third emancipation? Physical and political emancipation are desiderata worthy of achievement, but I venture to think that psychological emancipation is equally necessary. There are still too many tensions and discordances between the various communities of people who make up the population, and these must cease if a true Society is to become a living reality. It is to be hoped that the practical realities of the situation will speedily bring about a fulfilment so devoutly to be desired.