

RE-DRAFTING THE GRENADA CONSTITUTION

Simeon C.R. McIntosh
Professor of Jurisprudence
Faculty of Law, University of the West Indies
Cave Hill Campus, Barbados

**A PAPER SUBMITTED TO THE HON. ROHAN PHILLIP,
ATTORNEY-GENERAL, IN EXPLANATION AND
SUPPORT OF THE DRAFT CONSTITUTION OF GRENADA**

Preface

In my scholarly writings on constitutional reform in the Commonwealth Caribbean, I have argued extensively that all our Independence Constitutions, notwithstanding our recognition of the British Monarch as our titular head of state, are, in fact, republican Constitutions. What has been missing in all, now with the exceptions of Dominica, Guyana and Trinidad and Tobago, is the formal declaration of Republic. On that premise, I argue for a rewriting of the Grenada Independence Constitution that gives full acknowledgement to its republican status. However, my personal preference for Grenada, Carriacou and Petite Martinique is the title, 'Commonwealth', which is defined as 'a State in which the supreme power is vested in the people; a republic or a democratic State'; or, 'a State in which the supreme power rests in the people and their elected representatives or officers as opposed to one governed by a king or similar ruler; a commonwealth'.

I wish to state, categorically, that my overriding ambition in this paper is to argue for a style of constitution writing that is, above all, elegant; and one that results in making the Constitution less of the lawyer's document and more the citizen's document: a Constitution that is comprehensible to the ordinary citizen of moderate learning. The reader will judge to what extent I have accomplished my quest for elegant simplicity in what I have put forward here; and I crave his or her indulgence and assistance. For I remain rooted to the view that the writing and rewriting of a constitution is a 'poetic' act, an act of the imagination; and elegant simplicity is a mark of good poetry.

*However, it bears emphasis that what is attempted here in the rewriting of the Constitution is only a **Working Draft**, which is to be used for public consultation with the People of Grenada, Carriacou and Petite Martinique, both at home and abroad. At the conclusion of the consultation process, the final revisions will be made to the Document, which would then be put to the People in a public referendum.*

*In both the consultation process and in their vote of approval on the public referendum, the People of Grenada, Carriacou and Petite Martinique would be engaged in the inscriptive act of **rewriting** and **re-enacting** their Constitution. Metaphorically speaking, with each vote of approval, the citizen appends his or her signature to the Text, thereby making it the Fundamental Law of the Nation-State of Grenada. It is therefore in the referendum process that the Constitution is **enacted** into law.*

*When the Parliament of Grenada therefore meets, following the referendum, it meets, not in its ordinary legislative capacity, but rather, as the duly elected Constituent Assembly of the People of Grenada, Carriacou and Petite Martinique, to lend the requisite legal formalities to the Instrument that the Sovereign People have already **enacted** as their Fundamental Law. Parliament may therefore discharge this function by way of a formal legal instrument, such as **The Commonwealth of Grenada Constitution Act**; or, in the alternative, Parliament may adopt the Document as **The Constitution of the Commonwealth of Grenada** by Proclamation. All of this to be resolved in the process of public consultation.*