

COMMENTARY by CHARLES WILKIN ON ELECTORAL REFORM- 28-11-16

The last two Federal elections- in 2010 and 2015- were foreshadowed and overshadowed by controversy and lawsuits over the country's electoral system. Issues in contention included the registration of voters, the constituency boundaries and the overseas vote. Added to these in 2015 were the Motion of No Confidence and the disgraceful behavior of the Supervisor of Elections. The last two Nevis local government elections were likewise dogged with controversy and litigation the result of which hastened the second election in 2013.

The result of the 2015 Federal elections should not lead anyone to believe that all is now well with the system. In fact apart from the replacement of the Supervisor little has changed. The risk of and potential for more controversy and lawsuits leading up to the next Nevis island elections due by early 2018 and the next Federal elections due by mid

2020 loom large unless the system is reformed in a settled way before then.

A fundamental part of democracy is free and fair elections. Elections in St. Kitts and Nevis are generally free in the sense that the electorate is allowed to exercise the right to vote. However elections are far from fair because of the brittle and porous electoral system. That does not speak well for our democracy.

In addition to the negative effect which the system has on our democracy it carries the potential for disorder and civil unrest and therefore brings into question the stability of the country which in turn affects the economy. It is well known that the system of registration of voters has been extensively manipulated. That weakness can only be fixed by a new law and a complete re-registration process. The overseas vote provides in some minds justification for abuse of the registration process. It is argued that an overseas voter can effectively register wherever he wants. Why then, the argument goes, should a resident

voter be limited to registration in the constituency in which he actually resides. Thus the overseas vote has to be addressed in any electoral reform process.

The overseas vote reveals another negative aspect of the system and that is the obscene amounts of money spent on flying in overseas voters. We know the saying he who pays the piper calls the tune. Whether or not the overseas vote is retained- and I would like to see it go- we must address the issue of campaign finance.

The issue of constituency boundary changes was litigated before the last two Federal elections and in both cases attempts at change failed. The Privy Council ruled that the 2015 elections be held under what I will, for ease of reference, call the old boundaries, rather than the new boundaries which the government of the day tried to introduce at the last minute.

However we should not forget that the Courts have not overturned the new boundaries. That means that the new boundaries are now in effect. Litigation challenging the new

boundaries remains before the Courts. I think it is a fair observation that the case to determine which boundaries should be used in the 2015 elections went through the whole judicial process from High Court to Court of Appeal to Privy Council within four weeks but the challenge to the new boundaries has not been resolved in almost two years since. This begs the question whether politicians are only concerned about elections. But the issue is far more important than that obvious question. Here is why. The St. Kitts and Nevis Constitution allows a review of boundaries by the Constituency Boundaries Commission every two years. It is therefore open to the government to initiate a review at any time after January 20th 2017. If that process is started before the case challenging the new boundaries is determined finally by the courts it would involve the review of the new boundaries not the old ones. There may be legal issues as to whether that can be done while the case over the new boundaries is pending. I do not offer a view on that legal

issue. My point is that delay of the case by the government is not good for the country. As far as I am aware the case is still before the High Court. It could go from there to the Court of Appeal and then to the Privy Council.

Perhaps the government does not care either way how the case goes. If it does care the question will arise on any outcome whether the Constituency Boundaries Commission should be put into action to review whichever boundaries the Court rules should apply- the old boundaries or the new ones. The Constituency Boundaries review process is a lengthy one requiring proper consultation with the people. By our standards that could take a year which would leave very little time before the time limit for the 2020 Federal election.

Then litigation can be expected. It is therefore quite possible that the approach to the 2020 general election could be overshadowed for a third general election in a row by disputes over constituency boundaries. Will we never learn or do we like it so?

I call for an early start of a comprehensive

review of the electoral system as promised by the Unity government. I call on the Opposition parties not to boycott the process as PAM did in 2006 but to show political maturity and to participate fully in the national interest with a view to removing finally this seemingly endless blemish on the country.