

THE POST-COLONIAL CONSTITUTIONAL EVOLUTION OF THE SINGAPORE LEGISLATURE: A CASE STUDY

The object of this article is to attempt a descriptive analysis and comprehensive case study of the post-Independence constitutional evolution of the Singapore legislature. Particular reference is made to the 1991 General Elections and the implications for the Singapore political scene. It will evaluate the extent to which there has been a successful reconciliation of elite rule with accountability to the citizen body in the local context and the prospects for the Singapore version of parliamentary democracy.

I. INTRODUCTION

IT is universally acknowledged that no static or definitive conception of parliamentary democracy exists. The institutional notion of “Parliament” itself encounters problems of definition.¹ Although institutions in different countries may be identified as ‘legislatures’, the significantly different functions they perform may convey the impression that they share nothing in common beyond nomenclature.² As a political institution, the legislature in its original conception was designed to promote democracy and liberalism. Legislatures have exhibited a capacity, in performing diverse functions transcending their traditional law-making province, which reflects the flexibility inherent in this branch of government. This selfsame functional flexibility renders complex a comparative analysis of legislatures in this regard. The common generic label that legislatures share affords little insight in the evaluation of the ‘strengths’ and ‘weaknesses’ of any particular legislature, manifested in terms of the degree of influence it exerts over the decision-making process of government. Degrees of influence vary over a broad continuum, shaped by context-specific factors such as the historical, cultural and political environment within which a legislature lives and breathes.

This article does not purport to draw any general trends – this would be unwise considering the scope of the subject and the problems attendant in accumulating qualitative and quantitative data. Its object is to attempt a descriptive analysis and comprehensive case study of the constitutional

¹ Blondel, *Comparative Legislatures* (1973), at 2-10.

² Mezey, *Comparative Legislatures* (1979), Ch One generally.

evolution of the Singapore legislature³ after the attainment of Independence on 9 August 1965. The significant and often innovative constitutional creations that have emerged in one of the former colonial offshoots of the Westminster based model of parliamentary government over the course of the past 27 years will be considered, with particular reference to the Singapore legislature. The flexibility of this model has enabled it to serve as a basic framework upon which the system of government has pragmatically evolved, having regard to the special needs of a small, young, secular and multi-racial state. There has been notable divergence from the model, with the creation of three types of parliamentary representatives and a unique electoral system operating over both single and multi-member⁴ electoral constituencies. These alterations have been effected by constitutional amendments,⁵ which in Singapore, occur with noteworthy frequency and ease.⁶ Such modifications to the simple plurality ('first past the post') system have been made in the context of a *de facto* one-party state, characterized by the absence of an effective, and until 1981,⁷ non-existent parliamentary opposition upon which the functioning of the Westminster model is predicated. This article will evaluate the extent to which what John Stuart Mill termed the grand difficulty in politics has been successfully negotiated in the local context, *viz*, the reconciliation of elite rule with accountability to the many from whence political power emanates, at least in the democratic mode of thinking.

An examination of the constitutional development of the Singapore legislature is particularly apposite, owing to the results of the fairly recent General Elections in August 1991. With the ruling People's Action Party (PAP) being led for the first time by the second Prime Minister, Goh Chok Tong, there was a changing of the old PAP Guard. The election witnessed a landmark consolidation, albeit on a minor scale, on the breaching of the PAP's stranglehold monopoly⁸ of parliamentary seats in 1981 when a lone opposition candidate gained a seat in the then 79-seat House. The return

³ Art 38 of the Constitution of the Republic of Singapore provides that the legislature of Singapore shall consist of the President and Parliament.

⁴ These are known as Group Representation Constituencies.

⁵ Until 1979, the Constitution of the Republic of Singapore (hereafter "Singapore Constitution") could be amended by a parliamentary resolution passed by a simple majority as provided by the Constitution of the Republic of Singapore (ROS) (Amendment) Act 1965 (No 8 of 1965).

⁶ See, *eg*, the preventive detention case of *Chng Suan Tze v Home Affairs & Ors* [1989] 2 MLJ 449 which was legislatively overruled by the Constitution of the Republic of Singapore (Amendment) Act 1989 (No 1 of 1989) which came into effect on 27 January 1989, amending Art 149, about two short weeks after the bold decision was delivered.

⁷ In 1981, JB Jeyaretnam of the Worker's Party won the by-elections in Anson constituency.

⁸ The People's Action Party (PAP) came into power in the 1959 elections and by 1967, had defeated all competing opposition parties to win a monopoly of seats. It has remained in power since then.

of four opposition candidates to Parliament was perceived by the PAP party leaders as a setback.⁹ Thus, the result of the 1991 General Elections has had major repercussions on the Singapore political scene, initiating an irreversible trend: the development of a fledgling opposition and the introduction of an inchoate bipartisan system.

II. THE LINK BETWEEN DEMOCRACY AND THE LEGISLATURE

A. Theoretical Underpinnings

*“The old Italian toxicologists are said to have always arranged their discoveries in a series of three terms – first the poison, next the antidote, thirdly the drug which neutralized the antidote. The antidote to the fundamental infirmities was Representation, but the drug which defeats it has now been found in the Caucus.”*¹⁰

A legislature was traditionally a body elected by the citizenry which, under optimal democratic conditions, voted at relatively frequent intervals under conditions of universal suffrage. By virtue of its representative nature, it was created primarily to deliberate and to pass laws and supposedly enjoyed a monopoly of this function.¹¹

Legislatures symbolize the concept of majority rule. They are the chief institutional link between the citizen and the state, serving as the vehicles for the expression of the popular will. Hence, they promote democracy which has been famously defined as “government of the people, by the people and for the people.”¹² The minority accepts the right of the majority to determine national policy though to avoid what de Tocqueville calls the “tyranny of the majority”, those in power will be sensitive of the need to safeguard minority interests; this is particularly important in societies where communalism and sectarianism pose a threat to societal stability.

‘Democracy’ is a term which elicits virtually universal lip service; nebulous in content, it is subject to degrees of distinction and hence is not a homogeneous creature. Two strands of thought seem to permeate the western ‘classical’ conception of democracy.

⁹ See, eg, *Time Magazine*, 16 September 1991, “No more Mr Nice Goh?”

¹⁰ Maine, *Popular Government* (1897), at 94.

¹¹ Seventeenth century theorists such as Locke have held it axiomatic that the function of the legislature was to make laws. In *Second Treatise on Civil Government* (1690), Ch XI, Locke argued that while the executive was needed to keep the country going, if the people were to be “sovereign”, their representatives should be the ones primarily concerned with making the most general rules.

¹² Abraham Lincoln (1809-1865) at the Gettysburg address, 4 March 1863.

Firstly, the skeletal version of democracy as being the ideal conception of legitimate government; this is a view most often associated with social contractarian theorists like Rousseau¹³ who idealized democracy as the key to maximizing human potential through participation in public life. Rousseau had democracy in the 'direct' sense in mind which in principle is the perfect expression of popular sovereignty: the people rule themselves directly with no intermediaries. He recognized that this form of democracy could only subsist under unusual circumstances, most likely to be found in small, agrarian, essentially peasant communities.¹⁴ Considerations of time and scale make it unimaginable that citizens today should continually assemble to devote their time to public affairs.¹⁵ The natural order thus seems to dictate that the many should be governed by the few, who serve as representatives of the people.

A more utilitarian view is proffered by advocates such as Schumpeter who regard democracy as "that bare institutional arrangement for arriving at political decisions which realizes the common good by making the people itself decide issues through the election of individuals who are to assemble to carry out its will."¹⁶ Decision-making power, derived from the voters, thus accrues to individuals who win the competitive struggle for votes. Representative government is lauded as the best political arrangement under which individuals can pursue their own private interests in a harmonious fashion. Popular sovereignty is expressed by the exercise of the right to vote and elect members of the legislature, inherent in qualified citizens. To give meaningful content to the right to vote, citizens must be able to participate in competitive elections in which personnel and policy choices are structured by the competition of two or more political parties. There can be no effective democracy without competing political parties in a parliamentary system of government.

The general consensus is that elections and representative democracy invariably lead to decision-making power being vested in a governing elite whereupon "our only recourse is to rely on the good graces of those who wield a great amount of power not to abuse it."¹⁷ Harden and Lewis have noted that this entails a pessimistic conclusion that representative procedures

¹³ See Jean Jacques Rousseau, *The Social Contract* (1984), especially Book III, Maurice Cranston translation.

¹⁴ He identified factors such as there being a small number of citizens, a society where wealth and property were equally distributed, where the society was culturally homogeneous. See Book III, Ch 4, *supra*, note 13.

¹⁵ The practice of direct democracy disappeared after the Greek experience, to emerge only sporadically in Western history through such institutions as the Swiss Canton assemblies and the eighteenth century New England town meetings.

¹⁶ Schumpeter, *Capitalism, Socialism and Democracy* (1943), at 250.

¹⁷ Bachrach, *The Theory of Democratic Elitism* (1969), at 63.

can have little impact upon the “iron law of oligarchy”.¹⁸ The Diceyan ideal¹⁹ that the essential property of representative government is to produce a coincidence between the wishes of the sovereign (as expressed through Parliament) and the wishes of the subjects whence *political sovereignty*²⁰ emanates is no longer tenable. Indeed, neither is his conception of majoritarian, self-correcting democracy²¹ which is premised on the belief that Parliament does control the executive and that a duly elected Parliament under universal suffrage is itself controlled by the electorate and represents the most authoritative expression of the will of the nation.²² This simplistically envisages the idea of public power flowing in a unilinear fashion: formally, public power flows from the electorate via Parliament (where public power is legitimated) to the government. The assumption is that elected Members of Parliament (hereafter MPs) faithfully articulate their constituents’ views and as a collective legislative body, constrain the executive to act only in conformity with their decisions; constitutionally dubious legislation could thus be halted or repealed. The link between democracy and representative government is that the general rules which the legislature establishes constitute the product of the collective thinking of men who have the confidence of the people.

B. Reality

“A Government must perpetually look over its shoulder to see whether it is being followed. If not, it must alter direction. For in this sense and this sense only, is it true that a democracy is government of the people and by the people.”²³

The liberal-democratic vision has broken down.

This is largely attributable to the development of the party system which witnessed the concentration of power at the “top” of these centralized organizational structures. This placed more power in the hands of the party oligarches who often comprised the Cabinet. As Parliament became more

¹⁸ Harden and Lewis, *The Noble Lie* (1986), at 25.

¹⁹ Dicey, *An Introduction to the Study of the Law of the Constitution* (1982, 10th ed), at 82-85.

²⁰ Dicey drew a distinction between political sovereignty which inhered in the electorate and legal sovereignty which means no more than the power of law-making unrestricted by any legal limit, owing to the doctrine of parliamentary sovereignty in the British context.

²¹ For a historical critique of Dicey and his vision of unitary, self-correcting democracy, see Craig (1990) 106 LQR 105.

²² Dicey, *supra*, note 19, at 83 and 433.

²³ Jennings, *Cabinet Government* (1959, 3rd ed), at 476.

streamlined, independent members of parliament became obsolete in the light of the need to belong to a political party.

As a result, the individuality of the MP was sacrificed on the altar of political expedience motivated by pragmatic instincts of self-preservation. Legislative initiation became the prerogative of the Cabinet and parliamentary acquiescence, so necessary to the passage of government policy, was effected by obedient submission to the party "whip",²⁴ who ensures cohesive party voting. The successful parliamentary candidate was aware that he was almost invariably returned not because of his personality or his judgment but because of his party label. The voters identified more closely with his party's leader and programmes. Submitting to the whip constitutes a recognition of the MP's party obligations. Obedience to the party's leaders is thus the first object of the MP's loyalty. The ultimate sanction is the non-adoption by the party of any particular non-compliant MP as a candidate in the next election. The political caucus, Ostrogowski observed,²⁵ led to the stereotyping of opinion with adherence to the party programme being the order of the day.

Thus, the party system became the conduit by which power was transferred from the legislature to the Cabinet executive although the latter is composed of members of and is formally 'accountable' to the legislature.

In the constitutional framework of powers, with the fusion rather than separation²⁶ of the legislature and executive, the former is unable to hold the latter accountable. The dominance of Parliament by a political party makes the fundamental division that between government and opposition *within* parliament, thereby altering beyond recognition the notion of parliamentary government. The checks and balances inherent in the Westminster model are not in operation, leading to the concentration of political power in the executive. Parliamentary sovereignty gives way to *de facto* executive supremacy. Even where an executive is theoretically constrained by a written constitution, this amounts to little where the executive commands the requisite parliamentary majority and hence can easily amend the constitution. Constitutional supremacy becomes formal.

²⁴ The Whip is derived from the term "whipper in" which comes from the gentrified upper class world of the hunt where the "whipper in" is charged with the management of the hounds.

²⁵ Ostrogowski, *Democracy and the Organization of Political Parties* (1902).

²⁶ This may be contrasted with the Presidential system of government where the doctrine of the separation of powers is strictly observed by virtue of the chief executive of the government being elected by the national voting constituency and not by the legislature whose voting constituency is local or regional. The President is not a member of the legislature. The break between the executive and the legislature is complete and neither proceeds from nor can dismiss the other. Executive power is vested exclusively in the President and the Cabinet is merely a convenient device to aid the President, having no constitutional existence. The record of parliamentary government makes it clear that the separation of powers is not a *sine qua non* of democracy.

Thus, this has contributed towards the emasculation and relative decline²⁷ of the legislature with respect to the process of policy-making. There is little a backbencher can do; the doctrine of ministerial responsibility has become mythical and with it reduced to a minimum, there is no realistic method of testing and bringing to account department policy choice. Only

The actual flow of power is channelled in a top-down route from the executive and party hierarchy down to the party members.²⁸ Hence it is by no means certain that legislation will reflect the wishes of the electorate with legislative initiative being monopolized by the party oligarches.

The pluralist vision of democracy accepts that in parliamentary systems of government, law-making activities are no longer exclusive and are performed primarily by the Cabinet executive directly or through delegation. Individual MPs at best seem to be at the periphery of policy-making. The indistinct lines caused by the fusion of the legislature with the executive in parliamentary systems necessitate a revised view of the functions and utility of the legislature which is perceived as being not as influential or important as lofty eighteenth century references about their 'sovereignty' seem to envisage.

The legislature resiliently remains a potent symbol of democracy as the embodiment of the will of the people at the institutional level. Even the most authoritarian of governments seem to prefer a subservient legislature formally endowed with legislative power over not having one at all; executives have adopted the rhetoric of legitimacy conferred by the concept of representative government with Parliament being the expression of the will of the people to their hegemony.

If the essence of democracy may be distilled as being the belief that the individual should have an opportunity to participate in the making of public policy, the preservation of the democratic ideal would mean that the choice and accountability of those in public decision-making processes should be secured. Since representative government is insufficient to translate the popular will into politics, some more direct form of appeal to the people is needed. This would entail injecting a more participatory element from the 'bottom' of the system in the form of citizen participation in the administrative process which can render law-making more directly democratic and hence accountable.²⁹ For example, the electorate may be

²⁷ Wheare, *Legislatures* (1963), at 219.

²⁸ Even Bagehot, while believing that the main purpose of the House of Commons was to serve as an electoral chamber, nevertheless, recognized that power did not flow in a unilinear fashion and that the Cabinet (the "efficient" part of the Constitution) could destroy by dissolution the legislature which had created it. See W Bagehot *The English Constitution* (1867), at 150-151.

²⁹ Accountability is concerned with the answerability of an institution to the public either

allowed to intervene directly in law-making through the device of the referendum.³⁰

The pluralist vision supports the idea that participation in the decision-making process can come from non-parliamentary bodies like pressure or interest groups. It assumes that the decentralization of power *per se*, through means like granting consultative rights, is good.

One of the major concerns of the constitutional lawyer is that means should be found for increasing public involvement in policy formation since citizens are the ones directly affected by the schemes under consideration. The need for a revised theory of legislative involvement in government and its functions to be articulated at both the institutional and micro-levels is also thrown into sharp relief by the misconceived nature of law-making which perpetuated the misconception of the part which legislatures could be called upon to play in the policy-making process. This was based on the unstated premise that if a legislature did not wield the ultimate authority to deny the passage of executive initiated legislation, as the United States Congress could, then the legislature's role in decision-making was likely to be virtually non-existent.

III THE CONSTITUTIONAL ROLE AND FUNCTIONS OF THE LEGISLATURE

Legislative activities may be broadly classified into three categories: (1) policy-making activities, (2) representational activities and (3) system-maintenance activities.³¹ A particular legislature will have its own package of activities, with varying emphasis and pre-eminence accorded to one or more of the above activities. In an attempt to explain variance across a large number of legislatures, Mezey devised a fivefold classification³² scheme which sought to distinguish between types of legislature by assessing their relative 'strength'. This was on the basis of the role of the legislature in the decision-making process with the "degree of support accruing to the institution" as a second dimension and with support defined as "a set of attitudes that look to the legislature as a valued and popular political institution." The functionalist approach, in recognizing the apparent lack of decision-making power,

through Parliament or through some direct means of public participation. See Craig *Administrative Law* (1989), Introductory Chapter.

³⁰ The referendum is essentially the submission to the people, for approval or rejection, of a law passed by the legislature. It constitutes one of the most direct forms of democratic participation and seems to have worked with great effect in Switzerland.

³¹ Mezey, *supra*, note 2, at 6-11.

³² Mezey suggested that legislatures at the top end of the spectrum were active and enjoyed strong decisional capacities and high levels of support, with varying degrees of these two factors inhering in vulnerable, reactive, marginal and minimal legislatures. *Ibid*, note 31, at 36-43.

postulates that law-making has never been the most salient function of the legislature which is capable of performing a variety of tasks in a political system, none of which seem to be peculiarly legislative.³³ With the obvious limitations of this broad approach, it is useful to adopt Mezey's *a priori* approach as a working definition. His definition of a modern legislature is: "A predominantly elected body of people that acts collegially and that has at least the formal, but not necessarily the exclusive power to enact laws binding on all members of a specific geopolitical entity."³⁴

A. Policy-Making Activities and the Duty of the Opposition

"The first to present his case seems right, till another comes forward and questions him."³⁵

The creation and enactment of public policy has traditionally been perceived to be an essential function of the legislature. Countries like the United States and the Philippines, which have presidential forms of government, are perceived to be quite effective in the shaping of public policy, probably, Mezey argues, because such a role for the legislature is supported by the expectations of the mass and public elites.³⁶ Such legislatures may be classified as falling within the policy-making models.

In the parliamentary context, although it is clear that the legislative initiative is largely in the hands of the parliamentary Cabinet and that the legislature is often confined to obeying the fiats of strong executives, this inability to initiate legislation does not preclude some form of legislative policy-making role. It must be appreciated that intervention by the legislature in the decision-making process assumes a non-dichotomous, gradational form of influence and participation at a whole variety of stages in the policy-making process, *eg*, through committee structures, debate, question time and other constitutional procedures. This will vary in terms of the capacity of the legislature to resist executive-initiated legislation, *ie*, what Blondel terms "viscosity". Mezey goes further in suggesting that a useful basis for distinguishing legislatures is the extent to which they can place "constraints"³⁷ on the policy-related activities of the executive, which prohibits the unilateral formation of policy. He suggests particularly,

³³ *Eg*, as agencies of political recruitment and education, an educative role *vis-à-vis* the populace, to oversee bureaucratic activities, as instruments of nation-building, as a focal point for the mobilization of public support, *etc*, Mezey, *ibid*, note 2, at 4.

³⁴ Mezey, *ibid*, note 2, at 6.

³⁵ Proverbs 18 verse 17, *The Holy Bible, New International Version* (1986).

³⁶ Mezey, *supra*, note 2, at 45.

³⁷ Mezey defined "constraints" as a limitation that the legislature can place upon the executive branch of government that would not make it directly vulnerable to dissolution, proroguing or closure. See Mezey, *Handbook of Legislative Research*, *infra*, note 135.

that in examining Third World legislatures, one should not be hasty to impose the narrow Western standards of decisional authority; a different conceptual apparatus which could take into account the more subtle techniques of resisting the executive is required.³⁸ Restricted influence over law-making is nevertheless still participation in that process.

Parliament, as a deliberative assembly, axiomatically does not govern but seeks to ensure the accountability of those who do govern. Therefore, the government which is supported by a parliamentary majority governs while the parliamentary opposition discharges the task of parliamentary censure and scrutiny. It possesses the virtue of educating public opinion as well as compelling the government to modify its attitude in response to the reaction to policies in the House and by appeal to public opinion without actually overthrowing the principles itself. Even though Parliament cannot change legislation, it can, through the opposition expose the real meaning of bills, assess their impact and identify the interests they serve. This critical function goes some way in enhancing democracy. Debate also provides the government with an opportunity, by replying to opposition criticism to vindicate its policies in a convincing manner by the provision of detailed answers to specific questions, thus scoring political brownie points. Furthermore, the duty of the Opposition to oppose is a major check against corruption and defective administration and also the prevention of individual justice. Hence it is clear that Parliament can play an important function perhaps not in initiating legislation, but in fine-tuning the latter through debates and legislative committees which can investigate policies and make recommendations.

B. *Representational Activities*

*“The principle of Parliament is obedience to the leaders. Change your leader if you will, take another if you will, but obey No 1 when you serve No 1 and obey No 2 when you serve No 2. The penalty of not doing so, is the penalty of impotence.”*³⁹

Inherent in the concept of democracy is the notion that the decision-maker should be responsive to the views and attitudes of citizens and must in a real sense be accountable to them as government ultimately rests on the

³⁸ There is relatively little practical case studies of legislative involvement in the decision-making process. In this respect, Hopkins' case study of Tanzania via interviews (1970) with 56 Tanzanian MPs allowed him to identify certain informal rules, *eg*, MPs could only criticize government policies on practical grounds but not in principle. These findings led him to the conclusion that private rather than public opposition was likely to be the mode of legislative influence in a third world legislature like Tanzania. *Infra*, note 41.

³⁹ Bagehot, *The English Constitution* (1867).

consent of the governed. The people's sanction is exercised at the ballot box and displeasure with government policies will elicit retribution at the polls. Voting is, however, only a limited form of political participation and the citizenry remains by and large insulated from the decision-making process.

John Stuart Mill in *Representative Government* idealized legislatures as the nation's "Congress of Opinions", being a forum for the articulation of interests and demands sufficiently supported by the population. Where policy-making is less salient and the primary legislative task is that of responding to the demands of constituents and interest groups, such legislatures may be classified as belonging to the representational model. The vigorous performance of representational activities such as criticizing, embarrassing or delaying the government which generates adverse publicity and encourages public opposition is expected to produce policy responses from those wielding policy-making power.

As a channel of communication between the legislative arena and the citizenry, these alternative, non-decisional representational activities refer to one of the defining characteristics of legislatures: the fact that the institution comprised elected officials who by implication act on behalf of those who elected them. Parliament, as an institution, therefore, helps to foster the belief that the people choose their rulers, who being their trustees or delegates, may be called to account.

The theory of instructed representation views the MP as a mere delegate who votes in the legislature, according to the mandate of his constituents. This has understandably been unpopular with parliamentary representatives. An alternative elitist theory of uninstructed representation was devised whereby the representative was viewed more as a senator, chosen for his superior wisdom and integrity and therefore free to exercise discretion in judging the issues that came before him. This doctrine was authoritatively enunciated by Edmund Burke in a famous address to his Bristol constituents, stressing that they were not to expect servitude from him; it was for him to exercise his own "judgment and conscience". This was tempered by the fact that he stated that it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence and the most unreserved communication with his constituents.

The reality today is that given the size of the modern electorate, the traditional model of representation is inappropriate. Personal electioneering is far less important than the impression which the party creates in the minds of the electors. The member's most precious possession is his party label which is not worth more than the proverbial scrap of paper unless the electors confer value on it. If he desires to maintain his majority, a close connection with his constituents is still crucial to the winning of the vote which brings his party into power. While cultivating a close grass-root link with his

constituents, a patron/client relationship may arise out of the perception that legislators are obligated to the citizen through the electoral connection who may then choose to process grievances through the legislators. Since elected representatives possess greater access to government officials than the average citizen, they often serve an intermediary function between the two parties. There is thus a heavy emphasis on oversight activities in the representational model.

Furthermore, another alternative view of representation binds the ruling party to fulfill election promises given to win votes, *ie*, that of the mandate to implement policies enunciated in the election manifesto. All these various views on representation intermingle today, with politicians selectively appealing to the most expedient one to support their arguments; they generally enjoy considerable autonomy from those they represent.

C. System Maintenance and Institutional Legitimacy

*“The dogs bark in Parliament; if there were no Parliament, they might bite.”*⁴⁰

Where this activity is perceived as dominant, emphasis is directed towards the role of the legislature being primarily to foster the stability and legitimacy of the political system; such activities take precedence over policy and representational activities. This model is best characterized by the almost unwavering confidence in the executive and the widespread belief that the best policies emanate from a strong, centralized, authoritarian leadership. Such systems are tenuous and heavily dependant on single, charismatic personalities. The role of the MP is minimal as regards policy-making and he is generally expected to be supportive of government policies.

Besides conferring political legitimacy to Bills by a formal assent, Parliament also helps to perpetuate the political status quo by providing a forum for the ventilation of grievances which might otherwise spill over to the streets, serving as a mechanism to reconcile competing interests. It also reveals areas of agreement and promotes consensus. By acting as a vehicle for conflict management, it serves to structure and domesticate conflict, which is an integral dynamic of modern society.

The legislature further supports the system by providing an electoral body for the executive branch of government and by mobilizing support for government policies. It confers an aura of legitimacy on government policies by creating a semblance of popular participation. Privileges accruing to members of parliament like parliamentary immunity and inviolability are

⁴⁰ Jennings, *supra*, note 23, at 510.

indicative of the symbolic status of the legislature as the embodiment of the popular will.

The role of the individual MP in legitimizing government policies extends not only to providing support in Parliament, but also to act as buffers outside the House by the defence of policy at constituency level.⁴¹

Legislatures based on the system maintenance model are on the decline as pluralism gains increasingly widespread favour, *eg*, in African democracies,⁴²

IV. THE CONSTITUTIONAL BACKGROUND AND THE CHANGING POLITICAL LANDSCAPE

“England is the mother of Parliaments.”⁴³

Singapore was cast adrift on the unfriendly sea of Independence after seceding from the Federation of Malaysia on 9 August 1965, as a result of dashed hopes of Merger with the latter.⁴⁴ Leading members of the nationalistic movement formed a political party, the People’s Action Party (PAP), which still dominates the political scene today. Characteristic pragmatism overrode more ethereal nationalistic sentiments: no revolutionary changes were made to the colonial bequest of a Westminster parliamentary system of government⁴⁵ when it was conveniently adopted. However, in

⁴¹ Hopkins in 1970 made a detailed case study of Tanzania and reported that President Julius Nyerere had made it clear to members of the Bunge that they only have a limited right to criticize government proposals once they have been approved by the National Executive Committee; furthermore, such criticisms must focus on detail and not principles and should be made in private. Additionally, as an extension of their support for the government, the members were expected to be the government’s ambassadors to the people and to explain and defend government policies to the people to promote compliance. Their role is more one of a communicator than a deliberator or law-maker. “The Role of the MP in Tanzania (1970), 64 *American Political Science Review*, 754-771.

⁴² See “*Democracy in Africa*” *The Economist*, (1992) February.

⁴³ John Bright, Speech, Birmingham 18 January 1865, at 71 in *A Dictionary of Famous Quotations* (Hyman editor, 1983).

⁴⁴ For a succinct legal and constitutional history of Singapore, see Kevin Tan Yew Lee, “Parliament and the Making of Law in Singapore”, Chapter Two in *The Singapore Legal System* (Woon editor, 1989).

⁴⁵ de Smith has noted that the “Westminster model” as such never constituted a legal term of art and possessed various connotations. The usage of the term may be taken in its narrowest sense as a constitutional system in which the head of state is not the effective head of government. The latter is the Prime Minister who presides as *primus inter pares* over a Cabinet whose members are members of Parliament. The Prime Minister has a large say in the appointment and removal of Cabinet members. Therefore the effective executive branch of government is parliamentary and Ministers are individually and collectively responsible to a freely elected and representative legislature. See de Smith: *The New Commonwealth and its Constitutions* (1964), at 77-78.

Singapore's 27 years of existence as a republic, the political landscape has undergone a major "sea change".⁴⁶ This is in spite of the fact that there was considerable divergence from the Westminster model of government from the outset. For example, Singapore adopted a written constitution which provided protection for fundamental liberties, through the Republic of Singapore Independence Act 1965 which continued the applicability of the Malaysian Bill of Rights provisions.

A. *The Early Years After Independence*

The nation-building tasks facing the PAP government, who had seized power in the 1959 general elections, were gargantuan. It can quite justifiably be called a period of crisis with 100,000 unemployed, an overhanging communist threat and the pressing need to establish political, social, economic and racial stability in the tiny, multi-racial infant island nation. The amassing and concentration of power by the government was an imperative of nation-building, needed to implement draconian and often unpopular reforms such as the compulsory acquisition of land, unimpaired by the dissipation of power.⁴⁷ The ability to implement strong policies was necessary to the establishment of a viable economic system. Drawing support from 'siege legitimacy' arguments, the Constitution of Singapore (Amendment) Act was passed by Parliament on 22 December 1965 and made retroactive to Independence Day. By this Act, the procedure for effecting constitutional amendment was altered from a two-thirds majority to that of a simple majority. This rendered the constitution extremely malleable in nature and any Bill proposing a constitutional amendment was easily a foregone conclusion as the PAP had the requisite number of votes.⁴⁸ Parliamentary supremacy *defacto*, or more accurately, cabinet supremacy anomalously operated within the context of the framework of a written, supposedly 'rigid' constitution.

Consonant with the common trend of development in new states, the PAP established its primacy over all other political parties which were constitutionally permitted to exist. They were able to consolidate their hegemonic status by establishing close links with the bureaucratic leviathan inherited from the colonial government, thereby weakening the legislature and its potential policy-making clout. Pluralism was discouraged by taming

⁴⁶ "But doth suffer a sea change into something rich and strange." Shakespeare, *The Tempest*, Act I, Scene ii, line 401-402.

⁴⁷ The constitutional right to property in Art 13 of the Malaysian Constitution was left out of the list of fundamental liberties in Ch XII of the Singapore Constitution at the date of Separation of Singapore from Malaysia.

⁴⁸ By 1968, the PAP had won all the seats in Parliament. Since the attainment of power, the PAP has never lost an election. In the 1970 by-elections and in 1972, the PAP enjoyed a monopoly of parliamentary seats.

potential dissenting voices like the trade unions by placing top PAP men in organizations like the National Trade Union Congress (NTUC). In 1963, debilitating blows were dealt to the only opposition party which posed a threat – the Barisan Socialis. This comprised various left-wing elements of the PAP which broke away from the parent party in 1961. Various members of the new party were arrested and detained by the Internal Security Council under preventive detention provisions, on the basis of their being a threat to national security. These major security actions effectively crippled the party and left it bereft of effective leadership, depriving it of any potential to extend its political influence.⁴⁹ Furthermore, the PAP developed extensive organizational structures at the grass-root level, with bodies like the Citizen's Consultative Committees (CCC)⁵⁰ and the weekly PAP Meet the People Sessions securing close links with the constituency members.

The stronger the personal appeal of a political leader, the weaker the legislature in that regime is likely to be. A charismatic leader, unicameralism, as well as the compact geographical size of Singapore facilitated the centralized concentration of political authority and strength in the executive, precipitating the emergence of what has been called a *de facto* One-Party System.⁵¹ There was thus no second chamber⁵² which could have contributed towards consultative government by exercising a check on the legislative activities of the lower house by providing a forum for critical discussion or through the exercise of delaying powers. A second chamber could also have provided for the representation of minority interests. This perpetuated the non-competitive political climate already inimical to the pluralistic development of opposing political parties and interest groups. In this context, democracy was present only in the procedural sense. All the above factors constitute sources of the legislature's fragility or weakness, with a corresponding strengthening of the parliamentary executive. The essentially authoritarian style of government was bolstered by a general political apathy and unquestioning acquiescence and implicit trust in the political leadership. Singapore possessed a command legal culture where the concentration of power in a hierarchical fashion *per se* was viewed as a 'good'. A good government was a strong government. This ingrained deferential attitude which eschewed an adversarial ethos was first directed towards

⁴⁹ For more details on "Operation Cold Storage", see Chan Heng Chee, *The Dynamics of One Party Dominance: The PAP at the Grass-Roots* (1976), at 196.

⁵⁰ Each CCC comprises the local leader in that particular constituency. It plays the crucial role of linking the party with the masses and aids in the dissemination of policy objectives to the constituents. For further details, see *ibid*, note 49, at 133-163.

⁵¹ A one-party system is one where a single political party is viewed as the sole legitimation of the political system, *supra*, note 49, at 3-11.

⁵² The reasons against the establishment of a second chamber in Singapore can be found in Section VII of the *Report of the Constitutional Commission Singapore* 1954.

the colonial master and subsequently to the PAP as a Confucian patriarch. Furthermore, communitarian interests, as defined by the government of the day, have always found favour in the pragmatic scheme of value preferences. The PAP thus became an institution, specifically identified with a particular epoch in Singapore's history. Consequently, the distinction between 'government' and 'state' has been conceptually fudged and confused in the popular perception, with the terms being interchangeably employed.

With the effective emasculating of opposition politics which might otherwise have delayed the speedy implementation of government initiative, the opposition dynamic built into the Westminster model of parliamentary government was absent. Thus, the task of *playing* parliamentary opposition, which has an intrinsic value, was relegated to the PAP backbenchers with all the attendant limitations of this match. Legislative initiative lay exclusively with the Cabinet and parliamentary criticism was limited to details rather than general policy. Absent was the damaging scrutiny a directly elected opposition could provide. It has always been the PAP's policy to try and show that the requirements of parliamentary democracy could be satisfied by a one-party legislature.

The heterogeneous composition of the populace⁵³ compounded the volatility of an already explosive situation and, hence, provision had to be made to appease the minority racial, religious and linguistic groups.

Displaying a sensibility towards the racial issue and the need for racial interests to be safeguarded and represented in Parliament, the 1966 Wee Chong Jin Constitutional Commission investigated this matter, *inter alia*, and recommended the setting up of a Presidential Council, later to become the Presidential Council for Minority Rights (hereafter PCMR). This would serve a watchdog function,⁵⁴ sitting in an extra-parliamentary advisory capacity and vetting adverse legislation which exhibited a "differentiating measure". It is widely acknowledged that this body is ineffective as providing only a token second opinion on relevant bills. It has not served as an additional check in the making of potentially discriminatory laws. To date, it has not rendered a single adverse report. Its inherent deficiencies have been discussed at length elsewhere.⁵⁵

⁵³ The racial composition of Singapore is approximately 77.7% Chinese, 14.1 % Malay, 7.1 % Indian and 1.1% others. The population is presently nearing 3 million in total. *Singapore Facts and Pictures* (1991), at 3.

⁵⁴ The general function of the PCMR is stated in Art 76(1) of the Singapore Constitution: "to consider and report on such matters affecting persons of any racial or religious community in Singapore as may be referred to the Council by Parliament or the Government."

⁵⁵ See, eg, Thio Su Mien and David S Marshall, "The Presidential Council" (1969) 1 *Sing LR* at 2 and 9 respectively.

B. *The Breaching of the PAP Stranglehold: 1980s*

By the early 1980s, it was clear that the PAP had succeeded in delivering the political goods, leading the country from its period of post-Independence crisis to socioeconomic stability and an enviable level of affluence and harmony.⁵⁶ Evidence of the slight easing of the “iron hand of oligarchy” was found in the restoration of the two-thirds parliamentary majority needed to effect a constitutional amendment.⁵⁷

The first hint that the trend towards one-party rule characterized by authoritarianism and depoliticization was nearing its end was the 1981 Anson constituency by-elections. This was won by JB Jeyaretnam of the Workers’ Party. There was of course a limit to what one opposition member with limited resources could do, but his presence in parliament was symbolic. The PAP backbenchers continued to beat their breasts in debate, seemingly trying to render nugatory the efforts of the lone non-PAP MP.⁵⁸ Since 1984, the opposition parties have been steadily garnering larger shares of the popular vote.

With filled rice bowls, ‘siege legitimacy’ arguments of the 1960s were losing force with the focus shifting from the fulfillment of needs to wants. The population could contemplate the luxury of desiring and having an alternative voice in parliament and thereby, enhanced participation in the decision-making process. This was in aid of countering the perceived arrogance and aloofness of the increasingly technocratic government and the fact that the legislature was substantially not far off from being a rubber stamp assembly. Upon becoming Prime Minister in 1988, Goh Chok Tong took pains to emphasize a new style of leadership which was one adverse to conflict; it would be more open and consultative with the emphasis on the forging of consensus. Stress was laid on collective responsibility and the Cabinet acting as a team. His avowed aim was towards the creation of a gentler, kinder and more open government – a brand of “soft authoritarianism”⁵⁹ which sought to persuade rather than to coerce.

In response to the changing political atmosphere and increased demand for political participation, various innovative constitutional creatures and structural changes were introduced to remedy the perceived defects of the system which were glaringly apparent in the absence of an effective

⁵⁶ Singapore enjoys the second highest standard of living in Asia, next to Japan.

⁵⁷ The Constitution (Amendment) Act 1979 (No 10 of 1979) restored the amendment requirement of a simple majority effected by Act 8 of 1965 to that of a two-thirds majority since “*all consequential amendments that have been necessitated by our constitutional advancement have now been enacted.*”

⁵⁸ See Chan Heng Chee, “Legislatures and Legislators”, in *Government and Politics of Singapore* (1985), at 89-91.

⁵⁹ *Infra*, note 164.

parliamentary opposition. These were the need to ensure greater accountability of the governors to those who were governed, to increase citizen participation in the decision-making process, to entrench multi-racialism into the system to ensure fairer representation of the minorities, and to make provision for satisfying the expressed desire of the citizenry for an element of partisanship to be introduced into the political scheme of things. The overall effect of these changes was hopefully to strengthen the legislature and enhance its role in the governing process.

1. *The NCMP and NMP: Effective outlets for alternative views ?*

Usually, the task of parliamentary censure falls to the elected parliamentary opposition. In the virtual absence of such an entity in local politics in the 1980s, the PAP was keen to cater to the popular desire to hear some opposition voices in Parliament by the ‘institutionalizing’ of opposition. Therefore, in addition to the ‘normal’ MP who is regularly elected on the basis of the simple plurality system, the composition of parliament was altered by the creation of two new classes⁶⁰ of MPs who were somewhat anomalous exceptions to the ‘first past the post’ system: that of the Non-Constituency Member of Parliament (NCMP) and the Nominated Member of Parliament (NMP).

(i) *The Non-Constituency MP*⁶¹

*“We have sensed people want to have a good government, plus a few good people to query the government.”*⁶²

This entity was introduced in 1984⁶³ to ensure in perpetuity that there would always be an opposition element in Parliament.⁶⁴ The Constitution provides

⁶⁰ Singapore is not unique in that other countries have more than one category of parliamentarians. Tanzania, *eg*, has seven categories of parliamentarians, inclusive of representatives of single and multi-member election districts : see Art 66(1)(a) - (g) of the Constitution of the United Republic of Tanzania, *Constitutions of the Countries of the World* (Blaustein and Flanz eds, 1971).

⁶¹ For a detailed examination of the NCMP, see Winslow, “Creating a Utopian Parliament” (1984) 28 Mal LR 268.

⁶² Mr Goh Chok Tong, the former Defence and Second Health Minister in *The Straits Times*, 21 May 1984.

⁶³ Art 39(1)(b) of the Singapore Constitution as amended by the 1984 Constitutional Amendment Act (No 16 of 1984) provides that the NCMPs are: “to ensure the representation in Parliament of a minimum number of Members from a political party not forming the government.”

⁶⁴ The object of this constitutional amendment was stated to be to “ensure the representation in Parliament of a minimum number of Members from a political party/parties not forming the government.”

for up to six NCMPs who are not directly elected to be included in Parliament though section 3 of the Parliamentary Elections Act makes provision for the appointment of only up to three NCMPs in the event of no opposition candidate being directly elected.⁶⁵ NCMP seats are given to the unsuccessful opposition candidates with the largest number of votes, provided that they have won at least 15% of the valid votes in their contested wards.⁶⁶ While such NCMPs share the same parliamentary privileges and immunities as ordinary MPs, the point of differentiation is that they possess limited powers and cannot vote on certain motions, *eg*, money, supply bills and constitutional amendments.⁶⁷ The opposition has from the outset decried such a scheme as a ploy to discourage voters from voting in the opposition because of the guarantee of at least the offer of three NCMP seats. This is not surprising considering the stigma of inferiority attached to what is effectively a toothless and cosmetic office!

The *raison d'être* for the creation of the NCMP was stated to be (i) to sharpen the debating skills of the younger MPs and Ministers which were presumably flabby from the lack of exercise, (ii) to provide a channel for the venting of allegations of misfeasance and corruption and (iii) to educate the voters as regards the limitation of what a constitutional opposition could do in the local context, *ie*, to give the opposition a forum to display their ineptitude. This went to reiterating the persuasion that good government and parliamentary democracy could be maintained in a dominant party system.⁶⁸

While the underlying idea *prima facie* appeared to be a commendable effort to broaden the base of representation, problems relating to the NCMP's legitimacy and the corresponding implications for democracy were encountered. There is a lack of standing to speak in Parliament under the simple plurality system as the NCMP lacks both the power base and concomitant burden of representing a constituency from whence an MP's legitimacy emanates. The NCMP's position is further undermined by the fact that there is no provision for the vacation of such office, leaving tenure in the hands of a potentially hostile parliamentary majority; this contributes to eroding confidence in the efficacy of this office. His presence in Parliament does not seem to extend beyond the decorative and the provision of debating

⁶⁵ Under the Parliamentary Elections Act (Amendment No 2) (No 9 of 1991), the President can increase the number of NCMPs to six through an Order in the government gazette.

⁶⁶ This is provided no opposition candidate is elected into Parliament. If, *eg*, one opposition MP is voted in, the number of NCMP seats offered will be two and not three. This implies that membership of the legislatures will vary from election to election.

⁶⁷ See Art 39(2), Singapore Constitution.

⁶⁸ This has been defined as a system where there is a major party which is capable of governing and several parties which the dominant party cannot ignore in its political calculations. See *supra*, note 47, at 3-4.

foils for the younger PAP generation unexposed to the gladiatorial quality of parliamentary debate.

(ii) *The Nominated Member of Parliament*

*“Unless we do something, there will be only two Opposition MPs for the next four years. After nearly one year’s experience, the feedback is that the two of them ...do not adequately express significant alternative views held outside this Chamber.”*⁶⁹

The introduction of the Nominated Member of Parliament (NMP)⁷⁰ in 1990 was what the PAP government considered a logical progression, preceded by the introduction of the NCMP, *inter alia*, towards the attainment of the scenario they had begun to paint in 1984 of a more consensual form of government which would be receptive to alternative views and which would seek to accommodate constructive dissent. Such a creation was the continued fulfillment of the promise that “the government will systematically create more opportunities for Singaporeans to participate actively in shaping their future.”⁷¹ Once again, the PAP government would assume the initiative in making provisions to safeguard parliamentary democracy.

These NMPS, distinguished from opposition MPs, could fill the gap of the alternative unarticulated view. Familiarity with extra-parliamentary views was to be secured by selecting candidates with the requisite background and special expertise.⁷² They would be people who “for good reasons, have no desire to go into politics or to look after a constituency.”⁷³ Women, who are under-represented in Parliament, were cited as an example of such a group. In Tanzania, for example, Parliament serves as an electoral college by electing the required number of women MPs to represent the women

⁶⁹ Goh Chok Tong, *Singapore Parliamentary Debates, Official Record*, 29 November 1991, col 695 on discussing the reasons for the introduction of the Constitution of the Republic of Singapore (Amendment No 2) Bill.

⁷⁰ The Constitution of the Republic of Singapore (Amendment No 2) Act (No 11 of 1990) amended Art 39 of the Singapore Constitution to provide for the inclusion of up to six Nominated Members in Singapore’s Parliament as may be appointed by the President in accordance with the Fourth Schedule provisions.

⁷¹ Presidential Opening Speech, “On Building Consensus” *Singapore Parliamentary Debates, Official Record*, 9 January 1989, col 15.

⁷² The NMPs are to be appointed by a special Select Committee in accordance with the provisions set out in the Fourth Schedule of the Singapore Constitution. S 3(2) provides that the nominees “shall be people who have rendered distinguished public service, or who have brought honor to the Republic, or who have distinguished themselves in the field of arts and letters, culture, the sciences, business, industry, the professions, social or community service or the labour movement.”

⁷³ *Supra*, note 69.

of the United Republic of Tanzania.⁷⁴ Furthermore, being politically non-partisan, they could be constructive without having to embarrass the government in a gratuitous fashion. Those responsible⁷⁵ for nominating prospective candidates were to bear in mind the need to “reflect as wide a range of independent and non-partisan views as possible.”⁷⁶ This approach is consonant with a desire for consensual politics whereby the PAP is keen to be seen co-opting ideas originating both within and without Parliament.

Singapore is by no means the first country to have nominated⁷⁷ parliamentary representatives. Various Commonwealth countries have similar nominated members of parliament. It must be borne in mind that as regards the representational activities of the legislature, a defining characteristic of the legislature is that it is composed of elected officials who act on behalf of their electors. Part of Mezey’s definition of a legislature is that it be composed of a “predominantly elected body of people that act collegially”. Thus, the presence of some appointed officials does not *per se* go against the legislative status of the body though it is hard to see how an NMP,⁷⁸ or for that matter an NCMP, share the same status as elected MPs which is what ‘acting collegially’ would seem to entail.

The country of Botswana⁷⁹ was singled out for comparison during the parliamentary debates on the second reading of the Bill. A Commonwealth country, it attained independence in 1966 where the independence constitution established a republican government with executive power vested in a President elected by the legislature – a unicameral body elected by universal adult suffrage. It has a multi-party parliamentary system and in 1973, the composition of the National Assembly was changed by a constitutional amendment:⁸⁰ it was to be composed of the President, Attorney-General, Speaker, 32 Elected Members⁸¹ and four additional “Specially Elected

⁷⁴ Art 66(1)(c) provides for 15 women parliamentarians to be selected by Parliament from among the women recommended by the Federation of Tanzania women, at least five of whom will come from the mainland Tanzania and five from Tanzania Zanzibar.

⁷⁵ In accordance with the Fourth Schedule, the President shall appoint as NMP the persons nominated by a Special Select Committee of Parliament.

⁷⁶ S 3(2) Fourth Schedule.

⁷⁷ Art 66(1)(f) of the United Republic of Tanzania Constitution provides for the nomination by the President (who is both the head of government and of state) of 15 parliamentarians, with a minimum of five coming from mainland Tanzania and Tanzania Zanzibar respectively.

⁷⁸ The NMP is subject to the same limitations that an NCMP is: Art 39(2) Singapore Constitution as amended by Constitution (Amendment) Act 1990 (No 11 of 1990).

⁷⁹ See generally *Constitutions of the Countries of the World* (1989): Botswana, *supra*, note 60.

⁸⁰ Constitution (Amendment) Act (No 24 of 1973).

⁸¹ The Constitution (Amendment) Act (No 1 of 1983) increased the number of seats from 32 to 34, preparatory to the 1984 general elections.

MPs,"⁸² chosen by Parliament after the holding of general elections. However, unlike the Singapore version, these Specially Elected MPs can hold office and vote in Parliament. The tenure of office of a Specially Elected Member is subject to the same provisions as that of an Elected Member.⁸³

The six NMPs would be in a position akin to the members of an upper house or senate in a bicameral system whereby their special expertise and insights are tapped. An analogy may also be drawn with the members of the presidential cabinet in the US system, who are neither members of the Senate or House of Congress. While the articulation of a wider range of interests is in itself beneficial and arguably makes for a broader based and therefore more representative Parliament, the role envisaged for the NMP could be played by a second chamber or even a system of proportional representation (guaranteeing minority representation) which has always been frowned upon in the local context because of the tendency towards politicking upon racial and religious lines and a fear of factionalism and a weak government. However, a second chamber or a proportional representation system would circumvent the problems with legitimacy which an NMP would encounter.

The institution of the NMP is even further detached from the traditional close link an MP bears in relation to the constituency which he represents. An NCMP at the very least does stand for election and wins a certain percentage of the votes while the NMP is just a Singaporean who has attained prominence in the specified fields, albeit with special talents. Greater force will always be given to the view of a legitimately elected MP. The need for such an institution also reflects the fact that the plural element is largely absent from the unitary Singaporean political framework, as evinced by the lack of organized interests groups which the government could consult at the policy formation stage. Nevertheless, as has been pointed out,⁸⁴ the government has established various avenues from whence feedback can be obtained, *eg*, Feedback Unit, Government Parliamentary Committees and it would be wise to avail itself of the wealth of opinion there available instead of confining its resources to six appointees. In addition, further pools of talent may be tapped from the professional bodies, NTUC, Institute of Policy Studies, to name only a few bodies. There is a strong argument to the effect that one should not enjoy the privilege of representing views without bearing the responsibility of serving those whom one represents. There is a danger of isolation from the grass-roots as an NMP represents no one but himself essentially. An NMP has therefore no standing

⁸² Constitution of Botswana, Ch V, Art 58(2)(b).

⁸³ *Supra*, note 79, Ch V, Art 68.

⁸⁴ See Tan Cheng Bock's (Ayer Rajah Constituency) speech, Second Reading of the NMP Bill, *Singapore Parliamentary Debates, Official Record*, 29 November 1989, col 695.

whatsoever to speak in Parliament. In this respect, while NCMPs may be considered second class MPs, NMPs must surely fall into a lower category? Seen in this light, it appears that the NMP scheme is not essential to achieving good government within the context of a modern system of parliamentary democracy.

Thus, the institution of the NMP as a sort of proxy for an opposition may be viewed as being subversive of the democratic process, further diluting the increasingly modified one man one vote system. It will also attract a cloak of overhanging suspicion that the PAP may use the scheme to put in its supporters through the back door since selection of appointees is by a panel of MPs lead by the Speaker, regardless of the personal integrity of the MPs concerned. Hence, the introduction of such a scheme constituted a regression⁸⁵ in the form of a return to the colonial days where the Rendel Commission provided that as a transitional measure, there should be four Nominated Members in addition to the elected members of the legislative assembly who could represent and defend the view of any significant minority group.

2. Attempts at strengthening the legislature via structural streamlining

(i) Parliamentary committees restructuring

Structural improvements were made to Parliament in an attempt to refine the institutional and procedural designs with the object of promoting accountability and democracy. A particular feature which weakened the legislature was that the MPs seemed to be disparately floating around without aligning themselves to any particular interest or faction. The low quality of debate was attributable in part to this.

Committees are essentially organized groups of legislators. The structuring of MPs as such is beneficial in that it aids the development of and participation in legislative activities by helping legislators in the tackling of technical problems, with the net result of MPs being better informed of the issues of the day; presumably a well-informed MP can partake more meaningfully in and inject life into otherwise staid parliamentary debates, thereby serving as a 'constraint' on the executive. Hence, legislators can become more involved at this stage of decision-making. Even where committees are not directly influential, they play an important role in the socialization of members in contemporary legislatures.

⁸⁵ Indeed, this was the view espoused by various PAP MPs including Chandra Das and Tan Cheng Bock. *Ibid*, note 84.

In order to promote the role of the legislature and as a natural result of a desire for a more consensual form of government, it was observed⁸⁶ that an increasing number of bills were referred to the Select Committees⁸⁷ in recent months than in the last 15 years. Select committee activity has extended the role of Parliament beyond the mechanical task of considering legislation to having the potential to exercise a tangible influence on government policies. They are viewed as the mechanism through which a strengthened Parliament, as distinct from the government, can exercise a role in the absence of any real legislative power, eliciting more rigorous policy formation. They go some way in filling the gap left by traditional means of parliamentary accountability.

As far as possible, Standing Orders provide that the composition of a committee is to reflect the balance between the Government benches and the Opposition benches in Parliament. It must be borne in mind that the numbers in the Opposition are far overshadowed by the legions of the ruling party.

Theoretically, the multi-party Select Committee setting conduces towards the performance of sustained and rational inquisition⁸⁸ in contradistinction to a adversarial atmosphere usually associated with a legislative body (which may be absent locally). Nevertheless, Select Committees represent an attempt to reassert parliamentary control over the government via a less partisan approach to politics. This is of especial importance considering the fictional notion of ministerial accountability. The minutes of evidence generated by Select Committee activities are goldmines of information to those seeking knowledge. By the invitation⁸⁹ of written representations concerning a referred Bill from interested groups or individuals, a forum is provided in which members of the public are afforded an opportunity to lay out their case in public in some detail, thereby enhancing public participation in the political process.

On a less idealistic level, Select Committees serve a function on the sidelines by the act of dispensing advice and information in relatively impartial fashion and may have some effect in indirectly influencing the government of the day through their inoffensive and non-threatening approach.

⁸⁶ By Prof S Jayakumar, Minister for Law, *The Straits Times*, 23 August 1991.

⁸⁷ Provisions for the Select Committees of Selection, Public Accounts, Estimates, Standing Orders, House, Public Petitions, Privileges and others to be appointed can be found in Standing Orders 95 and 96.

⁸⁸ The Select Committee has power to send for persons, papers and records, to call witnesses and make a report to Parliament on matters referred to it. See Standing Orders 98 and 100.

⁸⁹ The Clerk of Parliament shall "as soon as is practicable ... advertise in such newspapers as the Speaker may direct, inviting written representations on the Bill to be sent to him not less than a period of 15 days from the date of the advertisement." Standing Order 75.

The introduction of the Government Parliamentary Committee (GPC) in 1987 by the PAP, it being the brain-child of Goh Chok long as the then Deputy Prime Minister, was to further encourage MP participation in legislative activities, thereby strengthening the legislature. This additional committee structure complements the existing Select Committee structure and also serves as one of the channels instituted by the PAP to serve as a self-imposed check on the government by acting the role of a constructive opposition, serving as an outlet for the more vocal PAP MPs. Each GPC is composed of PAP MPs backed by a resource panel, which was one way of letting the public have a say on issues discussed, thereby strengthening the democratic process. Their function is to focus on specific areas⁹⁰ affecting the future of Singapore, which tends to correspond to the major departments of the government and to examine the intended bills in that area. Such a structure thus possesses the virtue of offering scope for specialization among MPs; they also act as a source point whence technical information in a particular field can be obtained by the uninitiated as well as offering fresh ideas and constructive criticism.

GPCs have been in the forefront of parliamentary debates and are perceived as quite efficacious; they were able to initiate major policy changes, eg, to the vehicle quota system and the setting up of a Public Transport Council to review fare increases.⁹¹ They also seem to have made some headway in encouraging open discussion of issues which were once confined to discussion behind closed doors.⁹² In their pristine form, not only have GPCs managed to revive debates in Parliament and the perceived utility of the legislature as an institution, they also do provide a broader base of participation which complements representative democracy in a manner which goes beyond the superficial.

(ii) *The electoral system: entrenching multi-racialism*

*There is a "voting trend which showed young voters preferring candidates who were best suited to their own needs without being sufficiently aware of the need to return a racially balanced party slate of candidates."*⁹³

⁹⁰ At present, there are nine areas of focus: Communications and Information; Community development; Defence and Foreign Affairs; Education; Finance; Trade and Industry; Health and Environment; Home Affairs; Labour and National Development and Housing.

⁹¹ See *The Straits Times*, 1 September 1991.

⁹² This was observed by Dr Arthur Beng, an outspoken PAP backbencher and chairman of the GPC for Communications and Information. *The Straits Times*, 2 September 1991.

⁹³ Speech by the then Deputy Prime Minister Goh in moving the second reading of the Parliamentary Elections (Amendment) Bill, *Singapore Parliamentary Debates, Official Record*, 11 January 1988, col 178.

The need to be constantly vigilant and to defuse any potential racial time bomb has always been a major consideration in Singapore politics, as a concession to the heterogeneous composition of the population. With the failure of the PCMR as a watchdog over minority rights, there was concern that racial minorities were not being equitably represented in Parliament. This was an underlying rationale for the introduction of the Group Representation Constituency (GRCs) scheme in 1988⁹⁴ which aimed to entrench the multi-racial element⁹⁵ in local politics. This modified the Singaporean electoral system which is now no longer exclusively based on the one man one vote system: there is now a mixture of single and multi-member electoral constituencies.

The Legislature was empowered by amended Article 39 to provide for any constituency to be declared by the President to be a Group Representation Constituency. Thus, three former single member constituencies are merged into one mega-constituency. Voters in such constituencies cast one vote for a team comprising three candidates from the same political party;⁹⁶ one of the team members must be a person belonging to either the Malay, Indian or other minority community.⁹⁷ Therefore a non-Chinese Singaporean contesting in a GRC must appear before committees established under the Parliamentary Elections (Amendment) Act to certify that he is indeed from a minority race.

Despite the personal popularity or otherwise of an individual member of the team, the team is collectively voted in if it garners the highest votes. This might further illustrate the notion that a vote is cast in favour of a political party rather than on the basis of personal (or team) electioneering. Equally, the outstanding popularity of a single member may suffice to pull into Parliament the other members of the team.

Prior to the 1991 General Elections, another Parliamentary Elections (Amendment) Act put into effect the recommendations of the Electoral Boundaries Review Committee Report, August 1991.⁹⁸ The law was changed to increase the number of MPs returned in a GRC from three to four; the rationale was that if a GRC was allowed to have four instead of three members,

⁹⁴ Constitution of the ROS (Amendment) Act (No 9 of 1988) and the Parliamentary Elections (Amendment) Act (No 10 of 1988).

⁹⁵ Art 39A(1) provides that the declaring of any constituency a GRC is in order to "ensure the representation in Parliament of Members from the Malay, Indian or other minority communities."

⁹⁶ The GRC candidates can also be independent candidates standing as a group. See Art 39 A(1)(c).

⁹⁷ See Art 39 A2(a).

⁹⁸ These were presented by the Review Committee, which comprised an *ad hoc* group of civil servants, to Parliament in the form of a White paper on 8 August 1991 and were accepted by the government, unsurprisingly.

besides enjoying economies of scale as far as the town council⁹⁹ which collectively managed the three constituencies was concerned, it would not have to be broken up when its population expanded rapidly.¹⁰⁰ Having a four-member GRC would also supposedly check a fellow team MP who might otherwise exploit his position to exploit chauvinistic interests,¹⁰¹ thereby allaying the feared spectre of communalism.

Not more than three-quarters of the total number of the 81 parliamentary seats should be occupied by GRC MPs. At present, the number of GRCs have been increased from 13 in 1988 to 15 in 1991, while there are 21 single member wards. Thus, the total number of GRC members is 60, which is the maximum allowed by the law. To ensure balanced racial representation, it was provided that nine GRCs were to have Malay members in their teams while six GRCs would have to include Indians or others on their candidates slate.¹⁰²

It is a patently unjust system which allows a political party successfully contesting all the GRC wards to win 75 per cent of the seats in Parliament by capturing only about 42% of the national vote, no matter how cogent arguments for efficiency may be – there can always be informal managerial arrangements between adjoining single ward constituencies as indeed are permissible under the Town Councils Act¹⁰³ with no loss of economies of scale or cost cuts. In this light, the rationale for the increase in the size of a GRC team from three to four is rather suspect. Further, with the gradual development of an opposition in Singapore, the cynics will point out that there will always be present the temptation to gerrymander GRC boundaries to ‘foreclose’ on an opposition held ward. This problem is exacerbated in the light of the fact that it is already hard enough for the generally disorganized opposition to offer a candidate of any calibre,¹⁰⁴ let alone four

⁹⁹ The Town Council idea, introduced in by the Town Council Act 1988 (No 12 of 1988) was related to the GRC concept and envisaged the clustering of three constituencies to be collectively administered by one town council.

¹⁰⁰ See Goh Chok Tong, parliamentary debates, *The Straits Times*, 10 August 1991.

¹⁰¹ This comment by the Prime Minister was directed towards the Malay member of the Worker’s Party GRC team in Eunos who was accused of stirring communalist sentiments during the follow up to the 1991 General Elections.

¹⁰² The GRCs with Malay candidates are: Aljunied, Ang Mo Kio, Brickworks, Eunos, Hong Kan, Jalan Besar, Marine Parade, Tampines and Thomson. The GRCs with Indians and others are: Bedok, Cheng San, Kampong Glam, Sembawang, Tanjong Pagar and Toa Payoh. See *The Straits Times*, 15 August 1991.

¹⁰³ S 3(1) provides that Town Councils can be established in single constituencies or when two or three constituencies group themselves together for this purpose.

¹⁰⁴ Of the 15 GRCs in the 1991 Elections, only five were contested and all won by the PAP, though the fight in Eunos GRC was by no means a foregone conclusion. The four opposition seats were won in single member wards which is indicative that it is harder for the opposition to muster resources to contest in a GRC.

with one belonging to the requisite race!¹⁰⁵ In essentially Malay-based outfits like the Singapore Malay National Organization (PKMS), it is near impossible to attract multi-racial candidates to compete in any four-member GRC. Therefore the racial precondition makes it even harder for Opposition parties to find suitable and qualified candidates, which will slow down the healthy evolution of a bipartisan system.

While the GRC may be effective in pre-empting racial and religious politicking, it should only serve as a short-term measure, as education and increased public participation in politics contribute towards the forging of a national identity which transcends race. As has been observed, there exists the danger that one member of the GRC team might be a political dead weight who waltzes into parliament, possibly as a first-timer with no grass-roots link or little political experience, on the strength of the votes attracted by his seasoned team members.¹⁰⁶ The situation could become explosive were the dead weight the minority candidate.

Perhaps most disturbing is the unprecedented flurry of political re-shuffling that followed the acceptance and implementation of the Electoral Boundaries Review Committee recommendations. This was necessitated by the requirement of at least one minority member on each GRC team. Some of the GRC MPs had to shift to other constituencies to contest the 1991 General Elections. It is the practice of countries such as Singapore to divide the island into convenient electoral districts primarily for the purpose of enabling each member to keep in touch with his constituency. By uprooting MPs from constituencies where they may have developed strong grass-roots links, there is a danger of remoteness of tie with the new party representative, with the displaced MP having to do the legwork all over again to cultivate the new ground. There is an appearance of random allocation on the part of the PAP as regards where it chose to field its candidates in the 1991 elections, on the basis of strategic heavyweight vote-pullers.¹⁰⁷ This decries the notion of an MP being in close contact with

¹⁰⁵ During the 1991 contest for Eunos GRC, the Worker's Party was hard pressed to find a Malay candidate to stand with its team and veteran opposition member Jufrie Mahmood had to be persuaded to switch from the Singapore Democratic Party to the Worker's Party in order to stand in Eunos.

¹⁰⁶ In the 1991 General Elections, ten of the 11 new PAP candidates, some of whom were relative newcomers to politics were fielded in GRCs. They all entered Parliament, most via a breezy walk-over in their respective wards save for Andy Gan who is viewed as the sacrificial lamb. The latter stood and lost in Potong Pasir, which is the ward of the incumbent Chiam See Tong, then the only elected opposition MP in Parliament.

¹⁰⁷ *Eg.* in 1988 the PAP polled the lowest share of votes in Eunos GRC with 50.9%. To bolster the 1991 team, the PAP put a strong Malay candidate on its slate : Minister of State Sidek Saniff, a well known and respected Malay leader. Further, votes were canvassed on the basis that were the PAP voted in Eunos, Saniff would then have the clout to push for the promotion of Malay interests.

his constituents and in that sense, representing them. Such contact is apparently established in an *ex post facto* manner after one has been voted in as MP of a particular ward. There is thus a loss of the traditional close link between an MP and his constituents. This may have the effect of rendering the MP more aloof and removed from his constituents, which can be countered by mechanisms such as weekly Meet the People Sessions.

C. *Pluralism and a Two-Party State?: Into the Nineties*

*“The real test of the political system will come when the first generation of PAP leaders leave the political arena.”*¹⁰⁸

With the new PAP leadership¹⁰⁹ came an increasingly open and apparently more consensual form of government. This constituted a response to a more highly educated, vocal and maturing electorate in an economically prosperous and socially stable nation. There were signs of acknowledging the desire for more avenues of political participation,¹¹⁰ effective forms of constraints on the government and for the expression and hearing of alternative views.¹¹¹

1. *The Elected President: Countervailing Power?*

In response to the desire that there be some form of constraint to counterbalance the over-concentration of power in the Prime Minister and his cabinet without unduly weakening it, the constitutionally innovative Elected President¹¹² scheme was introduced in 1991.¹¹³ Prior to this, Article 17(1) of the Constitution of Singapore provided that the President, who was no more than the symbolic head of the nation, was to be elected by Parliament.

¹⁰⁸ This comment was penned in 1974 in the concluding chapter, at 233 in Chan Heng Chee, *Dynamics of One Party Dominance*, *supra*, note 49.

¹⁰⁹ The former Prime Minister Lee Kuan Yew retired in November 1990, and is presently holding the post of Senior Minister in the Prime Minister's office.

¹¹⁰ “The Government will systematically create more opportunities for Singaporeans to participate actively in shaping their own future.” President's Opening Speech for the Seventh Parliament, *Singapore Parliamentary Debates, Official Record*, 9 January 1989, col 15.

¹¹¹ “Singaporeans have shown that while they value good government, they also increasingly want alternative views to be expressed and dissenting voices to be heard.” President's Speech, *ibid*, note 107.

¹¹² The treatment of this important subject is cursory in manner as it warrants detailed examination beyond the scope of this present article. A legislative comment of the minutiae of the workings of this institution is found in Kevin Tan, “The Elected Presidency in Singapore: Constitution of the Republic of Singapore (Amendment Act) (1991)” [1991] SJSLS 179-194.

¹¹³ Constitution of the Republic of Singapore (Amendment) Act (No 5 of 1991).

Aside from a few residual discretionary and prerogative powers, *eg*, that of mercy, dissolution of Parliament and the appointment of the Prime Minister, the general rule was that the President was to act in accordance with the advice of the Cabinet.¹¹⁴

The idea was that the Elected President was to be chosen by means of direct and separate elections, though the process is not entirely democratic in the sense that the criteria for potential candidates are prohibitively stringent.¹¹⁵ The rationale underlying this unique, untried and potentially problematic creation which was rather unwisely entrenched¹¹⁶ was basically to safeguard the possible squandering of national reserves from future irresponsible governments and to pre-empt the irresponsible appointment of important civil servants. This was to be effected by conferring upon the Elected President ‘negative’, albeit substantial, powers¹¹⁷ to withhold consent on the appointment of key public service positions and assent to a Supply Bill under Article 148A of the Constitution. To the extent that a viable parliamentary opposition plays a watchdog role in respect of keeping an eye on how finances are managed and prevents abuses by corrupt government officials, there may be an overlap in functions with the Elected President.

While the underlying idea to provide a ‘check’ on the government cannot be faulted, whether this is the best means of contributing towards the redressal of the imbalance of power is seriously open to doubt¹¹⁸. Suffice it to say at this stage that the introduction of the Elected President with its limited executive powers does not go quite as far as the radical adoption of a presidential executive in Sri Lanka’s constitutional structure which also has its origins in the Westminster model of parliamentary government.

¹¹⁴ See Art 21(1) of the Constitution of the Republic of Singapore.

¹¹⁵ See the amended versions of Arts 17, 18 and 19 of the Constitution, especially Art 19 (2)(g).

¹¹⁶ The amended Art 5(2)A provides that changes brought about by the Elected President Act could not be altered except by a national referendum supported by at least two-thirds of the total number of votes cast by the electors registered under the Parliamentary Elections Act.

¹¹⁷ This may be contrasted with the US Presidential system where separation of powers is strict and where the President has full executive power.

¹¹⁸ An interesting comparison may be made with the Gaullist experiment: the French Fifth Republic’s unique mix of the Presidential and the Parliamentary system. The President as Head of State is seen to be an arbiter, insulated from partisan strife, but more involved than his predecessors in the policies and activities of government and popularly elected. Government is headed by a Prime Minister appointed by the President and members of his Cabinet cannot be members of parliament though they are collectively responsible to the latter. A President standing outside of government and vested with full executive power is seen as being the provider of stability in executive government which tends to be lacking in parliamentary systems. See Rodee, Anderson, Christol, Greene, *Introduction to Political Science* (4th ed, 1987).

The Sri Lankan President is elected by the People and is vested with full executive power¹¹⁹ although there is provision for a Cabinet of Ministers to be drawn from Parliament and through whom the President carries on the executive functions of government.¹²⁰

It is clear in any event that even though the parliamentary system is otherwise kept intact despite the addition of the superadded elected presidency element, the Singapore constitutional system is becoming increasingly hybrid in nature, with a unique admixture of a basic parliamentary structure with elements of the presidential systems of government. This reflects an application of the separation of powers doctrine whereby the Elected President as an institution and part of the executive branch of government serves as a 'countervailing' power *vis-à-vis* another part of the executive, the Cabinet.

This would contribute to ensuring the accountability and responsiveness of the government which is all the more necessary in systems where there tend to be a fusion rather than a separation between the legislature and the executive. However, this cannot but add to the impression that there is in Singapore a surplusage of institutions designed to act as checks and balances *vis-à-vis* the government, of dubious efficacy and legitimacy.

2. The August 1991 General Elections: advent of a bipartisan system?

*"Tempora Mutantur, et nos mutamur in illis."*¹²¹

Only in a country like Singapore can winning what would be considered a landslide vote margin anywhere else in the world be construed a setback. The present Prime Minister had hoped to garner at least 62%¹²² of the vote; this would, he felt, be a mandate to pursue his consultative, inclusive style of government. By institutionalizing the practice of "listening to the ground",¹²³ the people would act as the check on the government, thereby rendering the need for a parliamentary opposition nugatory. Besides, as he had pointed out, an open political culture was evolving, as evidenced,

¹¹⁹ Art 4 of the Constitution of Sri Lanka which reads: "The sovereignty of the People shall be exercised and enjoyed in the following manner: (b) the executive power of the People, including the defence of Sri Lanka, shall be exercised by the President of the Republic elected by the people."

¹²⁰ See generally Zafrullah, *Sri Lanka's Hybrid Presidential and Parliamentary System and The Separation of Powers Doctrine* (1981).

¹²¹ *Times change, and we change with them*. Quoted in Harrison, *Description of Britain 1577*, *supra*, note 43, at 19.

¹²² What the PAP achieved in the 1988 General Elections.

¹²³ See *The Straits Times*, 30 August 1991 on the PM's style of government.

inter alia, by at least up to four NCMPs being appointed¹²⁴ as a certainty. The latter would then serve as the token 'alternative voice', entering Parliament 'second past the post'. After the elections, the NCMP disappeared from the political scene while the PAP activated the NMP scheme, presumably as a means to co-opt talent and alternative views.

Instead, the Prime Minister received votes which fell 2.3 % below what was anticipated, with a grand total *off four* opposition MPs winning seats in Parliament. The presence of the latter denuded the rationale underlying the window-dressing that is the NCMP, revealing the naked deficiency of this creature in the light of elected Opposition MPs, wrapped in the cloak of legitimacy a vote confers. Ironically, this was a logical development of Goh's desire for a more open society with the maturing electorate urging the transition from feudal, autocratic rule to something more akin to the Western style of democracy; the relationship between government and people is perhaps gravitating from that of parent and child, to that of a relationship between equals.

Hence, it appears that the Prime Minister's declared objective of greater popular participation in the political process was formally characterized as participation but substantially amounted to no more than an enhanced form of consultation. This type and degree of leeway did not sit well with the demand for more pluralism, that is, a system which recognized more than the chosen one ultimate goal of economic success.

Disappointment was clear, manifested in the form of pronouncements that politics in Singapore could not continue as before and that the consultative style of government had to be re-thought as it had apparently been the cause of the loss of three more parliamentary seats. Furthermore, statements were made to the effect that Singapore now had a conventional two-party system with a genuine, official opposition for dissenting voices to work through.

The adoption of the PAP's 'One Voice' policy whereby MPs will be expected to defend government policies against charges from the opposition has put an end to the pseudo-opposition role it imposed on itself and has had implications for the role of the GPCs. This is the one institution which by encouraging MP participation in the decision-making process had the most potential to show up the limitations of a parliamentary opposition by duplicating, in a sense, and performing their role, perhaps even more effectively.

Immediately after the elections, in a fit of pique, it was announced that against the backdrop of a two-party system, the GPCs would be scrapped.¹²⁵ Any criticism levied against government policy would be confined to the

¹²⁴ It was announced just before the 1991 General Elections that four NCMPs will be appointed to the next Parliament if no Opposition candidate won a seat in the elections. See *The Straits Times*, 15 August 1991.

¹²⁵ *The Straits Times*, 2 September 1991.

old system of having internal party committees conducted behind closed doors. Upon mature deliberation, however, the PAP decided to retain it, but have it operate in a modified fashion consonant with the 'closing of ranks' policy. It will henceforth continue to function in Parliament but not in an adversarial manner that would pit PAP MPs against their own government.¹²⁶

It is also significant that the Leader of the House has named¹²⁷ Chiam See long¹²⁸ the unofficial Leader of the Opposition,¹²⁹ which means that administratively, when the ruling party wants to conduct transactions with the opposition, it will go through Mr Chiam.¹³⁰ The title is usually bestowed on leaders of opposition parties which had enough MPs in Parliament to be able to form an alternative government or set up a Cabinet, which is clearly not the position Mr Chiam is in. Nevertheless, this belies the recognition and acceptance of the trend in Singapore politics being towards a development of an opposition, which is integral in countries which adhere to the parliamentary system. Furthermore, the PAP has pulled out its Meet the People Sessions from the four opposition wards.¹³¹ Thus, PAP policy seems to be directed towards constraining, as far as possible, this growth.

It cannot be over-emphasized that the element of bipartisanship is very much embryonic in nature and that Singapore is still far removed from seeing the formation of a viable opposition capable of forming an alternative government. At the minimum, the ruling party's insistent argument that

¹²⁶ Mr Goh clarified the modified role of the GPCs at a post-election press conference: "They will have to criticize the Government and the opposition's point of view, if they disagree with the Opposition. In the past we did not do so and just allowed the GPCs to play the role of Opposition, aiming at the Government alone. In the future, the GPCs will perhaps play two roles."

¹²⁷ "As its unofficial leader, this House should give Mr Chiam due courtesy and precedence among the opposition MPs." *The Straits Times*, 6 January 1991.

¹²⁸ The Singapore Democratic Party leader who has been the incumbent in Potong Pasir since 1984.

¹²⁹ Unlike Singapore, the constitutions of other Commonwealth countries which have also adopted the Westminster model framework confer special parliamentary status and specific constitutional functions to the leaders of the parties in opposition to the government in office. *Eg*, in Jamaica, the Leader of the Opposition has several important functions to play, including appointing three members of the House of Representatives which makes recommendations for the delimitation of constituency boundaries. See de Smith *The New Commonwealth and its Constitutions* (1964), at 102-105.

¹³⁰ There is no provision in Singapore's Constitution for the office of Leader of the Opposition, which constitutes a recognition of the legitimacy of organized dissent. This may be contrasted with the position in England where the importance of Her Majesty's loyal Opposition is recognized by paying the leader of the opposition a salary out of the consolidated government funds. Ministers of the Crown Act ss 5, 7 and 10(1), (3).

¹³¹ *The Straits Times*, 24 October 1991.

an opposition was unnecessary and indeed undesirable as being a motley crew who would jeopardize investor confidence¹³² and as tending towards extreme communalism and the attendant danger of racial strife has been publicly dealt its quietus.

V. THE ROLE OF THE MP IN SINGAPORE TODAY

It is clear that any legislative role in law-making is susceptible to executive curtailment. Hence, other meaningful means of legislative involvement in government must be examined. The classical model of legislative activity must be replaced with one which takes into account the role of individual legislators, particularly in the Singapore context.¹³³ At the micro-level, the role expectations¹³⁴ of individual members of parliament which collectively constitute the legislature are informative in shedding light upon the varying roles of the modern MP today in Singapore's multi-racial society. This should have undergone a modification with the return to competitive politics in Singapore after it had all but appeared to have been eliminated from the local scene. In the larger context, this will contribute towards the enunciation of a revised theory of legislative involvement in government.¹³⁵

A. *The Legislative Role*

Parliament, as reflected in its Standing Orders,¹³⁶ expects its members to participate in the process of law-making; in reality, such participation is cursory and superficial, owing to legislative initiative residing in the Cabinet, the virtual non-existence of utilizing private members bills,¹³⁷ compliance to a strict Party Whip, a lack of information concerning policies

¹³² Note the scathing comments from S Rajaratnam, the Foreign Minister in 1971 as noted for posterity in Chan Heng Chee, *supra*, note 49, at 228: "An opposition party consisting of bums, opportunists and morons can endanger democracy and bring about chaos, disorder and violence."

¹³³ Note Chan Heng Chee's fourfold classification of the types of MPs in Parliament: the Technocrat, Chinese Intellectual, Malay Vote Getter and Mobilizer: see "The Role of Parliamentary Politicians in Singapore" (1976) 1 *Legislative Studies Quarterly*, 423.

¹³⁴ 'Role expectations' have been defined to mean the pattern of expectations and norms of behavior that are associated with a position in the social structure. Chan Heng Chee, *supra*, note 133.

¹³⁵ Mezey has stated that the legislature's decisional influence should be thought of in terms of a continuum, rather than in absolutes. See *A Handbook of Legislative Research* (1985), Ch 16, Loewenberg, Patterson and Jewell.

¹³⁶ Before a Bill goes for a Second Reading and debate, Standing Order 67 provides that the Bill must be printed and circulated to Members and has to appear in the government gazette not less than seven clear days before the day appointed for the second reading of the Bill.

¹³⁷ Standing Order 83.

as well as the procedural and time constraints linked with debate¹³⁸ and question-time.¹³⁹ Parliament is, after all, essentially a cumbersome talking machine.

Conscious attempts have been made by the government to involve the MP in policy-making in a meaningful fashion through committee structuring, involvement in the Feedback Unit¹⁴⁰ which is headed by an MP who has a greater degree of access to ministers and bureaucrats than a non MP would possess. Involvement in Government Parliament Committees have raised the significance of the individual MP's contribution in this area beyond the limits of question time and debates which are constricted by time and other procedural restraints. Prior to the August elections, there was talk¹⁴¹ of the possible easing of the Party Whip who had been more accommodative of dissenting voices within the party ranks. However, this is now a course the PAP is unlikely to pursue given its 'closing of ranks' policy. The voice of PAP backbenchers is likely to be muted¹⁴² and the tasks of parliamentary censure and scrutiny will primarily be left to the four opposition MPs. If the role of the opposition in the past was to break one-party rule, it will now have to act as an independant feedback unit of sorts, to check against government excesses and to act as a channel for organized dissent and the articulation of the views of Singaporeans who oppose government policy.

B. *The MP as Town Councillor*

A Singapore MP now needs to possess managerial skills for the efficient running of his constituency's town council.¹⁴³ This scheme was introduced

¹³⁸ Eg, Standing Order 44(8) provides that no Member shall be entitled to speak to any question in Parliament for more than 30 minutes or to address a Committee of the whole Parliament for more than 15 minutes at any one time, subject to exceptions.

¹³⁹ Standing Orders 18-21 regulate questions addressed to Ministers and other Members. Order 19(2) requires that notice of every question shall be given by a Member in writing not less than seven clear days before the sitting day on which the answer is required.

¹⁴⁰ The Feedback Unit besides being headed by a PAP MP has a data base of about 500 members which it invites regularly for two-way dialogues with ministers and government officials who are present to present their point of view and hear feedback first hand. It takes care to prepare reading material for its members to ensure that they are informed. In 1991, the Unit held four sessions in various constituencies with community leaders with no specific topics for discussion, to get a feel of the issues on the ground. See *The Straits Times*, 14 March 1992.

¹⁴¹ Dr Arthur Beng, speculating at a PAP dialogue at Bedok, reported in *The Straits Times*, 23 August 1991.

¹⁴² The Prime Minister has commented that there is no need for backbenchers to act as opposition now as there was "proper opposition".

¹⁴³ The functions of the Town Council are stated in the preamble of the Town Councils Act: these are "to control, manage, maintain and improve the common property of housing estates

in 1988 and was consonant with the trend towards decentralization by giving the people a bigger hand in the running of their housing estates and in the decision of local matters. The first three town councils¹⁴⁴ were set up in September 1986 under the leadership of three MPs and there are at present 27 of them. The elected MPs are to chair¹⁴⁵ the town council and will then be in a position to decide what should be done for the electorate in their new town. There will be between six to 30 councillors in each town council. Hence, members of parliament are engaged in activities which go beyond the sphere of what was traditionally regarded to be the province of the average parliamentarian.

Since the running of the town councils was originally closely linked with the GRC scheme, with three constituencies being grouped together and collectively administered by one town council, problems would arise where an opposition candidate was contesting in a ward which share a common town council management with another run by PAP MPs,¹⁴⁶ especially if the town councils were not to rise above politics. There is already a degree of confusion among residents in estates falling within GRCs as they are served by town councils which are formed by grouping constituencies rather than being more logically based on the physical boundaries of the estate. Voters were warned before the 1991 elections that were the opposition candidates voted in, there might be a disruption in service and discontinuation of economies of scale and lower costs, if not the risk of mismanaged estates.

Thus, proper management of town councils was made an implicit issue in the 1991 Elections and the PAP campaigned on the basis of possessing the expertise and experience to run a town council since they had been involved in the town council project since its inception in the mid-1980s. At present, the PAP engages consultants to do the job. No political capital was made on this issue which backfired; the successful running of the Potong Pasir Town Council by Mr Chiam is a test case establishing that the opposition can be credible, responsible and efficient.

C. *Representational Activity*

At the macro-level, the individual MP will be concerned to debate the details, if not the principle of policy. At the micro-level, the concern is focused

of the Housing and Development Board” as well as to “keep them in a state of good and serviceable repair and in a proper and clean condition.”

¹⁴⁴ The pilot town councils were in Ang Mo Kio West, East and South .

¹⁴⁵ Town Council Act (No 12 of 1988), ss 8 and 9.

¹⁴⁶ Indeed, before the 1991 elections, Mr Goh told the constituents of Braddell Heights, they could not be sure of continuing to have their estate managed by the Bishan Serangoon Town councils, which was PAP-run. See *The Straits Times*, 25 August 1991.

on the practical implications of the policy being implemented, on the lives of their constituents. Close grass-roots links are necessary to the obtaining of accurate feedback, so that the views of an MP's constituents can be accurately represented in Parliament, serving a tension-releasing function and, hence, enhancing the political regime's legitimacy.

A political style favoured by the PAP from the start was the priority of establishing a high degree of accessibility with constituency members; this has been effected by the weekly Meet the People Sessions where the average MP is met with a high volume of particularized demands, on a fairly parochial level.¹⁴⁷ Thus, the MP serves as an institutional channel of interest articulation and demand satisfaction within their constituencies where the PAP grass-roots institutions are also successfully entrenched and virtually all-embracing. The MP is particularly important as there is in a notable lack of alternative structures, like an Ombudsman system, which has any demand handling/complaint channelling potential.

The continued maintenance of close ties is an imperative for the PAP, particularly as there is a perception that they are becoming a group of distant technocrats; the weakening of the link with the people is aggravated by the re-shuffling and apparent random allocation of PAP candidates to different constituencies. The opposition MPs, some of whom hold twice weekly meetings, on the other hand, attribute a large measure of their electoral success to the establishment of strong grass-roots links with their constituency and the ability to communicate with their constituents, *eg*, by speaking dialect.¹⁴⁸ In addition PAP policy is that citizens in general who desire a parliamentary opposition should consider themselves represented by the opposition MPs.¹⁴⁹

The GRC scheme can also cause further alienation as new GRC members may have little or no link with the MPs 'posted' to their constituencies. Such links tend to be assiduously cultivated prospectively. Besides functioning as a complaints and feedback channel, the minority member of the team is also expected to represent and promote the particular interests of the racial group he belongs to.¹⁵⁰

¹⁴⁷ *Eg*, Mr Ho Peng Kee, MP of Sembawang GRC supported an anti-roach campaign and appeared armed with a fogging machine to kill cockroaches after residents complained that the cockroaches had become a nuisance. *The Straits Times*, 3 March 1992.

¹⁴⁸ Low Thia Kiang, the elected member for Hougang made reference to his bilingualism and his ability to speak the Teochew dialect in a predominantly Teochew-speaking community.

¹⁴⁹ *The Straits Times*, 2 September 1991.

¹⁵⁰ The Malay member of Eunos GRC, Minister of State Sidek Saniff is certainly expected to promote Malay interests. The Prime Minister had said, pre-election, that if Sidek were elected, one of his tasks would be to improve the image of Malays and to push for Malay assistance programmes. Additionally, the Prime Minister said that he himself would be able to do more for Malay self-help groups like *Mendaki*, the Association of Muslim Professionals if Saniff were given a strong show of support. *The Straits Times*, 24 September 1991.

PAP MPs are also expected to explain and mobilize support for government policies to their constituents, thereby 'buffering' the political elites and helping to legitimize the political regime in the citizens' perception.

VI. AN AGENDA FOR CHANGE?

One of the major goals of the Singaporean political system must be the establishment and continued perpetuation of the notion of 'good government'. This pits the desire for accountability and fairness against the need for efficiency and competence. What this connotes in developed countries is the existence of the democratic process, multi-party systems and plurality and an emphasis on the preservation of human rights. Priorities differ in developing countries where the compelling need to unite an often disparate people and deliver the political and economic goods assumes paramountcy; in such a setting, human rights and individual preferences are relegated to a secondary position. Singapore is evolving into an interesting half-way house position politically and socially, just as it has always been geographically, linking the East and West. If it is accepted that democratic pluralism is the interpretation of democracy proven to be valid, then Singapore still has a long way to go towards achieving this ideal which arguably is the guarantor of peace and stability.

The electoral system could be reformed to assure fairer representation in general and equitable representation of minorities in particular. This would be in lieu of the GRC scheme which, as discussed, operates in an unfair manner.

In single member wards, the present modified simple plurality system tends to work against the development of a two-party system. It works to the disadvantage of the struggling opposition which suffers a wastage of votes, particularly in three-cornered electoral contests, and hence a loss of support for the opposition. To an extent, it thwarts the popular verdict. Theoretically, an MP could get into Parliament with less than an outright majority percentage of the votes, meaning that only one set of opinions can ever be represented in Parliament. One might wish to consider a more sophisticated system based on proportional representation¹⁵¹ whereby each electoral district elects several representatives, determined by the size of the district, with the distribution of representatives in each district being proportional to the partisan distribution of the popular vote in the district. Considering the small size of Singapore, this should be viewed with caution: although it may provide for fairer and more varied representation in Parliament, it will correspondingly lead to a weaker government which

¹⁵¹ For a description of the various forms of proportional representation, see generally Ch 13 of *Introduction to Political Science, supra*, note 118.

is perhaps undesirable in the Singapore context, as such a system entails the possibility, however remote it may seem at present, of a multiplicity of parties, 'hung' parliaments and the need to form coalition governments.

Nevertheless, on a less ambitious plane, the alternative vote system¹⁵² might be workable in the single member wards and has the merit of ensuring that the member returned has an absolute majority, by considering the alternative preferences of those voting for minority candidates. To ensure minority representation, the allocation of parliamentary seats may be devised so as to assure the minorities that their voice will be heard, *eg*, through appointment or a reserved quota system. There is also much to be learnt from the ingenious West German *Bundestag* system¹⁵³ which is a mix of both the single member district, simple-plurality electoral system and a system of proportional representation: half of the West German legislators prior to the reunification of Germany were elected according to the single member, simple-plurality system (SM) and the other half, by that of proportional representation (PR). Bearing in mind the desire and need for a strong Singapore government, the German system could be modified to suit local context by, for example, electing three-quarters of the MPs under the SM system and the remainder under a system of PR.

There is an increasing recognition of the need for external restrictions on the power of the majority which is conclusively absolute. Hence, perhaps as an interim measure while there lacks a parliamentary opposition 'check', there would be value in a non-parliamentary body which could vet legislation passed in Parliament. This could be met by the possible enlargement and refinement of the role of the Presidential Council¹⁵⁴ as an extra-parliamentary institutional mechanism to vet and if necessary, obstruct legislation in general and discriminatory legislation in particular. This might go some way to redress the inadequacy of existing checks and balances in the system of government.

Furthermore, the viability and utility of the office of Ombudsman¹⁵⁵ as an adjunct to Parliament should not be dismissed too lightly, as a means of redressing the wrongdoings of the civil service via an independent, non-

¹⁵² The voter ranks the candidates in order of preference after which all first preferences are counted. If no one candidate receives more than 50% of the votes, the candidate with the fewest votes is eliminated and his second choices are counted and redistributed.

¹⁵³ See generally Gordon Smith, *Democracy in Western Germany* (2nd ed, 1982).

¹⁵⁴ See the 1966 Report of the Constitutional Commission which recommended the creation of the non-elected advisory Council of State at para 16: "It will be able, especially where there is no responsible or effective Opposition in Parliament, to put forward, where it considers necessary in the public interest to do so, constructive and well-informed criticism or amendments of measures proposed in Parliament."

¹⁵⁵ See the recommendations for having a constitutionally provided Ombudsman office in Ch IV of the Report of the 1966 Constitutional Commission.

partisan body. This is particularly important given that Singapore is an Administrative State with a strong bureaucracy. If there is a fear that the Ombudsman, in the investigation of public complaints, will usurp the role of the MP as a channel for complaints or merely duplicate functions performed by the Feedback Unit, the Services Improvement Unit and the Corrupt Practices Investigation Bureau (CPIB), these can be allayed. Whereas the MP is often concerned with the merits of policy, the Ombudsman would deal with specific instances of maladministration, acting outside the political sphere of influence. So as not to upset the relations between individual members of parliament and their constituents or to disturb the basic position of Parliament as a channel of complaint against the Executive, the British method of having a parliamentary filter could be considered.¹⁵⁶ In any event, it is worth reviewing the recommendations for these two bodies made in the 1966 Constitutional Commission with a view to, where suitable, adapting them to meet the needs of the Singapore of the nineties.

VII. THE WAY AHEAD

*“Democratic government thus demands not only a parliamentary majority but a parliamentary minority The Opposition is at once the alternative to the Government and a focus of discontent of the people. Its function is almost as important as that of the Government. If there be no opposition, there is no democracy.”*¹⁵⁷

The Singapore strain of the Westminster model of parliamentary government has undergone considerable modification in its journeying overseas; it was often transplanted in less than optimal functioning conditions. Most notably in Singapore was the non-existence of an effective opposition in the unicameral legislature, which could form an alternative government and which would work fervently to displace the government by focusing public attention on its every blunder and excess.

As a matter of natural progression after the initial intensity of nation-building, the role of charismatic, autocratic leaders like Lee Kuan Yew who came at the time of Independence, in many Third World countries, is on the wane. Hence, the present PAP policy is to acknowledge that the Singapore political system has formally matured into a conventional,

¹⁵⁶ S 5 of the Parliamentary Commissioner Act 1967 provides that complaints are to be written and addressed to the relevant Member of Parliament who, in his discretion and with the consent of the person aggrieved, may then refer the complaint to the Commissioner with the request that an investigation be conducted. See also Cane, *An Introduction to Administrative Law* (1987), Ch 21.

¹⁵⁷ Jennings, *supra*, note 23, at 15-16.

confrontational bipartisan system based on the Westminster model. This represents a departure from the previous party line that was oriented towards the persuasion that the requirements and safeguarding of parliamentary democracy could be fulfilled by there being just one political party in power. Although the strict separation of powers¹⁵⁸ doctrine upon which our form of government is implicitly structured in the Constitution is not adhered to, it was argued that the idea behind the doctrine, *viz.*, as advocating the polarization of power to pre-empt abuse, was achieved by the formal structure of government being combined with an interwoven system of sufficient 'checks and balances' ensuring a balanced and accountable government. Arguably, most of the reformist surgery designed to strengthen the legislature was largely cosmetic.

Singapore is witnessing the beginnings of a return to partisan, competitive politics which have been absent from the local political scene since 1963, with the beginning of the filling of the opposition vacuum in its unicameral legislature. With this development, it will be interesting to see whether the 'checks and balances' which attempted to 'institutionalise' parliamentary opposition in a democratically unsavory fashion will fall into desuetude with the introduction of a genuine and fairly elected one. *Prima facie*, there seems to be no cogent need for appointing more non-government MPs although this observation is subject to modification, pending the performance and efficacy of the NMPs which await assessment.

The trend towards democratic pluralism is irreversible as Singaporeans become more educated, vocal and expect their views not only to be heard but to be taken into account. While it is clear that the vast majority of Singaporeans want a strong PAP government, it is equally clear that a more open society cannot be sustained by the presence of a token handful of opposition MPs. Open, consultative democracy is meaningless without a parliamentary opposition which performs the functions of ensuring the accountability of the government. Pluralism is also consonant with the global trend of increasing democratization and reflected by a more vocal demand from the citizenry to be accorded an enhanced participatory role in the making of decisions and policies which affect their lives. The latter is the essence of representative democracy.

Judging by the results of the 1991 Elections, it would seem that standing as a PAP candidate *ipso facto* does not conclusively guarantee entry into Parliament. The opposition may be beginning to throw off the politically fatal image of being an incompetent lot. Despite the oft-reiterated small size of Singapore, it would appear that a credible, loyal opposition does

¹⁵⁸ Montesquieu, *The Spirit of the Laws* (1949). It is important to note that Montesquieu was writing about a society where state involvement was minimal. This is a far cry from modern states where there is increased regulation as well as a proliferation of non-legislature law-making bodies.

have a role to play towards contributing to good government in the context of Singapore's hybrid version of democracy, particularly as regards parliamentary scrutiny. The PAP now no longer has to stimulate dissent within its own ranks.

Nevertheless, the Opposition in Singapore is still very much struggling to become an opposition, lacking an efficient party machinery to organize grass-roots activities.¹⁵⁹ It faces an uphill battle which, at the very least, seems to have left the doldrums of despair and is gaining momentum. Its present focus is towards establishing a stronghold in the four opposition wards, with the long-term goal of playing their part in establishing a two-party system in Singapore.¹⁶⁰ The prospect of the possibility of an alternative government is at present, unreal. Indeed, the notion of a loyal opposition as opposed to a political enemy is still alien in an essentially consensus-seeking culture where instead of an adversarial ethos, a "petitionary one is nurtured as the way to approach a paternalistic political authority."¹⁶¹

Although our political system is characterized by executive dominance which forces its will through Parliament, legislative activities are still not a sham. Besides fulfilling meaningful non-decisional activities like representation, the executive seems to be actively encouraging and expanding opportunities for participation at various stages of the policy-making, thereby strengthening the legislature. While Singapore in the past has corresponded most closely to Mezey's system maintenance model, with authoritarianism no longer in vogue, it is likely to gravitate towards the representational legislative model¹⁶² where the primary task is responding to constituents and interest groups, as the political system continues to mature and stabilize. The PAP government will have to be responsive to the electorate and to continue its consultative approach to keep and consolidate its sizeable majority. Working towards a more open society will not be a matter of bestowing largesse, but a matter of political survival.

Singapore is a long way off from becoming a civic society¹⁶³ where private pressure groups initiate and influence policy; Singaporeans are still too

¹⁵⁹ In the last election, apart from the Singapore Democratic Party, the Worker's Party and PKMS, all the other opposition parties like the Singapore Justice Party, United People's Front and the National Solidarity Party seem to be in an extended state of hibernation.

¹⁶⁰ "We do not want to form the government just yet ... (but to concentrate on) a stronghold from where you can launch." Chiam See Tong, *The Straits Times*, 25 August 1991.

¹⁶¹ Chan Heng Chee, *supra*, note 49, at 232.

¹⁶² Indeed, Mezey believes that most legislatures in the long run must gravitate towards a representation model as this is in line with the basic democratic ethic that in the long run, a political system must coincide with the expectations of citizens. He argues that this model is the one most likely to attain some sort of expectational consensus from the executive elites, from legislators and from the public at large. *Supra*, note 2, at 277-284.

¹⁶³ See the interview with Lee Kuan Yew where he expresses his views about democracy and growth. *The Economist*, 29 June 1991, at 16-17.

culturally bound and used to having the government do everything for them, as evinced by the government having to initiate anti-smoking to toilet flushing campaigns and legislation. Political apathy and passivity is a perpetuation of the colonial hangover towards a hierarchical conception of authority. The Singapore version of democracy is likely to incorporate an activist state, though this will be accompanied by an increasing tension between the latter and the desire for deregularization and liberalization . Although there is a clear shift from a One-Party-State towards something akin to Western democracy, what is foreign may not, in the local context, be suitable in its entirety, given Singapore's peculiar features. Western style democracy brings with it the sins of inefficiency, divisiveness and an exaggerated emphasis on the role of the news media. The Singaporean leaders with their 'soft' brand of authoritarianism¹⁶⁴ based on an Asian Confucian tradition and legitimated by economic success look from the vantage point of having led their nation up the primrose path of prosperity. Democracy is handmaiden to economic development, thought of only in terms of how it may serve and benefit the latter.

With the trend being towards a more politicized society and the continued open discussion of politics, it is clear that the legislature will be playing an important role in the maturing of the Singapore political system. Also evident is a desire for something beyond "managed" democracy, even after Lee Kuan Yew's declaration, after seeing the opposition gains in the 1988 elections, that the one man one vote system was not appropriate to the vulnerable island republic. Francis Fukuyama put it well when he stated that the final question raised by the Asian alternative was "whether in the long run, human beings are really made happy by the sacrifice of their individuality to larger communities."¹⁶⁵ Liberalization, pluralistic expectations, indeed, more democracy and attendant respect for human rights may well entail, as a trade-off, a less economically vibrant and efficient system. If it is accepted that the *raison d'être* of the State is to provide an ordered structure within which an individual can develop his human potential in a manner which ultimately benefits society as a whole, the choice as to where the balance is to fall is best left to the rational, responsible and pragmatic Singaporean, as an exercise of that individual autonomy which Democracy aspires to secure.

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¹⁶⁴ See Francis Fukuyama, "Asia's Soft Authoritarian Alternative" in *New Perspectives Quarterly*, Spring (1992) at 60. "Soft authoritarianism" entails a reconciliation of market economics with a kind of paternalistic authoritarianism that seeks to persuade rather than to coerce.

¹⁶⁵ *Ibid.*, note 164.

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