



The Parliamentary Election Amendment Act 2012

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Premier and Minister of Finance

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Mr. Speaker and Members of this Honorable House,

It was the American writer, Louis L'Amour, who said:

"To make democracy work, we must be a nation of participants, not simply observers. One who does not vote has no right to complain."

Bermuda is a sophisticated and vibrant democracy in which the people have free voice in determining the direction that the country takes. This can only be accomplished, Mr. Speaker, through active participation on the part of the people, in the processes and procedures which support that democratic process.

As the Government, it is our responsibility to ensure that those processes and procedures are clear and reflective of the ideals of good governance. To that end, today I stand before you and the Members of this Honourable House to introduce the Bill entitled The Parliamentary Election Amendment Act 2012. The purpose of this Bill, Mr. Speaker, is to introduce innovations designed above all to streamline and make the process of voter participation in the Bermuda franchise simpler and more inclusive.

Mr. Speaker,

Our parliamentary election past has not always been marked by a clear path towards progress. Our journey to electoral reform has sometimes been characterized by travelling on those paths which we thought would lead us to a clear outcome, but which, as it turns out, moved us from our central focus. If truth be told, Mr. Speaker, in years gone by some Members of this Honourable House, the oldest Westminster Parliament outside the United Kingdom, may have seen fit to use democracy not for the benefit of all, but as a means to create and maintain political and economic power. In doing so, significant portions of our population were denied access to the franchise. Mr. Speaker, the record speaks for itself.

Mr. Speaker,

A person's right to vote is far too important to leave to happenstance and it is far too important to be left to the manipulation of a privileged few.

History will reveal the significant change made in 1998 when this Government was elected to power for the first time.

We immediately embarked a series of focused and deliberate steps, calculated to make access to the universal franchise fairer for all Bermudians.

Mr. Speaker,

In 1999, the Government changed the previous statutory obligation for those eligible to vote to have to register every year. Instead this was changed so that a voter, once registered, need only to advise the Parliamentary Registrar of any changes to his or her particulars.

This move was designed to remove an existing obstacle which prevented eligible voters from voting simply because they had not updated their annual registration. To limit a voter's ability to exercise his civic responsibility simply because he did not register in a given year did not support inclusivity, democracy or good governance. In fact, Mr. Speaker, our Constitution, the blueprint for our own democratic process, clearly states that the only persons to be limited from the exercise of their rights to vote are the incarcerated, those not of sound mind and those who have passed from this life into the next.

Mr. Speaker,

In 2003, the Government undertook to introduce and to use single seat constituencies to more effectively implement a one-man, one-vote system. Those amendments to Bermuda's Constitution sought to ensure that the electoral boundaries which had been unfairly drawn since the creation of constituencies in Bermuda, more accurately and equitably reflected Bermuda's voting population. The amendments were possible only after the many years of hard work on the part of the men and women who demanded that suffrage in Bermuda be truly equal for all (adult) Bermudians, regardless of their race, class, and gender.

To further remedy perceptions about imbalances in voter distribution, a Boundaries Commission, independent of the direction or control of any other person or authority, was established to ensure that to the extent possible, each constituency was equal in size in terms of its electoral role..

After its most recent review in 2009- 2010, the Commission, which was chaired by the esteemed Dame Billie Miller from Barbados, made recommendations for change affecting some 6, 595 qualified voters and 5,651 households spread across thirty-five constituencies.

Mr. Speaker,

The 2012 Parliamentary Election Amendment Act moves Bermuda to the next level. The Bill seeks to amend the Parliamentary Election Act 1978, and Parliamentary Election Rules 1979, for the express purpose of refining the electoral process in order to ensure that the details recorded for each voter are accurate and to ensure ease of access for each voter. Therefore, the Bill proposes to:

- allow the Parliamentary Registrar to gather information to ascertain whether an elector is registered in the correct constituency;
- clarify the qualifying date for registration in the Parliamentary Register;

- empower the Parliamentary Register, upon giving adequate notice to an elector, to transfer an elector to the correct constituency in which the elector is qualified to be registered;
- make provision for election officers, police officers, candidates and other officials who will be working at polling stations on polling day to vote in an advance poll;
- provide for advance polls to be held over a period of days to allow persons who will be travelling or absent from Bermuda on polling day an opportunity to exercise their civic responsibility; and
- allow the Parliamentary Registrar to appoint one nomination place for nominations to be made for all the constituencies in a general election. There is potential for costs savings for having a single venue for nomination day as opposed to having 36 separate sites. The cost savings comes about, Mr. Speaker, because some of the sites which are used for polling are privately owned and thus would require a rental fee if used on nomination day as well.

Mr. Speaker,

The qualifying date is currently defined as “the date on which a person applies for registration as an elector under section 10(1).”

The qualifying date, as stated in section 55(3) of the Constitution, is “the date with reference to which the person’s qualifications for registration shall be ascertained for the purposes of the preparation or revision of a register of electors for the constituency concerned.”

Under section 55(1)(c) of the Constitution, an elector is qualified to be registered for a parliamentary election in a constituency only if that elector is ordinarily resident in the constituency on the qualifying date.

Note that:

- a. the elector is required to be ordinarily resident in the constituency on the qualifying date, not the date of the poll or any other date, and
- b. the qualifying date (as currently prescribed by section 3(4) of the Parliamentary Election Act) is the date on which the person applies for registration as an elector under section 10(1).

So currently, when an elector who is already registered under section 10 in a constituency moves to (becomes ordinarily resident in) a new constituency, on a literal interpretation of section 3(4), the qualifying date remains the date on which he or she initially applied for registration as an elector under section 10(1). This is problematic because the qualifying date for a person who is already registered as an elector, and thereafter is required to be registered in another constituency, should clearly not be the date on which he initially applied for registration as an elector.

The amendment therefore expands the definition of “qualifying date” to cover the situation where a person who is already registered in a constituency becomes ordinarily resident in another constituency. This includes the situation where constituency boundary changes come into force at the dissolution of the Legislature.

Mr. Speaker,

Over the years, scrutineers have been appointed by the Governor to carry work which includes canvassing the constituencies and bringing to the attention of the Parliamentary Registrar inaccuracies regarding the Parliamentary Register.

However, their work over the years has waned. Hence the Parliamentary Registrar will identify registration officers who will carry out the work that scrutineers would do from time to time under the Act.

Mr. Speaker,

Justices of the Peace are traditionally selected and trained to be Returning Officers. This practice will continue, with training being arranged by the Office of the Parliamentary Registrar.

A fee is paid to them for the duties which they carry out as they are ultimately responsible to see that polling is carried out in an orderly manner.

The increase in fees payable to the Justices of Peace reflects the seriousness of the duties which they must perform once the Election Writ is issued.

Mr. Speaker,

You have heard me reference the authority which is being ascribed to the Parliamentary Registrar. Lest anyone believe that we are emulating Dr. Frankenstein and creating a monster larger than life, let me hasten to assure you that there will be no abuse of power. Rather, we are arming the Parliamentary Registrar with additional tools in order that he can more effectively carry out his functions. The Parliamentary Registrar has no designs on moving people *en bloc* from one constituency to another and in fact, cannot do so even if he wished to, such are the checks and balances which are incorporated into the Bill. More will be said on this matter during the clause by clause analysis.

Mr. Speaker,

In some sectors of this community, any mention of voter registration leads to a mention of the word election.

We know as well that there are some who sing from a particular songbook as it relates to elections. The choruses have been the same, **Mr. Speaker**, over several years, although the faces of some of the choir members may have changed. The first stanza asks why we cannot have fixed election dates. Well, **Mr. Speaker**, to do so would be inappropriate without first making substantial amendments to the Constitution- so that one is settled.

The second stanza asks why we do not introduce absentee voting by either postal or internet voting. **Mr. Speaker**, you may recall that a Bill introducing postal voting was tabled in 2005. However, although the matter may be revisited in the future, it has not been advanced because of yet unresolved issues on how to militate against fraud.

The third stanza, Mr. Speaker, asks whether consideration can be given to introducing some form of proportional representation. While proportional representation works well in larger jurisdictions with larger jurisdictions and numerous parties vying for votes, it is really analogous to swatting a fly with an atomic bomb. In other words, it is really unnecessary for elections in the Bermudian context.

Mr. Speaker,

The Office of the Parliamentary Registrar has set aside \$140,000.00 for advertisements and has very proactively designed a public information campaign.

The campaign is first designed to encourage voters to participate in the election process. The campaign is also designed to make sure that voters know the changes to the constituency boundaries that will take effect once a General Election is called.

The education campaign has actually already commenced. You may look for pole banner ads in the City of Hamilton and the Town of St George, bus handle ads, commercials in the local media, 30 second radio spots together with other highly visible signage, including moving walls, located in the General Post Office, the Government Administration Building, the Transport Control Department, The Washington Mall, and L. F. Wade International Airport.

For those who may not know, a moving wall is the equivalent of a 21st Century bulletin board in that it is mobile and includes video and graphic features. Data collected by the Parliamentary Registrar has shown that significant progress has already been made with the self-addressed envelope and registration forms which are made available on the moving walls. Over the past 3 weeks, 417 forms have been returned to the Parliamentary Registrar's Office, 318 of which are attributed to changes in address and 99 are applications from persons who wish to be registered for the first time.

Mr. Speaker,

Thanks to technology, persons who wish to, may consult the Parliamentary Registrar's website www.elections.gov.bm for the latest information on voter registration.

Mr. Speaker,

It is not the Government's intent to obfuscate any aspect of the electoral process. Rather, Mr. Speaker, with this Bill, the Government demonstrates that it is attentive to the need for accuracy and for change, and that it is working to ensure that when the time comes, every Bermudian eligible to vote can do so secure in the knowledge that he or she can walk into the right polling centre in the right constituency and cast his or her ballot for the party of his or her choice.

In closing, it was Samuel Adams who admonished us:

"Let each citizen remember at the moment he is offering his vote that he is not making a present or a compliment to please an individual--or at least that he ought not so to do; but that he is executing one of the most solemn trusts in human society for which he is accountable to God and his country."

With those brief remarks, I trust that I have set the scene for a fruitful and wholesome discussion of the Bill entitled The Parliamentary Election Amendment Act 2012.