

DEBATE ON CONSTITUTIONAL AMENDMENTS
MINISTER FOR LAW K SHANMUGAM
9 NOV 2016

1. Madam Speaker

I rise to support the Bill.

I. Intro

2. I will focus my speech on the proposal that has been put forward, for an elected Senate

3. I will make two points:

This proposal is fundamentally flawed - flawed in substance, and flawed in terms of the process.

Flawed in substance:

In substance, the Workers' Party had many objections to the proposed amendments.

(a) Their proposal for an Elected Senate – doesn't deal with any of the objections they have raised for the Elected Presidency.

(b) In fact, their proposals make it worse.

Flawed in process:

Second: The process is so flawed that it is unworkable.

II. Flawed in substance

Let me deal with the substance.

(1) Elitism

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4. The first point that the Workers' Party raises is the point on elitism. It's a major objection to the Elected Presidency with the qualifying criteria.

- Yesterday, Mr Chen Show Mao made this point. I think A/P Daniel Goh referred to it.

Others have expressed it.

- In their position paper, the WP talks about their objection in terms of this being restricted to "a super-elite". And it narrows the field of candidates.

5. But then, if you look at the Senate proposal: it is to have 8 such people with the same qualifications as an EP should have.

It's in the transcript, and I'll read out the transcript later. Or, perhaps I'll read it out now.

6. The exchange with Mr Dennis Tan, and Mr Perera –

I said to Mr Perera, and I quote:

“So in all senses, if I may understand it, what you are proposing, for a Senate is like what is being proposed for the Elected Presidency. Several objective criteria, which is the same, and some deliberative process, right?”

Clear question. And the response is:

“Essentially yes. Essentially yes. And the reason for that is because it is still playing a custodial role. It is not playing a role of reviewing legislation. So it's transferring the custodial, from an EP to a Senate.”

So a clear question and a clear answer.

7. And I listened to the transcript of what Mr Dennis Tan said.

He went further, to say that the criteria is the same as set out in Bill that is before the Parliament – meaning, I suppose, in context, Senators should meet the criteria proposed for the Elected Presidents.

8. So, instead of 1 elected President, we will have 8 elected Presidents

9. How does this deal with the objection of elitism? Of a narrow field? Of a super-elite field?

Did anyone think about this?

Doesn't it make the position 8 times worse? Or perhaps 16 times worse?

10. So Mr Chen -
(1) Your views, which you expressed yesterday, completely contradicts the position of your colleagues.

It is like your speech was drafted without reference to their views. And the divide cannot be bridged. I'm referring to the policy viewpoints.

11. Mr Chen, A/P Goh: your express positions on elitism directly contradict your party's position.

12. And A/P Goh: look at your Facebook post. Mdm Speaker, with your permission, may I have this exhibit circulated?

- Let me read out what A/P Goh has said:
- This is A/P Goh's response in December of last year, to the proposal to have 2 houses of Parliament. We have marked it Exhibit A. He said:

“Keep things simple and deepen existing institutions and their trust quotient. No, instead they want more complicated layers that will dilute popular sovereignty and check the will of the people. Not to mention the unintended inevitable consequences of inviting more politicking leading to gridlock down the road. How about improving Parliament as it is and restoring the ceremonial presidency? Keep democracy simple, deep and real.”

In context, A/P Goh was arguing against a senate – an upper house – a separate house, to act as a check and balance on Parliament. That was December, last year.

And I think there was a follow-on article about his views.

13. So what is the real position?
Is there one view on this?

(2) Pro-Establishment

14. The second major objection that the Workers’ Party has made is that the candidates would be drawn from a small pool, likely to be establishment, and the whole purpose of this exercise, and the whole purpose of the exercise over the last 25 years, is to fix a non-PAP Government.

15. It’s an astoundingly cynical view.

16. But if that was the fear: doesn’t the Senate proposal make the position 8 times worse?

17. How does the Senate proposal help?

We have heard nothing about that.

18. And on the point that the Elected President will be dishonourable -

(1) I think the suggestion itself is unworthy

Dishonourable? Dr Wee Kim Wee, Mr Ong Teng Cheong, Mr S R Nathan, Dr Tony Tan?

(2) Look at what you said about President Nathan:

- You said he served Singapore with “great distinction”.
- Ms Sylvia Lim - highlighted how Mr Nathan made efforts to reach out to her, when she became an NCMP.
- Mr Pritam Singh - recounted how Mr Nathan encouraged him to always “look after... Singaporeans and Singapore”,

without raising “any doubts or concerns about serving Singapore in a different colour, cause or capacity”.

(3) I assume these were real sentiments.

(4) If so, why then do you make points which you know are untrue?

(3) Politicisation

19. Third major objection is politicisation. That the Elected Presidency will be politicised

You say: the Government has not explained how the EP can be depoliticised.

20. The President can play a unifying role, despite the electoral process.

There are inherent tensions. But it can be done.

21. And again - look at our past Presidents: that is your answer.

It depends on the electorate choosing the right person.

22. And, because of the inherent tensions, you want to suggest an alternative – then, the alternative has to be better and not make the position worse.

23. Your position paper, says:

- the competitive election process pits individuals against each other
- and the outcome of a popular election “tempts ... the elected candidate to claim a mandate beyond his or her constitutional powers.”

24. So how do 8 Presidents in a Senate help? Wouldn't it be much more politicised?

It doesn't deal with your objection on politicisation.

25. At least the Elected President, can, after the election, play the role of a unifier.

And our Elected Presidents have successfully played that role.

26. Whereas 8 Senators:

- (1) You build in politicisation throughout their term
- (2) They have to constantly compete with each other
- (3) They have to profile themselves
- (4) They have to outdo each other
- (5) They want to be re-elected

Will that not considerably increase the risk of politicisation and gridlock? And a possible Constitutional crisis?

27. How do you propose to make it work?

It is basically unworkable.

It will be a disaster if we did it the way you suggest.

And magnify all the problems: some real, some contrived, that you have listed.

III. **Flawed Process**

28. The process, for this suggestion, is also deeply flawed.

29. Mr Low: dismisses the flaws in the process. He says:

- Yes, it is “by no means perfect”
- “not fully worked out” the details
- Let’s “focus on fundamentals”
- “don’t be bogged down by details”

30. The big picture, Mr Low, is not pretty

You are bogged down with the big picture – because the proposal as presented makes no sense.

The proposal fails by reference to every one of the points your team has made.

31. And you cannot dismiss the process, simply because you cannot answer the questions on it.

32. The process is like an engine in a car.

33. Without an engine, the car will not move

Even if you have a co-driver who likes slapping the driver.

34. Look at the ways in which the process is flawed.

(1) **Teams**

35. First – how would the candidates campaign? In slates?

This question was raised yesterday – no answer has been given

If they run in slates – would it be 2 slates of 8? Will they identify themselves as 2 teams?

36. They are supposed to be independent.
37. How do you form workable teams – to compete against each other?
38. Without that being sorted out: the process fails *in limine*
39. Even worse, if the proposal is for them to run as independents
- How can they then work in a team, after that?
40. They will all have to work on their own re-election? Will they not jockey and position themselves?

(2) Selection

41. Second, on the selection process -- an extraordinary suggestion on selection: That there will be an SEC; Senatorial Election Committee, which will select 16 - even if you have 17 or 20 candidates of equal quality - that is fair?

You will seriously present such a proposal to the people of Singapore?

(3) Workings of the Senate

42. Third, the workings of the Senate. How will it work?

43. If there is a split of 4 to 4?

Mr Singh was asked.

He clearly hadn't thought about it.

So he made up the answers as he went along.

44. He said – it could be a casting vote.

If so – who will have that casting vote?

45. He also said we could have 9 Senators.

So 9, rather than 8.

Quite extraordinary.

46. I couldn't believe what I was hearing. I am sure the same goes for many Members.

It would have been comical, had we not been discussing a very serious matter.

47. Mr Low – being the seasoned politician that he is, then stepped in, realising the quagmire all of this was getting them into.

And tried to put an end to this sorry spectacle, by saying these are details.

Basically a plea: can you please spare us, don't ask any more questions

But Parliament is the place for asking questions

Get your proposals thoroughly examined.

48. As champions of Parliamentary Democracy, surely the Workers' Party believes in that?

49. You don't come to Parliament with half-baked, absurd proposals

- and then ask to be spared from searching questions?

50. Does the phrase "First World Parliament" ring a bell?

(4) Criteria

51. Next, we move to Criteria

52. Mr Leon Perera

Mr Dennis Tan

- said the criteria for the Senators is the same as for the Elected President

53. But only after a long detour

- Mr Tan first said: same criteria as the PEC, Presidential Elections Commission

54. But that is absurd

- because there are no generally prescribed qualifications for PEC

55. Then Mr Tan changed his position and said: same criteria as for the CPA.

- but that is also absurd

- look at the requirements for CPA

56. Then Mr Tan, guided by Mr Perera said: criteria as in the Bill – one assumes, for the EP, in context.

57. Mr Perera then confirmed that that the criteria for the Senators would be the same as for the EP.

58. And I read out our exchange yesterday
59. So this is also again – policy made on the fly, in Parliament, when clarifications are sought
- And given how basic this is -- criteria to qualify as senators -- it is astounding.

(5) Timeline

60. And timeline. When did this idea come about?
61. The Workers' Party took one position before the Constitutional Commission
- Parliamentary supermajority if Government wants to touch the reserves
62. Now – the suggestion is of an Upper House-- Senate.
63. The two are quite different. Everyone who is reasonable will know that it's quite different. Everyone will accept it's quite different.
64. Everyone except Ms Lim. She insisted that both are the same, when I asked her to clarify.
- But one has come to expect this of Ms Lim.
- Never admit the obvious
 - Always look for a tactical answer, even if it flies in the face of what is obvious. And even if it is absurd.
65. It was then left to Mr Perera to be more honest.
- He said: these ideas came about after they looked at the Constitutional Commission's report.
66. So there are new ideas, thought about in the last three months. Why not be just upfront and admit it?
67. This proposal is like a home built with sand.
- One touch and it crumbles.
- After the forensic examination yesterday, nothing of it has survived.
68. It is so flawed, I cannot believe it was a serious proposal.
69. It doesn't withstand the most cursory of examinations.
70. So why does the Workers' Party really oppose the Elected Presidency?

Let me end with a quote from our former Prime Minister Mr Goh Chok Tong.

Mr Low Thia Kiang approves of this quote because he quoted a part of it, during last year's General Elections.

Mr Low quoted this part:

"While honest men are still in charge, it is prudent for us to institute a system of checks and balances in our political system, instead of banking on good fortune to throw up good government for the next 30 years."

And he suggested – that Prime Minister Lee had forgotten what PM Goh had said, before.

I can assure him – neither the PM, nor anyone else had forgotten it.

Just that Mr Low quoted the statement out of context.

If he had gone on – the context would have been clear.

The second part, which he didn't quote, was this -

"Dishonest men who aspire for power will, I believe, never propose this Bill."

(PM Goh was talking about the Elected Presidency. That was not convenient for Mr Low to quote.)

"They will never propose any amendment to our Constitution to safeguard our financial assets and reserves and the integrity of the public services. They will not want any check and balance to the present parliamentary system of government."

71. I assume Mr Low agrees with what then-PM Goh said, in particular the last line.

72. Finally yesterday – I was taken aback

- When the Workers' Party mentioned that their track record includes running Town Councils.
- If I were the Workers' Party, I wouldn't be talking about track records in running Town Councils.
- If I were the Workers' Party, I would run away from talking about track records in Town Councils.

73. Ms Sylvia Lim also claimed – that the Government, or that Ministers, had sleepless nights in 2011, thinking about which candidate would be elected as President.

- Not sure where she got the information from.

But let me assure Ms Lim – Ministers don't get sleepless nights

- except when we are worried about Singapore, and its future

74. The people who should be losing sleep –

- Are those who are accused of criminal impropriety.
- They are the ones who should have sleepless nights.

75. Thank you, Mdm Speaker.

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