

## A CONSTITUTIONAL HISTORY OF ANGUILLA By Don Mitchell CBE QC

1. We need to reflect for a moment on Anguilla's progress over the years, with emphasis on our constitutional advancement. To see the progress that we have made, it will be necessary to look in some detail at where we have come from. The old cliché is that only then will we appreciate where it is that we have arrived at, and perhaps perceive where it is that we are going to.
2. **Settlement.** The modern history of Anguilla begins in the year 1650<sup>2</sup>. The first group of settlers arrived from St Kitts with the intention of occupying the island as an English colony<sup>3</sup>. It was a private initiative of the settlers. There was no official encouragement<sup>4</sup>. By contrast, the settlement of first, St Christopher in 1623, and later of Nevis in 1628, Antigua in 1632, and Montserrat in 1633 had all been covered by commission from either the King or the Governor in Chief.
3. **First Deputy Governor.** After nearly two decades without any local leadership, the Anguillians elected a local settler, Abraham Howell, to be their deputy governor<sup>5</sup> in the year 1667. There is no indication that he or any other later deputy governor of Anguilla was ever given any patent or official document of appointment. The Anguillians were permitted to nominate their own deputy governor right up to the day in 1825 when the last one gave up his position as the island was absorbed into St Kitts.
4. **Lack of Proper Government.** The failure of the colonial authorities to interfere in the government of Anguilla at the time is not a matter for self-congratulation. It is evidence of the poverty of and lack of official interest in the island. No Governor in Chief was even to visit Anguilla for over 75 years after the first settlement. The islanders exported no crops or other primary product to Britain to contribute to the imperial economy, nor did it serve any strategic purpose. Its settlers were considered of so little account that the authorities in both Antigua, the head of government, and London, could not be bothered to make any arrangement during the period of 175 years for its proper administration. The consequence has been a simmering sense in Anguilla of abandonment by all

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<sup>1</sup> Originally published as the Introduction to the 2006 Report of the Constitutional and Electoral Reform Commission.

<sup>2</sup> The historical information is taken from Don Mitchell, Anguilla: From the Archives (unpublished manuscript).

<sup>3</sup> An "English" colony and not "British" because Britain was not to come into existence until the Act of Union of 1707 joined England to Scotland as one country.

<sup>4</sup> Robert Southey: Chronological History of the West Indies, Vol 1, p.328.

<sup>5</sup> In a document now lost, but quoted by Dr Jones in his Annals of Anguilla, Howell recorded that he had been elected in 1666 "by the inhabitants of Anguilla to be the deputy governor until some lawfully constituted authority should take the burden of office". In his 1673 patent to Ensign Thomas Rumney of Blown Point Plantation, he claims to have been appointed deputy governor by Governor Stapleton sometime in 1672. His name repeatedly crops up in the official records as deputy governor for Anguilla until about the year 1685, after which he appears only as a private citizen. His appointment was probably revoked by Governor Codrington in about 1689 and George Leonard appointed in his place.



outside authorities, and a deep seated awareness of the need for self-reliance, that characterise the Anguillian political psyche to this day. Evidence of the low regard in which Anguilla was held by the colonial authorities abound in the records. So, in 1666:

*'Tis not worth keeping<sup>6</sup>.*

And in 1676:

*a barren, rocky island, ill-settled by the English, and of small consequence . . .<sup>7</sup>*

And again the same year:

*. . . Anguilla never being surveyed, there can be no account given, neither is it material, being fitter for to raise stocks of cattle than to yield any great produce of sugar or any other commodities of the growth of these parts, because the land manurable is not of a capacity to entertain many hands for planting or for their own defence<sup>8</sup>.*

And in 1680:

*It were to be wished that . . . Anguilla were as much under water as above it<sup>9</sup>.*

<sup>6</sup> Lord Willoughby to the Lords of Trade, CO.1/22.

<sup>7</sup> CO.153/2: Philip Warner: *Account of the Caribbee Islands*.

<sup>8</sup> CO.153/2. Governor William Stapleton of 22 November 1676 to the Board.

<sup>9</sup> CO.1/44 No 9: Stapleton to the Committee on 18 May 1680.

And in 1683:

*'Tis fit for little but goats<sup>10</sup>.*

And in 1701:

*Anguilla hath so few inhabitants, and most of them so poor, that whosoever hath, or will have it, will be very little the better for it<sup>11</sup>.*

And again that year:

*. . . the men of Anguilla are perfect outlaws<sup>12</sup>.*

And in 1709:

*The people live there like savages, without order or government. They have neither lawyer nor parson among them. They give themselves in marriage to each other. They only think themselves Christians because they are descended from Christians<sup>13</sup>.*

And in 1724:

*. . . The first island that I visited was Anguilla, which I found to be a poor and barren place, and the inhabitants in their houses, clothing and diet bore all the marks of poverty. Nor is it capable of any further improvement. The like may be said of Spanish Town. And upon enquiring how they first came to settle these miserable islands I found that the first inhabitants were such as had fled from Barbados and others of the greater islands of this government for debt or to avoid punishment for their crimes, and have since been increased by pirates who have come in upon Acts of Grace and are married and settled there, whose posterity not knowing the world, remain there and cultivate the ground for a wretched subsistence . . .<sup>14</sup>*

Of the authority of the deputy governor of Anguilla, he said:

*If his cudgel happens to be one whit less than a sturdy subject's, good night, governor!*

And in 1734:

*They live like so many bandits, in open defiance of the laws of God and men<sup>15</sup>.*

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<sup>10</sup> CO.1/51 No 9: Stapleton to the Committee.

<sup>11</sup> CO.152/4: John Fox to the Council of 11 July 1701.

<sup>12</sup> CO.152/4: Governor Christopher Codrington to the Council.

<sup>13</sup> CO.152/8: Col Daniel Parke to the Council.

<sup>14</sup> CO.153/14. Governor John Hart to the Council of 12 July 1724.

<sup>15</sup> CO.152/21: Governor William Matthew of 17 June 1734 to the Council.

5. An unsympathetic English economist wrote a few years later how the lives of the Anguillians of his day had not improved from the earliest days of settlement. Of the early settlers he wrote:

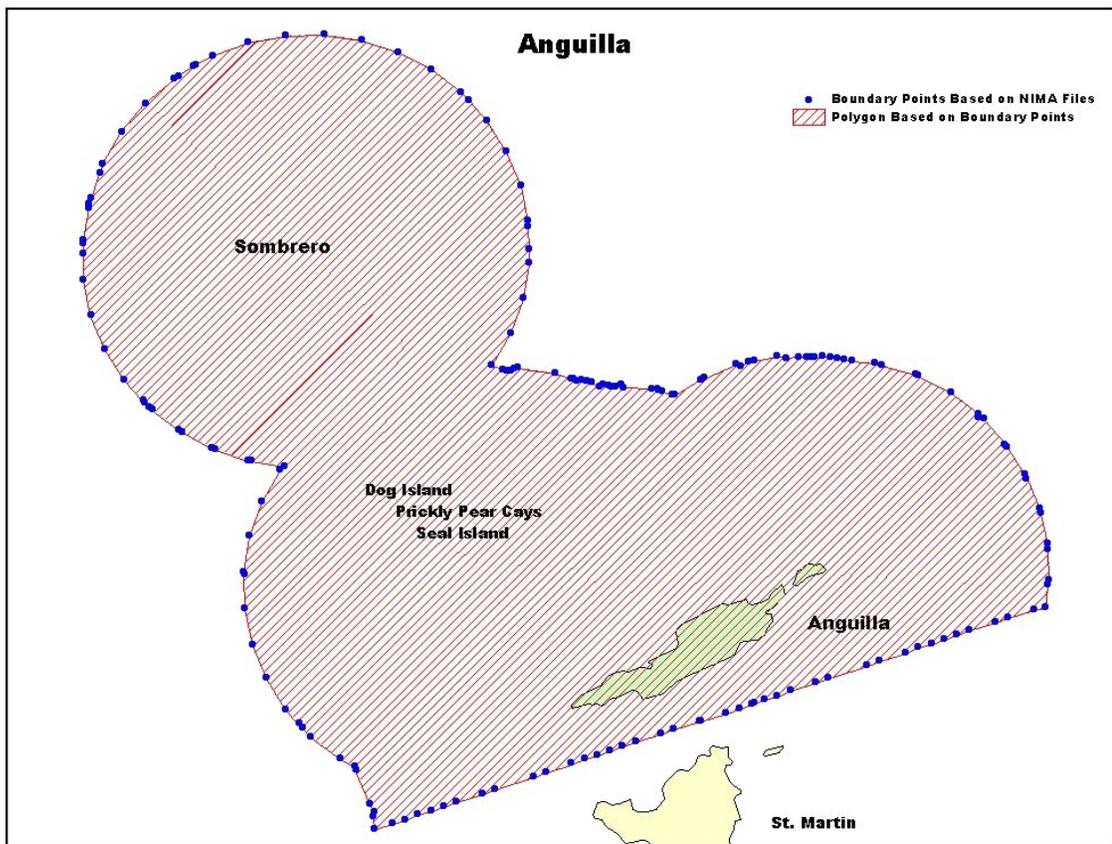
*Their business . . . was to plant corn, and breed tame cattle, for which purpose they brought stock with them. They were poor and continue so to this day, being perhaps the laziest creatures in the world. Some people have gone from Barbados, and the other English Charibbee Islands, thither, and there they live like the first race of men, without government or religion, having no minister nor governor, no magistrates, no law, and no property worth keeping. If a French author is to be believed . . . 'The island is not thought worth the trouble of defending or cultivating it'. In which perhaps the Frenchman is out, for the soil being good, if an industrious people were in possession of it, they would soon make it worth defending*<sup>16</sup>.

6. **Legislative Assembly.** We have seen that the Governors in Chief made a token gesture at establishing some sort of government for Anguilla by unofficially appointing a deputy governor from time to time. An Executive Council of sorts was similarly recognised by the Governor. But, this never had any authority backed by law. An essential institution of government was the Assembly. Governor Stapleton described how the Assemblies of the Leeward Islands worked in the 1680s<sup>17</sup>. The planters and merchants of each parish elected two representatives. The Assemblies made local laws. These had to be assented to by the deputy governor. He had the power of veto. They were transmitted to the Governor in Chief for submission to the Council in London. They remained in force for only two years unless the Royal Assent was given. Annual sessions of the Assembly were a necessity as financial bills lasted for one year only. Both Council and Assembly represented, needless to say, chiefly the interests of the major planters and merchants, not of the average free blacks, coloureds or whites, and definitely not of the slaves. However, no form of Assembly was ever established for Anguilla. Neither during the Seventeenth, Eighteenth, nor Nineteenth Centuries did Anguilla have an Assembly to enact local laws. Laws made by other islands did not apply to Anguilla. Anguilla remained a lawless frontier settlement well into the Nineteenth Century. The Council of Anguilla, when it was eventually established in the Eighteenth Century, acted as legislature, executive, and judiciary, a situation to the advantage of the most powerful planters and merchants and no one else.

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<sup>16</sup> John Oldmixon, The British Empire in America, Vol 2, pp264-265, published in 1741.

<sup>17</sup> CO.153/2: Stapleton to the Council.



7. The Anguillians of the Seventeenth and Eighteenth Centuries reciprocated the abandonment the authorities extended to them. They moved freely between the Dutch, French and Danish territories as if these were mere extensions of Anguilla. The islanders depended on inter-island trading in their sloops and schooners, a little salt picking and growing of tobacco and cotton, and the growing and export of vegetables and small-stock for export to St Kitts and other near-by islands as cash crops. Anguillian sloops connected Anguilla with St Martin and St Croix where so many of the local families had family and business connections. In the beginning, her sloops brought valuable dye woods and building timbers from the forests of Crab Island and St Croix to the merchants of the Leewards. Later in the Eighteenth Century, they traded as far as New York and London. They traded from one island to the other, regardless of the Navigation Acts and customs duties. The Anguillians made their own laws and elected their own governors. They were polite enough, but they did not blindly obey the instructions of a distant governor. When those instructions ran contrary to their vital interests, they ignored them without hesitation. The early settlers built the foundation of the present tradition of complete irreverence for all national boundaries and customs barriers that characterize the best Anguillian merchants of today.
  
8. After the first visit of the Governor in Chief in 1724, none was to visit Anguilla again in the period before the American Revolution of 1776. A recommendation of 1734 that Anguilla be given some sort of judicature and legislature did not have any effect. No judge was to visit Anguilla until 1825. From that year, a judge from St Kitts began to visit Anguilla and to hold circuits for the trial of felonies.

9. **Sugar.** By 1725, sugar cane agriculture had come to Anguilla. The sugar industry of Anguilla was short-lived, lasting only until the American Revolution of 1776, a mere 50 years. The industry was never as successful as it was in the wetter, more prosperous islands. The absence of windmill ruins bears testimony to the lack of capital invested in the industry. The animal-round was the normal source of power for crushing the canes. The boiling houses and curing houses were small and insubstantial, and few of their ruins remain at this time.
10. **Slavery.** From the earliest days of settlement there were slaves present on the island. The system of slavery existed in Anguilla in all its gory detail from the earliest days of settlement until its final abolition throughout the Empire in 1839. Many examples of the brutality of the system, and of the times, can be found in the records.
11. **Collapse of the Economy.** The American Revolution of 1776 brought an end to any hope of prosperity for Anguilla in the Nineteenth Century. The Revolution resulted in war in the West Indies. The Royal Navy under Admiral Rodney blockaded all trade with the rebelling northern colonies. Then as now, Anguilla only survived by trade. Anguilla's economy was devastated by the blockade. While before 1776 law suits for hundreds of pounds local currency were common, after that date the records show mainly debts of a few shillings being squabbled over in court. Most of the planters emigrated. Anguilla could no longer maintain a pretence of a Council.
12. **Absorption by St Kitts.** Under pressure from both London and the Governor in Chief, in 1825 the inhabitants of Anguilla consented to the abolition of their Council. They agreed that the Assembly of St Kitts should make laws to apply in Anguilla. The Anguilla Act<sup>18</sup> of 1825 of the St Kitts Assembly gave the freeholders of Anguilla the right to send up a representative. The colony was now known as "St Christopher and Anguilla". No law affecting Anguilla could be passed except in the presence of the Anguilla representative. We gave up the right to our own deputy governor. Our officials were to be appointed from St Kitts from then on. The St Kitts Assembly took on responsibility for Anguilla very reluctantly and only under pressure from the Colonial authorities. They made it clear to the Governor in Chief in repeated resolutions of the Assembly that no part of the cost of administering Anguilla would be borne by the St Kitts population. The Anguillian representative would not be permitted to have any authority in St Kitts. Anguilla's first representative, Dr Benjamin Hodge-Gumbs, was made to sign a letter giving up his right to be the President of the St Kitts Assembly in the event that he should after a period of time become the most senior representative.
13. **First Petition for Separation.** It did not take long for the people of Anguilla to become dissatisfied with government from St Kitts. In 1825 the inhabitants sent an address to Gov Maxwell complaining about an Act of the St Kitts Assembly that had reduced the power of the Vestry and transferred them to the St Kitts Government. They wrote:

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<sup>18</sup> The Anguilla Act, No 21 of 1825

*Can we indulge a hope that laws enacted for this community, can and will be made with much regard to its interests; when they are passed by a body of men living in a distinct and remote island, possessing no property of any kind here and having no connection or relation whatever?*<sup>19</sup>

This time they were not ignored. They got back the Vestry in 1827.<sup>20</sup>

14. Local government came to Anguilla by the Vestry Act of 1827. The Vestry comprised eleven elected members and two *ex officio* in the persons of the rector of the parish and the stipendiary magistrate who acted as chairman. The Vestry gave the Anguillians the power to administer local affairs such as the condition of the roads and the state of the wells. As the island was so poor, taxes proved impossible to collect and the island sank into greater and greater neglect until the Vestry ceased to function for all practical purposes.

15. **Second Petition**<sup>21</sup>. In 1871 the Leeward Islands were federated by an Act of the Leeward Islands Assembly of that year. Anguillians realised that they would be combined in the "Presidency of St Christopher and Anguilla". They submitted a memorandum to the Earl of Kimberly, the Secretary of State for the Colonies opposing the plan. They complained among other things that:

*We watch with the greatest apprehension what appears to be the imminent decadence of an Island which for many years past has held a prominent position among the Islands of this Government for prosperity, good order and self reliance . . .*

They proposed that:

*. . . we may be allowed to revert to our former system namely a lieutenant governor (whose salary should be defrayed from the local Treasury) with an Administrative Committee, a form of government that gave satisfaction to all classes of the community and under which we enjoyed the greatest amount of prosperity*<sup>22</sup>.

There is no indication in the records that the Anguillians ever received any response to this petition. Certainly no attention was paid to their concerns, as Anguilla duly entered the new Federation attached to St Kitts.

16. **Third Petition**. The Anguillians continued to complain about the remoteness of, and unsatisfactory nature of government from, St Kitts. On 23 August 1872 they petitioned the Colonial Office:

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<sup>19</sup> CO.239/12. Petition of 10 March 1825.

<sup>20</sup> CO.241/26. Minutes of the Assembly of 15 November 1827.

<sup>21</sup> For the modern political era we are indebted to the studies of Colville Petty. See for example, his *Anguilla: Where There's a Will There's a Way*, from which most of the ensuing analysis of Anguilla's successive Constitutions and the modern political history of the island is taken.

<sup>22</sup> Nat Hodge, Ed, *30<sup>th</sup> Anniversary of the Anguilla Revolution, 1967-1997: Remembering Our Past, Building Our Future*.

*The interest of Anguilla, its resources and capabilities of development are not understood . . . by the legislative body of St Christopher who are utter strangers to us, ignorant of the community, careless of their wants, and therefore unequal to discharge . . . the important duties of legislation for us . . . This legislative dependence on St Kitts can in no sense be called a legislative union, it has operated and continues to operate most injuriously against us, and is mutually disliked<sup>23</sup>.*

17. By 1882 the economy of Nevis had disintegrated. Its Council was dissolved and the island was merged with St Kitts and Anguilla. The Presidency was now known as “St Christopher and Nevis”. The name of Anguilla was simply dropped. The Anguilla Vestry was abolished, and the Magistrate was appointed to oversee the day-to-day running of the island. Local government in Anguilla had disappeared.
18. The name of Anguilla was not returned to the official title of the Presidency until 1951. In that year a new constitution was provided granting universal adult suffrage for the first time. In 1956 the Leeward Islands Federation was dissolved, the Presidencies were abolished, and the colony became known as “St Christopher, Nevis and Anguilla”.
19. **Fourth Petition.** The situation remained unaltered throughout the first half of the Twentieth Century. In 1958 the Anguillians continued to suffer under a very low standard of living. Discontent with government from St Kitts peaked again. The result was another petition to the Governor of the Leeward Islands requesting him to:

*. . . make every exertion which lies in your power to bring about the dissolution of the present political and administrative association of Anguilla with St Kitts<sup>24</sup>.*

And warning:

*A people cannot live without hope for long without erupting socially; and it is because the people of Anguilla prefer petition to eruption that we now implore Your Excellency to use your best endeavours with the Secretary of State for the Colonies . . . to have Anguilla created a grant-aided colony, emancipated from the dead hand of the political leaders of St Kitts . . . We know that Anguilla must have at least an economic horizon to bolster a petition of this sort, but paradoxically such a horizon can never, never appear unless the island is free of St Kitts politics whose avowed intent it is to withhold from Anguilla even the ordinary amenities of modern civilised life.<sup>25</sup>*

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<sup>23</sup> Petty, *Where There's a Will*, p. 11.

<sup>24</sup> *Report of the Commission of Inquiry to Examine the Anguilla Problem*. HMSO, London, 1970. Cmnd 4510, p. 76, also known as the “Wooding Report”.

<sup>25</sup> Wooding Report, *ibid*, p. 78.

20. **Associated Statehood.** With the dissolution of the short-lived West Indies Federation in 1962 the islands reverted to colonial status for a short period. Britain and the Leeward and Windward Islands agreed to the creation of Statehood in Association with Britain, envisaged as a first step to independence. This relationship gave the Associated States full internal self-government, with Britain reserving only defence and external affairs.



21. During 1966 a new Constitution for the creation of the Associated State of St Kitts, Nevis and Anguilla was discussed in London. Against the background of Anguilla's persistent demand for a break from St Kitts, one of the proposals discussed was the establishment of local government in Anguilla. The St Kitts government at last attempted to come to grips with a situation that it had too often in the past brushed aside. It agreed that the 1967 Constitution should contain a provision for Anguilla, and Nevis, to enjoy a degree of local government. The experiment was not to succeed. The St Kitts government never had any intention of permitting the Anguillians any real degree of internal self-government. This failure led to the mounting of a campaign<sup>26</sup> against Statehood<sup>27</sup>.

22. **Anguilla Revolution.** Despite the objections of the Anguillians, on 26 February 1967 St Kitts, Nevis and Anguilla became an Associated State. On 27 February the Constitution of the Associated State came into effect<sup>28</sup>. Anguilla refused to go into this status, and the Anguilla Revolution of 1967 commenced. On 8 March the Government House was burned to the ground and the Warden fled to St Kitts the next day. On 29 May at a meeting in the Park, the crowd voted by a show of hands to expel the St Kitts policemen from the island. The crowd left the Park in procession and marched to Police Headquarters where they ordered the police to leave Anguilla by 10:00 am the following day. The following morning the policemen were advised that a plane was ready to take them to St Kitts, and by noon they were all disarmed and expelled from Anguilla.



23. **The Peace-keeping Committee.** On 31 May 1967, the Anguillians established a Peace-keeping Committee<sup>29</sup> to manage the island's affairs. The same day, a

<sup>26</sup> Led by such men as Ronald Webster, Atlin Harrigan and John Rogers.

<sup>27</sup> Report of the Commonwealth Conference on Anguilla, HMSO, London, 1967. Cmnd 3433.

<sup>28</sup> The Saint Christopher, Nevis and Anguilla Constitution Order 1967, SI 1967 No 228.

<sup>29</sup> It comprised Walter Hodge as Chairman, Peter Adams, Atlin Harrigan, Alfred Webster, James Baird, John Rogers, Clifford Rogers, Ronald Webster, Wallace Rey, Camile Connor, Phillip Lloyd, Charles Fleming, Wallace Richardson, Mac Connor, and Emile Gumbs as members.

delegation<sup>30</sup> was sent to St Kitts to search for a peaceful solution. They presented a memorandum to the Governor which read in part:

*Anguillians do not want to be a part of the State of St Christopher-Nevis-Anguilla. The time when they might have accepted this is past. What they now want is separation from St Kitts. They want a process set in motion now which will give them separation and self-determination within twelve months. By the end of this time they want to be a State in Association with Britain.*<sup>31</sup>

24. **Attack on St Kitts.** The response of the St Kitts government was immediate. A state of emergency was declared and regional governments were requested to send military assistance to put down the rebellion. The Anguilla Revolution was well under way. The Anguillians took the view that the best form of defence was attack. In the early hours of the morning of 10 June, a party of armed Anguillians<sup>32</sup> landed in St Kitts and attacked the Police Headquarters, the Defence Force Headquarters, and the power station. The attack was a failure due to the small size of the Anguillian force, and the failure of the promised uprising by Kittitians against their own government. Nonetheless, the attack served Anguilla well in that the St Kitts Defence Force concentrated on the defence of St Kitts, and never mounted an attack on Anguilla in response.
25. **Referendum on Secession.** Between 1967 and 1971, the British Government tried to persuade Anguilla to return to the Associated State. The St Kitts government insisted that the Anguilla Revolution had no legitimacy and was not supported by the majority of residents. The response of the Peace-keeping Committee was to hold a referendum on secession from St Kitts on 11 July 1967. The result was an overwhelming vote (1,813 to 5) in favour of secession.
26. **First Constitution.** A further step towards legitimising the Revolution was the preparation of a Constitution. Dr Roger Fisher, a professor of law at Harvard University, agreed to help. He drafted an eleven-section Constitution which provided for the creation of an Anguilla Council with full legislative and executive powers. There were to be five elected and two nominated members. This was Anguilla's first Constitution of the modern era.
27. **First Anguilla Council.** The Fisher Constitution appointed the first members of the Council who were to hold office until elections could be held not later than July 1968<sup>33</sup>.
28. **Second Anguilla Council.** While the Caribbean governments fussed and disagreed among themselves on the best way to resolve the Anguilla crisis, the Anguillians went about preparing for the first elections under their new Constitution. The Beacon Newspaper of 7 October 1967 published a notice

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<sup>30</sup> It comprised Rev Leonard Carty, Rev Martin Roberts, Peter Adams, and Conrad Walton Fleming.

<sup>31</sup> Wooding Report, op cit, p.84.

<sup>32</sup> Including Todville Harrigan, Mitchell Harrigan, Collins Hodge, and Lemuel Phillip among others.

<sup>33</sup> Those appointed were Rev Leonard Carty, Ronald Webster, John Rogers, Peter Adams, Walter Hodge, Emile Gumbs, and John Hodge.

advising the electorate that nomination day was fixed for 17 October and that elections were scheduled for 25 October. All Anguillians holding foreign passports were specifically allowed to vote, and civil servants were allowed to contest a seat. When nominations closed on 17 October, five of Ronald Webster's candidates stood unopposed. Two candidates<sup>34</sup> withdrew from the contest. The five remaining candidates were declared to be duly elected Councilors<sup>35</sup>. They formed the Second Anguilla Council.

29. When the new Council met on 21 October, Ronald Webster was elected Chairman and Campbell Fleming and John Rogers were named as Nominated Members. At a meeting at the Park the following day, Ronald Webster told the crowd that Anguilla was looking for some sort of associated status with Britain or some other Commonwealth country. He emphasised that:

*Total independence is only a last resort if all negotiations fail.*<sup>36</sup>

30. **United Nations.** The Anguillian leaders were also interested in some form of relationship with the United Nations. Professor Fisher wrote a letter of 24 October to the Secretary General appealing for an administrator, an expert in telecommunications, and a financial adviser for Anguilla<sup>37</sup>. His letter was followed up with a meeting by Professor Fisher and Jeremiah Gumbs with the UN Special Committee on Colonialism. The British Government took the view that the Committee of Twenty-four was incompetent to discuss the affairs of an Associated State and refused to participate in the discussions. The Committee decided to send a mission to Anguilla to investigate, but it was unable to visit because the British Government withheld consent.
31. **Senior British Official.** On 8 January 1968, direct participation of Britain in the administration of Anguilla began with the consent of the St Kitts Government and the Anguilla Council with the arrival of Mr Tony Lee. This was intended to be for what was described as the Interim Period of twelve months.
32. **Advisory Board.** In March the Anguilla Council set up an Advisory Board of fourteen members to assist with the running of the island's affairs<sup>38</sup>.
33. **Third Anguilla Council.** On 30 July 1968 new elections were held. There were seven candidates, although the Constitution provided for only five<sup>39</sup>. Those elected formed the Third Anguilla Council. Negotiations continued between the Anguilla Council and the British and St Kitts governments. They all failed to resolve the crisis because the Anguillians were adamant that they would accept nothing short of complete separation from St Kitts. The British government

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<sup>34</sup> Camile Connor and Charles Fleming.

<sup>35</sup> They were Ronald Webster, Wallace Rey, Hugo Rey, Collins Hodge, and John Hodge.

<sup>36</sup> Beacon Newspaper, No 5, October 28, p. 1.

<sup>37</sup> Wooding Report, op cit, p. 34.

<sup>38</sup> The Advisory Board comprised Tony Lee, John Webster, Calvin Hodge, Emile Gumbs, Alfred Webster, Atlin Harrigan, Walter Hodge, Lucas Wilson, Camile Connor, Lewis Haskins, Joseph A Webster, Clement Daniels, Wallace Richardson, and Charles Fleming.

<sup>39</sup> Those elected were Ronald Webster, Atlin Harrigan, Kenneth Hazel, Collins Hodge, John Hodge, Wallace Rey, and Emile Gumbs.

insisted that under the West Indies Act 1967 they could not change the status of any part of an Associated State without the request and consent of the State legislature.

34. **End of Interim Period.** As the end of the Interim Period approached, the Anguilla leaders were split. One faction led by Atlin Harrigan favoured retaining an association with Britain. Another led by Ronald Webster and Wallace Rey favoured a unilateral declaration of independence. The Anguilla Council appealed to the British to extend the Interim Period, but the British refused and on 9 January 1969 Mr Lee departed. The St Kitts government responded to the intransigence of the Anguillians by suspending air and postal services and banning all trade save for food-stuffs and drugs.
35. **Unilateral Declaration of Independence.** In the perceived face of rejection by the British Government the Anguilla Council prepared to hold a referendum on independence. Roger Fisher was instructed to draft a Republican Constitution. Another and much less reputable US citizen living at the time in Anguilla and advising the Council, Jack Holcomb, came up with a different version. The Holcomb Constitution was duly approved by the Council and put to the people on 6 February 1969. The result was 1,739 votes in favour of independence and 4 against.
36. **Second Constitution.** Jack Holcomb's Republican Constitution provided for the island to be divided into three constituencies each of which would elect two candidates, and five candidates at large. The President and Vice-President were to be elected in a national election. Elections for the Legislature were to be held on 25 March 1969, while those for the President and Vice President were to be on 3 April. This was Anguilla's second Constitution of the modern era.
37. **Republic of Anguilla.** When nominations closed on 21 February, Ronald Webster was unopposed and was declared President of the Republic of Anguilla. He chose as his Vice-President Mr Campbell Fleming. Webster's Cabinet was to include John Webster (a former Secretary of Defence) as Secretary of State for Domestic Affairs and Jeremiah Gumbs as Secretary of State for Foreign Affairs. On nomination day only six candidates were nominated and they were similarly declared elected unopposed<sup>40</sup>.
38. **William Whitlock's Expulsion.** On 11 March 1969 a British envoy, Mr William Whitlock, arrived in Anguilla with proposals for a solution to the Anguilla crisis. His visit was spurred by a resolution passed in Trinidad at the just concluded Fifth Conference of Heads of Government of the Commonwealth Caribbean Countries. This called on Britain to take all necessary steps to confirm the



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<sup>40</sup> They were Winston Harrigan, Lucas Wilson, Uriel Sasso, James Woods, Charles Fleming, and Mac Connor.

territorial integrity of St Kitts-Nevis-Anguilla<sup>41</sup>. The British proposal brought by Whitlock was that Anguilla should be administered by Tony Lee as Commissioner to serve for so long as the present difficult situation continued. He would appoint an Advisory Committee to assist him in his capacity as Her Majesty's Commissioner. These proposals were unacceptable to the Anguillian leaders, and Whitlock was expelled from the island.

39. **British Invasion.** During the early hours of 19 March 1969 some four hundred British paratroopers, marines and London policemen landed. The local defence force had handed in their arms the evening before as it had been realised that resistance would be futile and would lead to unnecessary loss of blood. The rebellion was crushed without either side firing a shot. The invading forces distributed a leaflet that contained the fateful line:

*It is not our purpose to force you to return to an Administration you do not want.*

Tony Lee was appointed the first Commissioner and Britain's direct administration of the island began.

40. **Third Constitution.** Tony Lee was appointed under an Order in Council<sup>42</sup> of 18 March which authorised him to make by regulation provision for securing and maintaining public safety and public order in Anguilla as part of the Associated State. It gave him sweeping powers to amend, suspend or revoke any law in Anguilla other than the Constitution or the Courts Order. This was the first British Constitutional document that related specifically to Anguilla since the first day of settlement in 1650. It was Anguilla's third Constitution of the modern era.
41. **Caradon Declaration.** Tony Lee's administration was not without opposition. There were several large demonstrations on the island demanding the withdrawal of British forces. Webster and the other leaders refused to cooperate with Lee. Representations were made to the United Nations. In an effort to defuse a highly explosive situation, the British Government dispatched its Ambassador to the United Nations, Lord Caradon, to Anguilla to work out an arrangement with the Anguilla Council. The result was the Caradon Declaration which was agreed upon by the Council. It provided for the administration of the island to be conducted by the Commissioner in full consultation and co-operation with the representatives of the people of Anguilla. The members of the 1968 Council were recognised as the elected representatives and were to serve as members of the Council. The Declaration repeated that it was no part of the purpose of the British Government to put the Anguillians under an Administration under which they did not want to live. After initial difficulties with establishing working relationships, Tony Lee left Anguilla on 20 April to be replaced by John Cumber who took the important step of recognising Ronald Webster as the leader of the Council.
42. **Wooding Commission.** On 18 December 1969 the British Government appointed a Commission of Inquiry under the chairmanship of Sir Hugh Wooding,

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<sup>41</sup> Wooding Report, op cit, p. 38.

<sup>42</sup> Anguilla (Temporary Provision) Order 1969.

Chief Justice of Trinidad and Tobago, to make recommendations for a satisfactory and durable solution to the Anguilla Crisis. By its terms of reference, The Commission was expressly required to find a solution that would “preserve the integrity of the State and prevent further fragmentation of the Caribbean”. Not surprisingly, the Commission’s Report concluded that while reversion to colonial status was out of the question, independence for such a small community was equally unrealistic. The only solution that could be recommended was the preservation of the State under an arrangement which gave the Anguillians a large measure of control over their own affairs. The Anguilla Council immediately passed a resolution rejecting the Report. They would accept nothing less than a complete break with St Kitts.

43. **Godber Proposals.** With a change in government in London in 1971 the British Government gradually became more sympathetic to the Anguillian cause, and the Wooding Report became a dead letter. In July 1971, Joseph Godber, the new Minister of State for Foreign and Commonwealth Affairs, put to the St Kitts Government a proposal that the State Government delegate to HMG powers which would enable the Commissioner to administer the island for a period of years. The St Kitts Government insisted that the Anguillians were rebels and the British must force them back into the fold of St Kitts-Nevis-Anguilla. Gun-boats should be sent to do this and measures should be taken to starve the islanders into submission<sup>43</sup>. On the other hand, the Anguillians were prepared to accept nothing short of complete separation from the Associated State. The British were forced to act unilaterally. Their proposals for an interim settlement were accepted by the Anguilla Council. In the words of Ronald Webster:

*Anguillians have just accepted Britain to be their partner to work together from now onwards . . . let us move forward together to develop Anguilla.*<sup>44</sup>

44. **Reversion to British Administration.** Purporting to act under the provisions of section 3<sup>45</sup> of the West Indies Act, the British Parliament passed<sup>46</sup> the Anguilla Act 1971<sup>47</sup> to permit it to administer Anguilla. The Act took effect on 27 July 1971. It permitted HMG in Council to make detailed provision for the administration of Anguilla. HMG was to appoint a Commissioner in Anguilla. The island would cease to be a part of the Associated State in the event of the introduction into the State’s legislature of a Bill for a law terminating the status of association with the UK.

45. The St Kitts Government never accepted that this was a legitimate use of section 3 of the West Indies Act. The West Indies Act permitted the UK Parliament to pass legislation for the West Indies after associated status was created and conferred on the islands in 1967 only in the exercise of the reserved powers of the UK in the sphere of external affairs and defence. The Act itself declared that no future Act of the UK Parliament could again extend to any of the Associated

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<sup>43</sup> The Star, Jamaica, 9 December 1970.

<sup>44</sup> Trinidad Guardian, 25 June 1971, p. 1.

<sup>45</sup> Which permitted Britain to intervene in an Associated State in future only in case of external threat and matters of that sort.

<sup>46</sup> This was done under the authority of the West Indies Act 1967, section 3(2).

<sup>47</sup> 1971 c.63.

States as part of its law unless the Act expressly declared that the State has requested and consented to it being enacted. This had clearly not happened in the case of the Anguilla Act of 1971 which had been passed despite the opposition of the St Kitts Government.

46. The decision of the British Government to proceed unilaterally in this way met with strong condemnation from Caribbean Governments and newspapers. Their reaction prompted the leader of the Anguilla Council, Ronald Webster, to publish a letter in The Times urging the Commonwealth Caribbean countries:

*not to interfere in a situation which does not concern them and towards the solution of which they have made no worthwhile contribution.*<sup>48</sup>

47. **Fourth Constitution.** The Anguilla (Administration) Order 1971<sup>49</sup> was made under the Anguilla Act of the same year. If one ignores the repudiated 1967 Constitution, this was Anguilla's fourth modern Constitution<sup>50</sup>. It took effect on 4 August 1971. It made provision for the Commissioner to work in consultation with the Anguilla Council. This was to consist of seven elected members and up to six nominated members. The role of the Council was not spelled out in the Order, and the Commissioner was vested with complete legal control of the island. Mr Godber gave the Anguillians the assurance that the constitutional arrangements would be reviewed after three years. Anguillians accepted the Order as a temporary settlement even though it was within the framework of the Associated State. They recognised that it was setting the stage for the eventual separation of Anguilla from the rest of the State.<sup>51</sup>

48. **Fourth Anguilla Council.** The first general elections under the Administration Order took place on 24 July 1972. The result was the election of the fourth Anguilla Council of seven representatives<sup>52</sup>. Their complete lack of power caused the Anguilla Council to go on strike against the Commissioner. The situation was diffused by introducing a committee system whereby certain members of the Council became chairmen of departmental committees. However, when after three years the promised constitutional review did not take place, the Council went on strike again (for a period of fourteen months). Only when the British Government agreed to constitutional concessions did the Council resume work.

49. **Fifth Constitution.** Anguilla was one of three West Indian dependent territories given new Constitutions in 1976<sup>53</sup>. This 1976 Constitution<sup>54</sup> was negotiated by the Anguilla Council with representatives of the British Government during the "strike" of the previous year. It came into effect on 10 February 1976. It was only after the draft had been agreed with the British Government that the Anguilla

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<sup>48</sup> Trinidad Guardian, 30 June 1971, p. 2.

<sup>49</sup> Statutory Instrument 1971 No 1235.

<sup>50</sup> The first having been the Anguilla (Temporary Provision) Order 1969.

<sup>51</sup> Petty, *Where There's a Will*, op cit, p. 80.

<sup>52</sup> Those elected were Ronald Webster, Evans Harrigan, Reuben Hodge, Wallace Rey, Emile Gumbs, Camile Connor, and John Hodge.

<sup>53</sup> The others were Turks & Caicos Islands and the British Virgin Islands.

<sup>54</sup> Statutory Instrument 1976 No 50.

Council took steps to have its contents discussed in Anguilla. This caused a great deal of discontent on the island. The Order provided for the first time for a Ministerial form of government. The Executive Council comprised a Chief Minister and two other ministers and two ex-officio members, the Attorney-General and the Financial Secretary. It was chaired by the Commissioner. There was provision for a Legislative Assembly comprising the Commissioner as Speaker, three ex-officio members, namely the Chief Secretary, the Financial Secretary, and the Attorney-General, and not less than seven elected and two nominated members. The Commissioner was to consult with Executive Council in the formulation of policy and the exercise of all powers conferred upon him by the Constitution. However, he was not obliged to consult with respect to external affairs or internal security, nor on matters relating to the public service. This system extended to the local representatives some of the forms of power while ensuring that the British official retained the substance of power.<sup>55</sup> As Colville Petty puts it<sup>56</sup>:

*The Anguillians had fought for direct British Colonialism and they got it in heavy doses.*

The Anguilla (Constitution) Order 1976 was thus Anguilla's fifth modern Constitution. It recognised Anguilla to be still a part of the Associated State of St Kitts, Nevis and Anguilla. However, it was to be separately administered by Britain until such time as the constitutional crisis between Anguilla and the rest of the State could be resolved.

50. General elections under the 1976 Constitution were held on 15 March 1976<sup>57</sup>. Mr Webster was named Chief Minister, with Emile Gumbs and Albena Lake-Hodge his two ministers. Hubert Hughes was the lone opposition member. By early 1977 Mr Webster had lost the confidence of his government, and when at a 1 February 1977 meeting of the Legislative Assembly Mr Hughes introduced a motion of no confidence only Mr Webster did not support it. The Commissioner revoked Mr Webster's appointment. Due to the short period that had passed since the previous elections, and because the majority of the Assembly supported the appointment of Emile Gumbs, the Commissioner did not call new elections, but instead appointed Emile Gumbs to be the new Chief Minister. This government lasted until the general elections of 28 May 1980 when Mr Webster and his supporters won six of the seven seats, only Emile Gumbs of the previous administration retaining his seat<sup>58</sup>.

51. **The Anguilla Act 1980.** In February 1980 the Labour Party administration of Premier Lee Moore in St Kitts was defeated at the polls. The new premier Dr Kennedy Simmonds made it clear that his administration would put no obstacle in the way of change in Anguilla and the Anguillians should be free to decide their

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<sup>55</sup> Petty, *Where There's a Will*, op cit, p. 87.

<sup>56</sup> Petty, *Where There's a Will*, op cit, p. 88.

<sup>57</sup> Elected were Ronald Webster, Campbell Fleming, Idalia Gumbs, Albena Lake-Hodge, Emile Gumbs, Hubert Hughes, and John Hodge.

<sup>58</sup> Elected were Ronald Webster, Nashville Webster, Watkins Hodge, Claudius M Roberts, Emile Gumbs, Hubert Hughes, and Albert Hughes. Those nominated were Euton Smith and Connell Harrigan.

own constitutional future. The result was the Anguilla Act 1980<sup>59</sup> which empowered Her Majesty to separate Anguilla from the State on a day appointed by Order in Council. The Anguilla (Appointed Day) Order duly appointed 19 December 1980 as the day on which Anguilla ceased to be a part of the territory of the Associated State of St Christopher, Nevis and Anguilla.

52. Mr Webster's government of May 1980 lasted for barely a year before internal dissension brought it down. After a short period of political instability, he advised the Commissioner to dissolve the Assembly and to hold general elections on 22 June 1981<sup>60</sup>. Mr Webster won his seat and had the support of four of the newly elected representatives. The Commissioner asked him to form the new government. One of the objectives of the new government was to negotiate with the British Government for constitutional advance. Mr Webster was particularly concerned to ensure that the Constitution was amended to say that in the event of another vote of no confidence the Commissioner could not appoint a new Chief Minister but was obliged to call elections.
53. The possibility of constitutional advance was limited in view of the position of the British Government that if a territory aspired to autonomy it must call for independence and set a timetable. It was made clear that Associated Statehood was out of the question, and that any aspiration to such a status would be considered only in the framework of a call for independence<sup>61</sup>.
54. **Sixth Constitution.** Public consultation on revising the Constitution was non-existent. The Anguilla Constitution Order 1982<sup>62</sup> was enacted in London, and the new Constitution came into effect on 1 April 1982 only days after it was first seen by the public. This was Anguilla's sixth modern Constitution and the one under which we are presently governed. By one view it contains only minor<sup>63</sup> changes to the 1976 Constitution. Others criticize it as the abandonment of full internal self-government and a craven submission without consultation to naked colonial administration. The position of Commissioner was renamed "Governor" and the Legislative Assembly now became the "House of Assembly". Additionally, the Commissioner (Governor) ceased to sit as a member of the House of Assembly and the Speaker of the House was chosen by the House and not by the Governor. The new Constitution left the Governor's reserved powers virtually intact, though he was now required to consult the Chief Minister on matters relating to internal security and the public service. The Governor also had reserve power to legislate and to administer in case public order has broken down and a state of emergency exists. By section 3(1) Anguilla was brought back under the jurisdiction of the West Indies Associated States Supreme Court Order 1967<sup>64</sup>. This meant that Anguilla once again enjoyed the services of the

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<sup>59</sup> 1980 c.67.

<sup>60</sup> Those elected were Nashville Webster, Osborne Fleming, Victor Banks, Ronald Webster, Emile Gumbs, Maurice Connor, and John Hodge.

<sup>61</sup> White Paper on Anguilla: Constitutional Advance 1981, undated, p. 1. Cited at Petty, Where There's a Will, op cit, p. 120.

<sup>62</sup> Statutory Instrument 1982 No 334.

<sup>63</sup> Or "cosmetic" as Mr Petty calls them, Where There's a Will, op cit, p. 121.

<sup>64</sup> Statutory Instrument 1967/223.

regional court from which it had been excluded by the Anguilla Revolution of 1967.

55. **Anguilla Constitution (Amendment) Order 1990.** In line with local demands for increased autonomy, and after the new 1982 Constitution had been working for only three years, on 2 August 1985 the House of Assembly passed a motion for the Governor to set up a Constitution Review Committee. This Committee was appointed by the Governor in October 1985<sup>65</sup>. The Committee recommended<sup>66</sup> a number of changes to the 1982 Constitution. The result was the Anguilla Constitution (Amendment) Order 1990<sup>67</sup>. These included new provisions for the creation of the office of Leader of the Opposition and alteration of the definition of Belonger Status. This is the Constitution under which Anguilla is governed to this day.



56. **Rifkin Letter.** In the year 1996 great consternation was felt across Anguilla when a letter from Malcolm Rifkin, Secretary of State, dated 17 December 1996 was circulated. The letter proposed that the people of Anguilla had a stark choice. They must either opt to become an independent nation or they must remain a dependent territory of Britain with no expectation that the Governor's reserved powers could be reduced or whittled away from those he presently enjoyed or was entitled to enjoy<sup>68</sup>. The Rifkin letter proposed that in the future it might be necessary to extend the Governor's reserve powers, both executive and legislative, to include "good government." Good government is presently the province of the elected representatives both in the Executive Council and in the House of Assembly<sup>69</sup>. The Governor's reserved powers are limited to matters of defence, external affairs, security and the public service.
57. The publication of the letter was followed by extensive public debate and some public demonstrations. It was universally agreed that any attempt to increase the powers of the Governor and to reduce those of the elected representatives would not be acceptable to the people of Anguilla. Nothing more was heard of the proposals. Although the British Government has never formally withdrawn the Rifkin letter, it is generally understood that they realize that any attempt to implement its provisions will be viewed as retrogressive and unacceptable to a self-governing people and will bring with it widespread disorder and disharmony. In any event, a change in the administration in London brought new initiatives.
58. **Partnership for Progress.** The Conservative government in the UK fell in May 1997. The new Labour administration in London set about making new proposals for the relationship with the Overseas Territories. In March 1999, the

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<sup>65</sup> Its members were Attorney-General Richard Whitehead, Speaker Atlin Harrigan, Clement Daniels, Rev Leonard Carty, and Miriam Gumbs.

<sup>66</sup> Anguilla: Report of the Constitutional Review Committee, Produced April 6<sup>th</sup> 1988.

<sup>67</sup> Statutory Instrument 1990/587.

<sup>68</sup> See the essay by Bernice V Lake QC, An Appraisal of the Proposed Constitutional Re-arrangement Contained in the Letter from the Secretary of State Dated 17<sup>th</sup> December 1996.

<sup>69</sup> Sections 28 and 47 of the Constitution.

British Government published a major policy document that set out the parameters of the relationship<sup>70</sup>. The Secretary of State reiterated the four principles that underlie the partnership as:

- (a) *First, our partnership must be founded on self-determination. Our Overseas Territories are British for as long as they wish to remain British. Britain has willingly granted independence where it has been requested; and we will continue to do so where this is an option. It says a lot about the strength of our partnership that all the Overseas Territories want the constitutional link to continue. And Britain remains committed to those territories which choose to retain the British connection.*
- (b) *Second, the partnership creates responsibilities on both sides. Britain is pledged to defend the Overseas Territories, to encourage their sustainable development and to look after their interests internationally. In return, Britain has the right to expect the highest standards of probity, law and order, good government and observance of Britain's international commitments.*
- (c) *Third, the people of the Overseas Territories must exercise the greatest possible control over their own lives. We are proud that our Overseas Territories are beacons of democracy. We applaud their achievements, and want them to have the autonomy they need to continue to flourish.*
- (d) *Fourth, Britain will continue to provide help to the Overseas Territories that need it. It is a source of much pride that the effectiveness of their governments' policies has meant that budgetary help is necessary only for Montserrat and St Helena – both for special circumstances.*

59. One of the principal outcomes of the Report was the replacement of BDT citizenship with full British citizenship. The Dependent Territories were renamed Overseas Territories. The Report makes it clear<sup>71</sup> that Britain's links to the Territories should be based on a partnership, with obligations and responsibilities on both sides. And it continues:

*The territories should administer themselves in accordance with their constitutions and in full respect for those of the UK's international obligations relevant to them. Within that framework the UK should uphold the right of the individual territories to determine their own future and to enjoy a high degree of autonomy, while assuring their defence and external relations and providing governance of high quality.*

60. Chapter 2 of the Partnership for Progress Report sets out the rationale for constitutional review at this time:

*The governance of the territories must have a firm basis. Democracy, human rights and the rule of law are all as relevant in the Overseas Territories as elsewhere. The principles which should underlie modern constitutions are clear. There must be a balance of obligations and*

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<sup>70</sup> Partnership for Progress and Prosperity: Britain and the Overseas Territories, Cm 4264.

<sup>71</sup> Partnership for Progress, op cit, para 1.9.

*expectations, and both should be clearly and explicitly set out. Future action will focus on:*

*Measures promoting more open, transparent and accountable government;*

*Improvements to the composition of legislatures and their operation;*

*Improving the effectiveness, efficiency, accountability and impartiality of the public service;*

*The role of Overseas Territories Ministers and the Executive Councils and their exercise of collective responsibility for government policy and decisions;*

*Respect for the rule of law*

*The promotion of representative and participative government;*

*Freedom of speech and information;*

*The provision of high standards of justice;*

*Adoption of modern standards of respect for human rights.*

61. In March of 2000, there were general elections in Anguilla. The party that came to power was the United Front<sup>72</sup>. In its manifesto it had made a number of promises that involved constitutional reform. These included abolishing the nominated members, increasing the number of ministers, reviewing the provisions for the exercise of responsible government and ministerial authority by elected members, reviewing the policy and law relating to “belongership”, developing codes of conduct for politicians, ministers and members of the Assembly, creating the office of Ombudsman, etc. All these matters involved some sort of constitutional review.

62. **Strategic Country Programme.** The impulse to constitutional review was boosted by the discussions between the British and Anguillian Governments during 2000 leading up to the Strategic Country Programme. The Programme reinforced the commitment by both governments to constitutional reform.

63. **Constitutional and Electoral Reform Committee.** Consequently, Mr David Carty was appointed by the



<sup>72</sup> Led by Osborne Fleming as Chief Minister, with Victor Banks as Minister of Tourism and Finance etc, Evans MacNeil Rogers as Minister of Education etc, and Kenneth Harrigan as Minister of Infrastructure etc. They were joined by opposition member Albert Hughes who was appointed Parliamentary Secretary. Hubert Hughes and Eddison Baird formed the opposition. All seven elected members won their seats in general elections again in the year 2005.

Chief Minister, Osborne Fleming, with the task in the first instance of raising the consciousness of the Anguillian public about constitutional matters<sup>73</sup>. Mr Carty solicited and recruited the assistance of a distinguished cadre of Anguillian professionals and opinion makers to assist in the awareness raising effort<sup>74</sup>. They constituted the membership of the Committee.

64. **Consultative Forum.** By October 2001 the Committee had agreed to establish a Consultative Forum. The forum focused its deliberations by dealing with individual chapters of the Constitution on a month-by-month basis. The sessions were open to the public for an interactive discussion with all delegates of the forum who asked questions, made comments and rendered opinions. In addition to the general public, individuals and groups throughout Anguilla were requested to attend in person or through delegates. Presentations were delivered in public at the Teachers Resource Centre and were broadcast live on Radio Anguilla. They were also videotaped and broadcast on Cable Television. Each month a member of the Committee gave a well researched presentation on a particular chapter of the Constitution.
65. **Town Hall Meetings.** The Committee attempted to take the discussion to a wider public by holding Town Hall Meetings out in the districts. Between June and October 2003 some one dozen public meetings were held. These meetings were similarly not well attended. The most popular issues to emerge were (1) electoral reform, (2) believer status, (3) where does real authority in government lie, and (4) voter eligibility.
66. **Telephone Survey.** In November 2003 the Statistics Department conducted a telephone survey on various constitutional issues. Their report was published in January 2004<sup>75</sup>. It is evident from reading the survey that Anguillians are willing to express opinions on constitutional issues. But their interest was not reflected in their attendance at public meetings.
67. **Report of the Committee.** The work of the Committee appears to have fizzled out. There does not seem to have been an official or clear decision to bring its work to an end. It simply stopped meeting. Some have reported that this was due to lack of interest. Others have reported that it was as a result of a Committee of Twenty-Four meeting which criticized the British Government for the way it was handling the whole issue of constitutional reform in the Overseas Territories. Whatever the reason, the Committee never finished its work and made no recommendations for constitutional reform. Its Chairman in May 2005 published a record of the various speeches and transcripts of meetings together with an Overview written by him in which he recommended the setting up of a new Commission with clear terms of reference and with timelines for completion<sup>76</sup>. The Chairman has been heavily criticized in the media by

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<sup>73</sup> This account is taken from the Overview section of the Report of the Constitutional and Electoral Reform Committee, 1 May 2005.

<sup>74</sup> They included Dame Bernice Lake QC, Colville Petty OBE, Franklin Connor OBE, Dr Phyllis Fleming-Banks, Timothy Hodge, Alex Richardson, Davon Carty, Stanley Reid, and Louise Hazell as Executive Secretary.

<sup>75</sup> A copy of it was published in the 2005 Report, p. 168.

<sup>76</sup> Report of the Constitutional and Electoral Reform Committee, op cit.

members of his Committee who claimed that they had never been shown the Report in advance and had not agreed to it. Some members of the Committee subsequently went on radio and other public fora urging the public to boycott the work of the subsequently established Commission. They themselves refused to play any further part in the exercise or constitutional review and reform.

68. **Separation Day Speech 2005.** On 19 December 2005 the Governor made a speech in which he announced that the Government had decided to start up a new **Constitutional and Electoral Reform Commission** to start work in early 2006. He explained that he was then consulting with members of the Opposition and representatives of non-governmental organisations about the membership of the Commission. He explained that the new Commission would build on the work of the previous Committee and seek to establish the broadest possible agreement on those areas which might be reformed.



Governor's Official Flag

69. The result was the appointment of the **Constitutional and Electoral Reform Commission** which presented its final report to Government on 25 August 2006. The Report contained a number of recommendations for constitutional reform. History will show whether the recommendations fell on fertile ground or otherwise.