

Law and the Anguilla Revolution¹

The Associated State. When the Anguilla Revolution broke out in March 1967, Anguilla was a part of the Associated State of St Kitts, Nevis and Anguilla. The legal system in effect at that moment was the common law of England and of the Associated State, as supplemented by statutes of the St Kitts House of Assembly. Anguilla at that time was not only an integral part of the Associated State, but also shared in common institutions of the nine-country Associated States, and the world-wide Commonwealth of Nations headed by Queen Elizabeth II. The common law of Anguilla was supplemented by laws and regulations made by the House of Assembly in St Kitts, to which Anguilla elected one representative. The laws and regulations that applied in Anguilla in 1967 could all be looked up in one series of books¹. The Laws of St Kitts Nevis and Anguilla contained all of the statutes that applied to Anguilla, save for a few passed by the House of Assembly in the intervening years before 1967.²

The 1967 Revolution. The Anguilla Revolution was to fundamentally change Anguilla's legal framework. On 8 March 1967 rioters burned Government House at Landsome Estate to the ground, and the St Kitts Warden

¹ An article written for the 40th Anniversary Magazine Committee.

fled to Basseterre. On 29 May, at a meeting in Burroughs Park³, the crowd voted by a show of hands to expel the St Kitts policemen from the island. They left the Park in procession. They marched to Police Headquarters and ordered the St Kitts police stationed in Anguilla to leave by 10:00 the following morning. On 30 May the officers were advised that a 'plane was ready to take them to St Kitts. They were all disarmed and expelled and sent back to St Kitts. From that point on, all central government trappings as they had extended to Anguilla were brought to an end. The St Kitts Magistrate was no longer permitted to visit Anguilla and to dispense justice in the Magistrate's Court. The High Court Judge from St Kitts was no longer permitted to visit and to hold court in Anguilla⁴ as had occurred every year since 1825, the year when Anguilla had submitted to rule from St Kitts. Only a limited number of laws passed by the legislature in St Kitts were ever to be applied to Anguilla again⁵.

On 31 May 1967, the Anguillians established a Peace-keeping Committee⁶ to manage the island's affairs. This Committee and its successor Councils carried out all of the executive functions of government. There was no attempt to set up a rival legislature to the St Kitts House of Assembly⁷. The situation was not to change until the British Parliament passed the Anguilla Act of 1971 and made provision for the Commissioner to be able to make

laws for the island. The result was that no substantive laws were made in Anguilla until the year 1971.

The first legal instrument of a sort to be passed in Anguilla after the Revolution began was the referendum on secession from St Kitts of 11 July 1967.⁸ A referendum is not strictly a law, but it has legal implications and consequences, especially when it is acted on. By this public act, Anguilla ceased for all time to be administered as a part of the Associated State. A further step in legitimising the Revolution was the adoption of a Constitution. The Peace-keeping Committee recruited Professor Roger Fisher⁹ of Harvard University to help with its drafting. He produced an eleven-section Constitution which provided for an Anguilla Council with full legislative and executive powers. The members of the First Anguilla Council were named in the Constitution.¹⁰ They were to hold office until elections were held not later than July 1968.

The Peace-keeping Committee set about arranging the first elections under the new Fisher Constitution. When nominations closed on nomination day, 17 October 1967, five of Ronald Webster's candidates stood unopposed. They were declared to be duly elected councillors.¹¹ They took their seats as the Second Anguilla Council on 21 October.

In early 1968, the British sent an adviser, Tony Lee, to assist the Anguillians in running the island's affairs. He was to remain for a period of one year. During this time, the British attempted to negotiate a settlement between the Anguillian and St Kitts leaders that would preserve the integrity of the Associate State. They failed to resolve the crisis. The Anguillians were adamant that they would accept nothing short of complete separation from St Kitts. The Kittitians were equally adamant that the Revolution was illegal and that they would accept nothing short of the agreement of the Anguillians to return to the fold of the Associated State. The British were caught in a quandary of their own making. The West Indies Act of the UK Parliament of 1967¹² prohibited the UK government from imposing a solution. The Act prohibited the UK from changing the status of any part of an Associated State without the request and consent of the State legislature. On 30 July new elections were held for the Third Anguilla Council.¹³ When the year was up, Tony Lee left Anguilla on 6 January 1969. Up to this point, no laws had been passed in or for Anguilla since the date of the commencement of the Revolution.

The next law to take effect in Anguilla was the 1969 Holcombe Constitution. It was adopted by a show of hands in Burroughs Park on 6 February 1969.¹⁴ It provided for Anguilla to become an independent Republic.

There would be a President and a Vice President elected nationally. There would also be an Assembly of nine legislators, two from each of the three constituencies and five elected at large. The date set for elections to the legislature was 25 March 1969, while the President and Vice President were to be elected on 3 April. When nominations closed on 21 February, Ronald Webster was nominated unopposed and was declared President of the Republic of Anguilla.¹⁵ On nomination day only six candidates were nominated, and they were similarly declared elected unopposed.¹⁶

Temporary British Administration. On 11 March 1969, the British envoy William Whitlock who had arrived in Anguilla on a fact-finding mission was expelled. During the early hours of 19 March 1969 some four hundred British paratroopers brought the Revolution to an end. Their invasion of the island was not opposed, and not a person was harmed. Tony Lee returned to govern the island as Commissioner under a British Order in Council of 18 March.¹⁷ The Holcombe Constitution was swept aside and the previous Third Anguilla Council was recognised as the duly elected representatives of the people.

With the change of government in London in 1971, the British administration gradually became more sympathetic to the Anguillian cause. On 27 July 1971,

the Anguilla Act of the British Parliament¹⁸ came into effect. It provided the framework under which the British would administer the island. Shortly after, on 4 August, the 1971 Constitution¹⁹ came into effect. It provide for a Legislative Council of seven members and up to six nominated members. No legislation was enacted in Anguilla during the year 1971.

In the early part of 1972 the first laws for Anguilla made in Anguilla were enacted under the provisions of the 1971 Constitution. There were twenty-six laws in all, covering such matters as financial administration,²⁰ police,²¹ council elections,²² marriages,²³ courts,²⁴ and taxes.²⁵ These laws were made by the Commissioner “*after consultation with the Anguilla Council*” but were not introduced into and debated in any legislative council in the normal way. This was not a satisfactory state of affairs, and this early period was marked by disputes between the members of the Anguilla Council and the British Commissioner.²⁶

The first general elections under the new Constitution were held on 24 July 1972. The Fourth Anguilla Council that resulted found itself completely without any power. Laws continued to be made by the Commissioner without reference to the Legislative Council. Laws continued during 1973 to be made by Her Majesty’s Commissioner “*after consultation with the*

Anguilla Council.²⁷ The situation remained unchanged during 1974 and 1975. The Anguilla Council was continually unhappy with the arrangement that gave the Commissioner total power and control. The result was a series of strikes and other civil unrest during the period of legislation by the Commissioner.

Modern Government Begins. The turbulence was not to be calmed until the British agreed to constitutional reform, and the 1976 Anguilla Constitution²⁸ was made on 19 January and came into effect on 10 February 1976. This provided for the first time for laws to be made by the Commissioner “with the advice and consent of the Assembly”. Laws passed from this date were to be introduced into the Legislative Assembly, and assented to by the Commissioner. These are laws as properly so understood. They would have truly have been made with the consent of the representatives of the people. The first such proper law to be made in Anguilla’s history by a legislative assembly turned out to be a humble and insignificant one, now long forgotten. The Anguilla Fund and Financial Administration (Repeal) Ordinance, No 1 of 1976 did nothing more than bring back the old St Kitts Finance and Audit Ordinance of 1965 with such modifications as were necessary to bring it into conformity with the Constitution of Anguilla. It was passed by the Legislative Assembly on 13 May 1976. It commences

with, what for a lawyer, are the magical words, “*Enacted by the Legislature of Anguilla*”.²⁹ Modern constitutional government had at last come to Anguilla.

¹ The 1964 Edition of the Revised Laws of St Christopher Nevis and Anguilla had just been published.

² All of the laws and regulations of Anguilla would not be collected in one spot again until the 2000 Revised Edition of the Laws of Anguilla.

³ Later renamed the Ronald Webster Park.

⁴ From sometime in the 1930s the Assizes ceased to be held in Anguilla and serious Anguillian crimes were tried in St Kitts until the Anguilla Revolution: Per Dame Bernice Lake QC in a private communication to the author.

⁵ The Anguilla (Administration) Order 1971, SI 1971 No 1235, section 15, provided that the statutes of the Associated State made prior to its commencement date of 4 August 1971 should have effect as laws of Anguilla. From that date, any relevant and useful laws made in St Kitts after the date of the Revolution and prior to the commencement date were adopted with any necessary modifications as part of the law of Anguilla. The ones that were not required were specifically repealed at various times in the following years.

⁶ The first members consisted of 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.

⁷ Ronald Webster’s explanation was that the members of the Committee were convinced that any laws passed by it would be illegal and unenforceable. They functioned by persuasion, so that, for example, the customs officers at the ports agreed to collect duties at the revised rate of one half of the prescribed amounts. The result was that there was no attempt to amend the customs duties law or any other law during the time of the Republic and until the Anguilla (Administration) Order of 1971 made provision for the Commissioner to make laws for Anguilla: Per Ronald Webster in a private communication to the author.

⁸ Passed 1,813 to 5 in favour of secession.

⁹ Professor Fisher’s involvement grew out of his connection with Professor Leopold Kohr (1909-2004) who at the time was a lecturer at the University of Puerto Rico and who started a ‘state founding action’ to draw the world’s attention to the Anguilla crisis.

¹⁰ They were Rev Leonard Carty, Ronald Webster, John Rogers, Peter Adams, Walter Hodge, Emile Gumbs, and John Hodge.

¹¹ They were Ronald Webster, Wallace Rey, Hugo Rey, Collins Hodge, and John Hodge.

¹² The West Indies Act, 1967 (1967 c. 4).

¹³ This consisted of Ronald Webster, Atlin Harrigan, Kenneth Hazel, Collins Hodge, John Hodge, Wallace Rey, and Emile Gumbs.

¹⁴ By a margin of 1,739 to 4 votes.

¹⁵ He chose as his Vice President Campbell Fleming. His Cabinet was to include John Webster, a former Secretary of Defence, as Secretary of State for Domestic Affairs, while Jeremiah Gumbs was Secretary of State for Foreign Affairs.

¹⁶ They were Winston Harrigan, Lucas Wilson, Uriel Sasso, James Woods, Charles Fleming, and Mac Connor.

¹⁷ The Anguilla (Temporary Provision) Order 1969, SI 1969 No 371.

¹⁸ The Anguilla Act 1971, (1971 c. 63).

¹⁹ The Anguilla (Administration) Order, 1971, SI 1971 No 1235.

²⁰ The Anguilla Fund and Financial Administration Ordinance, No 1 of 1972.

²¹ The Anguilla Police Ordinance, No 3 of 1972.

²² The Anguilla Council Elections, No 4 of 1972.

²³ The Marriage Validation Ordinance, No 8 of 1972.

²⁴ The Court of Appeal (Special Provisions) Ordinance, No 10 of 1972; and the Supreme Court (Amendment) Ordinance, No 26 of 1972.

²⁵ The Rum Duty (Anguilla) (Amendment) Ordinance, No 13 of 1972; Boat Licensing (Amendment) Ordinance, No 14 of 1972; Liquor Licensing (Amendment) Ordinance, No 15 of 1972; Export Duty (Amendment) Ordinance, No 16 of 1972; Stamp Act (Amendment) Ordinance, No 18 of 1972; Vehicles and Road Traffic (Amendment) Ordinance, No 19 of 1972; Firearms (Amendment) Ordinance, No 20 of 1972; Public Pounds (Amendment) Ordinance, No 21 of 1972; Anguilla Airport (Embarkation) Tax Ordinance, No 24 of 1972.

²⁶ First Tony Lee, who had to be replaced, then John Cumber, AC Watson, William Wallace, and later still in David Le Breton, who remained in place until after the 1976 Constitution came into effect.

²⁷ There were eight such laws in all, including the Anguilla Roads Ordinance, No 5 of 1973; the Anguilla Local Constables Ordinance, No 6 of 1973; the Accommodation Tax Ordinance, No 7 of 1973; and the Telecommunication Ordinance, No 8 of 1973.

²⁸ The Anguilla (Constitution) Order 1976, (SI 1976 No 50).

²⁹ Let me in conclusion express my gratitude to Ms Navine Fleming-Kissob of the law chambers of Joyce Kentish & Associates who kindly made a desk and the necessary research material available for me to be able to write this article.