



Report of the
ST. KITTS/NEVIS/ANGUILLA
Constitutional Conference
1966

*Presented to Parliament by the Secretary of State for the Colonies
by Command of Her Majesty
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REPORT OF THE ST. KITTS/NEVIS/ANGUILLA CONSTITUTIONAL CONFERENCE

INTRODUCTION

The subject of this Conference was constitutional change in St. Kitts/Nevis/Anguilla and the creation of a new relationship between the Territory and Britain.

2. During the course of 1965 the Government of St. Kitts/Nevis/Anguilla several times requested the British Government to consider constitutional change. The British Government responded with outline proposals for a new relationship with Britain which were discussed with Ministers in the Territory and in neighbouring territories during November, 1965. On the 17th December, 1965 a Memorandum was sent to the Administrator setting out proposals which the Government of St. Kitts/Nevis/Anguilla were understood from earlier discussions to be prepared to consider as a basis for negotiation. The Memorandum was later published in a White Paper*. The covering despatch contained the suggestion that if, as was hoped, the Government of St. Kitts/Nevis/Anguilla wished to enter into negotiations about these new arrangements, there should be a Conference in London to which the Government and representatives of parties with seats in the Legislature would be invited. This suggestion was accepted.

3. The Conference was opened on the 12th May by the Secretary of State for the Colonies, the Rt. Hon. Frederick Lee, M.P., in Lancaster House. It ended on the 26th May.

4. A list of those who took part in the Conference is in Annex A.

5. The Reports of similar Conferences with Antigua and with the four Windward Islands of Dominica, St. Lucia, St. Vincent and Grenada were available to the Conference. It was accepted from the outset that none of the issues that might be raised should be in any way pre-judged by the results of the previous Conferences. In practice it was found that the study of the arrangements for the proposed form of association, for a regional judicature and for citizenship worked out at the earlier Conferences provided a convenient approach to the problems involved for St. Kitts/Nevis/Anguilla. Discussion of the internal Constitution was based on proposals which the Government of the Territory had been invited to provide.

6. In his opening address to the Conference the Chief Minister of St. Kitts/Nevis/Anguilla stated that he wished to take the opportunity of discussing with the United Kingdom Ministers and officials concerned certain problems relating to the economic development of the Territory. A meeting was accordingly arranged between the Secretary of State and the Minister for Overseas Development and the Chief Minister and certain other members of the St. Kitts/Nevis/Anguilla delegation. This meeting was preceded by a discussion of the problems in a Committee. Although the meeting took place outside the Conference, the matters discussed and conclusions reached are summarised in the following three paragraphs.

* Cmnd. 2865.

7. It was recognised that the economy of the Territory would continue to be vulnerable so long as it was almost wholly dependent on sugar production and there was therefore an urgent need to diversify it by introducing new industries. The St. Kitts/Nevis/Anguilla Government had in the past few years endeavoured to promote a tourist industry which it was agreed offered the best means of broadening the economy of the Territory. The Government considered that such development entailed attracting private investment for hotels and similar amenities. This in turn required the construction or provision by the Government of the necessary infrastructure (e.g. roads, and water and electricity services) as well as an airfield capable of receiving medium-haul jet aircraft, and a deep-water harbour. Until the Government were able to provide acceptable services of this kind the possibility of attracting investment for the development of the tourist industry would be greatly hampered. The St. Kitts/Nevis/Anguilla Government were anxious that the British Government should assist them both financially and technically in their endeavour to provide such services.

8. In view of the high priority attached by the St. Kitts/Nevis/Anguilla Government to the airfield project the British Government undertook that, provided there was a reasonable prospect that the St. Kitts/Nevis/Anguilla Government would be able to negotiate a satisfactory scheme for tourist development, they would be willing to arrange a technical feasibility study of the airfield. Subject to the outcome of that study they would in principle be willing to apply the financial aid which would be made available to the St. Kitts/Nevis/Anguilla Government after March 1968 to the necessary improvements to the airfield. At the official level an examination would be made of existing C.D. and W. schemes relating to St. Kitts/Nevis/Anguilla to see if savings could be effected which could be transferred to schemes of road improvement, particularly in Nevis and Anguilla, as the first immediate step towards producing the necessary infrastructure for tourist development. (Other matters relating to financial assistance are dealt with in paragraphs 28 to 30 below.)

9. The Conference noted that the draft Report of the Tripartite Economic Survey Mission had just been received by the British Government. The representatives of the Government of St. Kitts/Nevis/Anguilla expressed the hope that they would soon receive a copy of the Report. The United Kingdom delegation undertook that Her Majesty's Government would raise the matter with the other sponsoring Governments.

CONCLUSIONS OF THE CONFERENCE

10. The Conference agreed that subject to the approval of the Legislature in St. Kitts/Nevis/Anguilla and the enactment of the necessary legislation in the United Kingdom, the existing colonial relationship between the United Kingdom and St. Kitts/Nevis/Anguilla should cease and be replaced by a new association with Britain. This association would be free and voluntary, terminable by either country at any time, and under it St. Kitts/Nevis/Anguilla would be fully self-governing in all its internal affairs.

11. The United Kingdom legislation establishing the new association should provide for the grant of a new Constitution as agreed upon at the Conference, the main features of which are set out in Annex B of this Report.

The Constitution would contain provision for its amendment or replacement by the Legislature and for the appropriate procedure for this purpose.

Responsibilities and powers of the United Kingdom

12. It was agreed that the United Kingdom would be responsible for defence and external relations as proposed in Cmnd. 2865. In discharging this responsibility the United Kingdom would act in close consultation with the Government of St. Kitts/Nevis/Anguilla in matters which affect the Territory. It was accordingly agreed that during the continuance of the association the relations between the United Kingdom and the Government of St. Kitts/Nevis/Anguilla should be governed by the arrangements described below.

13. The United Kingdom legislation establishing the association should provide that the Government of the United Kingdom is to be responsible for the defence and external relations of St. Kitts/Nevis/Anguilla and should have executive authority for this purpose.

14. The United Kingdom legislation should also provide that the Government of the United Kingdom could confer a general or specific authority upon the Government of St. Kitts/Nevis/Anguilla, subject to any exceptions, limitations or conditions that may be appropriate, to deal on their behalf with specified matters in the field of external relations.

15. The United Kingdom legislation should contain provisions to the effect that no Act of Parliament of the United Kingdom passed after the commencement of the association would extend to St. Kitts/Nevis/Anguilla as part of its law unless it was expressly declared in the Act that St. Kitts/Nevis/Anguilla had requested and consented to the enactment of the Act.

16. Similarly, the United Kingdom legislation providing for the Constitution of St. Kitts/Nevis/Anguilla should reserve to Her Majesty a general power to make laws by Order in Council but no such Order in Council should have effect as part of the law of St. Kitts/Nevis/Anguilla unless it was expressly declared in the Order in Council that St. Kitts/Nevis/Anguilla had requested and consented to the making of the Order in Council.

17. For the purposes of the two preceding paragraphs the request and consent of St. Kitts/Nevis/Anguilla should be signified by resolution of the Legislature.

18. The legislative provisions described in paragraphs 15 and 16 above should be subject to an exception under which an Act of Parliament of the United Kingdom or an Order of Her Majesty in Council would have effect as part of the law of St. Kitts/Nevis/Anguilla if it was expressly declared in the Act or Order in Council that in the opinion of the Parliament or Government of the United Kingdom the Act or Order in Council was required to have effect in St. Kitts/Nevis/Anguilla in the interests of the responsibilities of the Government of the United Kingdom for defence and external relations. It would not be possible, by means of an Act of Parliament or Order in Council having effect by virtue of the exception, to amend, suspend or revoke the Constitution of St. Kitts/Nevis/Anguilla.

19. An agreement would be entered into between the Government of the United Kingdom and the Government of St. Kitts/Nevis/Anguilla relating to external affairs and defence on the basis of the heads of agreement set out in Annex C.

20. The Government of the United Kingdom, in pursuance of the provisions of the United Kingdom legislation referred to at paragraph 14 above, would at the commencement of the association entrust the Government of St. Kitts/Nevis/Anguilla with authority in the field of external relations by means of a despatch drawn up on the basis of the Draft at Annex D.

21. The United Kingdom also undertook—

- (i) to endeavour to assist in the training of officers from St. Kitts/Nevis/Anguilla who will be required to deal with matters connected with the conduct of external affairs and defence ;
- (ii) to consider the inclusion of a representative of the Government of St. Kitts/Nevis/Anguilla in any British delegation whenever a matter materially affecting the interests of St. Kitts/Nevis/Anguilla is being discussed in an international body of which the United Kingdom is a member ; and
- (iii) to consider the appointment of a person nominated by St. Kitts/Nevis/Anguilla to advise a Diplomatic Mission in the exercise of consular functions in respect of persons belonging to St. Kitts/Nevis/Anguilla in a place abroad if such an appointment were at any time felt to be necessary.

These undertakings would be set out later in a despatch to the Government of St. Kitts/Nevis/Anguilla.

22. The Conference recognised that the operation of arrangements of this kind in respect of defence and external affairs depended upon a spirit of co-operation and mutual confidence. There would have to be the fullest consultation at all stages between the two Governments. The Government of the United Kingdom for their part acknowledge that, as the association is a voluntary one terminable by either country, every endeavour should be made to resolve any difference of view between the Governments by means of free negotiation and to maintain the spirit of co-operation and mutual confidence that now exists and that makes a voluntary association possible. The Government of the United Kingdom regard the legislative powers of the Parliament of the United Kingdom and Her Majesty in Council over St. Kitts/Nevis/Anguilla in respect of defence and external relations as an ultimate safeguard of the legitimate interests of the United Kingdom, necessary because it would not be reasonable to expect the United Kingdom to bear a responsibility without having the means of discharging it whatever course events might take, but unlikely to be invoked except as a last resort in circumstances that in practice seem unlikely to arise.

Termination of the Association

23. One of the main characteristics of the proposed new association is that either side will be free to terminate it at any time. The procedure for termination by St. Kitts/Nevis/Anguilla would be the same as that prescribed for the amendment of the basic clauses to the Constitution. These would include the requirements of a two-thirds majority in the House of Assembly and a two-thirds majority of votes cast in a referendum. No referendum however would be required where the association was terminated for the purpose of giving constitutional effect to arrangements under which the Territory (either by itself or in conjunction with other Territories)

joined with an independent Commonwealth country in the Caribbean, whether by uniting or federating with that country or in some other form of constitutional association with that country under which the independent Commonwealth country concerned would be responsible for the defence and external affairs of St. Kitts/Nevis/Anguilla. If the Territory arranges with one or more of the other associated states to form a federation or to create a new unitary state, it would be open to the Territories concerned, in view of the terms of paragraphs 15 to 17 above, by simple resolution of their Legislatures and without recourse to a referendum, to signify their request and consent that the necessary provision to establish the federation or create the new unitary state and to modify or terminate the association with Britain should be made by United Kingdom legislation.

24. The Conference was given an assurance that Britain would not terminate the association unilaterally without giving six months' notice of intention to do so. Britain would also be prepared to hold a conference at which the political and economic implications of the termination could be discussed. Further, whatever legislative procedures were to be used by the United Kingdom for the termination of the association the specific approval of the British Parliament would be sought.

Citizenship

25. During the existence of the association St. Kitts/Nevis/Anguilla will continue to share a common citizenship with the United Kingdom and Colonies. Accordingly the legislative provisions described in paragraphs 15-17 above would be subject to the exception that United Kingdom legislation on nationality will not require the request and consent of St. Kitts/Nevis/Anguilla in order to extend to the Territory as part of its law. The Constitution will, however, contain certain provisions for the establishment of a separate citizenship of St. Kitts/Nevis/Anguilla, but these provisions will not come into force before the termination of the association.

The Public Service

26. It was agreed in principle that there should be a Public Officers Agreement and a Compensation Scheme on the lines usual when constitutional arrangements are introduced which involve the Service Commissions becoming executive. Details of these would be worked out later in consultation between Her Majesty's Government and the Government of the Territory.

Local Government

27. The Conference was informed of the wish of the Government of St. Kitts/Nevis/Anguilla to set up a system of local government in Nevis and in Anguilla; and agreed that the Constitution will provide for local government in those Islands in a form the details of which should be decided by the Legislature.

Arrangements for Development and Budgetary Aid

28. The arrangements under which development assistance and budgetary aid would be made available to the St. Kitts/Nevis/Anguilla Government after the new arrangements had been introduced were discussed fully by the Conference. The British Government confirmed that so far as development assistance was concerned they would carry out in full the undertakings

already given to the St. Kitts/Nevis/Anguilla Government in connection with the Overseas Development and Services Act, 1965. This, in the view of the St. Kitts/Nevis/Anguilla delegation, was not adequate. They considered that the British Government should provide them with additional sources of aid because, on account of their size and other factors, they were not able to obtain aid from as many sources as larger, fully independent countries. The British Government considered that the introduction of the new constitutional arrangements did not, of itself, affect the aid position, either as regards what the Territory could absorb or what Britain could make available.

29. The British Government also confirmed that the St. Kitts/Nevis/Anguilla Government would if the need arose continue to be eligible for budgetary aid after the new constitutional arrangements had come into force and circulated a paper describing the conditions under which, given these constitutional arrangements, they proposed that it should be made available. (Briefly the system proposed was that grant-in-aid should be related to a three-year period after examination of the Estimates for the first year and projections for the second and third years. On the basis of this examination the grant-in-aid for the first year would be finally determined and the maxima would be fixed for the succeeding two years within which actual amounts would be settled.) The St. Kitts/Nevis/Anguilla Delegation requested the British Government to consider an alternative proposal. They pointed out that the British Government would no longer be responsible for ensuring any specific level of services; the St. Kitts/Nevis/Anguilla Government for their part were resolved that grant-in-aid should be eliminated within six years, and to achieve this it would be necessary for there to be maximum flexibility in the issue of grant-in-aid. In these circumstances the delegation proposed that the grants-in-aid should be firmly determined in respect of a three-year period and that within this period the actual issues of these grants-in-aid should be a matter for discussion between the two Governments, provided that the full amount of the grants-in-aid so determined would be payable in full during the three-year period concerned. The British delegation undertook to consider this proposal. It was explained, however, that if it did not prove possible to accept the St. Kitts/Nevis/Anguilla Government's proposals the arrangements for budgetary support under the new Constitution would have to be as proposed by the British Government.

30. The British Government confirmed that the arrangements for budgetary support would not exclude the consideration of special assistance following a major natural disaster.

Lancaster House, S.W.1.
26th May, 1966.

**ST. KITTS/NEVIS/ANGUILLA CONSTITUTIONAL CONFERENCE,
1966**

REPORT

Signed at Lancaster House, London, S.W.1,
on Thursday, 26th May, 1966.

UNITED KINGDOM

FRED LEE

Secretary of State for the Colonies.

JOHN STONEHOUSE

*Parliamentary Under-Secretary of
State.*

ST. KITTS/NEVIS/ANGUILLA

C. A. PAUL SOUTHWELL

Chief Minister.

ROBT. L. BRADSHAW

Minister without Portfolio.

EUGENE WALWYN

*Member of Legislative Council
(Nevis).*

P. E. ADAMS

*Member of Legislative Council
(Anguilla).*

B. F. DIAS,

Attorney-General.

Secretary-General,

B. A. ST. J. HEPBURN.

LIST OF THOSE ATTENDING THE CONFERENCE**UNITED KINGDOM**

The Rt. Hon. FREDERICK LEE, M.P.

Mr. JOHN STONEHOUSE, M.P.

Officials

Sir HILTON POYNTON, G.C.M.G.	Mr. A. R. RUSHFORD, C.M.G.
Mr. A. N. GALSWORTHY, C.M.G.	Mr. M. G. DE WINTON, C.B.E.,
Mr. W. I. J. WALLACE, C.M.G.,	M.C.
O.B.E.	Mr. P. R. NOAKES, O.B.E.
Mr. D. WILLIAMS	Mr. J. E. REDNALL
Mr. D. J. KIRKNESS	Mr. J. M. ROSS
Mr. J. W. STACPOOLE	Mr. B. H. HEDDY
Mr. R. M. BLAIKLEY	Mr. P. H. JOHNSTON
Mr. A. McM. WEBSTER	Mr. R. A. BROWNING
Mr. C. G. GIBBS	Mr. W. F. CARROCHER
Mr. J. E. WHITELEGG	

ST. KITTS/NEVIS/ANGUILLA

Hon. C. A. PAUL SOUTHWELL, J.P.	Chief Minister
Hon. R. L. BRADSHAW, J.P. ...	Minister without Portfolio
Hon. E. WALWYN	Member of Legislative Council (Nevis)
Hon. P. E. ADAMS	Member of Legislative Council (Anguilla)
Hon. B. F. DIAS	Attorney-General
Mr. A. HALEY, O.B.E.	Financial Secretary

Administrator

Mr. F. A. PHILLIPS, C.V.O.

Secretariat

Mr. B. A. ST. J. HEPBURN, C.M.G.
 Mr. J. V. KERBY.
 Mr. F. R. MINGAY.
 Mr. R. D. COMPTON.

THE CONSTITUTION OF ST. KITTS/NEVIS/ANGUILLA

Fundamental Rights and Freedoms

The Constitution will include provision for safeguarding the fundamental rights and freedoms of the individual, irrespective of race, place of origin, political opinions, colour, creed or sex, subject to respect for the rights and freedoms of others and for the public interest.

2. These fundamental rights and freedoms will include the right to life, liberty, protection from slavery and forced labour, and from inhuman treatment, and the protection of the law; freedom of conscience, of expression, of movement and of assembly and association; and protection for the privacy of a person's home and other property and from deprivation of property without compensation. Subject to safeguards, derogation from certain of these fundamental rights and freedoms will be permitted in time of war or emergency.

3. Provision will be made in the Constitution for the enforcement by the Courts of the fundamental rights and freedoms. In particular any person who alleges that any of the protective provisions has been, is being, or is likely to be contravened in relation to him will have a right to apply to the High Court for redress, and there will be a right of appeal to the Court of Appeal in such cases.

The Governor

4. The Governor, who will be Her Majesty's representative in St. Kitts/Nevis/Anguilla will be appointed by Her Majesty, and hold office during Her Majesty's pleasure. Provision will be made for the appointment of an Acting Governor and a Governor's deputy.

The Legislature

5. The Legislature of St. Kitts/Nevis/Anguilla will consist of Her Majesty and a House of Assembly.

The House of Assembly

6. The House of Assembly will consist of a Speaker, elected members, and nominated members. The elected members will be elected by secret ballot in single member constituencies of which there will be at least one in Anguilla, at least two in Nevis and at least seven in St. Kitts. There will be two nominated members appointed by the Governor, acting on the advice of the Premier, and one nominated member appointed by the Governor on the advice of the Leader of the Opposition, or, if there is no Leader of the Opposition, by the Governor in his discretion. In addition the Attorney-General will, if he is a civil servant, be *ex officio* a member of the House of Assembly: if he is not a civil servant, and is not an elected member of the House, he may be nominated as a member in addition to the other three nominated members. A nominated member of the House will be entitled to vote in the House except on a motion of no confidence in the Government or on Bills for alteration of the Constitution. The House will elect a Speaker

who may be an elected member of the House other than a Minister or Parliamentary Secretary ; but if the House elects a Speaker who is not an elected member of the House, he shall be a member of the House by virtue of his office.

Qualifications for membership of the Legislature

7. Subject to disqualifications of the normal type, a person will be qualified for nomination for election as a member of the House of Assembly or to be appointed as a nominated member, if he is a Commonwealth citizen of the age of twenty-one years or more and he was born and is domiciled in St. Kitts/Nevis/Anguilla, or if he is domiciled in St. Kitts/Nevis/Anguilla and has been resident there for at least three years immediately preceding the date of his nomination for election or his appointment.

Qualification of Voters

8. Subject to such disqualifications as the Legislature may prescribe, a person will be qualified to vote at an election of members of the House of Assembly if, and shall not be qualified to vote at such an election unless, he—

- (a) is a Commonwealth citizen of the age of twenty-one years or more, and
- (b) has such other qualifications regarding residence, domicile or registration as may be prescribed by the Legislature.

Boundaries Commission

9. Provision will be made for a Boundaries Commission which will consist of the Speaker of the House of Assembly as Chairman, two members of the House appointed by the Governor on the advice of the Premier and two members of the House appointed by the Governor on the advice of the Leader of the Opposition or, if there is no Opposition, by the Governor in his discretion. No Minister, Parliamentary Secretary or public officer will be eligible for membership. The number of the constituencies and the boundaries of the constituencies will be alterable by order of the Governor, approved in draft by the House of Assembly, giving effect to recommendations of the Commission with any modifications approved by the House. In the exercise of its functions the Commission will be required to comply with the provisions as to the minimum number of constituencies (see paragraph 6) and with certain principles set out in the Constitution. The Commission will review the boundaries within five years of the day on which the Constitution comes into force and subsequently at intervals of not more than five years.

Supervisor of Elections

10. There will be a Supervisor of Elections, who will be appointed by the Governor after consultation with the Premier and the Leader of the Opposition. The registration of voters and the conduct of elections will be under the control and direction of the Supervisor of Elections who will be independent in the exercise of these functions.

Determination of questions as to membership of the Legislature

11. The High Court will have jurisdiction to hear and determine questions as to the validity of elections or nomination of members of the House of Assembly ; as to whether any person elected as Speaker was qualified to be

so elected ; or as to whether any elected or nominated member has vacated his seat. There will be an appeal to the Court of Appeal in such cases but its decision will be final.

Transitional Provisions

12. The persons who immediately before the Constitution comes into force are elected members of the Legislative Council will be deemed to have been elected as members of the House of Assembly.

Alteration of the Constitution

13. The Legislature of St. Kitts/Nevis/Anguilla will have power to alter any of the provisions of the Constitution.

14. A Bill to alter any provision of the Constitution will be required to be supported at the final vote by not less than two-thirds of all the elected members of the House of Assembly and, in the case of a Bill to amend the clauses of the Constitution concerning local government in Nevis or Anguilla, to be submitted to the electors qualified to vote in elections in Nevis or Anguilla, as the case may be, to the House of Assembly and approved at the referendum by not less than two-thirds of the valid votes cast.

15. In addition, any Bill to amend the basic clauses of the Constitution may not be submitted to the Governor for assent unless

- (a) there has been an interval of not less than ninety days between the first and second readings of such a Bill in the House of Assembly ; and
- (b) it has been submitted to the electors qualified to vote in elections to the House of Assembly in a referendum and approved at that referendum by not less than two-thirds of the valid votes cast.

16. There will be no need for a referendum in connection with a Bill for enactment by the Legislature of St. Kitts/Nevis/Anguilla that terminates the association between the United Kingdom and St. Kitts/Nevis/Anguilla and gives constitutional effect to arrangements under which St. Kitts/Nevis/Anguilla (either by itself or together with other territories) joins with an independent Commonwealth country in the Caribbean, whether by uniting or federating with that country or in some other form of constitutional association with that country under which that country would be responsible for the defence and external relations of St. Kitts/Nevis/Anguilla. (If the Territory arranges with one or more of the associated states to form a federation or to create a new unitary state, then, as indicated in paragraph 23 of this Report, it would be open to the Territory by a simple resolution of the House of Assembly and without recourse to a referendum, to signify its request and consent that the necessary provision to establish the federation or to create the unitary state and to modify or terminate the association with Britain, should be made by United Kingdom legislation.)

17. The basic clauses will be the provisions in the Constitution relating to the following matters ; fundamental rights and freedoms ; the office of Governor ; the structure of the Legislature, including the composition of the House of Assembly ; the Boundaries Commission, its functions and the requirements as to the minimum number of constituencies and the principles to be observed by the Commission ; the franchise ; the power of the Legislature to make laws ; the procedure for alteration of the Constitution ; the

life of the Legislature, the frequency of its sessions and its prorogation and dissolution ; the requirement of holding general elections ; the establishment and composition of the High Court and Court of Appeal ; the appointment of judges and their tenure of office ; the constitutional jurisdiction of the High Court and the right of appeal from the High Court to the Court of Appeal on constitutional questions ; the right of appeal from the Court of Appeal to the Privy Council on such questions ; the Judicial and Legal Services Commission ; the method of appointment and removal of magistrates ; the Police Service Commission and the Public Service Commission ; and the functions of these Commissions ; the Director of Public Prosecutions ; the Director of Audit ; finance (see paragraphs 38 and 39), excepting the provision for withdrawal of money to meet unforeseen expenditure ; the safeguarding of the pension rights of public officers ; the suspension of the coming into operation of the provisions for a separate citizenship.

Summoning, prorogation and dissolution

18. The normal life of the Legislature will be five years, unless sooner dissolved, but the Legislature will be able to extend this period when the Territory is at war. There shall be a session of the House of Assembly at least once in every year, with an interval of not more than six months between the last sitting of the House in one session and the first sitting in the next. The Governor will have power to prorogue or dissolve the Legislature at any time on the advice of the Premier. The Governor will also be able to dissolve the Legislature if the office of Premier is vacant and there is no prospect of his being able to appoint to that office a person who commands the support of a majority of the members of the House of Assembly.

19. The Constitution will require that a general election must be held within two months of a dissolution except that in time of emergency the Governor, acting on the advice of the Premier, may, after a dissolution and before a general election has been held, recall the dissolved Legislature.

The Executive

20. The executive authority of St. Kitts/Nevis/Anguilla will be vested in Her Majesty and exercised on Her behalf by the Governor. The Governor will exercise his functions on the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except where the Constitution or some other law of St. Kitts/Nevis/Anguilla otherwise provides.

21. The Governor will appoint as Premier the member of the House of Assembly who in his judgment is best able to command the confidence of a majority of the members of that House. He will appoint other Ministers and Parliamentary Secretaries in accordance with the Premier's advice from among the members of the House of Assembly. The Constitution will make provision for the Governor to authorise a Minister to perform the functions of the Premier in the event of the absence or illness of the Premier. The office of Attorney-General may be held by a civil servant in which case he will be *ex officio* a member of the House of Assembly and of the Cabinet.

22. The general direction and control of the Government of St. Kitts/Nevis/Anguilla will rest with the Cabinet consisting of the Premier and the

other Ministers. The Cabinet will be collectively responsible to the Legislature.

23. The Constitution will make provision for a Director of Public Prosecutions who will be a public officer and will have independent powers in relation to criminal prosecutions. At any time when the Attorney-General is a civil servant the powers of the Director in relation to criminal prosecutions may be exercised by the Attorney-General and it will not be necessary for there to be a separate holder of the office of Director of Public Prosecutions.

24. The Prerogative of Mercy will be exercised by the Governor on behalf of Her Majesty. In exercising this power, the Governor will act on the advice of a Minister designated by him on the advice of the Premier. Before advising the Governor the designated Minister will be obliged to consult the Advisory Committee on the Prerogative of Mercy in capital cases and he may do so in other cases ; the Minister will not, however, be bound to follow the advice of the Committee in advising the Governor. The Committee will consist of the designated Minister, the Attorney-General and not more than four other members appointed by the Governor on the advice of the Premier.

25. There will be provision for a Leader of the Opposition who will be appointed by the Governor in his discretion. The principles which will guide the Governor in selecting a member of the House of Assembly for appointment will be set out in the Constitution.

The Judicature

26. It was agreed that St. Kitts/Nevis/Anguilla would participate in a regional Supreme Court of Judicature. The provisions relating to the Supreme Court and the Judicial and Legal Services Commission described below would be acceptable to the Government of St. Kitts/Nevis/Anguilla, if acceptable to the other territories which have agreed to participate.

27. There will be a Supreme Court of Judicature consisting of a High Court of Justice and a Court of Appeal.

28. The Court of Appeal will consist of the Chief Justice, who will be President of the Court, and two Justices of Appeal, but the number of Justices of Appeal will be variable by order of the Chief Justice made with the concurrence of the Governments of all the associated territories.

29. The High Court will consist of the Chief Justice (who will not normally be expected to sit in the High Court) and seven Puisne Judges. The number of Puisne Judges will be variable by order of the Chief Justice made with the concurrence of the Governments of all the associated territories.

30. The Chief Justice will be appointed by Her Majesty and the Justices of Appeal and the Puisne Judges will be appointed on behalf of Her Majesty by the Judicial and Legal Services Commission.

31. There will be provision for a Justice of Appeal to act as Chief Justice, and for a person qualified for appointment as a Justice of Appeal or Puisne Judge to act as Justice of Appeal or Puisne Judge when the office in question is vacant or the holder of the office is for any reason unable to perform the functions of his office.

32. There will be provisions prescribing the qualifications for appointment as Chief Justice, Justice of Appeal or Puisne Judge.

33. The retiring age for the Chief Justice and Justices of Appeal will be sixty-five years. The retiring age for a Puisne Judge will be sixty-two years, but there will be power to extend his tenure of office for a period which shall not exceed three years. No judge will be removable from office except for inability to perform the functions of his office or for misbehaviour and then only after a tribunal has recommended reference of the matter to the Judicial Committee of the Privy Council and the Committee has advised the removal of the judge.

Constitutional Jurisdiction

34. In addition to jurisdiction with respect to fundamental rights and freedoms, the High Court will have jurisdiction, on the application of any person who belongs to St. Kitts/Nevis/Anguilla or is ordinarily resident there and also has the requisite interest, to declare whether any law, or anything done in purported exercise of authority conferred by the Constitution or any other law, contravenes any of the other provisions of the Constitution.

35. The Constitution will also vest in the High Court jurisdiction in questions relating to membership of the House of Assembly, and will provide for an appeal in such cases to lie to the Court of Appeal whose decision shall be final.

Other Jurisdiction

36. Except for the jurisdiction conferred by the Constitutions of the territories, the jurisdiction of the High Court and the Court of Appeal will be prescribed by the laws of the respective territories. The Constitutions will prescribe in which cases an appeal would lie to the Privy Council as of right and in which only with the leave of the Court of Appeal; and will save the right of Her Majesty to grant special leave to appeal. (The Conference recognised it to be highly desirable that there should be uniformity in the jurisdiction of the courts for each of the territories which they served but considered that this must be effected by local legislation the contents of which should be left for subsequent agreement by the Governments of the territories.)

Judicial and Legal Services Commission

37. There will be a Judicial and Legal Services Commission consisting of the Chief Justice sitting *ex officio*, a Justice of Appeal or Puisne Judge appointed by the Chief Justice, a retired judge appointed by the Chief Justice, and the Chairman of two of the Public Service Commissions of the associated territories in rotation, sitting *ex officio*; a practising barrister should not be eligible for membership of the Commission and if the Chairman of a Public Service Commission due to take up office is a practising barrister that Commission should nominate one of its members who is not a practising barrister to the Judicial and Legal Services Commission in his stead. The appointed members of the Judicial and Legal Services Commission will be appointed for a term of three years but if qualified will be eligible for re-appointment. The retired judge appointed by the Chief

Justice will be removable from office but only if his removal on grounds of inability or misbehaviour has been recommended by a tribunal appointed by the Chief Justice.

Finance

38. The Constitution will provide for annual estimates of revenues and expenditure to be laid before the House of Assembly, and for the introduction of appropriation bills in respect of each financial year. The Constitution will establish a Consolidated Fund and regulate payments into and withdrawals from that Fund ; and will prescribe a procedure for meeting unforeseen expenditure for which no provision has been made in an appropriation law. The Constitution will establish the office of a Director of Audit who will be independent in the exercise of his functions under the Constitution which will include the audit of the public accounts of the Government, the courts and other public authorities ; and require that the annual reports of the Director of Audit shall be laid before the House of Assembly. The public debt of St. Kitts/Nevis/Anguilla will be charged on the Consolidated Fund.

39. The emoluments of the Governor, judges, members of the Service Commissions, the Director of Audit, the Attorney-General (if a civil servant), and the Director of Public Prosecutions will be charged on the Consolidated Fund by the Constitution which will also provide that the emoluments and other terms of service of any of those persons shall not be altered to his disadvantage after his appointment.

The Public Service

The Public Service Commission

40. The Constitution will provide for a Public Service Commission. The Commission will consist of a Chairman and not less than two nor more than four other members appointed by the Governor on the advice of the Premier, one of whom will be selected from a list of names put forward by the Civil Service Association. A member will be appointed for a term of not more than five years and not less than two years, but may be re-appointed. A member's appointment will be revocable by the Governor only for inability to discharge the functions of his office or for misbehaviour. The Governor will act on the advice of an independent tribunal. No member of the Legislature, no public officer and no person who is not or ceases to be a Commonwealth citizen ordinarily resident in St. Kitts/Nevis/Anguilla shall be a member of the Commission. No person shall hold public office within three years of ceasing to be a member of the Commission.

The Functions of the Commission

41. With certain specified exceptions the Commission will be responsible for appointments, including promotions to public offices and for the removal of, and the exercise of disciplinary control over, holders of such offices. The Commission will act by means of recommendations to the Governor, which will be binding subject to a power of reference back for reconsideration. The Commission will have authority to delegate its functions. The specified exceptions will be the offices of any Judge, Chief Registrar of

the Supreme Court, Attorney-General, Magistrate, Director of Public Prosecutions, Director of Audit, Permanent Secretary or Secretary to the Cabinet and offices in the Police Force.

42. The Attorney-General, if a civil servant, will be appointed, disciplined and removed on the recommendation of the Public Service Commission acting after consultation with the Premier and the Judicial and Legal Services Commission. The Director of Public Prosecutions will be appointed by the Governor on the recommendation of the Public Service Commission acting after the Commission has consulted with the Premier and the Judicial and Legal Services Commission. The Director of Audit will be appointed by the Governor on the recommendation of the Public Service Commission. The Director of Public Prosecutions and the Director of Audit will be removable only for inability to discharge the functions of his office or for misbehaviour, on the advice of an independent tribunal appointed by the Chief Justice. The Chief Registrar of the Supreme Court will be appointed, disciplined and removed on the recommendation of the Judicial and Legal Services Commission. Magistrates and Registrars in St. Kitts/Nevis/Anguilla will be appointed on the recommendation of the Public Service Commission after consultation with the Judicial and Legal Services Commission, and disciplined and removed on the recommendation of the Judicial and Legal Services Commission after consultation with the Public Service Commission. No person will be appointed to the office of Permanent Secretary or Secretary to the Cabinet or Chief of Police or Head or Deputy Head of a Department of Government if the Premier objects to his appointment. The transfer of Permanent Secretaries will vest in the Governor acting on the advice of the Premier.

The Police Service Commission

43. There will be a Police Service Commission consisting of the Chairman and members of the Public Service Commission except that in the place of the member selected from names put forward by the Civil Service Association, there will be a member selected from a list of names put forward by the Police Association.

44. Officers in the Police Force will be appointed, disciplined and removed on the recommendation of the Police Service Commission. The Commission will have authority to delegate its functions to the Chief of Police or any other officer in the Police Force. A person shall not be appointed to the office of Chief of Police if the Premier signifies his objection to his appointment.

Public Service Board of Appeal

45. There will be a Public Service Board of Appeal, consisting of a Chairman appointed by the Governor in his discretion, one member being a person who is or has been a public officer of the St. Kitts/Nevis/Anguilla Public Service, appointed by the Governor on the recommendation of the St. Kitts/Nevis/Anguilla Civil Service Association, and one member appointed by the Governor on the advice of the Premier. The members of the Board will hold office for three years, and may be re-appointed. The Board will have jurisdiction to hear and determine appeals from the disciplinary decisions of the Public Service Commission and Police Service

Commission, and from the disciplinary orders of any defence force that may be established. A member of the Board will be removable from office only for inability or misbehaviour, and only if an enquiry has been held by a Tribunal appointed by the Legal and Judicial Services Commission and the Tribunal has recommended his removal.

Protection of pension rights

46. Provision will be made for the protection of pension rights and preventing the refusal, withholding or reduction in the amount of pension benefits without the approval of the appropriate Service Commission.

Citizenship

47. The Constitution will contain certain basic provisions for the establishment of a citizenship of St. Kitts/Nevis/Anguilla, but will provide that the operation of those provisions will be suspended until such time as the Territory becomes independent and they will come into force on that date (referred to below as the operative date).

48. The basic provisions will be to the following effect:—

- (a) Any person who was born in the Territory and is a citizen of the United Kingdom and Colonies immediately before the operative date will automatically become a citizen of the Territory on the operative date.
- (b) Any person who, having been born outside the Territory, is immediately before the operative date a citizen of the United Kingdom and Colonies will automatically become a citizen of the Territory on the operative date if his father becomes, or would but for his death have become, a citizen of the Territory under sub-paragraph (a).
- (c) Any person who immediately before the operative date is a citizen of the United Kingdom and Colonies by virtue of his naturalisation or registration in the Territory will automatically become a citizen of the Territory on the operative date.
- (d) Any person born outside the Territory who immediately before the operative date is a citizen of the United Kingdom and Colonies under the age of twenty-one and whose father becomes a citizen of the Territory under sub-paragraph (c), will be entitled to be registered as a citizen of the Territory if an application is made on his behalf by his parent or guardian before he attains the age of twenty-one or within such further time as may be prescribed by the Legislature. An application may not be made under this provision on behalf of a woman who is or has been married.
- (e) A woman who is or has been married to a person who becomes (or who would but for his death have become) a citizen of the Territory under sub-paragraph (a), (b), or (c) will be entitled to be registered as a citizen of the Territory upon making application and, if she is a British Protected Person or an alien, upon taking an oath of allegiance.
- (f) Any person born in the Territory on or after the operative date (with certain standard exceptions), and any person born outside the

Territory on or after that date whose father is a citizen of the Territory otherwise than by descent, will become a citizen of the Territory at birth.

- (g) Any woman who on or after the operative date marries a person who is or who becomes a citizen of the Territory will be entitled to be registered as a citizen of the Territory upon making application and, if she is a British Protected Person or an alien, upon taking an oath of allegiance.

49. The Legislature will have power to make further provisions relating to citizenship to supplement those set out above, including provision for the acquisition of citizenship of the Territory by persons who do not become citizens under the provisions of the Constitution, and for deprivation and renunciation of citizenship.

Local Government

50. The Constitution will provide that there shall be a Council for Nevis and a Council for Anguilla ; that the Council for each Island shall be the principal organ of local government for that Island ; and that at least two thirds of all members of each Council shall be elected on the same franchise as members of the House of Assembly.

HEADS OF AGREEMENT ON DEFENCE AND EXTERNAL AFFAIRS

General

1. There will be a preamble referring to the provisions of the Order in Council defining the responsibilities of the United Kingdom Government for defence and external affairs and the powers of the United Kingdom Parliament and Her Majesty in Council to legislate for the Territory.

2. This agreement will have effect as long as the association between the United Kingdom and the Territory lasts, but will be capable of modification by mutual agreement.

Defence

3. The Government of the Territory will take all steps (including, where necessary, steps to secure the passage of legislation) to provide such facilities as may be required in the Territory by the United Kingdom Government for the fulfilment of their responsibilities or obligations with respect to the defence of the Territory or of the United Kingdom and its associated states and territories or the safety of any other part of the Commonwealth or of any of the allies of the United Kingdom.

4. The Government of the Territory will not, without the consent of the United Kingdom, grant access to any part of their Territory or territorial waters to, or allow the use of any of their airfields, communications or harbour facilities by, the forces or agents of any other Government.

5. An agreement dealing with the exercise of jurisdiction over United Kingdom visiting forces and other matters normally dealt with in status of forces agreements will be entered into at the same time as this agreement.

6. Any United Kingdom forces introduced into the Territory for defence purposes under this agreement will not be used in aid of the civil power or for any purposes other than defence purposes except at the request of the Government of the Territory and with the agreement of the United Kingdom Government. Provided that the request of the Government shall not be necessary if at any time they are unable, through circumstances beyond their control, to make a request.

External Affairs

7. The United Kingdom Government will consult the Government of the Territory before entering into international obligations with respect to the Territory.

8. The United Kingdom Government will from time to time by despatch define the extent to which the Government of the Territory will have authority to act in the field of external relations.

9. The Government of the Territory will take all steps (including, where necessary, steps to secure the passage of legislation) that, after full consultation between the United Kingdom Government and the Government of the Territory, are required by the United Kingdom Government—

- (a) to secure the fulfilment of the Commonwealth or international obligations or responsibilities of the United Kingdom Government ;
or
- (b) in the interests of good relations between the Territory or the United Kingdom and another country.

10. The Government of the Territory will not introduce or support legislation which might affect the discharge of the United Kingdom Government's Commonwealth or international obligations or responsibilities or the maintenance of good relations between the Territory or the United Kingdom and another country without prior reference to and consultation with the United Kingdom Government. The Government of the Territory will not proceed with or support legislation if the United Kingdom Government inform them that its passage would be detrimental to the discharge of those obligations or responsibilities or the maintenance of such relations.

11.—(1) Where in the opinion of the United Kingdom Government the enactment of legislation for the Territory is required in the interests of the responsibility of the United Kingdom Government for the external affairs or defence of the Territory or of the United Kingdom and its other associated states and territories the United Kingdom Government shall invite the Government of the Territory either—

- (a) to signify their consent to the enactment of the legislation by the Parliament of the United Kingdom or by Her Majesty in Council ;
or
- (b) to take steps to secure the enactment of the legislation by the Legislature of the Territory or other appropriate authority in the Territory.

(2) If the consent of the Government of the Territory to the enactment of legislation by the Parliament of the United Kingdom or by Her Majesty in Council is signified under paragraph (1)(a) of this clause, the United Kingdom Government may take steps to secure the enactment of the legislation accordingly.

(3) If the Government of the Territory see difficulty in acceding to a request made to them by the United Kingdom Government under paragraph (1) of this clause, then the fullest consultation that is practicable in the circumstances of the case shall take place between the Government of the United Kingdom and the Government of the Territory with a view to resolving the difficulty.

(4) Where after consultation under paragraph (3) of this clause there is failure to reach agreement concerning the enactment of legislation, and the United Kingdom Government remain of the opinion that it is nevertheless necessary for legislation to be enacted in the interests of their responsibility for the external affairs and defence of the Territory or of the United Kingdom and its other associated states and territories, the United Kingdom

Government shall give as much notice as possible to the Government of the Territory of their intention to take steps to secure the enactment of the legislation by the Parliament of the United Kingdom or by Her Majesty in Council.

12. In order to enable the United Kingdom Government to discharge their responsibilities for defence and external affairs, the Government of the Territory will keep the United Kingdom Government fully informed on matters relating to or affecting these responsibilities of the United Kingdom Government.

DRAFT DESPATCH

In carrying out their general responsibility for the external affairs of St. Kitts/Nevis/Anguilla the British Government will seek the fullest consultation with the Government of St. Kitts/Nevis/Anguilla and will at all times have special regard to the interests of the Government of St. Kitts/Nevis/Anguilla and of the association between the two Governments.

2. Subject to the understandings set out in later paragraphs of this despatch Her Majesty's Government in the United Kingdom hereby delegate executive authority to the Government of St. Kitts/Nevis/Anguilla with respect to their external relations with other countries as follows :—

- (a) authority to apply for full or associate membership, as may be provided for in the Constitution of the organisation concerned, of those United Nations Specialised Agencies or similar international organisations of which the United Kingdom is itself a member and for membership of which St. Kitts/Nevis/Anguilla is eligible ;
- (b) authority to arrange or permit visits by representatives of or persons in the employ of any organisation under sub-paragraph (a) above of which St. Kitts/Nevis/Anguilla is a full or associate member ;
- (c) authority to negotiate and conclude trade agreements with other countries, whether bilateral or multilateral, relating solely to the treatment of goods. Agreements relating to establishment matters (i.e. those affecting the rights of persons and companies of the contracting parties) will continue to be dealt with in commercial treaties negotiated by the British Government. The British Government will, however, be prepared, in appropriate circumstances to delegate to the Government of St. Kitts/Nevis/Anguilla *ad hoc* authority to conclude individual trade agreements in which establishment matters are included. Agreements affecting St. Kitts/Nevis/Anguilla relating to civil aviation* and shipping will continue to be dealt with in accordance with present practice whereby the British Government engage in the fullest consultation with the St. Kitts/Nevis/Anguilla Government and invite their participation in such negotiations as are necessary ;
- (d) authority to arrange or permit visits of up to thirty days for trade or commercial purposes by representatives or residents of St. Kitts/Nevis/Anguilla to any other country, and by representatives or residents of any other country to St. Kitts/Nevis/Anguilla (though questions relating to the establishment of permanent or temporary representation of other countries in St. Kitts/Nevis/Anguilla or of St. Kitts/Nevis/Anguilla in other countries will continue to be determined by the British Government after consultation with the Government of St. Kitts/Nevis/Anguilla) ;

* The Chief Minister of St. Kitts/Nevis/Anguilla maintained that rights for civil aircraft to enter and leave the Territory should be negotiated only in accordance with the wishes of the Territory. This was not agreed by the United Kingdom.

- (e) authority to negotiate and sign agreements of purely local concern with any member of the British Commonwealth or any British colony in the Caribbean area or with such authorities in other neighbouring islands as the St. Kitts/Nevis/Anguilla Government may request and the United Kingdom Government may approve ;
- (f) authority to negotiate and sign agreements for financial and technical assistance or of a cultural or scientific nature with :—
 - (i) any Member of the British Commonwealth ;
 - (ii) the United States of America or such other countries as the St. Kitts/Nevis/Anguilla Government may request and the United Kingdom Government may approve ; or
 - (iii) any international organisation of which the United Kingdom is a member ;
- (g) authority to negotiate and sign agreements with other countries whether multilateral or bilateral relating to emigration from St. Kitts/Nevis/Anguilla to those countries and to emigrant labour schemes.

3. In addition the British Government will give sympathetic consideration to any request by the St. Kitts/Nevis/Anguilla Government for authority to take action on individual questions of external relations not covered by this despatch.

4. In view of the general responsibility of the British Government for the external affairs of St. Kitts/Nevis/Anguilla under the terms of the association mutually agreed between them the Government of St. Kitts/Nevis/Anguilla have agreed to inform the British Government in advance of any proposal for the exercise of the authority to conduct negotiations delegated to the Government of St. Kitts/Nevis/Anguilla in paragraph 2(c), (e), (f) and (g) of this despatch and to keep the British Government informed of the progress of any such negotiations. The British Government will inform the St. Kitts/Nevis/Anguilla Government if it shall appear that there is any conflict between the actions or proposals of the St. Kitts/Nevis/Anguilla Government in this field and the international commitments, responsibilities or policies of the British Government. The St. Kitts/Nevis/Anguilla Government have agreed that if after full consultation it were to prove impossible to reconcile the wishes of the two Governments the St. Kitts/Nevis/Anguilla Government would abide by the decision of the United Kingdom Government.

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