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Confidential Filing

The proposed separation of Anguilla from the Associated State of St. Kitts-Nevis.

ANGUILLA

March 1980

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~26. 3. 80~~							
~~31. 3. 80~~							
~~2. 4. 80~~							
~~11. 4. 80~~							
~~9. 10. 80~~							
22. 10. 80.							

PREM 19/139

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TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
OD (80) 32	26.3.80
L (80) 50	9.10.80
L (80) 16th Meeting, Minute 1	22.10.80

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed P Wayland Date 31 December 2009

PREM Records Team

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

18 April 1980

Dear Miles

ANGUILLA

The Lord Privy Seal wrote to the Chancellor of the Duchy on 11 April about the proposed legislation to separate Anguilla from the associated state of St Kitts-Nevis.

In view of the urgency with which it was necessary to inform the Chief Minister of Anguilla of the United Kingdom Government's views on possible legislation, we agreed on the telephone that the Chief Minister could be told that the United Kingdom hoped that it would be possible to secure the necessary legislation through Parliament before the end of this year, and would make every endeavour to do so, subject to the pressure of other Parliamentary business.

You will no doubt wish to instruct Parliamentary Counsel as soon as possible about the Bill in order to ensure that it is ready for introduction in good time. The Chancellor of the Duchy has therefore agreed to give it drafting authority.

I am copying this letter to the Private Secretaries of the members of OD and L Committees, and to David Wright (Cabinet Office). A copy also goes with a copy of the Lord Privy Seal's letter of 11 April to First Parliamentary Counsel.

Yours sincerely

PETRA LAIDLAW
Private Secretary

Miles Wickstead Esq
Private Secretary to the
Lord Privy Seal
Foreign & Commonwealth Office
London
SW1

Anguilla.

Foreign and Commonwealth Office
London SW1

11 April 1980

Fa

ANGUILLA

Thank you for your letter of 31 March about the Bill to separate Anguilla from the Associated State of St Kitts-Nevis.

I quite understand that there can be no prospect of introducing such a Bill in the current session either in the Commons or, as Robin Ferrers pointed out in his letter to me of 28 March, in the Lords. In the circumstances, I accept your suggestion that this measure should be introduced at the beginning of the next session.

We are committed to letting the Chief Minister of Anguilla know within the next few days exactly what our proposals are; and Nicholas Ridley will want to tell him that the Bill will be introduced early in the next session and action completed in both Houses before Christmas.

I have carefully noted the Attorney General's comments (in his letter of 2 April to the Prime Minister) on possible legal problems associated with this Bill. I am glad that he does not consider that these aspects will constitute an obstacle to the progress of the Bill, and I confirm that they will be taken fully into account in the preparation of the Bill and of the material for the debate.

/As

The Rt Hon Norman St John Stevas MP
Chancellor of the Duchy of Lancaster
Privy Council Office
Whitehall

As the Attorney assumes, from OD (80) 32, it is not the intention to legislate for Anguillan separation on United Kingdom external affairs or defence grounds in pursuance of Section 3 of the West Indies Act 1967. The declaration that was made at the time of the 1971 Anguilla Act would not, therefore, be appropriate in the present case. I note that the Attorney General does not believe that any challenge in a United Kingdom court to overriding Section 3 of the 1967 West Indies Act in this way would be upheld. We consider it an acceptable risk to take that the Eastern Caribbean Supreme Court, which has jurisdiction in St Kitts, might think differently.

I am copying this letter to members of both OD and L Committees

Anguilla

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01~~XXXXXX~~ 218 2111/3

MO 6/2

2nd April 1980

Rwt 3/4

Dear Rodric,

In your memorandum to OD of 26th March (OD(80)32), your Secretary of State sought agreement out of committee to the introduction of legislation for the separation of Anguilla as a dependent territory from the Associated State of St Kitts-Nevis.

My Secretary of State's main interest stems from the defence obligations which accompany the status of our territories in the Caribbean. But, as we have been effectively treating Anguilla as a dependent territory since its rejection of association with St Kitts-Nevis, constitutional recognition of this fact will involve no practical change in our obligations. My Secretary of State is therefore quite content to agree to the Foreign and Commonwealth Secretary's proposal without discussion in OD.

I am copying this letter to the Private Secretaries to the other members of OD.

Yours sincerely
Jonathan Dawson

(J D S DAWSON)
Private Secretary

R M J Lyne Esq

vb

c. HO
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TRADE
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CWO
LOD
FS, HMT
LD ADVOCATE
CW, H/L
CO

Anguilla

CONFIDENTIAL

10 DOWNING STREET

From the Private Secretary

2 April 1980

Bill for the Separation of Anguilla from St. Kitts-Nevis

The Prime Minister has seen the Foreign and Commonwealth Secretary's minute (OD(80)31) of 26 March on this subject and the related correspondence. She agrees that subject to the points raised by the Attorney General and to agreement on the timing of legislation, the Foreign and Commonwealth Secretary should proceed as he proposes.

I am sending a copy of this letter to the Private Secretaries to the members of OD and L Committees and to David Wright (Cabinet Office).

M. O'D. B. ALEXANDER

G.G.H. Walden, Esq.,
Foreign and Commonwealth Office.

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ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

2 April, 1980

Dear Prime Minister.

BILL FOR THE SEPARATION OF ANGUILLA FROM THE ASSOCIATED STATE OF ST KITTS

OD(80)32 was circulated to me. Members of the Committee should be aware that there are legal problems about the enactment of such a Bill, which were considered by the Law Officers of the two previous administrations.

The status of association is governed by the West Indies Act 1967, section 3 of which deals with the circumstances in which Parliament may legislate for an Associated State. Because of the terms of this section it can be argued that, in the absence of a request from St. Kitts, Parliament cannot legislate to separate Anguilla from the Associated State unless Parliament declares that it does so in the interests of the United Kingdom's responsibility for defence and external affairs. Such a declaration was made when Parliament last legislated for Anguilla in 1971, and if it were to be made in the new Bill no difficulties would arise under section 3.

Since, however, there is no mention in OD(80)32 of external affairs or defence grounds, I assume that they do not exist and that it may be intended to legislate by overriding the requirements of the 1967 Act, and making no declaration.

No United Kingdom court, in my opinion, would uphold a challenge to legislation in this form since they would regard Parliament as omnipotent. It does not follow that the courts of St. Kitts would take that attitude were the point ever to be raised before them; the question might then come to the Judicial Committee.

Bearing in mind the past history of United Kingdom legislation for Anguilla, the question of the legality and propriety of Parliament legislating without complying with the requirements of section 3 of the 1967 Act could, in theory at least, be raised in Parliament during the passage of the Bill.

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

Although I do not consider that the doubts about the legal position are sufficient to be an obstacle to proceeding with the policy recommended by the Foreign and Commonwealth Secretary, there is a need to take them into account in the preparation and passage of the Bill.

I am sending a copy of this letter to members of the Committee.

Yours ever.
Michael.

The Rt Hon Margaret Thatcher MP
Prime Minister
No.10 Downing Street
London, S.W.1.

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Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

1st April 1980

R.M.J. Lyne Esq,

Dear Roderic,

OD(80)37 ANGUILLA

The Chancellor has noted Lord Carrington's proposal to introduce a Bill in the current Parliamentary session separating Angilla from St Kitts/Nevis and providing for its separate administration as a dependency.

I confirm that he is content with this proposal.

Yours ever

M.A. HALL
Private Secretary

cc: PS/Members of OD and Sir Robert Armstrong

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

31 March 1980

1. MOD Ftosa
2. NAA
MS

p/w has been submitted to Prime Minister

Dear Ian,

ANGUILLA

attached

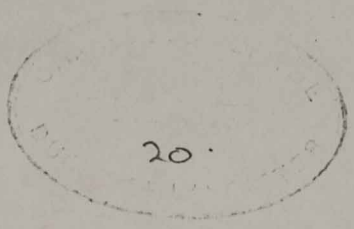
Thank you for your letter of 24 March about the possibility of adding to this session's legislative programme a Bill about the status of Anguilla.

I confess I was rather surprised that you should have put this proposal forward shortly after our Cabinet discussion at which the Acting Leader of the House of Lords and I drew colleagues' attention to the very tight constraints on the legislative programme for the rest of the session, particularly in the House of Lords. I am afraid that the fact that a Bill is believed to be non-controversial and that it would have the support of the Opposition does not remove the difficulties. Time still has to be found to debate it and I would have thought the chequered history of Anguilla and other islands would have provided very considerable material on which Members in both Houses, and particularly, perhaps, in the Lords, could speak. There is really no prospect of our now finding time for a new Bill this session, and I must ask you to consider whether it would not suffice for the necessary measure to be introduced at the beginning of the next session, bearing in mind that the Government's commitment is apparently to the formal separation of Anguilla "in the course of this year".

I am sending copies of this letter to the Prime Minister, the Lord Chancellor, and other members of OD and L Committees.

Yours ever
Ian

The Rt Hon Sir Ian Gilmour, Bt, MP
Lord Privy Seal
Foreign & Commonwealth Office
London
SW1



Foreign and Commonwealth Office
London SW1

24 March 1980

Dear Norman,

BILL FOR THE SEPARATION OF ANGUILLA FROM THE ASSOCIATED STATE OF ST KITTS-NEVIS (AND ITS SUBSEQUENT ADMINISTRATION AS A SEPARATE DEPENDENT TERRITORY)

The Secretary of State is circulating to his OD colleagues a memorandum seeking their approval, by 2 April, to a proposal that Anguilla should be formally separated by Act of Parliament, from St Kitts-Nevis.

Immediately after the Associated State of St Kitts-Nevis-Anguilla was formed in 1967, Anguilla rebelled against the Government of St Kitts. Anguillan antipathy to St Kitts is, however, of long standing (the islands are 70 miles apart) and the St Kitts Government has never been able to impose its authority there. Since 1967 it has become increasingly evident that the differences are irreconcilable. Anguilla has, in effect, been administered since 1969 (when a British Commissioner was appointed) as a separate British dependency. Formal separation has long seemed the only practical course which would allow normal constitutional development of both Anguilla and St Kitts-Nevis. It was not possible to secure the agreement of the St Kitts Government in principle to separation until May 1978 when the then Premier, Mr Bradshaw, who had consistently and firmly opposed it, died.

/In December 1979

The Rt Hon Norman St John Stevas MP
Chancellor of the Duchy of Lancaster
Privy Council Office
Whitehall
London SW1

In December 1979, agreement was reached with the St Kitts Premier, Mr Moore, that he would introduce a motion in his Legislature to facilitate separation of Anguilla here by Order-in-Council. But Mr Moore was defeated in a general election he called in February before implementing the measure. The new government, a coalition of the former opposition parties including the MPs from Nevis, is not able to introduce the measure. For them to do so would raise the issue of Nevisian secession to which the MPs from that island have a long standing commitment to their voters but which has been suspended by the delicate coalition arrangements. We must accept the assessment of the new Premier Dr Simmonds that were we to bring this issue before his own Legislature it would bring about the downfall of his own Administration. Her Majesty's Government have, however, been committed, since December, to the formal separation of Anguilla in the course of this year. To honour this commitment to the Anguillans it is consequently necessary to give effect to separation unilaterally by UK Act of Parliament. We have been assured by the St Kitts-Nevis Government that it would welcome such action. As you can imagine, we are under pressure from the Anguillan Government to adopt this course, without which there is a real danger of unrest in the Island where elections are to be held very shortly.

Assuming OD agree to the Secretary of State's proposal, I intend to instruct Parliamentary Counsel to draft the necessary Bill. The Bill will be non-controversial and I am assured that it will have the full support of the Opposition. It will also be very brief. I should therefore be grateful if you could initiate the necessary steps to allocate Parliamentary time for the Bill this session.

yours ever

Ian

Ref: A01844

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Agree A?

PRIME MINISTER

Bill for the Separation of Anguilla from St. Kitts-Nevis
(OD(80) 32)

In this memorandum the Foreign and Commonwealth Secretary seeks the agreement of his OD colleagues by 2nd April to the introduction of legislation to facilitate Anguillan separation in Parliament in the current session.

2. The reason for urgency in this matter is set out in paragraph 7 of the memorandum. A failure to meet the commitment to formal separation this year could cause the overthrow in Anguilla of the present Chief Minister, Mr. Gumbs by his predecessor, Mr. Webster whose addiction to violence in such circumstances could be a matter of embarrassment to the Government. This problem has arisen for the reasons set out in paragraph 6 of the memorandum.

3. Apart from the Attorney General, who may wish to make some technical points, I do not believe that any members of OD will disagree with the Foreign and Commonwealth Secretary's proposal. But it may be difficult to find time for the addition of this Bill to this session's very crowded programme. You may therefore care to tell the Foreign and Commonwealth Secretary that (subject to any points raised by other OD members), while you agree to his proposal in principle, the timing of any legislation will need to be discussed with the Chancellor of the Duchy of Lancaster and the Acting Leader of the House of Lords in the light of the pressure on the legislative programme. If necessary the matter should be brought to the Legislation Committee for consideration.

A.

CDL's comments attached

(Robert Armstrong)

31st March 1980

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