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Foreign and Commonwealth Office

London SW1A 2AH

15 April 1982

Prime Minister

To note.

A.S.C. $\frac{16}{4}$

(2)

*Very relevant - to
the talks now
going on.*

A.S.C. $\frac{19}{4}$

h-a.

mb

Dear John,

Falkland Islands

I understand that at this morning's meeting of ODSA, the Prime Minister enquired whether the Executive Council and the Legislative Council exercised jurisdiction over the Dependencies (ie South Georgia and the South Sandwich Islands) as well as the Falklands themselves.

The position is as follows. Under the Falkland Islands (Legislative Council) Orders, 1948 to 1977, the Legislative Council is constituted 'in and for the Colony', the 'Colony' being defined as the Colony of the Falkland Islands (excluding the Dependencies which are separately defined). Under the same Orders, it is lawful for the Governor, with the advice and consent of the Legislative Council, to make laws for the peace, order and good government of the Colony.

The Executive Council is constituted under Letters Patent, 1948 to 1962, 'in and for the Colony and for the Dependencies'. The same Letters Patent state that it is lawful for the Governor to make laws for the peace, order and good government of the Dependencies. Royal Instructions issued simultaneously with the Letters Patent of 1948 provide that (with certain exceptions) the Governor should consult with the Executive Council in the exercise of his powers and the performance of his duties. The exceptions relate to cases:

- a) which are of such nature that, in the judgment of the Governor, material prejudice would be sustained by consulting the Executive Council; or
- b) in which the matters to be decided are, in his judgment, too unimportant to require their advice; or
- c) in which the matters to be decided are, in his judgment, too urgent to attempt of their advice being given by the time within which it may be necessary for him to act.

/The distinction

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The distinction between laws applying only to the Falkland Islands and those made by the Governor for the Dependencies is acknowledged in the Royal Instructions by a direction that the words of enactment of the former shall be 'Enacted by the Governor of the Colony of the Falkland Islands with the advice and consent of the Legislative Council thereof'; and of the latter 'Enacted by the Governor of the Falkland Islands and the Dependencies thereof'.

I am copying this to the Private Secretaries of the other members of ODSA and to David Wright (Cabinet Office)

Yours ever
J E Holmes

(J E Holmes)
Private Secretary

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