

DISCUSSION PAPER ON THE DOCUMENT

Entitled

'CONSTITUTION REFORM FOR ST. KITTS AND NEVIS:

SOME ISSUES FOR CONSIDERATION'

In this document we discuss the

PROPOSED FORM AND STRUCTURE OF GOVERNMENT

One State or two States.

The Task force wishes to be advised on whether or not it should be one state or two states. It seems to me that the majority opinion advocates one State. It is however the nature and structure within the State that is the issue.

There is no doubt that Nevis will not accept any thing less than it already has. It therefore follows that Nevisian at the very least would wish to continue with a Nevis Island Administration no doubt with greatly enhanced powers over all of its internal affairs. I see no reason not to grant this.

The people of St. Kitts really do not wish to be involved in the affairs of Nevis, and resent a Federal structure that allows the involvement of Nevisian Politician in the affairs of St. Kitts but not permitting parliamentarians elected in St. Kitts to participate in matters exclusively reserved for the Nevis Island Legislature and Administration. They would wish to have an Island Assembly for St. Kitts in which there are no representative of the Nevis electorate. There is really no reason to deny them this.

If both Islands have an Island Administration then this raises the issue, if they must still be part of one State. What is the nature of the relationship between them? Are they held together in one structure, or are they simply attached to a common structure? There are several possibilities which can be examined, exploring the strong points and their weaknesses.

The Phillips' Commission is of the view that the appropriate Federal structure would be an assembly consisting of the representatives of each of the legislatures along with independents, dealing within National Security, including Defense, Foreign Affairs, and the Judiciary, requiring 70% majority of the elected members to pass legislation. While this is an interesting proposal there are a number of issues that should be noted.

The Federal Assembly does not have the power to raise finance, and as no doubt it would be dependent on the handouts of the Island Administrations for its operating budget it would be a rather weak body.

The need for a qualified majority of 70% on every matter will make it impossible for this body to govern. A combination of the opposition in St. Kitts and very little support from the Nevisian elected members would result in frustration of the Federal business where the Federal Government has a small majority.

In this scenario the real seat of power will be in the St. Kitts Island Administration making the Federal Government by and large an irrelevancy. I do not believe that the above will work. In order for this structure to be meaningful there has to be substantial amendments to the proposals. The Federal Authority must have more power than is presently prescribed to it, including revenue raising capacity. It must generally make decisions by simple majority.

A second possibility is Professor Duncan's proposal who is of the view that the Assembly should be constituted of an equal number of elected representatives from both islands each island bearing equal cost connected with the Administration. It should be noted that the strength and relevance of this Federal structure would be dependent on its powers and responsibilities.

The need for sanctions for failure by any Administration to meet its financial obligations will have to be addressed. If it too is dependent on handouts from the Island Administration, it will soon become an irrelevancy.

A third possibility is that both Island Administrations are solely responsible for its own affairs both signing a memo of understanding where by mutual agreement matters of joint interest can be addressed between the parties. It should be noted this will hardly be a Federation, there will only be the need for a ceremonial Head of State, as there will be no federal Assembly or Government.

A fourth possibility is for both Island Administrations to be responsible for all of their affairs but with each recognising that the administration on St. Kitts is the senior Administration with responsibility for certain, e.g., Foreign Affairs, National Security, and the Judiciary, whether by mutual agreement or otherwise, and the Head of that Government being the Prime Minister or an executive President, and/or the Head of State being the Governor General or a Ceremonial or executive President. This can be achieved by the following:

Giving the Nevis Legislature and Administration all the powers that they request.

Releasing the St., Kitts Administration of any responsibility for the affairs of Nevis unless requested to do and accepted the responsibility.

Ensuring that as it is a St. Kitts Island Administration there will be no representation of the Nevis electorate in it

The Head of State upon the advice of the Nevis Island Administration shall appoint a ceremonial representative in Nevis

In deciding what options to pursue, one must recognise what is achievable and what is not. Success requires the obtaining of the support of two third of the electorate in both islands. There is also the question of additional cost. An exaggeration of this in the hands of opponents to the above could put at risk the success of most of the above proposal. It must also be remembered that Nevisians would not easily give up the secession clause, and a failure to address their concern in away that is satisfactory to them will result in ongoing instability until they secede.

Head of State

This will largely be influenced by the type of Government structure that is eventually chosen. The selection of the Republican model may largely be a change in form than substance, being more symbolic than real. By and large we no doubt would wish to retain membership of all the international bodies including the Commonwealth of which we are members. We will now officially swear allegiance to our Flag and Country which by and already do, but we will continue to be vulnerable to the shifting tides of international pressures, and dependent upon assistance from the same countries' which assist us. The question to be answered is whether the lot of our people will be improved by a decision to become a Republic, and what are we losing and/or giving up in return.

An elected President with executive power will normally have all the powers of the Prime Minister, but in our case he may have less power than our present Prime Minister, as a considerable amount of power is likely to reside in the Island Administrations. He will replace the Governor General and so that will be one less charge on public funds, but there will be no one who has the right to warn, listen and advise the President. But yet our final Court of Appeal will be Her Majesty's Privy Council.

Island Legislatures/Administration.

It can be deduced from above that upon what ever structure is devised it should contain Island Administration for St. Kitts.

Parliament.

The case can be made for the appointment a number of non-voting independent members. But I do not believe that they should be representing any specific interest group. To do so would inevitable raise the question of which ones should be included and which ones should not be. They should be appointed on their ability to be objective and fair. Their role would be to uplift the debate above Party and interest group considerations.

If one does have a Federal Parliament our circumstances do not justify the extra expense of having two Houses. That depends upon the structure employed. This has been dealt with above.

I believe that Ministers of Religion should continue to be barred from elections. The Northern Ireland, and the Arab countries are good example demonstrating the risk of religious fanaticism and its destructive force. It is not by accident that generally they are excluded. History has shown that generally it is best to keep religion and State separate.

I would support a voter identification system but as modern technology changes at such a rapid pace I would not spell out the details of such in a Constitution. Apart from a general statement that 'there shall be a voter identification system', I would leave such matters to be dealt with by way of legislation.

9th June, 1999