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GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

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DECLASSIFIED IN FULL
Authority: EO 13526
Chief, Records & Declass Div, WHS
Date: SEP 28 2018

November 1, 1983

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MEMORANDUM FOR THE SECRETARY OF DEFENSE

SUBJECT: Legal Basis for the Deployment of U.S. Troops to Grenada

(1) As I noted in my October 25, 1983 memorandum on this subject, two legal rationales have been identified in support of the recent U.S. Armed Forces intervention in Grenada. As our information on the events leading up to the actual intervention of U.S. Armed Forces is clarified, a third point has emerged as part of our analysis.

(1) It has been confirmed that prior to the invasion of Grenada, Governor-General Scoon requested that the OBCS assist in the reestablishment of order on the island. Governor-General Scoon reaffirmed this request in writing soon after his release from house arrest by U.S. Forces. Under the Grenadian Constitution, the Governor-General is empowered to dissolve the Parliament and to appoint a new cabinet in extraordinary crises conditions. As the representative of the British Queen, Scoon had the constitutional right to form a new government. This right is similarly reflected in the Constitutions of other Commonwealth members and has actually been exercised in Australia. Indeed, the Times of London noted yesterday, in an extremely supportive editorial that, "As the sole remaining constitutional personality in Grenada, (the Governor-General) is entitled to use his prerogative to confer legitimacy, even retrospectively, on the whole operation, without reference to anybody, including the Queen, who under the Grenadian Constitution had delegated full powers to him except when she is herself in Grenada."

(1) While the legal effect of Prime Minister Bishop's earlier attempt to abrogate certain portions of the Grenadian Constitution was of questionable legal validity, it should be noted that at no time did he or the Revolutionary Military Council attempt to disclaim recognition of the Queen or her representative, the Governor-General. In addition, the Revolutionary Military Council never stated at any time that they constituted or otherwise represented the Government of Grenada. It now appears that the Governor-General was the only constitutionally recognized authority on the island after the murder of Prime Minister Bishop. Under the circumstances, as the

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Head of the Government he could request, under international law, assistance from other states. Nothing in customary or codified international law precludes a Government from seeking outside assistance in the conduct of its own domestic affairs.

(U) For your information, a copy of the Times editorial is attached.

WHT

William H. Taft, IV

Attachment

Office of the Secretary of Defense 50.s.c. § 552
Chief, RDD, ESD, WHS
Date: 28 Sep 2018 Authority: EO 13526
Declassify: X Deny in Full: _____
Declassify in Part: _____
Reason: _____
MDR: 18 -M- 1978

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