Brief Outline of Constitutional Development in the Virgin Islands

The history of Virgin Islands constitutional growth may be deemed to begin in 1774 when the first Legislative Council came into effect by proclamation of the Governor of the Leeward Islands. The first House of Assembly consisting of eleven members representing the planters and freeholders was established. Subsequently, the Legislative Council remained part of the constitutional framework until it was abolished in 1902 by the Federal Legislature of the Leeward Islands.

The Virgin Islands remained without a legislative council for 48 years, during which time the Governor of the Leeward Islands assumed legislative authority for the Virgin Islands. A new Constitution was adopted in 1950 which reinstated the Legislative Council. McWelling Todman described it as “minimal in its content and its effects”. Nevertheless, it began a process of constitutional evolution which reflected the political maturity of Virgin Islanders. This Constitution provided for four elected members, two nominated members and two ex officio members. This Constitution did not provide for universal adult suffrage which was introduced in 1953.

The following year, 1954, the Constitution and Election Ordinance 1954 created five electoral districts, dissolving the At-Large System. A new Legislative Council provided for eleven members with six elected members which could form a majority. With the dissolution of the Leeward Islands Federation in 1956, the Virgin Islands became a colony moving from a Presidency within the Leeward Islands Colony. The Commissioner, as head of the Presidency, became the Administrator with this change and in 1960 was directly responsible to the Secretary of States for the Colonies.

In 1967 the dawning of the ministerial system was ushered in by the Virgin Islands Constitution Order 1967. The first Chief Minister was appointed by the Administrator (the title was changed to Governor in 1971). The Governor was appointed by the monarch and given special responsibilities for external affairs, security, the public service, the courts, and finance, with reserved powers in regard to his special duties. The Governor was expected to take the advice of the Executive Council on other matters.

The Constitution Order 1976 became effective on 1 June 1977. This Order:

* defined who was deemed to belong to the Virgin Islands
* explained what was meant to hold a public office
* detailed the duties of the Governor
* allowed for a Deputy Governor
* described the Executive and set out procedures for appointment
* explained the functions of the Chief Minister and how responsibilities were to be assigned to other ministers
* prescribed the powers of the Attorney General
* defined the composition of the Public Service, and the Judicial and Legal Service Commissions respectively
* included stipulations on pensions and finances
* addressed the powers reserved to the monarch.

The Order was distinctive in four areas: it removed nominated members from the Legislative Council; made finance a subject within the Chief Minister’s portfolio; changed the voting age from 21 to 18 years; and added two additional seats to the Legislative Council.

In 1994 the British Government added a Territorial District to the nine electoral districts. The Territorial District sent four members to the Legislative Council increasing the membership to thirteen (13). Proxy voting was abolished. The elections in 1995 and 1999 demonstrated the beginnings of political party politics within the new mixed system.

The Virgin Islands Constitution Order 2007 established a new Constitution for the Virgin Islands to replace the Constitution of 1976. The new Constitution includes for the first time a chapter setting out the fundamental rights and freedoms of the individual and provisions for their enforcement. It provides for a Governor as Her Majesty’s representative and for a Premier and Ministers who, together with the Attorney General, form a Cabinet. It provides for an elected House of Assembly, which together with Her Majesty, forms the Legislative Council. The Eastern Caribbean Supreme Court continues to have jurisdiction in the Territory. Provisions are made for Public Service, Judicial and Legal Services Teaching Service and Police Service Commissions, respectively, to provide advice on appointments to offices in these services. A new National Security Council is established, as is the Office of Director of Public Prosecutions. Provision is also made for public finance, a Complaints Commissioner, and a Register of Interests.