

DEVELOPMENT OF THE FALKLAND ISLANDS CONSTITUTION 1843 - 2006

1843 Both councils entirely composed of members nominated by the Crown

(The Falkland Island Letters Patent 1843)

LEGCo: The Governor, plus not less than two others appointed by the Crown, these to be '*public officers within the said Islands.....or other such persons within the same as shall from time to time be named...*'

EXCo: The Governor, plus '*such persons as may, from time, to time be named and designated by Us.....*'

Although there was no legal requirement for 'unofficial members' (i.e. people not employed by the Crown) in practice, from an early date, Governors nominated private individuals (especially those involved in commerce and farming) to serve on both Councils.

1949 First Elected Members on LegCo: Universal Suffrage

(The Falkland Islands (Legislative Council) Order in Council 1948)

LEGCo: The Governor as President, 3 ex-officio members (Colonial Secretary, Senior Medical Officer, Agricultural Officer) 3 nominated official Members (usually Heads of Departments), 2 nominated unofficial members, and 4 elected members. (2 for Stanley, 1 for East Falkland, 1 for West Falkland)

EXCo: Composition set out in Royal Instructions of 13th December 1948. In addition to The Governor as President, there were to be three ex-officio members, (the Colonial Secretary, Senior Medical Officer and Agricultural Officer) and an unspecified number of nominated members (official or unofficial) appointed by the Governor.

Although this change to the Constitution allowed for an equal balance of official and unofficial members (six of each) on LegCo, elected members were still in a minority of four to eight. The Governor had no normal vote in Legislative Council, but if the other members were evenly divided, he could exercise a casting vote.

1951 First Unofficial Majority on LegCo

(The Falkland Islands (Legislative Council)(Amendment) Order in Council 1951)

LEGCo: The Governor as President, 3 ex-officio members as above (Col.Sec.,SMO, Agricultural Officer) two nominated official members, two nominated unofficial members, 4 elected members

EXCo: No change

This amendment, by reducing the nominated official members from three to two, gave an unofficial majority on LegCo. But still only four out of eleven members were elected.

1955 Colonial Treasurer made an ex-officio member of LegCo for the first time

(The Falkland Islands (Legislative Council) (Amendment) Order in Council 1955)

LEGCO: Of the three ex-officio seats on Council established by the 1948 Order, the Col.Sec. and the SMO remained, but the Colonial Treasurer was substituted for the Agricultural Officer.

EXCO: No legal change, but throughout the 1950s the number of nominated unofficial members increased until by 1964 there was an almost equal balance of official and unofficial members. The Governor was able to make this kind of change at his own discretion under the terms of the 1948 Order in Council.

The new Order had no effect on the balance of LegCo, as it only substituted one Government Officer for another. The balance of ExCo changed more in this period.

1964 Equal numbers of elected and unelected members on LegCo. Nominated official members no longer on LegCo. Elected members on ExCo.

(The Falkland Islands Legislative Council (Amendment) Order 1964)

LEGCO: The Governor as President, ex-officio members reduced from 3 to 2 (Col.Sec. and Colonial Treasurer) plus 2 nominated independent members and four elected members (2 for Stanley, 1 for East Falkland, 1 for West Falkland)

EXCO: The composition was varied by Additional Royal Instructions of 10th September 1964, which provided for two elected members (from LegCo) and decreased the number of ex-officio members from 3 to 2 (Col.Sec and Col.Treasurer). There were also two nominated (unofficial) members.

Apart from balancing elected and unelected members on LegCo, one significant point here was probably in the wording of the Order, which changed the description of nominated members from 'Unofficial' to 'Independent'. This seems to reflect a growing acknowledgement of the democratic process. Governor Arrowsmith's address to LegCo in May 1964 (shortly before the new Constitution came into effect) endorsed this approach. "*In speaking of Elected and Nominated members, His Excellency made it clear that Nominated members were in no sense 'Government men' and were as independent in their views and the way they voted as elected members*". (F.I.Monthly Review 1st June 1964)

The Executive Council changes were also substantial, in particular the provision for two elected representatives. All members of both councils could still vote.

1972-1975 First local Commission on the Constitution set up by LegCo. Wide public consultation. Report published in 1975. This led to the changes of 1977.

1977 First elected majority on LegCo

(The Falkland Islands (Legislative Council) (Amendment) Order 1977)

LEGCo: The Governor as President, 2 ex-officio members (Chief Secretary and Financial Secretary: titles changed in 1973 by Amendment Order) and six elected members. (1 for East Stanley, 1 for West Stanley, 1 for all Stanley, 1 for East Falkland, 1 for West Falkland, 1 for all Camp)

ExCo: No change: the Governor as Chairman, 2 ex-officio members (Colonial Secretary and Colonial Treasurer) 2 nominated unofficial members and 2 elected members (from LegCo).

In this important development for LegCo the two nominated members were replaced by two additional elected members.

1981 A second Commission on the Constitution set up by LegCo, again with extensive public consultation. This resulted in the 1985 Constitution Order

1985 Increase in number of elected members on both Councils. Ex-officio members of LegCo to be non-voting. No nominated members on either Council

(Falkland Islands Constitution Order 1985)

LEGCo: The council to consist of the Governor as President, 2 ex-officio members (Chief Executive and Financial Secretary) and eight elected members (4 from the Camp constituency and 4 from the Stanley constituency)

ExCo: The Council to consist of the Governor, three of the elected members of LegCo and two ex-officio members (Chief Executive and Financial Secretary).

1994 A Select Committee on the Constitution established by Legislative Council with the aim of considering whether further changes should be made. Mr. Walter Wallace appointed as an advisor, reported to the Committee in May 1995. As a result of the Committee's deliberations, several significant amendments were made in 1997

1997 Provision for an elected Speaker to replace the Governor as President of Legislative Council. Ex-officio members of Executive Council to be non-voting..

(Falkland Islands Constitution (Amendment) Order 1997)

LegCo: Provision for an elected Speaker. Balance of 8 elected members to change, reflecting population movement in the Islands: Camp members reduced to 3: Stanley members increased to 5.

ExCo: Convention since 1985 formalised by legally removing the voting rights of the two ex-officio members.

2000 A Select Committee on the Constitution set up by Legislative Council in response to a UK White Paper in 1999 suggesting that all UK Overseas Territories ' should examine their Constitutions and constitutional relationships with the UK to ensure that they suited all the current day circumstances'.

2002 First Speaker elected to replace Governor in presiding over Legislative Council.

2005 Report of the Select Committee published for public comment and discussion. This consultation process is currently ongoing.

Jane Cameron
Government Archivist
November 2006