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89TH CONGRESS
2d Session

SENATE

REPORT
No. 1705

PROVIDING FOR THE POPULAR ELECTION OF THE GOVERNOR OF THE VIRGIN ISLANDS AND FOR OTHER PURPOSES

OCTOBER 10, 1966.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs;
submitted the following

REPORT

[To accompany H.R. 11777]

The Committee on Interior and Insular Affairs to whom was referred the bill (H.R. 11777) to provide for the popular election of the Governor of the Virgin Islands, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

On page 1, after line 2, insert a new section as follows:

That effective January 9, 1967, section 9, subsection (a) of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 501; 48 U.S.C. 1575(a)) is amended by deleting the first sentence and by substituting therefor the following: "The quorum of the legislature shall consist of eight of its members."

On page 1, line 3, strike the words "That section," and insert the words "SEC. 2. Section".

On page 1, line 5, insert in parenthesis the letter "(d)" following the numeral "1575".

On page 1, line 9, strike the numeral "2." following the word "SEC.", and insert the numeral "3."

On page 2, line 17, strike the date "November 8, 1966." and in lieu thereof insert the date "November 3, 1970."

On page 2, line 18, strike the date "1968," and in lieu thereof insert the date "1974."

On page 2, line 19, strike the word "two" and insert the word "four".

On page 2, line 21, strike the word "two" and insert the word "four".

On page 2, line 22, after the period following the word "qualified." insert a new sentence as follows:

No person who has been elected Governor for two full successive terms shall be again eligible to hold that office until one full term has intervened.

On page 2, line 24, strike the words "fifth day" and insert in lieu thereof the words "first Monday".

On page 4, line 12, strike the words "or any parts thereof," and in lieu thereof insert the words "insofar as they are under the jurisdiction of the government of the Virgin Islands, to be".

On page 5, line 6, strike the numeral "3." following the word "SEC.", and insert the numeral "4."

On page 5, strike all of lines 10 through 24, and on page 6, strike all of lines 1 through 12, and in lieu thereof insert the following new section:

SEC. 12. Any Governor or Acting Governor of the Virgin Islands may be removed from office by the people registered to vote in the Virgin Islands if: (a) 75 per centum of the persons registered to vote shall vote in favor of recall at a referendum election, and (b) the removal of the Governor or Acting Governor is approved by the President of the United States. The referendum may be initiated by the Legislature of the Virgin Islands, following a two-thirds vote of the members of the legislature in favor of a referendum, or by a petition to the legislature of 25 per centum of the people registered to vote in the Virgin Islands.

On page 6, line 13, strike the numeral "4." following the word "SEC.", and insert the numeral "5."

On page 6, line 16, strike the numeral "5." following the word "SEC.", and insert the numeral "6."

On page 7, line 13, strike the word "impeachment," and in lieu thereof insert the word "recall."

On page 8, line 13, strike the numeral "6." following the word "SEC.", and insert the numeral "7."

On page 8, after line 16, insert a new section as follows:

SEC. 8. (a) Effective on the date of enactment of this Act, section 17, subsection (c), of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 504; 48 U.S.C. 1599(c)) is amended to read as follows: "(c) It shall be the duty of the government comptroller to bring to the attention of the Secretary of the Interior and the Governor of the Virgin Islands all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular, unnecessary or not pursuant to law. The audit activities of the government comptroller shall be directed so as to: (1) improve the efficiency and economy of programs of the Government of the Virgin Islands and (2) discharge the responsibility incumbent upon the Congress to insure that the substantial federal revenues which are covered into the treasury of the Government of the Virgin Islands are properly accounted for and audited."

(b) Effective on the date of enactment of this Act section 17, subsection (f), of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 505; 48 U.S.C. 1599(f)) is amended to read as follows: "(f) If the Governor does not concur in the taking of an appeal to the Secretary, the party aggrieved may seek relief by suit in the District Court of the Virgin Islands if the claim is otherwise within its jurisdiction. No later than thirty days following the date of the decision of the Secretary of the Interior, the party aggrieved or the Governor, on behalf of the head of the department concerned, may seek relief by suit in the District Court of the Virgin Islands if the claim is otherwise within its jurisdiction."

(c) Effective on the date of enactment of this Act section 17, subsection (h), of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 505; 48 U.S.C. 1599(h)) is amended to read as follows: "(h) As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the government comptroller shall submit to the Governor of the Virgin Islands, the President of the Senate, and the Speaker of the House of Representatives an annual report of the fiscal condition of the government, showing the receipts and disbursements of the various departments and agencies of the government."

(d) Effective July 1, 1967, a new subsection (k) is added to section 17 of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 505; 48 U.S.C. 1599) to read as follows: "(k) The salary of the government comptroller and the expenses of his office shall be paid by the United States from funds derived by transfer from the internal revenue collections appropriated for the Virgin Islands, but such salary and expenses shall not exceed such amounts as may be specified annually in Federal appropriation acts."

(e) Effective on the date of enactment of this Act a new subsection (l) is added to section 17 of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 505; 48 U.S.C. 1599) to read as follows: "(l) All departments, agencies and establishments shall furnish to the government comptroller such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the government comptroller, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department, agency or establishment."

On page 8, line 17, strike the numeral "7." following the word "Sec.", and insert the numeral "9."

On page 9, line 3, strike the numeral "8." following the word "Sec.", and insert the numeral "10."

On page 9, line 12, strike the numeral "9." following the word "Sec.", and insert the numeral "11."

On page 9, line 17, following the word "the" insert the words "unincorporated territory of the".

On page 9, beginning at line 18, delete all of section 11 and in lieu thereof insert a new section 12 as follows:

SEC. 12. Those provisions necessary to authorize the holding of an election for Governor and Lieutenant Governor on November 3, 1970, shall be effective on January 1, 1970. All other provisions of this Act, unless otherwise expressly provided herein, shall be effective January 4, 1971.

On page 10, line 1, strike the numeral "11." following the word "Sec.", and insert the numeral "13."

PURPOSE

The primary purpose of H.R. 11777, introduced by Representative O'Brien at the request of the Secretary of the Interior in an executive communication, is to provide for the election by popular vote of the Governor and Lieutenant Governor of the territory of the Virgin Islands. Other purposes which H.R. 11777, as amended, would accomplish are: (1) Create the office of Lieutenant Governor; (2) provide that the salaries and expenses of the executive and legislative branches be paid by the government of the Virgin Islands; (3) specify the powers, duties, and responsibilities of the Governor; (4) provide a method of recall for removal of the Governor; (5) set out the line of succession in the event the Governor is disabled; (6) clarify the powers, duties, responsibilities, and procedures of the office of the government comptroller; (7) provide that the expenses and salaries of the office of the government comptroller shall be paid by the United States from funds derived by transfer from the internal revenue collections appropriated for the Virgin Islands, thus resulting in a substantial savings to Federal Government; (8) extend the privileges and immunities clauses, the due process clause, and the equal protection clause of the U.S. Constitution to the people of the Virgin Islands; (9) make the Virgin Islands subject to the general military law of the United States; and (10) make certain technical changes in the revised organic act.

BACKGROUND AND NEED

H.R. 11777 is the latest of a number of steps that have been taken toward full local self-government in the Virgin Islands and toward fulfillment of the political aspirations of the people of the islands.

The Virgin Islands became U.S. territory in 1917 by purchase from Denmark. The original act to govern the new territory (act of March 3, 1917, 39 Stat. 1132) vested "all military, civil, and judicial powers" in a Governor appointed by the President with the advice and consent of the Senate. Until 1931, when jurisdiction was transferred from the Department of the Navy to the Department of the Interior by Executive order and the first civilian Governor was appointed, it was the practice for a naval officer to be appointed to this position. The organic act of 1936 (act of June 22, 1936, 49 Stat. 1807) and the revised organic act of 1954 (act of July 22, 1954, 68 Stat. 497) continued this provision for Presidential appointment with the advice and consent of the Senate. It is to these and other related visions of present law that H.R. 11777 is addressed.

While the Virgin Islands have always thus far had an appointed Governor, they have also had a popularly elected legislature. The

1917 act continued the provisions of Danish law, which dated back at least to 1906, for the election of two colonial councils, one for St. Croix, the other for St. Thomas and St. John. The ordinances of these councils, when sanctioned by the King, became law. The 1917 act, in effect, continued this system. All local laws remained in force until altered or repealed by the council concerned with the approval of the President or in accordance with regulations prescribed by him. The 1936 act provided for annual joint legislative sessions of the two municipal councils—a new name for the old colonial councils—and gave this legislative assembly “power to enact legislation applicable to the Virgin Islands as a whole” subject to the conditions that it should not consider any legislation except that specified in a message from the Governor, that no bill should be enacted except by a two-thirds vote, and that every bill should be subject to gubernatorial veto and, if repassed over his veto, to Presidential veto. Under the 1954 act the legislative power of the Territory was vested in a territorywide legislative body of 11 members, the jurisdiction of which extended to “all subjects of local application”—later amended to read “all rightful subjects of legislation”—not inconsistent with the laws of the United States applicable to the Virgin Islands. Provisions for gubernatorial and Presidential veto were continued, however. Six of the members were to be and are elected at large, two from St. Croix, two from St. Thomas, and one from St. John.

Since the 1954 act came into force, there have been a number of other enactments by the Congress looking toward greater self-responsibility on the part of the Virgin Islands: Public Law 85-224 authorized the enactment of local laws requiring the advice and consent of the legislature to gubernatorial appointees to commissions having quasi-judicial authority; Public Law 85-851 provided for the issuance of revenue bonds for certain types of projects authorized by the legislature and made it clear that there should be no political or religious test for officers and employees of the government of the Virgin Islands; Public Law 86-289 allowed the territorial attorney general to exercise some of the functions of the U.S. attorney, Public Law 88-180 provided for the issuance of general obligation bonds in certain circumstances; Public Law 88-183 transferred submerged areas bordering on the islands to the territorial government and put within its concurrent jurisdiction “parties found, acts performed, and offenses committed on property owned, reserved, or controlled by the United States”; and Public Law 89-100 provided for the payment of legislative salaries and expenses by the local rather than the Federal Government.

It is clear from the above that the people of the Virgin Islands have had long experience in electing one branch of their government and thus in participating in the making of their own laws. It is the belief of the committee that the people and their legislature have for the most part exercised their powers in a responsible manner. They have organized a two-party system, and have identified, discussed, and voted their opinions on matters of local concern. The legislators, in turn, have debated the issues, and at times disagreed with the Washington-appointed Governor in the manner of free legislatures everywhere. They have enacted laws of local application and have levied taxes and appropriated funds sufficient for the ordinary needs of the local government without resort to direct Federal appropria-

tions. In view of this and in view of the further facts that the governorship has become almost exclusively a local office and that the Governor, under the revised organic act, is an intergral part of the legislative process with power to recommend and to veto legislation, it is the committee's view that the time is ripe for taking the progressive step toward a territorial government which is fully responsible and responsive to local needs and the local electorate which H.R. 11777 proposes. Enactment of this bill, as amended, will be a recognition that the Virgin Islands have accumulated sufficient political maturity and practice in the art of self-government to warrant this step.

SECTION-BY-SECTION ANALYSIS

Section 1 of the amended bill amends section 9, subsection (a) of the revised organic act to provide that a quorum of the legislature shall consist of eight of its members. This provision was necessitated by passage of the Reapportionment Act, Public Law 89-548, which increased the number of legislators from 11 to 15.

Section 2 amends section 9 of the revised organic act by eliminating the provision for Presidential veto as a part of the lawmaking process and by providing that a gubernatorial veto may be overridden by a two-thirds vote of all the members of the legislature.

Section 3 amends section 11 of the revised organic act and provides for the popular election of the Governor and Lieutenant Governor jointly for a 4-year term. The first election is to be held on November 3, 1970. Section 2 also specifies the powers, duties, and responsibilities of the Governor and provides that no person who has been elected Governor for two full successive terms shall be again eligible to hold that office until one full term has intervened.

Section 4 amends section 12 of the revised organic act and provides a method of recall for removal of the Governor. The recall procedures require the approval of 75 percent of the persons registered to vote, plus the approval of the President of the United States. The approval of the President was felt necessary by the members of the committee in light of the Governor's duty to enforce all applicable Federal laws in the Virgin Islands and in light of the substantial responsibility and interest of the Federal Government in the affairs of the territory.

Section 5 deletes from the revised organic act a provision authorizing the Governor to appoint administrative assistants for St. John and St. Croix. This is in keeping with the view that such matters should hereafter be determined by the laws of the Virgin Islands.

Section 6 sets out a line of succession in the event of a vacancy, temporary or permanent, in the office of Governor or Lieutenant Governor.

Section 7 repeals a provision of existing law which bars the creation of new departments and agencies in the executive branch of the Virgin Islands government without the consent of the Secretary of the Interior.

Section 8, by amendment and through the addition of new subsections, clarifies the duties and responsibilities of the office of government comptroller. In addition, section 8 provides that effective July 1, 1967, the expenses and salaries of the office of government comptroller shall be paid by the United States from funds derived by transfer from the internal revenue collections appropriated for the

Virgin Islands. This will result in a substantial savings to the Federal Government.

Section 9 provides that all salaries and expenses connected with the executive and legislative departments of the Virgin Islands shall be paid locally.

Section 10 in effect extends to the Virgin Islands the provisions of article IV, section 2, paragraph 1, and amendment XIV, section 1, of the U.S. Constitution. These are the privileges and immunities clauses of article IV and amendment XIV and the due process and equal protection clauses of the 14th amendment.

Section 11 extends to the Virgin Islands the portion of the general military laws which authorizes the President to call upon Federal or local forces in case of insurrection or other similar emergency.

Section 12 provides the effective dates for the various provisions of the act.

Section 13 states that the act shall be known as the "Virgin Islands Elective Governor Act."

COMMITTEE AMENDMENTS

The Committee on Interior and Insular Affairs, following a public hearing held on September 23, 1966, adopted a number of amendments to H.R. 11777. The principal differences between the bill as passed by the House of Representatives and the bill as reported by the Senate committee are as follows:

1. The quorum for the Virgin Islands Legislature was enlarged from seven to eight, effective on the date the recently enlarged legislature will first meet. This will insure that no less than a majority of its members legislate.

2. The date of the first election was changed from the general election of November 3, 1966, to the general election of November 8, 1970. Passage of time has made infeasible, if not impossible, the holding of this election in 1966. The date of the next general election in the Virgin Islands will be 1968, but this is also the year of national presidential elections. It was the conclusion of the committee that to authorize the Virgin Islands first gubernatorial election in a year of national presidential elections might result in the presidential elections having a disproportionate effect upon what should be a local election primarily concerned with local issues and policies. In addition, the Legislature of the Virgin Islands will have probably provided for its own election by districts in the election of 1968, rather than at large as is in part true at the present, and it is thought prudent to allow the electorate of the Virgin Islands 2 years from this date to become fully accustomed to this substantial change in its electoral process before turning to the election of its Governor.

3. The term of office of the Governor and Lieutenant Governor was changed from a 2-year to a 4-year term. This extension of the term of office comports with the recommendations of many political scientists and the practice in an increasing number of States. It also parallels recent recommendations that the terms of other elected officials of government, such as the members of the house of representatives, be extended to 4 years, thus allowing more time for productive and creative public service. In the case of the chief executive officer of a territory, the cogency of the reasons for allowing the executive

branch a lengthened opportunity to formulate and implement policies and programs before having to submit them, together with his own candidacy if he so desires, to the electorate for affirmation seems all the more compelling. This change is in accord with the bill originally recommended by the Department of the Interior.

4. The number of terms an elected Governor may serve has been limited to two full successive terms. This change is similar to the Federal constitutional restriction upon presidential terms and the constitutional restrictions of a number of States upon gubernatorial terms. The provision was felt desirable because it prevents any one person from holding office for an inordinate time and insures that there will be meaningful opportunities for new candidates to campaign for the office of Governor.

5. A recall procedure, initiated by either the Legislature of the Virgin Islands or the electorate, was substituted for the impeachment procedures of the House-passed bill as the method for removal of the Governor or Acting Governor. The recall procedure is essentially the same as that found in the bill recommended by the Department of the Interior, with one important change. The change provides that the removal of the Governor shall be subject to the approval of the President of the United States. The committee felt that approval by the President was a highly desirable provision in light of the Governor's duty under the Organic Act to be responsible for the faithful execution of the laws of the United States applicable in the Virgin Islands.

The recall procedure would allow the electorate to remove a Governor who had lost the confidence of the people of the Virgin Islands, for whatever reason, including ineffectiveness in carrying out the duties and responsibilities of his office.

Under the impeachment procedures, a Governor would have to be adjudged guilty of some "high crime or misdemeanor" before he could be removed. Further, because the Virgin Islands has a unicameral legislature, providing the appropriate institutional bodies and procedures for making the impeachment charges and for hearing the charges portended unique and difficult problems not found under the familiar Federal constitutional procedures. Prominent among these were (1) whether the questions raised in an impeachment proceedings might not be purely "political" and therefore not an appropriate area of inquiry for the special three-judge court designated to hear the charges, and (2) whether making the court's judgment final and non-reviewable met the standards of due process found in the U.S. Constitution and in the deliberations of the Congress as a part of the democratic lawmaking process.

6. A further addition to the bill makes a number of clarifying and technical amendments to those provisions of the Virgin Islands Revised Organic Act which set up the office of government comptroller. One of the most important changes provides that the expenses of the office of government comptroller will be deducted each year from the internal revenue collections which are appropriated annually to the Virgin Islands. These moneys, currently about \$11 million per year, are taxes paid by the mainland residents on items, chiefly rum, manufactured in the Virgin Islands and exported to the United States. This change was recommended by the Comptroller General of the United States in a report to the Congress in April 1966 and will result

in a substantial savings to the Federal Government. The comptroller will continue to be a Federal official, and the expenses of his office will be included in Department of Interior budgetary requests in the usual manner.

There are a number of other minor amendments which the Senate committee adopted. These relate to the renumbering of sections, changes in effective dates, and clarifying certain language.

COST

No additional Federal expenditures are involved in the legislation. There will be a reduction from the amount of past Federal expenditures. Effective July 1, 1967, the expenses of the office of government comptroller will be paid out of funds normally appropriated to the Virgin Islands. This will result in a savings to the Federal Government of approximately \$170,000 annually. Effective January 4, 1971, the territory will assume the salary and expenses of the Governor and Lieutenant Governor. At present the Governor is a Federal officer paid out of the Federal treasury.

COMMITTEE RECOMMENDATION

The Senate Committee on Interior and Insular Affairs recommends prompt approval of H.R. 11777, as amended. In making this recommendation the committee evinces a profound awareness of (1) the strategic importance of the Virgin Islands to the national security of the United States; (2) the progress the people of the Virgin Islands and their government have made toward increased political maturity and responsibility, and their natural desire to elect their own executive officers in free elections; and (3) the unique position the Virgin Islands occupies in the eyes of the people in other areas of the Caribbean, South America, and the world.

EXECUTIVE COMMUNICATIONS AND DEPARTMENTAL REPORTS

The executive communications from the Secretary of the Interior, dated October 20, 1965, and September 22, 1966, are set forth below:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., October 20, 1965.

HON. HUBERT H. HUMPHREY,
President of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill to provide for the popular election of the Governor of the Virgin Islands, and for other purposes.

We urge the enactment of this proposed legislation.

This legislation represents an important forward step in the development of self-government in the Virgin Islands and toward the fulfillment of the political aspirations of its people. In fact, the Federal power to appoint Governors of the territories presently is being used in the direction of encouraging local leadership and in providing Governors who are—within the Federal limitations that will be observed by elected as well as appointed Governors—advocates of the territories' own best interests. The incumbent Governor of the

Virgin Islands is a native and lifelong resident of the Virgin Islands. But even this larger recognition of the local desire for home rule that is presently in practice, as a matter of executive policy, is no substitute for home rule granted as a right. Furthermore, we encounter the possibility that an appointed Governor, no matter how wisely and carefully he may have been selected, would not be the choice of the people if they were given the opportunity to elect their Governor by popular vote. It is clear that an appointment policy which is presently dedicated to the practice of selecting Governors who are local residents and locally oriented does not fill the democratic desire of the people of the territories for self-government, nor does any appointment policy not required by law to give preference to local resident appointees give permanent assurance of local leadership in local affairs. The enclosed proposed legislation will permit the people of the Virgin Islands to elect their own Governor and Lieutenant Governor.

The Virgin Islands became a U.S. territory in 1917, through purchase from Denmark, with the early governing function being carried out by a Naval Commander-Governor. Since 1954, the Government of the Virgin Islands has been organized pursuant to the Revised Organic Act of the Virgin Islands, which substantially revised the Organic Act of 1936. Provision is made for a civilian administration and an elected legislature with statutory powers of local government.

A civilian Governor, appointed by the President, was a logical replacement of a Naval Commander-Governor and provided orderly transition between periods of military government and a civilian government with many newly established self-governing powers. The people of the Virgin Islands have elected legislators, have organized a party system, and have identified, discussed, and voted their opinions on matters of local concern. The elected members of the legislature, in turn, have debated the issues, and at times have disagreed with the Governor or with fellow members, in the manner of free legislatures everywhere. The elected legislators have enacted laws of local application, and have levied taxes and appropriated funds sufficient for the ordinary needs of the local government, without resort to direct Federal appropriation. On the record, the people of the Virgin Islands have gained sufficient political maturity and practice in the art of self-government to eliminate from the Revised Organic Act what may be viewed historically as a transition feature: the Federal appointment of the principal executive officers of the Virgin Islands. The people of the Virgin Islands now appear ready, willing, and able to elect their own.

In a number of important respects, the enclosed draft differs from the draft transmitted in 1964 (introduced into the 88th Congress as H.R. 12420), which was based in large part on organic act provisions for the appointed Governor. The substantive revisions of this draft are aimed in the direction of more self-government, with certain Federal controls over the office of Governor being eliminated while, local checks and balances over his office are correspondingly increased.

The draft calls for the Lieutenant Governor to be an elected official, rather than an appointee of the Governor.

The draft provides that the Governor shall be subject to recall by the people of the Virgin Islands, as well as providing for his removal by the President for cause.

Some of the emergency powers of the appointed Governor that were authorized in the Revised Organic Act of the Virgin Islands are inappropriate for an elected local official, not supervised by the President or his designee, and they have been eliminated or curtailed. Thus the, elected Governor will not be permitted to grant respites for offenses against the laws of the United States, nor to suspend the writ of habeas corpus.

More specifically:

1. Section 1 of the bill, by amendment to section 11 of the Revised Organic Act of the Virgin Islands, provides for the popular election of the Governor and Lieutenant Governor in November 1966, and defines the scope of the Governor's authority.

An elected Lieutenant Governor, in contrast to a government secretary appointed by the Governor, will insure administration of the Virgin Islands by an elected official in the event of temporary absence of its Governor or permanent vacancy of his office. An elected Lieutenant Governor has been suggested by the Virgin Islands constitutional convention.

A majority vote is required to elect, and a runoff will be held in case a majority is not obtained in the first election. Personality factions may develop in a small community resulting in a proliferation of factional candidates, which would make possible the election of a Governor with little popular support if election by majority vote were not required.

The Governor and Lieutenant Governor always will be members of the same party because under the terms of the bill voters are required to cast one vote for both offices, as in the State of New York (New York constitution, art. IV, sec. 1).

The Governor will hold office for 4 years, but to coordinate the term of the Governor with the presidential election cycle the first elected Governor will serve for only 2 years. Election of a Governor in the Virgin Islands at the same time a President is elected in the United States will permit candidates in the Virgin Islands, if they choose to do so, to identify with the program and candidates of one of the national political parties. In this way, the Virgin Islands electorate will be better informed of the political philosophy of the candidates, and the policies each is likely to follow as Governor, than would be the case if only local issues were to be debated in an off year. The date of the general election is established in section 10 of the Revised Organic Act of the Virgin Islands.

To qualify for election as Governor or Lieutenant Governor, a candidate must have been a U.S. citizen and bona fide resident of the Virgin Islands for 5 years immediately preceding the election, must be able to read and write English, and must be at least 30 years old or have his 30th birthday on or before the beginning of his term.

With one principal exception (pertaining to the writ of habeas corpus, and discussed below), the duties expressly assigned to the Governor do not depart significantly from the similar powers and duties of an appointed Governor in the Virgin Islands Revised Organic Act. An elected Governor will not be authorized to call out the militia to prevent or suppress violence whenever it becomes necessary unless the violence is "lawless" (cf. Hawaii, Constitution, art. IV, sec. 5; Alaska, Constitution, art. III, sec. 19). However, martial law, which may be declared under the provisions of this draft, as under the Re-

vised Organic Act, "in case of rebellion or invasion or imminent danger thereof, when the public safety requires it" may be revoked by the legislature, meeting forthwith on its own initiative, and not by the President of the United States (cf. Puerto Rico Constitution, art. IV, sec. 4). It is more in keeping with the pattern of local self-government to provide local checks and balances over the actions of an elected Governor. It should be noted, however, that an improper exertion of military power by the Governor would be subject to judicial inquiry and may be enjoined, if deemed to invade rights secured by the Revised Organic Act or by any portions of the Constitution of the United States now or hereafter made applicable in the Virgin Islands (*Sterling v. Constantin*, 287 U.S. 378 (1932); *Balzac v. Porto Rico*, 258 U.S. 298 (1922); *Mora v. Mejias*, 206 F. 2d 377 (1st Cir. 1953); sec. 6 of the enclosed draft).

The elected Governor will not be granted the power, which was granted to the appointed Governor under the Revised Organic Act, to suspend the writ of habeas corpus, even in cases of invasion or rebellion when martial law may be declared. Presently in the Virgin Islands, as in the United States, the writ of habeas corpus may be suspended in such emergencies, when the public safety requires it (Revised Organic Act, sec. 11, U.S. Constitution, art. 1, sec. 9).

The power to suspend this most fundamental right is generally viewed as a legislative and not an executive power, except in those instances when the President acts as Commander in Chief, and then only in the area, and during the period of, actual military operations (25 Am. Jur., Habeas Corpus, sec. 8; Corwin, "The Constitution and What It Means Today," 1951, p. 70; *Ex parte Milligan*, 4 Wall. 2 (1866)). The declaration of martial law may be viewed as an ipso facto suspension of the writ, or at least of the requirement to comply with the writ; on grounds of necessity, a military commander has an unquestioned power "simply to arrest and detain civilians interfering with a necessary military function at a time of turbulence and danger from insurrection or war" (*Duncan v. Kahanamoku*, 327 U.S. 304, 314 (1946)). In declaring martial law, the elected Governor will be authorizing his own militia to act vigorously in case of actual or threatened rebellion or invasion, but not to supplant civilian courts with military tribunals, if conditions permit civilian courts to function (*Duncan v. Kahanamoku*, *op. cit.*, *Ex parte Milligan*, *op. cit.*).

The federally appointed Governor has been given extraordinary power under the Virgin Islands Organic Act to call upon the U.S. Armed Forces, which, with reference to the Army and the Air Force, is a power expressly prohibited, without special authorization, to local officials, such as elected Governors, by the provisions of 18 U.S.C. 1385. This authority is continued by the enclosed draft. The bill permits the elected Governor to request assistance from the local military commanders in emergencies, and the Governor's request may be made directly, as 18 U.S.C. 1385 might otherwise forbid, without prior clearance through Washington. The draft bill makes it clear that the local military commander will not be required to respond to the Governor's request, but may give such assistance if it is not disruptive of his military commitments or inconsistent with his Federal responsibilities, including policy directives from the President as his Commander in Chief. The commander's decision not to render such assistance will be entirely at his discretion. Although the Governor

of the Virgin Islands will no longer be able to call for the use of the armed services as a matter of right, the President will be authorized to use the U.S. Armed Forces to enforce Federal laws or to suppress rebellion in the Virgin Islands exactly as he is authorized to use such forces for such purposes in any State of the United States, either on his own initiative or at the request of the legislature or the Governor. Section 7 of the proposed bill therefore provides, by appropriate amendment of Federal military law, that for the purposes of chapter 15 (insurrection) of title 10 of the United States Code, "State" shall include the Virgin Islands.

As technical amendments, the draft bill authorizes the elected Governor to issue executive orders, as well as regulations, not inconsistent with any applicable law. He is also authorized to give expression to his views as well as to make legislative proposals to the legislature.

The Secretary of the Interior no longer will have supervisory authority over the Governor's exercise of his powers, nor will the Secretary or the President delegate functions to the elected Governor, except as may be authorized by other acts of Congress (see, for example, 44 U.S.C. 82). Relations between the Virgin Islands and the Federal Government, however, will remain "under the general administrative supervision" of the Secretary of the Interior pursuant to section 30 of the Revised Organic Act (48 U.S.C. 1544). The elected Governor, as is presently the case with the appointed Governor, will be required to report annually to the Congress on the transactions of the Government of the Virgin Islands. For administrative convenience, the annual report as well as any other reports required to be made to Federal agencies will be channeled through the Department of the Interior.

The draft bill establishes the office of Lieutenant Governor and eliminates the appointed Government Secretary. The person elected as Lieutenant Governor should be, after the pattern of the draft, a person fully qualified to act as Governor or to assume the office of Governor in the eventualities set forth in section 3. Accordingly, the duties of the elected Lieutenant Governor are not specified, and he may be assigned whatever duties the elected Governor or the Virgin Islands Legislature provides, and he has been relieved of the ministerial duties of the appointed Government Secretary.

2. Section 2 of the proposed bill makes an important revision in the Organic Act. The appointed Governor and Government Secretary now serve for 4 years but may be removed by the President (cf. Senate Rept. 2109, 81st Cong., 2d sess., p. 5). In the enclosed draft the elected Governor is made subject to removal by the President for cause and also by his own electorate by the recall process. The recall provision provides that the Governor may be recalled by a 75-percent vote in a special referendum, which may be initiated either on petition of 25 percent of the registered voters of the Virgin Islands or by a two-thirds vote of the Legislature in favor of referendum. In part, the provision parallels section 8 of article III of the constitution of Michigan, which permits recall upon petition of 25 percent of the voters; however, the voters in a Virgin Islands referendum may include all persons registered to vote and not merely, as in the case of Michigan, persons who voted in a prior election. In part, the provision parallels a provision recommended by the Constitutional

Convention of the Virgin Islands. As the convention recommended, the referendum may be initiated by a two-thirds vote of the legislature as well as by voters' petition to the legislature. This provision protects a Governor elected by a slim majority, since he cannot be recalled by any slight shift in the winds of public opinion, but only by a very substantial 75-percent vote against him. A recall would be a controversial subject, with a high percentage of voters registering an opinion on the important issue; however, if apathy among the Governor's erstwhile supporters leaves decision in the referendum mainly to opposition voters, the nonsupport of the former plus the registered opposition of the latter also will justify his recall.

It may be noted that the recall procedure does not necessarily, in the manner of impeachment, impugn the character of the Governor, nor is it limited to cases of nonfeasance, misfeasance, or malfeasance in office (*Wallace v. Tripp*, 101 N.W. 2d 312 (S.C. Mich. 1960)). The details of the recall procedure, such as the minimum period before recall based on conduct in office will be in order, or the content of a recall petition, are matters properly left to local legislation. Removal of a Governor by an impeachment procedure patterned after provisions of the U.S. Constitution (art. I, secs. 2 and 3) or the constitution of Puerto Rico (art. III, sec. 21) is not deemed suitable for the Virgin Islands, which has a unicameral legislature and no convenient alternative institution independent of the executive which might initiate impeachment proceedings to be tried by its legislature, sitting on oath or affirmation, in the role of an upper house. A Governor accused of a crime would be subject to a recall action by the people.

3. Section 3 of the proposed bill covers temporary or permanent vacancy in the office of Governor or Lieutenant Governor, or both. In case of a temporary disability or absence of the Governor, the Lieutenant Governor exercises the powers of the Governor, but does not assume his office. In the event the office were to become permanently vacant by reason of the death, resignation, or permanent disability of a Governor (or Governor-elect) or recall of a Governor, the Lieutenant Governor (or Lieutenant Governor-elect) will succeed to the office of Governor for the unexpired term. In case of temporary disability or absence of a Lieutenant Governor, the Governor will appoint a government employee to act as Lieutenant Governor, but if the office of Lieutenant Governor is permanently vacant, the Governor may appoint any qualified person to be the new Lieutenant Governor, subject to approval of the legislature. The temporary administrator, in case of temporary disability or absence of both Governor and Lieutenant Governor, as well as their successors in case of permanent vacancy in both offices, will be determined under local law. Territorial legislation could be enacted to deal with the possibility of controversy as to the permanent disability of any Governor or the fitness of any temporary disabled Governor to resume the duties of his office.

4. Section 4 repeals the provision of existing law which bars the creation of new departments and agencies in the executive branch of the Virgin Islands government unless the prior consent of the Secretary of the Interior is obtained. The continuation of that power in the Secretary seems wholly inconsistent with the increased measure of self-government which the bill confers upon the people of the Virgin Islands. The section also terminates the authority of the Secretary of the In-

terior to appoint an Acting Governor, if either of the top two executives are unable to serve.

5. Section 5 of the proposed bill provides for payment from local funds of the salaries of all executive, legislative, and judicial officials who are employees of the government of the Virgin Islands, at rates prescribed by the laws of the Virgin Islands.

Payment of the salaries of the Governor and Lieutenant Governor from local, instead of Federal funds, at rates established under local, not Federal, law is a logical consequence of the proposed alteration in the Governor's status. Federal payment of salaries of the Legislature of the Virgin Islands was eliminated by Public Law 89-98, signed July 30, 1965. The U.S. district court judge, U.S. attorney and marshal will continue to be federally appointed officials, paid from Federal funds.

6. Section 6 of the proposed bill will guarantee to U.S. citizens not resident in the Virgin Islands the privileges and immunities of U.S. citizens resident in the Virgin Islands (U.S. Constitution, art. IV, sec. 2) and will further guarantee to all U.S. citizens in or entering the Virgin Islands—including the corporations of any of the United States—rights of national citizenship, "such as the right to engage in interstate and foreign commerce, the right to appeal in proper cases to the national courts, the right to protection abroad" (U.S. Constitution, art. XIV, sec. 1; Corwin, *op. cit.*, p. 187).

7. Section 7 of the proposed bill, as noted above, is necessitated by the limitation of authority for the elected Governor of the Virgin Islands to call upon the U.S. Armed Forces in an emergency. The general military law is amended to authorize the President to call upon Federal or local forces to suppress civil insurrection in the Virgin Islands as in any State.

8. Section 8 of the proposed bill will alter the elected Governor's powers as of the date he assumes office. Provisions governing the first election of a Governor and Lieutenant Governor, such as the required majority vote or the casting of one vote for candidates for the two offices, will be in effect at the time of the first election. Sections 6 and 7 of the enclosed bill, which might have been proposed independently, as organic act amendments extending to the Virgin Islands needed provisions of Federal law, will become effective on the date of enactment.

In our view, an elected Governor is so very much desired by the people of the Virgin Islands that consideration of the proposed bill, followed by early enactment of this or a similar measure to provide an elected Governor for the Virgin Islands, is a matter of some urgency. We believe that greater autonomy for the Virgin Islands (with the enumerated safeguards against abuse of autonomy or the elected Governor's powers) is morally and politically right. In addition, an elected Governor for the Virgin Islands would be clear and unequivocal implementation of U.S. commitments under article 73 of chapter XI (declaration regarding non-self-governing territories) of the United Nations Charter.

The Bureau of the Budget has advised that the presentation to the Congress of this legislative proposal is in accord with the program of the President.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

A BILL To provide for the popular election of the Governor of the Virgin Islands, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 503; 48 U.S.C. 1591), is amended to read as follows:

"SEC. 11. The executive power of the Virgin Islands shall be vested in an executive officer whose official title shall be the 'Governor of the Virgin Islands'. The Governor of the Virgin Islands, together with the Lieutenant Governor, shall be elected by a majority of the votes cast by the people who are qualified to vote for the members of the Legislature of the Virgin Islands. The Governor and Lieutenant Governor shall be chosen jointly, by the casting by each voter of a single vote applicable to both offices. If no candidates receive a majority of the votes cast in any election, on the tenth day thereafter a run off election shall be held between the candidates for Governor and Lieutenant Governor receiving the highest and second-highest number of votes cast. The first election for Governor and Lieutenant Governor shall be held on November 8, 1966. Thereafter, beginning with the year 1968, the Governor and Lieutenant Governor shall be elected every four years at the general election. The Governor and Lieutenant Governor shall hold office for a term of four years (except that the Governor and Lieutenant Governor elected in 1966 shall hold office for a term of two years) and until their successors are elected and qualified, unless the Governor sooner is removed by recall. The term of the elected Governor and Lieutenant Governor shall commence on the fifth day of January following the date of election.

"No person shall be eligible for election to the office of Governor or Lieutenant Governor unless he is able to read and write the English language, is and has been for five consecutive years immediately preceding the election a citizen of the United States and a bona fide resident of the Virgin Islands and will be, at the time of taking office, at least thirty years of age. The Governor shall maintain his official residence in the Government House on St. Thomas during his incumbency, which house together with land appurtenant thereto is hereby transferred to the Government of the Virgin Islands. While in Saint Croix the Governor may reside in Government House on Saint Croix free of rent.

"The Governor shall have general supervision and control of all the departments, bureaus, agencies and other instrumentalities of the executive branch of the Government of the Virgin Islands. He may grant pardons and reprieves and remit fines and forfeitures for offenses against local laws. He may veto any legislation as provided in this Act. He shall appoint, and may remove, all officers and employees of the executive branch of the Government of the Virgin Islands, except as otherwise provided in this or any other Act of Congress, or under the laws of the Virgin Islands, and shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of the Virgin Islands and the laws of the United States applicable in the Virgin Islands. Whenever it becomes necessary, in case of disaster, invasion, insurrection or rebellion or imminent danger thereof, or to prevent or suppress lawless violence, he may summon the posse comitatus or call out the

militia or request assistance of the senior military or naval commander of the armed forces in the Virgin Islands or Puerto Rico, which may be given at the discretion of such military commander if not disruptive of, or inconsistent with, his federal responsibilities. He may, in case of rebellion or invasion or imminent danger thereof, when the public safety requires it, proclaim the islands, or any parts thereof, under martial law. The members of the Legislature shall meet forthwith on their own initiative and may, by a two-thirds vote, revoke such proclamation.

"The Governor shall make to the Secretary of the Interior under section 30 of this Act an annual report of the transactions of the Government of the Virgin Islands for transmission to the Congress and such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the Legislature and give expression to his views on any matter before that body.

"There is hereby established the Office of Lieutenant Governor of the Virgin Islands. The Lieutenant Governor shall have such executive powers and perform such duties as may be assigned to him by the Governor or prescribed by this Act or under the laws of the Virgin Islands."

SEC. 2. Section 12 of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 503; 48 U.S.C. 1593) is deleted and replaced by the following new provision, also designated section 12:

"SEC. 12. Any Governor or Acting Governor of the Virgin Islands may be removed from office by the President for cause or by the people registered to vote in the Virgin Islands if 75 percent of the persons voting in a referendum shall vote in favor of recall. Such referendum may be initiated by the Legislature of the Virgin Islands, following a two-thirds vote of the members of the Legislature in favor of referendum, or by petition to the Legislature of 25 percent of the people registered to vote in the Virgin Islands."

SEC. 3. (a) Section 14 of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 504; 48 U.S.C. 1595) is amended to read as follows:

"SEC. 14. (a) In case of the temporary disability or temporary absence of the Governor, the Lieutenant Governor shall have the powers of the Governor.

"(b) In case of a permanent vacancy in the Office of Governor, arising by reason of the death, recall, resignation, removal or permanent disability of the Governor, or the death, resignation or permanent disability of a Governor-elect, or for any other reason, the Lieutenant Governor or Lieutenant Governor-elect shall become the Governor, to hold office for the unexpired term and until his successor shall have been duly elected and qualified at the next regular election for Governor.

"(c) In case of the temporary disability or temporary absence of the Lieutenant Governor, or during any period when the Lieutenant Governor is acting as Governor, the Governor or the Acting Governor may from time to time designate an officer or employee of the executive branch of the Government of the Virgin Islands to act as Lieutenant Governor.

“(d) In case of a permanent vacancy in the Office of Lieutenant Governor, arising by reason of the death, resignation or permanent disability of the Lieutenant Governor, or because the Lieutenant Governor or Lieutenant Governor-elect has succeeded to the Office of Governor, the Governor shall appoint a new Lieutenant Governor, with the advice and consent of the Legislature, to hold office for the unexpired term and until his successor shall have been duly elected and qualified at the next regular election for Lieutenant Governor.

“(e) In case of the temporary disability or temporary absence of both the Governor and the Lieutenant Governor, the powers of the Governor shall be exercised, as Acting Governor, by such person as the laws of the Virgin Islands may prescribe. In case of a permanent vacancy in the offices of both the Governor and Lieutenant Governor, the Office of Governor shall be filled for the unexpired term in the manner prescribed by the laws of the Virgin Islands.

“(f) No additional compensation shall be paid to any person acting as Governor or Lieutenant Governor who does not also assume the Office of Governor or Lieutenant Governor under the provisions of this Act.”

(b) Section 15 of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 504; 48 U.S.C. 1596) is repealed.

SEC. 4. Subsection (a) of section 16 of the Revised Organic Act of the Virgin Islands, as amended (68 Stat. 497, 504; 48 U.S.C. 1597(a)), is amended by deleting therefrom the last sentence.

SEC. 5. Section 20 of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 505; 48 U.S.C. 1592, 1598, 1641), as amended, is amended to read as follows:

“SEC. 20. The salaries and travel allowances of the Governor, Lieutenant Governor, the heads of the executive departments, other officers and employees of the Government of the Virgin Islands and the members of the Legislature, shall be paid by the Government of the Virgin Islands at rates prescribed by the laws of the Virgin Islands.”

SEC. 6. Effective on the date of enactment of this Act, section 3 of the Revised Organic Act of the Virgin Islands (68 Stat. 497; 48 U.S.C. 1561) is amended by adding at the end thereof the following new paragraph:

“The provisions of paragraph 1 of section 2 of article IV and section 1 of article XIV of the Constitution of the United States shall have the same force and effect within the territory of the Virgin Islands as in the United States or in any State of the United States.”

SEC. 7. Effective on the date of enactment of this Act, chapter 15 of the General Military Law (70A Stat. 15, 16; 10 U.S.C. 331-334) is amended by adding at the end thereof the following new section 335:

“SEC. 335. For purposes of this chapter, ‘State’ includes the Virgin Islands.”

SEC. 8. Except as to provisions applicable to the election of the Governor and Lieutenant Governor, which provisions shall take effect on the date of enactment of this Act, and unless otherwise expressly provided herein, this Act shall be effective January 5, 1967.

SEC. 9. This Act may be cited as the “Virgin Islands Elected Governor Act”.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 22, 1966.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR SENATOR JACKSON: This is in response to your request for the views of this Department with respect to the House-passed bill H.R. 11777, to provide for the popular election of the Governor of the Virgin Islands, and for other purposes.

This Department recommended enactment of legislation providing for the popular election of the Governor of the Virgin Islands by its executive communication of October 20, 1965. That communication transmitted to the Congress a draft legislative proposal together with a detailed analysis of the proposal and a justification. At that time we said that it was our view that an elected Governor is so very much desired by the people of the Virgin Islands that consideration of the proposed bill and early enactment was a matter of some urgency. Further, we stated that we believe that greater autonomy for the Virgin Islands was morally and politically right. We are still of that view and we urge that favorable consideration be given to the measure pending before your committee.

The bill before you is in substantial degree the bill proposed by this Department. It was, however, amended in various respects prior to passage by the House of Representatives. The amendments, which are 10 in number, range from technical amendments to some that are substantive. All 10 are identified below.

1. Under existing law, an act of the territorial legislature repassed over the Governor's veto may be referred by the Governor to the President who is empowered to exercise final veto power over such legislation (sec. 9(d) of the Revised Organic Act of the Virgin Islands; 48 U.S.C. 1575).

The Department's proposal was silent with respect to this point in recognition of the executive view that such Presidential power should be retained. However, after due consideration, the House amended the bill by inserting a new section 1 which would delete the provision for Presidential veto of territorial legislation.

2. Section 2 was amended to provide that in the event no candidate for Governor receives a majority of the vote cast in any election a runoff election shall be held 14 days after such election instead of 10 days, as originally provided.

3. Section 2 was further amended to provide that the term of the Governor and the Lieutenant Governor shall be 2 years, rather than 4 years as recommended by the Department, and to delete the reference to recall.

4. Section 2 was further amended by inserting "of the United States" after the words "Armed Forces".

5. Section 3 was amended to provide that the Governor and the Lieutenant Governor shall be removable from office by impeachment for, and conviction of, high crimes and misdemeanors, and to provide a procedure for such impeachment. This amendment is in lieu of language which provided for removal by the President for cause, or by recall.

6. A new section 4 was inserted to repeal section 13 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1593), which section provides for the appointment by the Governor of administrative assistants for St. John and St. Croix.

7. Section 5(b) was amended to conform the language to the new language inserted in section 3 pertaining to impeachment and deleting Presidential removal and recall.

8. Section 5(c) was further amended to provide that the president of the legislature shall act as Lieutenant Governor in the temporary absence of the Lieutenant Governor or when the Lieutenant Governor is acting as Governor. This is in lieu of language which provided that the Governor or the Acting Governor might designate an officer or employee of the executive branch of the Government of the Virgin Islands to act as Lieutenant Governor whenever necessary.

9. Section 8 was amended to correct the citation to the constitution and to insert "unincorporated" before the word "territory".

10. Section 11 was amended to substitute "Elective" for "Elected".

The principal differences between the bill pending before your committee and the Department's proposal are the provision for a 2-year term rather than a 4-year term; the repeal of Presidential veto power; and the provision for impeachment as a substitute for Presidential removal and recall.

The Department continues to believe that it would be preferable to retain the right of the President to remove the Governor for cause and the right to exercise final veto power over legislation referred to him by the Governor after such legislation has been repassed by the legislature over the Governor's veto.

The Bureau of the Budget has advised that there would be no objection to the presentation of this report and that subject to your consideration of the above views enactment of H.R. 11777 would be in accord with the program of the President.

Sincerely yours,

CHARLES F. LUCE,
Acting Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, H.R. 11777 as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF JULY 22, 1954 (68 STAT. 497; 48 U.S.C. 1575), AS AMENDED

This Act may be cited as the "Revised Organic Act of the Virgin Islands".

* * * * *

BILL OF RIGHTS

SEC. 3. No law shall be enacted in the Virgin Islands which shall deprive any person of life, liberty, or property without due process of law or deny to any person therein equal protection of the laws.

In all criminal prosecutions the accused shall enjoy the right to be represented by counsel for his defense, to be informed of the nature

and cause of the accusation, to have a copy thereof, to have a speedy and public trial, to be confronted with the witnesses against him, and to have compulsory process for obtaining witnesses in his favor.

No person shall be held to answer for a criminal offense without due process of law, and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal cause to give evidence against himself; nor shall any person sit as judge or magistrate in any case in which he has been engaged as attorney or prosecutor.

All persons shall be bailable by sufficient sureties in the case of criminal offenses, except for first degree murder or any capital offense when the proof is evident or the presumption great.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

No law impairing the obligation of contracts shall be enacted.

No person shall be imprisoned or shall suffer labor for debt.

All persons shall have the privilege of the writ of habeas corpus and the same shall not be suspended except as herein expressly provided.

No ex post facto law or bill of attainder shall be enacted.

Private property shall not be taken for public use except upon payment of just compensation ascertained in the manner provided by law.

The right to be secure against unreasonable searches and seizures shall not be violated.

No warrant for arrest or search shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Slavery shall not exist in the Virgin Islands.

Involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted by a court of law, shall not exist in the Virgin Islands.

No law shall be passed abridging the freedom of speech or of the press or the right of the people peaceably to assemble and petition the government for the redress of grievances.

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof.

No person who advocates, or who aids or belongs to any party, organization, or association which advocates, the overthrow by force or violence of the government of the Virgin Islands or of the United States shall be qualified to hold any office of trust or profit under the government of the Virgin Islands.

No money shall be paid out of the Virgin Islands treasury except in accordance with an Act of Congress or money bill of the legislature and on warrant drawn by the proper officer.

The contracting of polygamous or plural marriages is prohibited.

The employment of children under the age of sixteen years in any occupation injurious to health or morals or hazardous to life or limb is prohibited.

Nothing contained in this Act shall be construed to limit the power of the legislature herein provided to enact laws for the protection of life, the public health, or the public safety.

No political or religious test other than an oath to support the Constitution and the laws of the United States applicable to the Virgin Islands, and the laws of the Virgin Islands, shall be required as a qualification to any office or public trust under the Government of the Virgin Islands.

The provisions of paragraph 1 of section 2 of article IV and section 1 of amendment XIV of the Constitution of the United States shall have the same force and effect within the unincorporated territory of the Virgin Islands as in the United States or in any State of the United States.

* * * * *

SEC. 9. (a) **■**The quorum of the legislature shall consist of seven of its members. **■** *The quorum of the legislature shall consist of eight of its members.* No bill shall become a law unless it shall have been passed at a meeting, at which a quorum was present, by the affirmative vote of a majority of the members present and voting, which vote shall be by yeas and nays.

(b) The enacting clause of all acts shall be as follows: "Be it enacted by the Legislature of the Virgin Islands".

(c) The Governor shall submit at the opening of each regular session of the legislature a message on the state of the Virgin Islands and a budget of estimated receipts and expenditures, which shall be the basis of the appropriation bills for the ensuing fiscal year, which shall commence on the first day of July.

(d) Every bill passed by the legislature shall, before it becomes a law, be presented to the Governor. If the Governor approves the bill, he shall sign it. If the Governor disapproves the bill, he shall, except as hereinafter provided, return it, with his objections, to the legislature with ten days (Sundays excepted) after it shall have been presented to him. If the Governor does not return the bill within such period, it shall be a law in like manner as if he had signed it, unless the legislature by adjournment prevents its return, in which case it shall be a law if signed by the Governor within thirty days after it shall have been presented to him; otherwise it shall not be a law. When a bill is returned by the Governor to the legislature with his objections, the legislature shall enter his objections at large on its journal and proceed to reconsider the bill. **■***If, after such reconsideration, two-thirds of all the members of the legislature agree to pass the bill, it shall be presented anew to the Governor. If he then approves it, he shall sign it; if not, he shall within ten days after it has been presented to him transmit it to the President of the United States. If the President approves the bill, he shall sign it. If he disapproves the bill, he shall return it to the Governor, so stating, and it shall not be a law. If the President neither approves nor disapproves the bill within ninety days from the date on which it is transmitted to him by the Governor, the bill shall be a law in like manner as if the President had signed it.* **■***If, after such reconsideration, two-thirds of all the members of the legislature pass the bill, it shall be a law.* If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such items, or any part or parts, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the bill, at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects, and the items, or parts or portions thereof, so objected to shall not take effect.

(e) If at the termination of any fiscal year the legislature shall have failed to pass appropriation bills providing for payment of the obligations and necessary current expense of the government of the Virgin Islands for the ensuing fiscal year, then the several sums appropriated in the last appropriation bills for the objects and purposes

therein specified, so far as the same may be applicable shall be deemed to be reappropriated item by item.

(f) The legislature shall keep a journal of its proceedings and publish the same. Every bill passed by the legislature and the yeas and nays on any question shall be entered on the journal.

(g) Copies of all laws enacted by the legislature shall be transmitted within fifteen days of their enactment by the Governor to the Secretary of the Interior and by him annually to the Congress of the United States.

* * * * *

EXECUTIVE BRANCH

[SEC. 11. The executive power of the Virgin Islands shall be vested in an executive officer whose official title shall be the "Governor of the Virgin Islands", and shall be exercised under the supervision of the Secretary of the Interior. The Governor of the Virgin Islands shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President and until his successor is chosen and qualified. The Governor shall maintain his official residence in the Government House on Saint Thomas during his official incumbency, free of rent, and while in Saint Croix may reside in Government House on Saint Croix free of rent. He shall have general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of the Virgin Islands. He may grant pardons and reprieves and remit fines and forfeitures for offenses against the local laws, and may grant respites for all offenses against the laws of the United States applicable in the Virgin Islands until the decision of the President can be ascertained. He may veto any legislation as provided in this Act. He shall appoint all officers and employees of the executive branch of the government of the Virgin Islands, except as otherwise provided in this or any other Act of Congress, and shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of the Virgin Islands and the laws of the United States applicable in the Virgin Islands. Whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the islands, or summon the posse comitatus, or call out the militia, to prevent or suppress violence, invasion, insurrection, or rebellion; and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the islands, or any part thereof, under martial law, until communication can be had with the President and the President's decision thereon made known. He shall annually, and at such other times as the President or the Congress may require, make official report of the transactions of the government of the Virgin Islands to the Secretary of the Interior, and his said annual report shall be transmitted to the Congress. He shall perform such additional duties and functions as may, in pursuance of law, be delegated to him by the President, or by the Secretary of the Interior. He shall have the power to issue executive regulations not in conflict with any applicable law. He may attend or may designate another person to represent him at the meetings of the legislature, may give expressions to

his views on any matter before that body, and may recommend bills to the legislature.】

SEC. 11. *The executive power of the Virgin Islands shall be vested in an executive officer whose official title shall be the "Governor of the Virgin Islands." The Governor of the Virgin Islands, together with the Lieutenant Governor, shall be elected by a majority of the votes cast by the people who are qualified to vote for the members of the legislature of the Virgin Islands. The Governor and Lieutenant Governor shall be chosen jointly, by the casting by each voter of a single vote applicable to both offices. If no candidates receive a majority of the votes cast in any election, on the fourteenth day thereafter a runoff election shall be held between the candidates for Governor and Lieutenant Governor receiving the highest and second highest number of votes cast. The first election for Governor and Lieutenant Governor shall be held on November 3, 1970. Thereafter, beginning with the year 1974, the Governor and Lieutenant Governor shall be elected every four years at the general election. The Governor and Lieutenant Governor shall hold office for a term of four years and until their successors are elected and qualified. No person who has been elected Governor for two full successive terms shall be again eligible to hold that office until one full term has intervened. The term of the elected Governor and Lieutenant Governor shall commence on the first Monday of January following the date of election.*

No person shall be eligible for election to the office of Governor or Lieutenant Governor unless he is able to read and write the English language, is and has been for five consecutive years immediately preceding the election a citizen of the United States and a bona fide resident of the Virgin Islands and will be, at the time of taking office, at least thirty years of age. The Governor shall maintain his official residence in the Government House on Saint Thomas during his incumbency, which house together with land appurtenant thereto is hereby transferred to the government of the Virgin Islands. While in Saint Croix, the Governor may reside in Government House on Saint Croix free of rent.

The Governor shall have general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of the Virgin Islands. He may grant pardons and reprieves and remit fines and forfeitures for offenses against local laws. He may veto any legislation as provided in this Act. He shall appoint, and may remove, all officers and employees of the executive branch of the government of the Virgin Islands, except as otherwise provided in this or any other Act of Congress, or under the laws of the Virgin Islands, and shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of the Virgin Islands and the laws of the United States applicable in the Virgin Islands. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion or imminent danger thereof, or to prevent or suppress lawless violence, he may summon the posse comitatus or call out the militia or request assistance of the senior military or naval commander of the Armed Forces of the United States in the Virgin Islands or Puerto Rico, which may be given at the discretion of such military commander if not disruptive of, or inconsistent with, his Federal responsibilities. He may, in case of rebellion or invasion or imminent danger thereof, when the public safety requires it, proclaim the islands, insofar as they are under the jurisdiction of the government of the Virgin Islands, to be under martial law. The members of the legislature shall meet forthwith on their own initiative any may, by a two-thirds vote, revoke such proclamation.

The Governor shall make to the Secretary of the Interior under section 30 of this Act an annual report of the transactions of the government of the Virgin Islands for transmission to the Congress and such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall, have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the legislature and give expression to his views on any matter before that body.

There is hereby established the office of Lieutenant Governor of the Virgin Islands. The Lieutenant Governor shall have such executive powers and perform such duties as may be assigned to him by the Governor or prescribed by this Act or under the laws of the Virgin Islands.

[SEC. 12. The President shall appoint a Government Secretary for the Virgin Islands. He shall have custody of the seal of the Virgin Islands and shall countersign and affix such seal to all executive proclamations and all other executive documents. He shall record and preserve the laws enacted by the legislature. He shall promulgate all proclamations and orders of the Governor and all laws enacted by the legislature. He shall have such executive powers and perform such other duties as may be assigned to him by the Governor.]

SEC. 12. Any Governor or Acting Governor of the Virgin Islands may be removed from office by the people registered to vote in the Virgin Islands if: (a) 75 per centum of the persons registered to vote shall vote in favor of recall at a referendum election, and (b) the removal of the Governor or Acting Governor is approved by the President of the United States. The referendum may be initiated by the legislature of the Virgin Islands, following a two-thirds vote of the members of the legislature in favor of a referendum, or by a petition to the legislature of 25 per centum of the people registered to vote in the Virgin Islands.

[SEC. 13. The Governor may appoint an administrative assistant who shall reside in Saint Croix and an administrative assistant who shall reside in Saint John. These administrative assistants shall perform such duties as may be assigned to them by the Governor. In making such appointments, preference shall be given to qualified residents of the Virgin Islands.]

[SEC. 14. In the case of a vacancy in the office of Governor or the disability or temporary absence of the Governor, the Government Secretary shall have all the powers of the Governor.]

SEC. 14. (a) In case of the temporary disability or temporary absence of the Governor, the Lieutenant Governor shall have the powers of the Governor.

(b) In case of a permanent vacancy in the Office of Governor, arising by reason of the death, resignation, removal by impeachment or permanent disability of the Governor, or the death, resignation or permanent disability of a Governor-elect, or for any other reason, the Lieutenant Governor or Lieutenant Governor-elect shall become the Governor, to hold office for the unexpired term and until his successor shall have been duly elected and qualified at the next regular election for Governor.

(c) In case of the temporary disability or temporary absence of the Lieutenant Governor, or during any period when the Lieutenant Governor is acting as Governor, the President of the Legislature shall act as Lieutenant Governor.

(d) In case of a permanent vacancy in the Office of Lieutenant Governor, arising by reason of the death, resignation, removal by recall or perma-

ment disability of the Lieutenant Governor, or because the Lieutenant Governor or Lieutenant Governor-elect has succeeded to the Office of Governor, the Governor shall appoint a new Lieutenant Governor, with the advice and consent of the legislature, to hold office for the unexpired term and until his successor shall have been duly elected and qualified at the next regular election for Lieutenant Governor.

(e) In case of the temporary disability or temporary absence of both the Governor and the Lieutenant Governor, the powers of the Governor shall be exercised, as Acting Governor, by such person as the laws of the Virgin Islands may prescribe. In case of a permanent vacancy in the offices of both the Governor and Lieutenant Governor, the office of Governor shall be filled for the unexpired term in the manner prescribed by the laws of the Virgin Islands.

(f) No additional compensation shall be paid to any person acting as Governor or Lieutenant Governor who does not also assume the office of Governor or Lieutenant Governor under the provisions of this Act.

[SEC. 15. The Secretary of the Interior may from time to time designate the head of an executive department of the government of the Virgin Islands to act as Governor in the case of a vacancy in the offices, or the disability or temporary absence, of both the Governor and the Government Secretary, and the person so designated shall have all the powers of the Governor for so long as such condition continues. The Governor or Acting Governor may from time to time designate an officer or employee of the executive department of the government of the Virgin Islands to act as government secretary for the Virgin Islands in case of a vacancy in the office of the government secretary or the disability or temporary absence of the government secretary or while said government secretary is acting as Governor, and the person so designated shall have all the powers of government secretary so long as such condition continues, except for the power set forth in section 14 of this Act. No additional compensation shall be paid to any person acting as Governor or as secretary under this Act.]

SEC. 16. (a) The Governor shall within one year after the date of approval of this Act, reorganize and consolidate the existing executive departments, bureaus, independent boards, agencies, authorities, commissions, and other instrumentalities of the government of the Virgin Islands or of the municipal governments into not more than nine executive departments except for independent bodies whose existence may be required by Federal law for participation in Federal programs. The head of each executive department other than the department of law shall be designated as the commissioner thereof, and the commissioner of finance shall be bonded. The head of the department of law shall be known as the attorney general of the Virgin Islands.

[No other department, bureau, independent board, agency, authority, commission, or other instrumentality shall be created, organized, or established by the Governor or the legislature, without the prior approval of the Secretary of the Interior, unless required by Federal law for participation in Federal programs.]

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SEC. 17. (a) The Secretary of the Interior shall appoint a government comptroller who shall receive an annual salary at a rate established in accordance with the standards provided by the Classification Act of 1949, as amended. The government comptroller shall hold

office for a term of ten years and until his successor is appointed and qualified unless sooner removed by the Secretary of the Interior for cause. The government comptroller shall not be eligible for reappointment.

(b) The government comptroller shall audit and settle all accounts and claims pertaining to the revenues and receipts from whatever source of the government of the Virgin Islands and of funds derived from bond issues; and he shall audit and settle, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of the Virgin Islands including those pertaining to trust funds held by the government of the Virgin Islands.

[(c) It shall be the duty of the government comptroller to bring to the attention of the proper administrative officer failures to collect amounts due the government, and expenditures of funds or property which in his opinion are extravagant, excessive, unnecessary, or irregular.]

(c) *It shall be the duty of the government comptroller to bring to the attention of the Secretary of the Interior and the Governor of the Virgin Islands all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular, unnecessary or not pursuant to law. The audit activities of the government comptroller shall be directed so as to; (1) improve the efficiency and economy of programs of the Government of the Virgin Islands and (2) discharge the responsibility incumbent upon the Congress to insure that the substantial federal revenues which are covered into the treasury of the Government of the Virgin Islands are properly accounted for and audited.*

(d) It shall be the duty of the government comptroller to certify to the Secretary of the Interior the net amount of government revenues which form the basis for Federal grants for the civil government of the Virgin Islands.

(e) The decisions of the government comptroller shall be final except that appeal therefrom may, with the concurrence of the Governor, be taken by the party aggrieved or the head of the Department concerned, within one year from the date of the decision, to the Secretary of the Interior, which appeal shall be in writing and shall specifically set forth the particular action of the government comptroller to which exception is taken, with the reasons and the authorities relied upon for reversing such decision.

[(f) If the Secretary of the Interior confirms the decision of the government comptroller, or if the Governor does not concur in the taking of an appeal to the Secretary, then relief may be sought by suit in the District Court of the Virgin Islands if the claim is otherwise within its jurisdiction.]

(f) *If the Governor does not concur in the taking of an appeal to the Secretary, the party aggrieved may seek relief by suit in the District Court of the Virgin Islands if the claim is otherwise within its jurisdiction. No later than thirty days following the date of the decision of the Secretary of the Interior, the party aggrieved or the Governor, on behalf of the head of the department concerned, may seek relief by suit in the District Court of the Virgin Islands if the claim is otherwise within its jurisdiction.*

(g) The government comptroller is authorized to communicate directly with any person having claims before him for settlement, or

with any department officer or person having official relation with his office. He may summon witnesses and administer oaths.

[(h) As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the government comptroller shall submit to the Governor of the Virgin Islands an annual report of the fiscal condition of the government, showing the receipts and disbursements of the various departments and agencies of the government.]

(h) As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the government comptroller shall submit to the Governor of the Virgin Islands, the President of the Senate, and the Speaker of the House of Representatives an annual report of the fiscal condition of the government, showing the receipts and disbursements of the various departments and agencies of the government.

(i) The government comptroller shall make such other reports as may be required by the Governor of the Virgin Islands, the Comptroller General of the United States, or the Secretary of the Interior.

(j) The office of the government comptroller shall be under the general supervision of the Secretary of the Interior, but shall not be a part of any executive department in the government of the Virgin Islands.

(k) The salary of the government comptroller and the expenses of his office shall be paid by the United States from funds derived by transfer from the internal revenue collections appropriated for the Virgin Islands, but such salary and expenses shall not exceed such amounts as may be specified annually in Federal appropriation acts.

(l) All departments, agencies and establishments shall furnish to the government comptroller such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the government comptroller, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department, agency or establishment.

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[SEC. 20. (a) The Governor shall receive an annual salary at the rate provided for Governors of Territories and possessions in the Executive Pay Act of 1949.

[(b) The Government Secretary, the heads of the executive departments, and the members of the immediate staffs of the Governor and the Government Secretary, shall receive annual salaries at rates established by the Secretary of the Interior in accordance with the standards provided in the Classification Act of 1949.

[(c) The salaries of the Governor, the Government Secretary, the government comptroller, and the members of their immediate staffs shall be paid by the United States. The salaries of the heads of the executive departments shall be paid by the government of the Virgin Islands; and if the legislature shall fail to make an appropriation for such salaries, the salaries theretofore fixed shall be paid without the necessity of further appropriations therefore.]

SEC. 20. The salaries and travel allowances of the Governor, Lieutenant Governor, the heads of the executive departments, other officers and employees of the government of the Virgin Islands and the members of

the legislature, shall be paid by the government of the Virgin Islands at rates prescribed by the laws of the Virgin Islands.

GENERAL MILITARY LAW (70A STAT. 15; U.S.C. 331)

CHAPTER 15.—INSURRECTION

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SEC. 336. For purposes of this chapter, "State" includes the unincorporated territory of the Virgin Islands.

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