



## Full Story

### **Controversy in the constitution**

**Deadline pressure drove delegates to approve hot-button provisions that doomed earlier drafts**

**By MEGAN POINSKI**

**Thursday, May 28th 2009**

Almost two weeks ago, delegates to the Fifth Constitutional Convention rejected a constitutional draft that had several controversial measures.

On Tuesday night, in a last effort for delegates to get a document approved before the May 31 deadline, 20 of the 30 convention delegates approved a similar draft.

None of the divisive measures were taken out of the document on Tuesday. In fact, new ones were added.

Several of the delegates who voted against most of the contentious items proposed for the constitution voted for the entire document in the end. Many of them said their votes just meant that they felt the people should have a constitution to consider, and their votes should not be construed as an endorsement of the document.

Not all delegates were swayed to support the document. Five voted against it. One delegate abstained.

The first half of Tuesday proceeded as if there were no looming issues before the delegates. Minor and noncontroversial amendments were being proposed, debated and voted on. Eugene Petersen, who has been outspoken in his opposition to provisions in the constitution he believes to be discriminatory, called his fellow delegates to task late in the afternoon.

"I don't know why we're shying away from the important issues. I don't know why we're arguing about press or media or sex and gender," Petersen said, referring to debates the delegates had earlier in the day about wording in the bill of rights. "We should hit the three or four or five hot-button issues."

### **Governor and lieutenant governor**

One of the biggest stumbling blocks in the document was a provision that set ancestry

requirements for the territory's governor and lieutenant governor.

According to an amendment approved by delegates two weeks ago by a 15-5 vote, the territory's two top elected officials must be either ancestral native Virgin Islanders or native Virgin Islanders. The document defines ancestral native Virgin Islanders as people who can trace their bloodlines back to people who were in the Virgin Islands before 1932 - when the United States granted mass citizenship on people in the territory - and were not citizens of any other country. Native Virgin Islanders can trace their ancestry back to people born in the Virgin Islands after 1932. Convention legal counsel Lloyd Jordan advised delegates against inserting this provision, saying that it violates the U.S. Constitution.

Petersen made a motion on Tuesday to delete that provision from the constitution. He said he felt it was wrong and discriminatory.

"We want to have a document that we can adopt," Petersen said. "I would encourage you to delete this section. There are a couple other sections I'm going to suggest are deleted. If you think they are so important and for the people, you should put them before the people in an initiative."

Delegate Adelbert Bryan vigorously opposed Petersen's motion. He insinuated that anyone who would oppose limiting the offices of governor and lieutenant governor to natives does not care about the native population.

"We can't sit down here and let these coward people be politically correct and remove our ancestral native Virgin Islanders. I am not going to take that," Bryan said. "I will go as far back against this stripping of native Virgin Islanders as I can."

On Tuesday, the vote to remove the native requirement from the document was much closer than the vote to put it there. Ten delegates voted to take it out, while 12 voted to leave it in.

After the tally was finalized, delegate Francis Jackson asked if the issue could be re-examined for the sake of consensus.

"I respect the votes of the delegates on this provision, but I believe that we should discuss it further," Jackson said. "For the entire document, you need the votes of two-thirds of the delegates. With that in mind, this is a make-or-break provision."

Convention President Gerard Luz James II denied Jackson's request.

Delegate Gerard Emanuel said that he already offered compromise to the people who did not want that item in the constitution. Several months ago, he proposed that the constitution allow people who have no Virgin Islands ancestry but were born before the constitution is ratified to run for governor and lieutenant governor.

Emanuel's compromise was not accepted several months ago. On Tuesday, he said that he e-mailed the proposal to every delegate. Nobody offered it as an amendment.

"I am surprised that at this moment, we are seeking reconciliation. My votes today have shown willingness to compromise on my behalf," Emanuel said, referring to a previous vote in favor of legislative districts, which he had opposed.

### **Tax exemptions**

One of the most hotly debated topics at the session two weeks ago was a provision to grant property tax exemptions to ancestral native Virgin Islanders. According to the document approved Tuesday, ancestral native Virgin Islanders do not have to pay property taxes on their primary residences or any undeveloped land they own.

When the tax benefits were proposed, delegates who opposed them argued that the benefits were discriminatory. Many also argued that this move would deprive the Virgin Islands treasury of substantial revenues.

Delegates on Tuesday passed a measure that some said would solve the financial problem posed by natives not paying property taxes. That item, proposed by delegate Bryan, would cap tax benefits granted to businesses to 25 years. According to the document, no business could get tax benefits renewed, even in cases of changes of ownership, mergers or name changes.

Delegate Emanuel explained Bryan's reasoning for the amendment.

"The delegate did research and came up with an amendment to address your germane concerns," Emanuel said. "How can you be opposed to that? This is a clear and very simple amendment."

Delegate Violet Anne Golden said that if the provision was in the constitution, it could have a serious impact on the territory's economy. The territory's largest taxpayer, she said, is HOVENSA. Instead of paying property taxes, HOVENSA and the V.I. government have an agreement that the refinery pays a fee each year. That agreement would be invalidated if Bryan's provision were part of the constitution.

Other delegates said that the amendment would interfere with the tax benefits granted to industry through the Economic Development Commission - which is established and governed by legislation.

"Our constitution has to be general," delegate Francis Jackson said. "We are imposing on the purview of our Legislature to add these kinds of changes, which I feel are part of the Legislature's authority."

Delegate Wilma Marsh Monsanto made an impassioned speech about what property tax abatements mean for native St. Johnians in light of the recent territorywide property

reevaluation.

"Our taxes were raised 300 percent," Monsanto said. "It is bearing strain on St. John. The battle is great to try to hold on to a parcel of land. It's difficult. And if we don't have some sort of protection in this constitution, everything may be gone with it."

The motion to limit corporate tax benefits passed 12-10.

### **Other items**

One of the last amendments to the document sets the territorial capital in Charlotte Amalie, St. Thomas.

Delegate Charles Turnbull, a former V.I. governor and veteran of all five of the territory's constitutional conventions, made the motion to establish the capital city. He said that every other constitution he can think of names the seat of government.

"We have not provided a capital in this constitution. I will propose one," Turnbull said. "I think where it is now is where it should be. The capital city should be Charlotte Amalie."

At past conventions, establishing the capital city has historically been one of the most divisive votes.

Turnbull's motion to make Charlotte Amalie the capital passed with a vote of 13-7.

Other amendments passed on Tuesday include:

- Establishing a status advisory commission, which will educate the public on options for the territory's future relationship with the United States. A year after the public education, ancestral native and native Virgin Islanders will vote on status options.
- Establishing legislative districts for senators on St. Thomas and St. Croix.
- Allowing people living on an island to vote to create municipal subdistricts.
- Establishing the Inspector General as an independent office.
- Prohibiting discrimination based on sexual orientation.
- Establishing that private employers may pay employees at different rates based on experience and seniority.
- Requiring government employees to follow a code of ethics.