



Familiar issues mark constitution testimony in D.C.

By MEGAN POINSKI

Thursday, March 18th 2010

WASHINGTON - Members of Congress got a taste of the kinds of debates that raged throughout the Fifth V.I. Constitutional Convention as five delegates gave testimony - mostly centering on native Virgin Islanders' rights - on Wednesday.

Convention President Gerard Luz James II selected delegates Adelbert Bryan, Gerard Emanuel and Lois Hassell-Habtes to join him in Washington, D.C., to testify on the document before the House Subcommittee on Insular Affairs, Oceans and Wildlife. Delegates Eugene Petersen and Douglas Brady - both of whom voted against the document - also were at the testifiers' table.

The hearing was scheduled for members of Congress to begin learning about the proposed Virgin Islands Constitution, which they have 60 days to act on, according to the federal law that sets up the constitutional process. During the hour that convention delegates shared testimony and answered committee members' questions, the representatives got a comprehensive education in why some delegates feel including native rights in the document is absolutely necessary.

The draft constitution restricts certain rights and privileges to people who can be classified as ancestral native Virgin Islanders and native Virgin Islanders. According to the draft, ancestral native Virgin Islanders are people who can trace their bloodlines back to people who were living in the Virgin Islands before 1932 - when the United States granted citizenship to people living in the Virgin Islands - and were not citizens of any other country. Native Virgin Islanders are defined as people who can trace their ancestry to people born in the territory after 1932.

The draft grants generous property tax abatements to ancestral native Virgin Islanders, who would pay no taxes on their primary residences or undeveloped land. It also limits the offices of governor and lieutenant governor to ancestral and native Virgin Islanders and allows only ancestral and native Virgin Islanders to vote on changing the territory's political status in relation to the United States.

Those provisions have been assailed as unconstitutional by many convention delegates. Gov. John deJongh Jr. tried to stop the draft from going to Washington because he felt they violated the federal right to equal protection. After the governor was ordered to send it on by a V.I. Superior Court judge, a U.S. Justice Department analysis made

many of the same conclusions as deJongh about the preferential treatment for natives.

On Wednesday, many members of the subcommittee expressed concern for the language, which seems to invite legal challenges.

Bryan, who dominated the responses from the delegates, said that any opposition to native rights provisions in the draft constitution has racial overtones. The people of the Virgin Islands, he said, are descended from African slaves who have their own distinct culture and way of life. That, he said, is reflected in the draft.

"Should the Virgin Islands people apologize for aspiring to a government more suited to their genius?" Bryan asked. "The Fifth Constitutional Convention draft is not in contravention to the U.S. Constitution. While its style may be different, the spirit of liberty is identical."

Emanuel and Hassell-Habtes bolstered Bryan's argument, with Emanuel drawing from the territory's history to justify the native rights provisions. Hassell-Habtes told committee members that the people of the Virgin Islands have a strong culture and rich traditions that need to be preserved - and the proposed constitution contains provisions necessary to defend and protect that way of life.

Petersen and Brady - who both disagreed with including native rights provisions in the draft constitution - asked the subcommittee to remove the flawed language. They argued that the document passed the convention with only the bare minimum of votes, and Petersen said that some of the delegates who voted for the draft with the sole intention of moving the process along immediately regretted it.

"The people of the Virgin Islands deserve to have an appropriate document returned to them," Brady said.

After making their initial statements, the dissenting delegates barely spoke for the rest of the hearing. Delegates who supported the document - mostly Bryan and Emanuel - kept putting their reasons for supporting native rights on the official record. Bryan said it was important for the people of the Virgin Islands to make political decisions for themselves, and United Nations resolutions respecting the self-determination of territories would be more accepting of the native rights provisions.

Emanuel said that protecting the territory's natives is of utmost importance, and it would be possible for the document to pass as it is written if the ratification vote were restricted to those who have deep roots in the territory. When the United States purchased the territory from Denmark in 1917, the native people of the Virgin Islands had no say in their political status or their citizenship. Since the territory became a part of the United States, Emanuel said that "outsiders" - who were free to come and settle, regardless of what the natives wanted - have affected politics and self-determination efforts. Emanuel said that no descendant of a German Nazi would have any business

voting for rights in Israel.

"Why is it that the people of the Virgin Islands are supposed to be held to a higher standard and be so accommodating to let everyone else determine their standing?" Emanuel asked.

Subcommittee chairwoman Madeleine Bordallo said that the debate in the Virgin Islands reminds her of the one perpetually swirling in her home territory of Guam. Bordallo has worked on many of the same issues - which are still unresolved - with her people. She said several times on Wednesday that she has always supported "getting your foot in the door" - meaning establishing whatever can be established.

Responding to the deep divides among delegates, V.I. Delegate to Congress Donna Christensen asked them if it would be possible to reconvene the convention to amend the sections that the U.S. Justice Department was concerned about. Only Hassell-Habtes said there might be a possibility of reconvening, but that would nullify much of the convention's earlier work. Hassell-Habtes said that the document should instead get Congress' approval as it is and be sent back to the territory for ratification.

"I feel it has been a hard, strong struggle for our people, and we should not give it up now," she said. "As the chairperson of this committee from Guam said, we should at least get our foot in the door."