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THE VIRGIN ISLANDS

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HEARING

BEFORE THE

SUBCOMMITTEE ON
TERRITORIAL AND INSULAR AFFAIRS

OF THE

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 7699

A BILL TO PROVIDE FOR THE FILLING OF VACANCIES IN
THE LEGISLATURE OF THE VIRGIN ISLANDS

HEARING HELD IN WASHINGTON, D.C.

JULY 10, 1973

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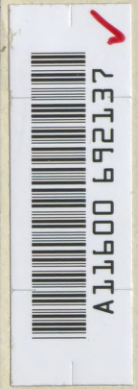
Committee on Interior and Insular Affairs



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NOTE.—The chairman of the full committee is an ex officio voting member of this subcommittee. The first listed minority member is counterpart to the subcommittee chairman.

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FILLING VACANCIES IN THE LEGISLATURE OF THE VIRGIN ISLANDS

TUESDAY, JULY 10, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TERRITORIAL AND INSULAR AFFAIRS
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:25 a.m., in room 2257, Rayburn House Office Building, Hon. Phillip Burton (chairman of the subcommittee) presiding.

Present: Representatives Burton (presiding), Kastenmeier, Stephens, Won Pat, de Lugo, Clausen, Meeds, Lujan, and Taylor.

Also present: Maurice Shean, consultant to the subcommittee, and Nancy Larson, clerk.

Mr. BURTON. The Subcommittee on Territorial and Insular Affairs will be called to order.

The meeting this morning is on H.R. 7699 by Mr. de Lugo, to provide for the filling of vacancies in the Legislature of the Virgin Islands and without objection, at this point in the record we will have H.R. 7699 and also the Department letter dated July 9, 1973 and the statement of our distinguished colleague, Mr. de Lugo.

[H.R. 7699, the letter from the U.S. Department of the Interior to Hon. James A. Haley, and the statement of Hon. Ron de Lugo in full follow:]

[H.R. 7699, 93d Cong., 1st sess.]

A BILL To provide for the filling of vacancies in the Legislature of the Virgin Islands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(h) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1572(h)) is amended to read as follows:

"(h) The Legislature of the Virgin Islands shall by law provide the procedure for filling any vacancy in the office of member of the legislature."

Sec. 2. The amendment made by the first section of this Act shall apply with respect to vacancies occurring on or after the date of enactment of this Act.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 9, 1973.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 7699, a bill "To provide for the filling of vacancies in the Legislature of the Virgin Islands."

We recommend enactment of this bill.

H.R. 7699 would amend Section 6(h) of the Revised Organic Act of the Virgin Islands to provide that the Virgin Islands Legislature shall establish the procedure for filling vacancies occurring on or after the date of enactment, among

its members. At present the procedure is contained in Federal law and authorizes the governor to fill all vacancies. In view of the fact that the Virgin Islands is now essentially self-governing, we believe that the Virgin Islands legislature should deal with the manner of filling its vacancies. Whether the legislature chooses to have the governor continue to fill all vacancies or adopt some other procedure is up to it. We would expect it to continue the requirement that no person filling a vacancy would hold office longer than the remainder of the term for which his predecessor had been elected.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

STATEMENT OF HON. RON DE LUGO, A REPRESENTATIVE IN CONGRESS
FROM THE VIRGIN ISLANDS

Dear Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear on behalf of my bill H.R. 7699: to provide for the filling of vacancies in the Legislature of the Virgin Islands.

This is an uncomplicated piece of legislation. It quite simply amends Section 6(h) of the Revised Organic Act of the Virgin Islands to the effect that, the Legislature of the Virgin Islands shall by law provide the procedure for filling any vacancy in the office of a member of the legislature. The legislation provides that this amendment shall apply with respect to vacancies occurring on or after the date of enactment of this Act.

While lacking complexity, this bill has great significance to the people of the Virgin Islands as a necessary part of our right to self-determination and in furthering the democratic traditions of the territory. To continue to allow the Governor to appoint individuals to fill vacant legislative seats is to suborn the legislative branch to that of the executive. It also retains the undemocratic colonial concept that the king has the power to appoint members of parliament. Under present law the Governor is given almost total discretion in making his decision; the only constraint being that his appointee must be a resident of the district to which he is appointed to represent and meet the statutory qualifications of membership in the legislature.

In the Virgin Islands Legislature, a unicameral body of only fifteen members, the unilateral authority of the Governor to fill vacancies could make it possible for an irresponsible chief executive to frustrate the will of the electorate through the use of his power of appointment. Thus in a closely divided legislature the executive, in filling only one or two vacancies, might completely change the political alignment of the assembly and totally alter the decision making balance that had been determined by the voters.

That this is an unsatisfactory condition to the people of the Territory, is evidenced by the fact that the Ninth Legislature passed a resolution petitioning Congress to amend the Revised Organic Act to provide for special elections to fill vacancies in the Senate that occur more than six months prior to the next general election. In addition, the proposed Constitution of the Virgin Islands considered this problem and contains a provision for filling legislative vacancies by means other than executive appointment.

The legislative history of the enactment of the present method for filling legislative vacancies does not disclose any rationale for the procedure which was signed into law. However, it is interesting to note that the bill supported by the Virgin Islands Legislature Assembly at the time when this provision of law was considered provided that vacancies "would be filled as determined by law".

The Report of the Committee on American Legislatures of the American Political Science Association states that, "appointment by governors appears contrary to the principle of separation of powers". It is on this basis that I particularly object to the present method of filling legislative vacancies. My legislation does not specify the particular method which should be employed because I sincerely believe that this is a decision to be made by the people of the Virgin Islands through their elected representatives.

Mr. BURTON. Mr. Carpenter could you step up here, and Mr. de Lugo, would you also like to take the witness chair and describe the purpose of the bill and the manner of achieving that purpose?

**STATEMENT OF HON. STANLEY S. CARPENTER, DIRECTOR, OFFICE
OF TERRITORIAL AFFAIRS, DEPARTMENT OF THE INTERIOR**

Mr. CARPENTER. Yes, Mr. Chairman, I have a very short statement which I shall read at this time.

Mr. Chairman, it is a pleasure for me to appear before you today for the purpose of testifying on H.R. 7699, "A bill to provide for the filling of vacancies in the Legislature of the Virgin Islands."

The Department of the Interior supports the bill and urges its enactment.

At the present time, the procedure of filling vacancies in the Legislature of the Virgin Islands is set forth in the Revised Organic Act of the Virgin Islands, and therefore, is a subject for Federal legislation. The Organic Act provides at present that vacancies in the legislature shall be filled for the unexpired portion of the term by appointment of the Governor.

The amendment to the Organic Act proposed by H.R. 7699 would give the legislature the authority to establish in territorial, rather than Federal, law the procedure for filling vacancies in its membership. It may be that the legislature, in its wisdom, may enact legislation to continue the present system of gubernatorial appointments, or it may determine that another means of filling vacancies is preferable. We believe this is a proper matter for local determination by the legislative branch of the territorial government, and therefore, we support the bill.

From a comparative standpoint, we would point out that the Organic Act of the other organized territory, the territory of Guam, has since its passage in 1950 had a provision similar to that proposed here, permitting the Territorial legislature to determine the method for filling vacancies in its membership.

I will be pleased to answer any questions which members of the committee may have. Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Carpenter.

Any questions?

Mr. CLAUSEN. No questions.

Mr. BURTON. Mr. de Lugo, I would like to commend you for your statement and you can step forward if you want and expand upon it.

Mr. Carpenter, you stay right there. I have one question to ask both of you when Mr. de Lugo completes his testimony.

**STATEMENT OF HON. RON de LUGO, A REPRESENTATIVE IN
CONGRESS FROM THE VIRGIN ISLANDS, SPONSOR OF H.R. 7699**

Mr. DE LUGO. Mr. Chairman, before I begin, I would like to thank my colleagues for the good turnout this morning. I know how many of the other committees are meeting and how busy the Congress is just coming back. I would like to thank Bob Kastenmeier and Lloyd Meeds who were here a few moments ago. I would like to request unanimous consent that my statement be placed in the record.

Mr. BURTON. That has already been done.

Mr. DE LUGO. I will be very brief.

I think that the legislation is meritorious. I don't understand how

we overlooked this in the past. Guam, at the present time, has this authority and all of the States. In the Virgin Islands the reality of the situation is that on two occasions within the last approximately 2 years there have been vacancies that have occurred in the legislature. One was by death and the other was by resignation. In both cases, they were extremely popular members of the legislature, and by popular, I mean individuals who received substantial mandates from the electorate were removed from office. Under the present system the chief executive fills those vacancies, irregardless of how long it is until the general election.

My own strong feeling is that these vacancies should be filled in a special election, particularly with the small electorate we have, approximately 20,000 people. However, because of my commitments to self-government, I would leave this entirely to the legislature to determine by Virgin Island law, which would of course mean that they would do this in conjunction with the chief executive. He would have the opportunity to veto legislation if he felt it was unconscionable.

Mr. BURTON. Mr. de Lugo, am I correct that your intention and the language of the legislation contemplate that the legislature must act and concur or the legislature must override the Governor in whatever procedure is established for the filling of vacancies and for whatever period of time up to, not beyond that of the unexpired term of the vacated seat. Is that your understanding?

Mr. DE LUGO. That is absolutely correct, Mr. Chairman, I think this follows right down the road the process that this committee has been following for a number of years and the administration also. As much self-determination as possible.

Mr. BURTON. The legislation could contain a requirement for a special election, the legislation could contain the provision that the Governor has the authority to appoint, or it could contain authority for the Governor to appoint subject to the approval of the legislature. Similarly, it could contain provision for an interim appointment pending the next election of any sort in the area. I guess putting it in other terms, the Virgin Islands, if this legislation is approved, can make its own judgment with respect to the various possible alternatives.

Mr. DE LUGO. That is correct, Mr. Chairman.

Mr. TAYLOR. Would the gentleman yield?

Mr. BURTON. I yield to the gentleman from North Carolina.

Mr. TAYLOR. I just want to mention one other alternative which is used in some States, in case of vacancy. The executive committee of the party to which the last legislator belonged makes a nomination and the Governor then is required to appoint the person nominated. That places the real power in the executive committee of the political party and it has some advantages. It is quick and the legislature might be in session, and you want a quick appointment.

Next, it is inexpensive and may occur near the end of the term when you wouldn't want to go to the expense of filling that vacancy because you might not know whether or not the legislature will meet again. That is a procedure used in my State very effectively.

Mr. WON PAT. Would the gentleman yield?

Mr. TAYLOR. Yes.

Mr. WON PAT. Do you mean, that in case there is a vacancy and

say the person was a Democrat, that the Democratic Party would nominate him and say, if he was a Republican he would be nominated by the Republican Party?

Mr. TAYLOR. That is correct.

Mr. WON PAT. Thank you.

Mr. TAYLOR. The executive committee of the party.

Mr. BURTON. Mr. de Lugo, I thank you very much, I think that is another useful option available to the legislature.

Are there any vacancies currently, Mr. de Lugo?

Mr. DE LUGO. Not at the present time.

Mr. BURTON. Now, under the wording of this proposal, if a vacancy occurs between now and the date of enactment, that vacancy is still to be filled by the Governor. Is it possible to amend this legislation to require that the legislature establish the procedure for filling a vacancy that would occur between now and the date of enactment. Do you have any reaction to that?

Mr. DE LUGO. My feeling would be to amend the legislation in that manner. There is no question that the electorate finds it repugnant to have these vacancies filled in a manner which they are filled at the present time.

Mr. BURTON. Would the Department have any objection to an amendment that in effect would hold in advance that any vacancy that exists on the date of enactment would be subject to whatever political process is determined by the Virgin Islands?

Mr. CARPENTER. No, we would have no objection to that, Mr. Chairman.

Mr. CLAUSEN. Would the gentleman yield?

Mr. BURTON. The Governor, I might note, even with this, if a vacancy occurs between now and the date of enactment, could fill it by appointment. He could make that political judgment if he saw fit. We're not necessarily binding him in any respect although it would be a political judgment the Governor would simply have to make.

The gentleman from California, Mr. Clausen.

Mr. CLAUSEN. I wonder if you could provide to the committee for our hearing record the number of elected officials in the legislature as well as in the executive branch of the government of the Virgin Islands, and what is the political balance between the two parties?

Mr. DE LUGO. There are 15 members of the legislature and there is the Governor and the Lieutenant Governor and the Delegate to the Congress. There are also the boards of education and elections. Those are the only elected officials.

The present breakdown in the legislature of the Virgin Islands is as follows: there are two Republicans, six Democrats and seven ICM's, the last is a local independent political party.

Mr. BURTON. Do the Lieutenant Governor and Governor run in tandem?

Mr. DE LUGO. They run in tandem, but what has occurred in the Virgin Islands at the present time is that the Lieutenant Governor, who was elected with the Governor and is Republican resigned, and a Democrat resigned from the legislature and became the Lieutenant Governor. So we have a Republican Governor, Democrat Lieutenant Governor, and there was a vacancy in the legislature that was filled by appointment, filled by a Republican.

Mr. CLAUSEN. Who appointed the Lieutenant Governor?

Mr. DE LUGO. The Governor appoints him, subject to legislative confirmation.

Mr. BURTON. Is that pursuant to territorial laws in addition to the Organic Act?

Mr. DE LUGO. Pursuant to the Organic Act, I believe.

Mr. CARPENTER. I believe that is so.

Mr. BURTON. One thing I would ask, Mr. de Lugo, I would ask you to look through the various election procedures in the Organic Act and perhaps at some point come in with a more omnibus approach, where it is consistent with our Constitution, that the political process of the Virgin Islands decides these matters for themselves. I am not sure how broad in scope the general idea would be, but I just think we have reached a stage where we do not want to be sitting, hearing every detail of election procedures, as long as the Constitution is abided by, that are developed by the political parties of the Virgin Islands.

The gentleman from New Mexico, Mr. Lujan.

Mr. LUJAN. I am wondering, Mr. Chairman, Mr. de Lugo, if perhaps in passing some kind of legislation it might work out better when the chief executive and the legislature are of the same party. It seems at the moment part of the reason for it is the objection of one political party to someone of another political party appointing someone, would it not work a little smoother if we delayed this thing until such time as either the Republicans gain control of the Virgin Islands Legislature or the Democrats get the governorship?

Mr. BURTON. May I point out to the gentleman from New Mexico, that it is clear that the record in this respect is clear. We require the Governor to participate in this process in the sense that he must sign the bill or there must be the votes to override it, which is a two-thirds majority.

Mr. LUJAN. Two-thirds.

Mr. BURTON. That is to avoid the legislature from imposing its will unilaterally on the executive. We assume whatever considerations are valid will prevail since no one party has even a majority, and the process quite clearly would require, in party terms at least, that two of the three parties agree on an override in the event that is done. That probably is about as safe a situation as we could construct.

Mr. DE LUGO. Would the chairman yield?

Mr. BURTON. Yes.

Mr. DE LUGO. This is not a partisan political matter in the Virgin Islands. The feeling among the Virgin Islands people irregardless of party, is they find it repugnant because it is a throwback. Here we have come so far in self-government and this committee has carried us down that road, gotten the elected Governor, Delegate in the Congress, and the administration has helped us in this and suddenly we find ourselves with a chief executive and I am not talking personalities now, I am talking about the process when there is a vacancy he can put anybody in there. It is a throwback to the time when the Virgin Islands were under Denmark and they had a colonial consul and the King appointed people to represent his interest in there and that is the closest analogy I can make.

Again, I will say that most people in the Virgin Islands feel this way, that the vacancies should be filled by the electorate. However,

this is a determination which will be made by the legislature and the elected Governor by local law.

Mr. LUJAN. Your preference then would be a special election?

Mr. DE LUGO. Unless it is 60 days before.

Mr. LUJAN. Is there any State that requires a special election for State legislature.

Mr. BURTON. Ours does. California requires a special election.

I think that really the point is that each area has its own view of what it ought to do with its own problems. You may prefer to have special elections, or you may not. But certainly we don't want to get involved in that process. I have one amendment here, on line 9 where it says vacancies occurring. I would like to add the language "existing on or" so section 2 of the bill would read after the amendment: "The amendment made by the first section of this Act shall apply with respect to vacancies existing on or occurring on or after the date of enactment of this Act."

Is there any objection to that amendment?

Mr. CLAUSEN. Are we in markup?

Mr. BURTON. We're doing both.

Mr. CLAUSEN. We're in final passage.

Mr. LUJAN. Is the legislature in session now?

Mr. BURTON. The gentleman from California has a substitute.

Mr. CLAUSEN. Let me ask a couple of questions here to clear up in mind and the record. I am concerned about the possible additional expenses involved in this. Are there any expenses that would be required of the Federal Government or the territorial government, as a result of the enactment of this legislation?

Mr. DE LUGO. You addressed that to me? I won't reply to the Federal Government, but the local government, it will depend upon the determination of the legislature and the Governor as to the procedure that is set up.

Mr. CARPENTER. Yes, depending on what the legislature will decide. Presumably, if they decide on the special election, there would be certain election expenses which would be borne by the territorial government. I do not see any Federal expenses.

Mr. CLAUSEN. Now, I notice that we do not have the Governor or his office listed as a witness. Do we have a statement from the Governor on this, does anyone know?

Mr. DE LUGO. Again, I will reply.

I would like unanimous consent to submit correspondence which I addressed to the Governor on June 7. I addressed the following letter to Governor Evans:

"Enclosed are copies of H.R. 6135 and H.R. 7699 which I have introduced in the House of Representatives, and which are tentatively scheduled for hearings, later this month, before the House Interior and Insular Affairs Committee.

"I would appreciate receiving any comments you would care to make regarding these legislative proposals, or any information you believe would be useful to the committee in its deliberations on these bills.

"Thank you very much for your consideration on this matter, and with warm personal regards, I am, Sincerely" et cetera. That, as I said was sent on June 7.

I received no reply to that, and again I corresponded with the Gov-

ernor outlining my position on the bill and explaining it extensively to the Governor and again requested the Governor's comments. That was sent to the Governor on June 25, 1973.

Again I received no reply.

Mr. CARPENTER. May I add, Mr. Chairman, that Mr. Thomas Dunn, the territorial officer of my office, was recently down in the Virgin Islands and talked to the Governor, who stated that he had no objection to the bill. Is that correct, Mr. Dunn?

Mr. DUNN. Yes.

Mr. BURTON. Well, here again the Governor's views or the legislature's views aren't that persuasive. It is our mission to extricate ourselves from the involvement in the political processes provided, of course, this continuing concern about the Constitution. But otherwise it is a matter of a political question and let the political processes down there work their will one way or another. We should not be involved in throwing our weight in either direction in this respect. There is no other route to take. Other than for us to get—we're all too involved as a matter of at least theory in too many details of the self-government. It only makes sense for these decisions to be determined locally for whatever reason. The local people should decide for whatever reason which procedure they like or they don't like. That is the general thrust of our democratic system.

Mr. CLAUSEN. Mr. Chairman, I am wondering what guarantees or assurances do we have that once this legislation is enacted that there would be a balanced input from the legislative and executive branch?

Mr. BURTON. We require that they determine how this be done by act of the legislature, which requires either the signature of the Governor or two-thirds vote to override just as in the great number of other instances where there is a difference.

I assure the committee that it is not the chairman's desire in any way to involve himself or us in the political effects of any of this.

My affection for the Governor is well known. I view this action exclusively as a way of shedding ourselves of this vestigial aspect of the relationship between us and the interior workings of the Virgin Islands.

Yes, the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, commenting on the amendment which you offered, might I say that we might leave it up to the time when the proper legislation is passed by the Government of the Virgin Islands, because you say on or after the date of this act, and supposing the legislature doesn't act for 3, 4, 5, 6 months after. There is no way to fill the vacancy then and it would have the same effect if you would change your amendment to say that for example, in line 10, which says "on or after the date of enactment of" and scratch "this Act", to "on or after the date of the proper legislation by the Territorial Government" or some such words.

Mr. TAYLOR. Mr. Chairman.

Mr. BURTON. The gentleman from North Carolina.

Mr. TAYLOR. Are the hearings concluded? If so, I ask unanimous consent that we suspend the rules and mark up H.R. 7699.

Mr. CLAUSEN. If the gentleman would hold, I would like to ask unanimous consent in order to complete our record, that the record be left open for a period of say 10 days, so the Governor and the executive branch could submit a statement regarding the legislation.

Mr. BURTON. Without objection, the unanimous request from the gentleman from California is agreed to and without objection the unanimous consent of the gentleman from North Carolina is agreed to.

Mr. TAYLOR. Mr. Chairman, I ask unanimous consent that H.R. 7699 be considered read in full, printed in the record and open for amendments at any point.¹

Mr. BURTON. Without objection, it is so ordered.

I would be interested in reaction from the gentleman from North Carolina and the gentleman from California as to the point made by Congressman Lujan. The point as I understood it was is it more efficacious to have this axe fall on the date of enactment or have this legislation now become operative until there is a valid and subsisting law by passage of the legislature and the signature and/or by past legislation legally and overriding by the legislature. Mr. Taylor, do you have any comment on that?

Mr. TAYLOR. I would like to get Mr. de Lugo's comment on it. I am not sure how often the legislature is in session, or how easy it is to call it in session and how easy it would be to get this act implemented.

Mr. DE LUGO. First, let me say to my colleagues on the minority side that the legislature is not closely divided on partisan lines at the present time. So that what we're talking about here is principle rather than any political games that we could play. We're not out to do that. I think if we're to follow on what we have done in the past we should have confidence in the legislature, tell them to go ahead and set it up, set up the machinery. I think we should do that immediately. What we're asking the Virgin Islands to do here is exactly what Guam has done since 1950 and what all of the 50 States do. So it is hardly a new road that we're going down.

Mr. BURTON. The gentleman from New Mexico.

Mr. LUJAN. My only point in doing that, we ought to go along with it. But to eliminate any possibility that there would be a period of time in which someone might resign or die and could not be appointed because the Federal law says one thing and the Territorial government is not ready for the legislation, it is not a big deal.

Mr. DE LUGO. Again, speaking as the Representative from that area, if it were—if there were a vacancy at the present time and it were not filled, it would not have a significant immediate effect on the workings of the legislature.

Mr. BURTON. Mr. Clausen.

Mr. CLAUSEN. Would the gentleman yield?

How often does the legislature actually meet?

Mr. DE LUGO. It meets, I am not clear on this, because it was just recently that—

Mr. CARPENTER. I think it is on call.

Mr. CLAUSEN. The regular session of the legislature shall be held annually commencing the first Monday in January unless the legislature shall fix a different date.

Mr. DE LUGO. That is new, at one time if you will recall, it was limited to a 60-day session. At the present time there is no limit to the length of the meetings.

¹ See bill on p. 1.

Mr. TAYLOR. You mean annual in January, and beyond that subject to the call of the Governor?

Mr. DE LUGO. Yes.

Mr. TAYLOR. So if a vacancy develops in August, and we got this bill enacted about that time, the Governor would have to call the special session in order to get the legislation to implement the act?

Mr. DE LUGO. Unless the legislature had simply recessed at its last meeting and this is what has been happening fairly frequently of late.

The legislature has almost been meeting year around and there would be no difficulty.

Mr. TAYLOR. There would be no danger of a delay in being able to get the vacancies filled?

Mr. DE LUGO. No, I don't see any reason to assume that.

Mr. CLAUSEN. I would like to have the attention of the gentleman from Guam, is the language of this legislation essentially the same as that which was provided in the authorization for the Guam Legislature?

Mr. WON PAT. It would be in the Organic Act. Vacancies occurring in the legislature shall be filled as the legislature shall provide except that no person filling a vacant office shall fill the office for longer than the term for which his predecessor was elected.

Mr. CLAUSEN. That is in the Organic Act, was there a special legislation passed that provided the Guamanians a similar flexibility for self-determination. I mean how do the Guam laws come into effect. What is the Guam procedure for filling vacancies?

Mr. WON PAT. This was designated in the Organic Act back in 1950, the procedure enacted by the legislature.

Mr. BURTON. In other words, as oftentimes happens, the Organic Act for territories would relate back to that act and our action is as I said, the shedding of a vestigial appendage to bring the Virgin Islands into conformity with what we have had for some 23 years in the territory of Guam.

I am sure we all have a busy enough schedule. We do not need to belabor this momentous earth-shaking matter.

I will withdraw the amendment on the existing language, so that if there is a vacancy that occurs between now and the date of enactment, and if the Governor chooses to fill it, he can go ahead and fill it.

Mr. CLAUSEN. As the gentleman from the Virgin Islands indicated, he doesn't see any basic problems.

Mr. BURTON. There being no further amendments to H.R. 7699, the Chair will entertain a motion that it be favorably reported to the full committee.

Mr. CLAUSEN. Mr. Chairman, I will move that H.R. 7699 be reported favorably to the full committee and I see no reason for amendment.

Mr. BURTON. Any unreadiness, all signify by saying "aye".

[Chorus of "ayes".]

Mr. BURTON. Those opposed, "nay".

[No response.]

Mr. BURTON. The "ayes" have it and it is so ordered.

Mr. DE LUGO. Mr. Chairman, before we adjourn, may I have unanimous consent to make a part of the record the resolution passed on on this matter, that was by the Ninth Legislature of the Virgin Islands and also two editorials calling on Congress to take this action?

Mr. BURTON. Without objection, it is so ordered.

[Resolution No. 579, passed July 19, 1971, by the Ninth Legislature of the Virgin Islands of the United States in full follows:]

[Two editorials from the Daily News newspaper, dated Monday, May 7, 1973 and Wednesday, May 16, 1973, also follow:]

[The two aforementioned letters from Mr. de Lugo to Governor Evans also follow:]

(BILL 5058)

No. 579

(Passed July 19, 1971)

NINTH LEGISLATURE OF THE VIRGIN ISLANDS
OF THE UNITED STATES

Regular Session

RESOLUTION

Petitioning the Congress of the United States To Amend the Revised Organic Act of the Virgin Islands To Provide for a Special Election To Fill Any Vacancy in the Office of a Member of the Legislature of the Virgin Islands

WHEREAS the recent and untimely death of a member of the Legislature of the Virgin Islands has called to the attention of the people of the Virgin Islands the provisions of section 6 of the Revised Organic Act of the Virgin Islands which require the Governor to fill any vacancy in the office of a member of the Legislature by appointment; and

WHEREAS it is inconsistent with the increasing self-government granted to the people of the Virgin Islands in recent years that any vacancy in the office of a member of the Legislature should be filled by appointment; and

WHEREAS it should be reserved to the electors of the Virgin Islands the right to fill by special election any vacancy occurring in the office of a member of the Legislature in the same manner as such electors originally select members of the Legislature of the Virgin Islands; Now, Therefore, be it

Resolved by the Legislature of the Virgin Islands:

That the Legislature respectfully petitions the Congress of the United States of America to adopt an amendment to the Revised Organic Act of the Virgin Islands to provide that in the event of a vacancy in the office of a member of the Legislature occurring more than six months prior to the next general election such vacancy shall be fixed by means of a special election in such manner as the Legislature of the Virgin Islands may by law direct, and be it further

Resolved that copies of this Resolution be transmitted to the President of the United States, to the Secretary of the United States Department of the Interior, to the Presiding Officer of the Senate of the United States, to the Chairman of the Committee on Interior and Insular Affairs of the Senate of the United States, to each member of said Committee, to the Chairman of the Committee on Interior and Insular Affairs of the House of Representatives of the United States, and to each member of said Committee.

Passed July 19, 1971.

[From The Daily News, St. Thomas, V.I.]

TIME TO CHANGE THE LAW REGARDING SENATE VACANCIES

We have pointed out several times in the past the basically undemocratic manner in which Virgin Islands law provides for the filling of vacancies in the Legislature. As the law is now written the filling of a seat vacated through death, permanent incapacity or resignation is solely a prerogative of the Governor, and he may make the selection according to his own whim without any guidelines except that his appointee be legally qualified and be a resident of the district for which there is a vacancy.

Last week, for the second time since he was elected, the Governor demonstrated the validity of our criticism of the present system by appointing a

member of the Republican Party to fill a seat vacated by a Democrat. Coming on the heels of his nomination of a Democrat to fill the lieutenant governorship the chief executive's runningmate had resigned, this latest appointment makes it apparent that the present legislation affords too easy an opportunity for the Governor to tamper with the makeup of the legislative branch as elected by the voters.

It is as difficult to conceive of the governor of any of the 50 states being entitled to appoint a member of his own legislature as it is to imagine the President being empowered to make his own choices to fill vacancies in the Senate or House of Representatives. The reason for this is embedded in the democratic tradition of checks and balances in which the executive, legislative and judicial branches are separate and equal. For any chief executive to be empowered to make appointments to the legislative branch is to subordinate the legislative to the executive, and is a return to the days of parliaments appointed by the king, which is more suited to a colony than to a territory that elects its own governor and legislature.

While the two appointments to the Legislature the Governor has made in the past two years have not had any apparent effect on that body's makeup, it is easy to envision situations in the future where the chief executive's power to make such appointments could be used to set the Senate on a course quite different from what the voters had intended. In this respect, it is significant to note that the senator appointed by the Governor last week was not a candidate for that office in last year's election, and therefore can hardly be considered a representative of the people.

The Governor's power to fill vacancies in the Legislature and lieutenant governorship afford too much opportunity for mischief on the part of the chief executive for the law to be permitted to go unchanged. Now, while there are no such vacancies, is the time for our legislators to act in a statesmanlike fashion and correct this situation. For them not to do so would be an admission that they prefer to continue a condition that permits the voters wishes to be flouted.

[From The Daily News, St. Thomas, V.I.]

TIME FOR CONGRESS TO ACT

The introduction by the Virgin Islands Delegate to Congress of legislation to correct the peculiar manner in which vacancies in the territorial Legislature are filled is the third time in two years that the lawmakers attention has been drawn to this problem. We trust that this prodding will encourage Congress to amend that portion of the Revised Organic Act dealing with Senate vacancies, for this year, for the second time in two years, a vacancy in the Legislature was filled by the Governor in a manner that can only be described as contrary to the democratic process.

Congress' attention was first called to this problem two years ago in a resolution introduced by then Senator Ariel Melchior Jr. petitioning that body to amend the Revised Organic Act to provide for special elections to fill vacancies in the Senate that occur more than six months prior to the next general election. Surprisingly this resolution passed by but a narrow eight to six margin, and it is interesting to note that some of those who voted against the measure then have been among the loudest in their criticism of the Governor's latest action in naming a Republican to fill a seat vacated by a Democrat.

The proposed Virgin Islands Constitution, which received a rather lukewarm endorsement from the voters last year, also provides a new means of dealing with Senate vacancies. It provides for a special election in the case of vacancies occurring more than 12 months prior to the next general election, and for vacancies occurring less than 12 months before a general election provides for the territorial committee the former senator was a member of to select a replacement. If the former senator was a member of no party then the seat would be filled by a two-thirds vote of the Legislature. Again, some of those who voted against this have been loudest in their criticism of the latest replacement.

Unlike either of these proposals, the Virgin Islands Delegate's measure before Congress simply asks for the Revised Organic Act to be amended to permit the Legislature itself to determine the procedure to fill vacancies. In addressing the House, he explained that he did not specify any procedure because of his commitment to self-determination and belief that such a decision is one that should rightfully be made by the Legislature.

The fact that for three times in two years Congress has been urged to correct

this poorly thought out section of the Revised Organic Act is solid evidence of the need to do so. If there are any doubts, the lawmakers have only to think of how inconsistent with the democratic process it would be if the President were empowered to fill vacancies in the House of Representatives or Senate without any regard to the voters wishes. In these islands with their unicameral Legislature of but 15 seats the situation could be even more perilous.

JUNE 7, 1973.

HON. MELVIN H. EVANS,
Governor of the Virgin Islands,
Government House, St. Thomas, V.I.

DEAR GOVERNOR EVANS: Enclosed are copies of H.R. 6135 and H.R. 7699 which I have introduced in the House of Representatives, and which are tentatively scheduled for hearings, later this month, before the House Interior and Insular Affairs Committee.

I would appreciate receiving any comments you would care to make regarding these legislative proposals, or any information you believe would be useful to the Committee in its deliberations on these bills.

Thank you very much for your consideration on this matter, and with warm personal regards, I am,

Sincerely,

RON DE LUGO,
Member of Congress.

JUNE 25, 1973.

HON. MELVIN H. EVANS, M.D.,
Governor of the Virgin Islands,
Government House, St. Thomas, V.I.

DEAR GOVERNOR: I was surprised to read your comments in the June 22, 1973, "Daily News" concerning my bill to provide for the filling of vacancies in the Legislature of the Virgin Islands.

According to the newspaper account, you could see "no merit" in "legislation to take authority to fill vacancies in the Senate away from the governor and give it to the Senate." Actually my bill provides that the Legislature of the Virgin Islands shall by law provide the procedure for filling any vacancy in the office of a member of the Legislature.

In my speech before the House of Representatives at the time I introduced this bill, I indicated that democratic principles demand that vacancies be filled by the people at special elections. However, I refrained from writing in any specific procedure, as I believe this is a decision that should rightfully be made by the Legislature.

I consider the fact that the Subcommittee on Territorial and Insular Affairs has scheduled hearings immediately after the July 4 recess to be an indication that its members are placing a high priority on the importance of letting our people, the Legislature, and the Governor determine the process by which legislative vacancies should be filled.

I hope that after you have had an opportunity to consider the actual text of my legislation that you will agree that our people, through their elected representatives should be allowed to decide the best method for filling legislative vacancies.

With warm personal regards, I am
Sincerely,

RON DE LUGO,
Member of Congress.

Mr. DE LUGO. Thank you very much.

Mr. BURTON. I might say to the committee we have other pending items of business. We have legislation affecting Guam. We have the request of the Samoan leadership that in the event the workload this year permits before the Congress adjourns, that we make a trip to Samoa. I think it absolutely vital that as many of you as possible arrange your schedule for that visit.

This is the committee in the House with this responsibility and we

simply cannot adequately fulfill our mission if we don't have some firsthand view of these areas. So we're going to try to go there. It is going to be an arduous trip, since we're going to try to take in Samoa as well as Guam and those portions of the trust territory that time will permit. So I mention that now. I know that the travel is time consuming and arduous but we must sometime this year prepare ourselves to make this onsite visitation.

Thank you very much. The committee will stand adjourned.
[Whereupon, at 10:53 a.m. the committee was adjourned.]



