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H.R. 2499, "PUERTO RICO DEMOCRACY ACT OF 2009"

LEGISLATIVE HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

Wednesday, June 24, 2009

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LEGISLATIVE HEARING ON H.R. 2499, "PUERTO RICO DEMOCRACY ACT OF 2009"

Wednesday, June 24, 2009
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C.

The Committee met, pursuant to call, at 10:06 a.m. in Room 1324, Longworth House Office Building, Hon. Nick J. Rahall, II [Chairman of the Committee] presiding.

Present: Representatives Rahall, Kildee, Faleomavaega, Napolitano, Bordallo, Sablan, Christensen, Baca, Sarbanes, Pierluisi, Hastings, Young, Duncan, Brown, and Bishop.

STATEMENT OF THE HON. NICK J. RAHALL, II, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

The CHAIRMAN. The Committee on Natural Resources will come to order, please. The Committee is meeting today to commence with the consideration of H.R. 2499, the Puerto Rico Democracy Act of 2009, introduced by our colleague from Puerto Rico, very dear friend and valued member of our Committee, Pedro Pierluisi. I would like to start out this morning by recognizing the great contribution that the people of Puerto Rico have made to the defense of our United States.

To the families who have lost a husband, a father, a daughter or son in our wars, I would take this moment to salute each of you. We can debate political status, but what is not subject of debate is the patriotism of the people of Puerto Rico. The island's century-long history with the American family has been significant. Ceded by Spain as a result of war, Puerto Rico was one of the first areas outside of the continental U.S. where the American flag was raised.

To the United States, it marked a milestone in our own political development. When our union of states was comprised of renegade English colonies, we then stepped into a role that we previously had fought against. Given our own experience, would anyone have imagined that our new colony would be disenfranchised and kept unequal in our political framework? Our commitment to Puerto Rico's advancement under the 1898 Treaty of Paris would be our judge.

If our measure of success is today's Puerto Rico, then I say Puerto Rico has done well by the United States. It is a showcase of democracy in the Caribbean. Having some of the highest voter

turnout rates in our nation, Puerto Rico shames with many of our states its energy and enthusiasm in electing its leaders. Economically, it is a powerhouse in the Caribbean and considered a home away from home for many mainland Fortune 500 companies. Equal in importance to Puerto Rico's political and economic prowess is the island's contributions to our own social fabric.

Every aspect of American art, music, theater and sport has been influenced by Puerto Rico's own culture and by its people. And beyond such contributions, there remains Puerto Rico's patriotism, beginning in World War I when thousands of Puerto Ricans were serving in our U.S. military. There is no doubt that many more thousands are currently serving in our armed forces, fighting our wars and dying for our country.

The Committee convenes this morning because in spite of what we have gained from each other, there has been no ultimate achievement in Puerto Rico's political status, which really is the greatest commitment the United States has to all of our territories.

Since the establishment of the current commonwealth status in 1952, four popular votes have been held on the status of Puerto Rico in three plebiscites and one referendum, but none of them were sanctioned by the Congress of the United States. Going back just to the 1970s, at least 40 separate measures have been introduced in the Congress to resolve or clarify Puerto Rico's political status. In addition, Congress has held at least 12 hearings and four measures have received either House or Senate action.

In the last Congress, the Bush Administration issued the President's Task Force Report on Puerto Rico's Status, which served as a basis for legislation introduced by our former colleague and current Governor of Puerto Rico, The Honorable Luis Fortuño. With this history behind us, I join those who say it is time for Congress to provide the people of Puerto Rico with an unambiguous path toward permanently resolving its political status that is consistent with the U.S. Constitution.

When this Committee considered similar legislation in the last Congress, we exhaustively examined the question of the constitutionality of the various status options available under the Constitution. What emerged from that process was a clear consensus that settled on the permanent status options that are reflected in the bill we are considering today. The Resident Commissioner is to be congratulated for carefully crafting a bill that seeks to "authorize a fair, impartial and democratic process for self-determination for the people of Puerto Rico."

Today's meeting of the Committee is to hear from the political leaders from the island of Puerto Rico. I want to welcome all of our witnesses, especially our former colleagues, the current Governor of Puerto Rico and former Governor Carlos Romero Barceló. Both Governors worked tirelessly to advance the resolution of the Puerto Rico status question when they served with us in this body. In closing, let me reaffirm my continuing commitment to press for self-determination for the people of Puerto Rico.

We have arrived at the mountain and can see the promised land on the other side and, for my part, I pledge to do all I can to see that we get there soon. Thank you, and I now recognize our Ranking Member, the gentleman from Washington, Mr. Hastings.

[The prepared statement of Mr. Rahall follows:]

Statement of The Honorable Nick J. Rahall, II, Chairman, Committee on Natural Resources

The Committee on Natural Resources is meeting today to commence with the consideration of H.R. 2499, the "Puerto Rico Democracy Act of 2009", introduced by our colleague from Puerto Rico, Pedro Pierluisi.

I would like to start out this morning by recognizing the great contribution the people of Puerto Rico have made to the defense of the United States. To the families who have lost a husband, a father, a daughter, or a son, in our wars, I take this moment to salute you. We can debate political status. But what is not subject of debate is the patriotism of the people of Puerto Rico.

The Island's century long history within the American family has been significant. Ceded by Spain as a result of war, Puerto Rico was one of the first areas outside of the continental United States where the American flag was raised. To the U.S., it marked a milestone in our own political development. When once our union of States was comprised of renegade English colonies, we then stepped into a role that we previously had fought against.

Given our own experience, would anyone have imagined that our new colony would be disenfranchised and kept unequal in our political framework? Our commitment to Puerto Rico's advancement under the 1898 Treaty of Paris would be our judge.

If our measure of success is today's Puerto Rico, then I say Puerto Rico has done well by the United States. It is a showcase of democracy in the Caribbean. Having some of the highest voter turnout rates in our Nation, Puerto Rico shames many of our own States with its energy and enthusiasm in electing its leaders. Economically, it is a powerhouse in the Caribbean and considered a home away from home for many mainland Fortune 500 companies.

Equal in importance to Puerto Rico's political and economic prowess is the Island's contributions to our own social fabric. Every aspect of American art, music, theater, and sport has been influenced by Puerto Rico's own culture and its people.

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Going back just to the 1970's, at least 40 separate measures have been introduced in Congress to resolve or clarify Puerto Rico political status. In addition, Congress has held at least 12 hearings and four measures have received either House or Senate action.

In the last Congress, the Bush Administration issued the President's Task Force Report on Puerto Rico's Status, which served as the basis for legislation introduce by our former colleague and current governor of Puerto Rico, The Honorable Luis Fortuño.

With this history before us, I join those who say it is time for Congress to provide the people of Puerto Rico with an unambiguous path toward permanently resolving its political status that is consistent with the U.S. Constitution.

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What emerged from that process was a clear consensus that settled on the permanent status options that are reflected in the bill we are considering today.

The Resident Commissioner is to be congratulated for carefully crafting a bill which seeks to "authorize a fair, impartial and democratic process for self-determination" for the people of Puerto Rico.

Today's meeting of the committee is to hear from the political leaders from the island of Puerto Rico. I want to welcome all the witnesses, especially our former colleagues, the current governor of Puerto Rico, Luis Fortuño, and former governor, Carlos Romero Barceló. Both governors worked tirelessly to advance the resolution of the Puerto Rico status question when they served with us in the House.

In closing, let me reaffirm my continuing commitment to press for self-determination for the people of Puerto Rico. We have arrived at the mountain and can see the promise land on the other side. And for my part, I pledge to do all I can to see to it that we get there soon.

Thank you.

STATEMENT OF THE HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HASTINGS. Thank you, Mr. Chairman, and I appreciate very much your scheduling and having this hearing today. I know this issue has been around for some time. I know the whole time I have been here, there have been many changes in the legislation that has been introduced from time to time, but there is one noticeable change this year from the past. That is the election in Puerto Rico of a very young, energetic, and highly intelligent reform-minded Governor and, of course, I am speaking about our former colleague, Mr. Fortuño.

So I look forward to hearing the testimony. I know this legislation differs in part from legislation that has been introduced in the past. Nothing unusual about that. There are differing views and it is an issue that I know that this Congress needs to address, so with that, Mr. Chairman, I just want to say I look forward to hearing the testimony of all the members, and with that, I will yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Puerto Rico, Mr. Pierluisi, whose bill we are considering today and whose leadership on this issue has been very valuable to us. I certainly salute his determination and dedication.

STATEMENT OF THE HON. PEDRO R. PIERLUISI, THE RESIDENT COMMISSIONER IN CONGRESS FROM THE COMMONWEALTH OF PUERTO RICO

Mr. PIERLUISI. Thank you, Chairman Rahall. Thank you, Ranking Member Hastings. I want to begin by expressing my appreciation to Chairman Rahall. Both of us believe that after 111 years, it is imperative that the 111th Congress finally ask the people of Puerto Rico for their views on the island's future. Patience is a virtue, but my constituents have been patient enough. Since its introduction just over one month ago, H.R. 2499 has obtained more cosponsors than any other Puerto Rico status bill in history.

I want to thank the 150 Members of Congress who have cosponsored this legislation. The strong bipartisan support for the bill is proof positive that Puerto Rico's status dilemma troubles men and women all along the political spectrum. The subject of Puerto Rico's political status is fraught with history and passion. The island's political parties are divided on the status question and the debates between them can be ferocious. Because of these divisions, some Members of Congress who support the principle of self-determination have nonetheless been reluctant to become involved. I hope that today's hearing will help convince those members that this bill is a just solution to an unjust state of affairs.

I would now like to address my fellow Puerto Ricans in leadership positions who have expressed concerns with the bill. I know your love for Puerto Rico is as great as my own. Because the des-

tiny of millions is at stake, we must overcome our differences, not surrender to them. I am certain we can reach a fair compromise, and I fear history will not forgive us if we don't. President Obama said it best in a letter to Governor Fortuño when he wrote "I am fully aware of the difficulties that Puerto Rico has faced in the past when dealing with this issue, but self-determination is a basic right to be addressed, no matter how difficult."

Mr. Chairman, through this bill, Congress would formally consult the people of Puerto Rico regarding the island's political status, something that has never been done since Puerto Rico came under the U.S. flag in 1898. This bill authorizes the government of Puerto Rico to conduct a plebiscite. Voters would be asked whether they wish to maintain the current political status or to have a different status. If a majority favors the current status, the government of Puerto Rico would be authorized to ask voters this threshold question again at eight-year intervals.

The purpose of this provision is for Congress to regularly consult the people of Puerto Rico to obtain their continued consent to an arrangement that, whatever its merits, denies them self-government at the national level. If on the other hand a majority favors a different status, the bill authorizes a second plebiscite among the three non-territorial status options recognized under U.S. and international law: independence, statehood and national sovereignty in association with the United States.

The bill does not define this last option, except to say that it would entail an agreement between two sovereigns that is not subject to the territorial clause. As will be true of any bill that seeks to address an issue of such importance, there are some dissenting voices. While consensus is ideal, the most relevant question is whether the arguments against the legislation have any merit. The search for consensus cannot become justification for inaction because, while we wait, four million American citizens remain voiceless.

The strength of this bill is that it sponsors a referendum process based on legally valid status options, but leaves it to the people of Puerto Rico to decide which of those options they prefer. Some critics of the bill may argue that by informing the people of Puerto Rico about their valid status options and limiting the ballots to only those options, Congress is somehow dictating the self-determination process to my constituents. This reasoning is misguided.

Although couched in language intended to convey respect for the island's residents, this argument, if allowed to prevail, would resign the people of Puerto Rico to yet another century of voicelessness. For too long, many on the island have been led to believe that if they bargain wisely enough, they can have U.S. citizenship and national sovereignty, receive all Federal funds and have veto power over Federal law. For the Federal government to perpetuate this comforting but false belief would be wrong. This bill shows the highest respect for the people of Puerto Rico by refusing to mislead them. This bill will enable the people of Puerto Rico to choose among viable status options through one or more popular votes. Some argue that the bill should provide for a constitutional convention rather than a plebiscite process, but it is hard to see how this

mechanism would be a better way to resolve the status question than hearing directly from the people.

The fact is that the valid status choices available to Puerto Rico are crystal clear. The people of Puerto Rico do not need to elect delegates to propose status options. All the people of Puerto Rico need is the opportunity to express themselves directly at the ballot box. Finally, this legislation does not exclude or favor any status option. Yet, today you will hear testimony from certain witnesses that the bill is intended to stack the deck in favor of statehood.

Specifically, there are theories that voters who support statehood and voters who support independence will vote in favor of a different political status in the first plebiscite, creating a so-called artificial majority against the current status. This argument is flawed. Before a single vote has been cast, these critics have used their crystal ball to predict the results. The reality is that none of us has any real way of knowing how most voters will respond to the options on the ballot.

In any event, the bedrock principle of our system is government by consent, and the first plebiscite informs Congress whether a majority consents to the present arrangement. If a majority of the people do not wish to maintain the current status, they should have the chance to express their preference among the viable alternatives. This bill would, at long last, provide them with this opportunity.

Let me say something in plain terms. I support statehood, because I believe the people of Puerto Rico have earned the right, should they choose to exercise it, to become full and equal citizens of the United States, but I was elected to represent all of the people of Puerto Rico, including those whose vision for the island's future differs from my own. The intention of this bill is to sponsor a fair self-determination process, not to predetermine the outcome of that process.

In closing, while I do not find the arguments against the bill persuasive, I am open to any amendments that would result in a fair process. I will not let the perfect become the enemy of the good. Opponents of this legislation should make a similar pledge. In our democracy, elections have consequences. Last November, the people of Puerto Rico, by historic margins, spoke clearly in favor of self-determination and against those who would obstruct it. We must allow their voices to be heard.

I welcome the witnesses, and I thank you again, Mr. Chairman.

[The prepared statement of Mr. Pierluisi follows:]

Statement of The Honorable Pedro R. Pierluisi, the Resident Commissioner in Congress from Puerto Rico

Thank you, Chairman Rahall. I want to begin by expressing my appreciation to you. Both of us believe that, after 111 years, it is imperative that the 111th Congress finally ask the people of Puerto Rico for their views on the Island's future. Patience is a virtue, but my constituents have been patient enough.

I also want to thank former Chairman Don Young, who has done as much as any member of this body to seek self-determination for the people of Puerto Rico—and who has the scars to prove it. In addition, I want to convey my gratitude to Majority Leader Steny Hoyer and to Congressmen Dan Burton, Patrick Kennedy, Lincoln Diaz-Balart, and Alan Grayson, all of whom have been such strong champions of H.R. 2499. These gentlemen come from different political parties and different parts of the country, but they are bound together by their fierce desire to secure fair treatment for the four million U.S. citizens of Puerto Rico.

Since its introduction just over one month ago, H.R. 2499 has obtained more co-sponsors than any other Puerto Rico status bill in history. I want to thank the 150 Members of Congress—106 Democrats and 44 Republicans—who have co-sponsored this legislation. This strong bipartisan support is proof positive that Puerto Rico's status dilemma troubles men and women of conscience all along the political spectrum.

The subject of Puerto Rico's political status is fraught with history and passion. The Island's political parties are divided on the status question and the debates between them can be ferocious. As a result of these divisions, some Members of Congress who support the principle of self-determination have nonetheless been reluctant to become involved. I hope that today's hearing will help convince those members that this bill represents a just solution to an unjust state of affairs.

I would now like to address my fellow Puerto Ricans in leadership positions who have expressed concerns with the bill. I know your love for Puerto Rico is as great as my own. Because the destiny of millions is at stake, we must overcome our differences, not surrender to them. I am certain we can reach a fair compromise. And I fear history will not forgive us if we don't. President Obama said it best in a letter to Governor Fortuño when he wrote: "I am fully aware of the difficulties that Puerto Rico has faced in the past when dealing with this issue, but self-determination is a basic right to be addressed no matter how difficult."

* * *

Mr. Chairman: Through H.R. 2499, Congress would formally consult the people of Puerto Rico regarding the Island's political status—something that has never been done since Puerto Rico came under the United States flag in 1898. This bill authorizes the government of Puerto Rico to conduct a plebiscite. Voters would be asked whether they wish to maintain the current political status or to have a different status. If a majority favors the current status, the government of Puerto Rico would be authorized to ask voters this threshold question again at eight-year intervals. The purpose of this provision is for Congress to regularly consult the people of Puerto Rico to obtain their continued consent to an arrangement that, whatever its merits, denies them self-government at the national level.

If, on the other hand, a majority favors a different status, the bill authorizes a second plebiscite among the three non-territorial status options recognized under U.S. and international law: independence, statehood, and national sovereignty in association with the United States. The bill does not define this last option, except to say that it would entail an agreement between two sovereigns that is not subject to the Territorial Clause.

As will be true of any bill that seeks to address an issue of such importance, there are some dissenting voices. While consensus is ideal, the most relevant question is whether the arguments against the legislation have any merit. The search for consensus cannot become a justification for inaction. Because while we wait, four million American citizens remain voiceless.

The strength of H.R. 2499 is that it sponsors an orderly referendum process based on legally-valid status options, but leaves it to the people of Puerto Rico to decide which of those options they prefer. You may hear some opponents of the bill argue that, by informing the people of Puerto Rico about their valid status options and limiting the authorized ballots to only those options, Congress is somehow "dictating" the self-determination process to my constituents. This line of reasoning is misguided. Although couched in language intended to convey respect for the Island's residents, this argument—if allowed to prevail—would resign the people of Puerto Rico to yet another century of voicelessness. For too long, many on the Island have been led to believe that if they bargain wisely enough, they can have U.S. citizenship and national sovereignty, receive all federal funds and have veto power over federal law. For the federal government to perpetuate this comforting but false belief would be wrong. This bill shows the highest respect for the people of Puerto Rico by refusing to mislead them.

H.R. 2499 will enable the people of Puerto Rico to choose among legally-viable status options through one or more popular votes. Some have argued that the bill should provide for a "constitutional convention" rather than a plebiscite process. But it is hard to see how this mechanism would be a better way to resolve Puerto Rico's political status question than hearing directly from the people. The fact is that the legally-viable status choices available to Puerto Rico are crystal clear, no matter how loudly some may insist otherwise. The people of Puerto Rico do not need to elect delegates to propose status options. All the people of Puerto Rico need is the opportunity to express themselves directly at the ballot box.

Finally, H.R. 2499 does not exclude or favor any status option. Yet, today you will hear testimony from certain witnesses that this bill is intended to "stack the deck" in favor of statehood. Specifically, their theory is that voters who support statehood and voters who support independence will vote in favor of a different political status in the first plebiscite, creating a so-called "artificial majority" against the current status.

This argument is flawed. Before a single vote has been cast, critics of the bill have used their crystal ball to predict the results. The reality, of course, is that none of us has any real way to know how most voters will respond to the options on the ballot. In any event, the bedrock principle of our system is government by consent, and the first plebiscite informs Congress whether a majority consents to the present arrangement. This is a fundamental question of democracy: if a majority of the Puerto Rican people do not wish to maintain the current status, they should have the chance to express their preference among the viable alternatives. H.R. 2499 would—at long last—provide them with this opportunity.

Let me say something in plain terms. Like Governor Fortuño, over 60% of the Island's 78 municipal mayors, and nearly 70% of the Puerto Rico Legislature, I am a strong proponent of statehood for Puerto Rico. Residents of Puerto Rico have contributed immeasurably to the life of this nation in times of peace and war. They serve as U.S. government officials, ambassadors and federal judges. For generations, our sons and daughters have served alongside their fellow citizens from the states on battlefields in Europe, Asia and the Middle East. During a late-night patrol in enemy territory, as soldiers from San Juan, Sacramento and San Antonio watch each other's backs, the differences between them mean nothing. What matters is that the flag stitched to their uniform is the same. I support statehood because I believe the people of Puerto Rico have earned the right, should they choose to exercise it, to become full and equal citizens of the United States.

But I was elected to represent all of the people of Puerto Rico, including those whose vision for the Island's future differs from my own. The intention of H.R. 2499 is to sponsor a fair, neutral and democratic process of self-determination in Puerto Rico, not to predetermine the outcome of that process.

In closing, I want to reiterate that while I do not find the arguments against the bill persuasive, I am open to any amendments that would result in a fair process of self-determination. I will not let the perfect become the enemy of the good. Opponents of this legislation should make a similar pledge. In our democracy, elections have consequences. Last November, the people of Puerto Rico—by historic margins—spoke clearly in favor of self-determination and against those who would obstruct it. We must allow their voices to be heard.

I welcome the witnesses and I thank you again, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Brown, South Carolina?

STATEMENT OF THE HON. HENRY E. BROWN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. BROWN. Thank you, Mr. Chairman, for holding this hearing today. I will submit my full text for the record, but I just would like to welcome the former member of this Committee, now the Governor of Puerto Rico, and all the other folks that have traveled such a distance to come to be a part of this process. I am original cosponsor of the bill and so I look forward to the dialogue. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan, Mr. Kildee?

STATEMENT OF THE HON. DALE E. KILDEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. KILDEE. Thank you very much for having this hearing. This is an issue that has been before this Congress for a long time. I think we should give the people of Puerto Rico the right to make their decision. I think this is a good vehicle that has been intro-

duced Mr. Pierluisi. I worked with Carlos Romero Barceló for a long time and Luis Fortuño, and I welcome their presence here today and I hope we wind up with a bill that will be satisfactory to the people of Puerto Rico.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Tennessee, Mr. Duncan?

STATEMENT OF THE HON. JOHN J. DUNCAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. DUNCAN. Well, thank you very much, Mr. Chairman. I have had the great privilege of visiting Puerto Rico on three different occasions over the years and I think it is a wonderful place and the people have been so kind to me, so I have nothing but positive and good feelings toward Puerto Rico and its people, and I also was able, fortunately, to establish, I think, good friendships with former Congressman Romero Barceló and also former Congressman Acevedo Vilá and also with the current Governor Fortuño, and I join Congressman Brown in welcoming Governor Fortuño back to be with us today.

I have also tried to help Puerto Rico on several bills in other committees, but I don't really have strong feelings, I am not really for statehood or against statehood or for commonwealth or against commonwealth. The main thing I would like to see is a fair process set up or a fair vote. I have met with people over the years on both sides of this issue and I do have difficulty in understanding why we have to have two votes, why you don't just put one simple thing out there and say, statehood, commonwealth, independence, just have it plain and simple, one vote, and then I do have some concern, I have read or heard and read over the years that about 80 percent of the people in Alaska and Hawaii voted to become a state, and I do have some concern about having a state where half or less than half want the statehood.

I would feel more comfortable with it if we had 80 or 85 percent or more of the people of Puerto Rico who wanted to be a state, but with those questions, I am willing to listen, and I do have to go to another committee shortly, but I am willing to listen and consider all of the arguments on this issue. Thank you very much.

The CHAIRMAN. The gentlelady from California, Ms. Napolitano? If not, the gentleman from CNMI, Mr. Sablan?

STATEMENT OF THE HON. GREGORIO SABLAN, A DELEGATE IN CONGRESS FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. SABLAN. Thank you very much. Good morning, Mr. Chairman, Chairman Rahall and Ranking Member Hastings. Good morning, Mr. Pierluisi. Ladies and gentlemen, I am here in support of H.R. 2499, the Puerto Rico Democracy Act of 2009. I am from the Commonwealth of the Northern Mariana Islands, which is a commonwealth that has a permanent relationship with the United States. The commonwealth status in the Marianas was derived from looking at the Puerto Rico status.

Puerto Rico and the Northern Mariana Islands have a long history. We were a part of Spain just prior to the Spanish-American War, but prior to the covenant approval between the U.S. and the

CNMI, the Political Status Commission had to decide the future political status for all the people of the Northern Mariana Islands. This was no easy feat for a group of Pacific Islanders who had been colonies for hundreds of years, and by an act of political self-determination, we chose a permanent relationship with the United States.

We too had a plebiscite to decide whether we wanted to vote for commonwealth status or reject it with the caveat to participate in the determination of an alternative future political status. I feel that H.R. 2499 allows the people of Puerto Rico more opportunities to define their political status. Thank you.

The CHAIRMAN. The gentleman from Utah, Mr. Bishop, who I might say looks a lot better today than he did last night for votes. Glad you found your coat and tie.

Mr. BISHOP. Yeah, but I can't play softball in this suit, so I am sorry about that. And Mr. Chairman, we won't talk about footwear, will we?

The CHAIRMAN. No, we won't.

Mr. BISHOP. OK, all right. Fair enough.

The CHAIRMAN. The Ranking Member, though, wants to know if you can play without.

[Laughter.]

Mr. BISHOP. You know, I can get abuse in other places besides—no.

STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. I just want to—appreciate your being here. I appreciate Pedro, what he is doing here, and I just want to welcome the Governor of Puerto Rico back. It is just not the same since your office was through the wall of my office, but I have moved as well, so it is good to have you back here again. Welcome, and I am looking forward to the testimony, and just for the record, I think I look good in shorts.

[Laughter.]

The CHAIRMAN. Without objection, all members, of course, will have the usual opportunity to insert their remarks in the record, and we will proceed now with our first panel. The first panel is composed of two of our distinguished colleagues. The first is from Indiana, The Honorable Dan Burton, and our second panelist, the new member, I am very happy to have him before us today, from the great State of Florida, The Honorable Alan Grayson.

Gentlemen, we welcome you both to the Committee, and as with all members, we have your prepared testimony. It will be made part of the record as if actually read. You may proceed in the manner which you desire. Dan, do you want to go first?

Mr. BURTON. Thank you, Mr. Chairman, and the picture of our colleague in shorts really wakes me up this morning.

[Laughter.]

Mr. BURTON. I wish you would send a copy of that to my office.

[Laughter.]

STATEMENT OF THE HON. DAN BURTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. BURTON. Chairman Rahall, Ranking Member Hastings, Governor Fortuño, Governor Romero Barceló, thank you very much, all of you, for this hearing and for the hard work that the Governors have put into this. Puerto Rico has been a U.S. territory for 111 years and is the longest existing U.S. territory. Puerto Ricans have fought in all our wars as proud U.S. citizens. In fact, Puerto Ricans have sent more of their sons and daughters to serve in the United States military than all but one other state in the whole union.

Puerto Rico is a very special and significant part of the makeup of this great nation, and as I have been saying for years, I believe that they deserve the opportunity to express their status preference in relation to the United States. Through this past 111 years, we have been debating what to do about Puerto Rico, whether it should continue to be a U.S. territory or whether we should allow the people of Puerto Rico to work with Congress to determine whether they would like to have a more permanent status.

We have never given the people of Puerto Rico an opportunity to declare their preference in this democratic way, and that is why I am a strong supporter of H.R. 2499, the Puerto Rico Democracy Act of 2009, that my friend Resident Commissioner Pedro Pierluisi has introduced. The Puerto Rico Democracy Act of 2009 is a fair and democratic piece of legislation. In simple terms, the bill provides the 4 million people of Puerto Rico with a chance to determine their own fate through a two-part popular vote or plebiscite.

During the first part, the Puerto Rican people will vote on whether to preserve the status quo and remain a U.S. territory or to pursue a path toward permanent, non-territorial status. Should they decide to go forth with the latter option, the second plebiscite would present them with a choice of independence, sovereignty in association, or it could become the 51st state of the United States. If the Puerto Rican people wish to maintain current territorial status, they may, but we will continue to poll the people of Puerto Rico in years to come to make sure that that is still what they want.

This bill doesn't force them into anything that they do not want or something that they may regret 10 or 15 years later, and that is why I support this bill. Congress should not dictate to the people of Puerto Rico what is best for them. The people themselves must be allowed to decide their fate. Congress doesn't face the same realities day in and day out that the people of Puerto Rico face, realities like serving in the United States military without being able to elect its Commander-in-Chief, and I would just like to make a comment about that.

For people to serve in this country and give their lives and risk their lives and put their families through all kinds of heartache and not be able to vote for the Commander-In-Chief I think is just almost criminal. So many men and women from Puerto Rico have given their lives for American freedom but don't have the opportunity to vote for their President, and although Congress makes laws that govern Puerto Rico, they have no voting representation.

Our role in Puerto Rico is to be sure that the Puerto Rican people are able to determine exactly what it is they want to do with their

great island. It is our responsibility to ensure the self-determination process is free and fair. We need to provide the Puerto Rican people the same chance for the full democracy we advocate for the rest of the world, but first we need to allow them to tell us how and what they want to do about going about getting it, and with that, Mr. Chairman, thank you very much. I will be happy to answer any questions.

[The prepared statement of Mr. Burton follows:]

Statement of The Honorable Dan Burton, a Representative in Congress from the State of Indiana

Puerto Rico has been a U.S. territory for 111 years, and is the longest existing U.S. territory. Puerto Ricans have fought in our wars as proud U.S. citizens. In fact, Puerto Ricans have sent more of their sons and daughters to serve in the United States military than all but one other state. Puerto Rico is a very special and significant part of the makeup of this great nation and, as I have been saying for years, I believe that they deserve the opportunity to express their status preference in relation to the United States.

Through this past 111 years, we have been debating what to do about Puerto Rico; whether it should continue to be a U.S. territory, or whether we should allow the people of Puerto Rico to work with Congress to determine whether they would like to have a more permanent status. We have never given the people of Puerto Rico an opportunity to declare their preference in this democratic way. That is why I am a strong supporter of the H.R. 2499, the Puerto Rico Democracy Act of 2009 that my friend, Resident Commissioner Pedro Pierluisi has introduced.

The Puerto Rico Democracy Act of 2009 is a fair and democratic piece of legislation. In simple terms, the bill provides the four million people of Puerto Rico with a chance to determine their own fate, through a two-part popular vote or "plebiscite." During the first part, the Puerto Rican people will vote to either preserve the status quo and remain as a U.S. territory, or to pursue a path toward permanent non-territorial status. Should they decide to go forth with the latter option, the second plebiscite would present them with the choice of independence, sovereignty in association, or to become the 51st state of the U.S.

If the Puerto Rican people wish to maintain current territorial status they may, but we will continue to poll the people of Puerto Rico in years to come, to make sure that is still what they want. This bill doesn't force them into anything they do not want, or something they may regret in 10 or 15 years time. That is why I support this bill.

Congress shouldn't dictate to the Puerto Rican people what is best for them; the people themselves must be allowed to decide their fate. Congress doesn't face the same realities day in and day out that the people of Puerto Rico face; realities like serving in the United States military without being able to elect its Commander-in-Chief. So many men and women from Puerto Rico have given their lives for American freedom, but don't have the opportunity to vote for their President. And although Congress makes laws that govern Puerto Rico, they have no voting representation.

Our role in Puerto Rico is to be sure the Puerto Rican people are able to determine exactly what it is they want to do with their great island. It is our responsibility to ensure the self-determination process is free and fair. We need to provide the Puerto Rican people the same chance for the full democracy we advocate to the rest of the world, but first we need to allow them to tell us how they want to go about it.

The CHAIRMAN. Alan?

STATEMENT OF THE HON. ALAN GRAYSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. GRAYSON. Thank you, Mr. Chairman. I appreciate the opportunity that you allow me today to testify before the Committee about this important matter. I am proud to be one of the original cosponsors of the Puerto Rico Democracy Act of 2009. This legislation is about what is right and about what is fair. Under this legis-

lation, voters will be asked by Congress whether they wish to maintain Puerto Rico's present form. If a majority of the voters cast their ballots and favor a different political status, the government of Puerto Rico will be authorized to conduct a second vote among three options, independence, statehood or sovereignty in association with the United States.

Since 1898, residents of Puerto Rico have been deprived of full and equal political representation. Though its residents are American citizens, the island is not a state and its residents have no equal voting representation in Congress. Given the choice, Puerto Ricans might opt to change the situation. Some in Puerto Rico might opt for statehood for the island, some might opt for independence, and some might opt for sovereign association, but Puerto Ricans have never been invited by Congress to make this choice.

They are American citizens but they are deprived of their fundamental voting rights. If Puerto Rico were a state, it would have six representatives in Congress instead of only one who cannot be the deciding vote on the Floor of the House. If Puerto Rico were a state, it would have two senators instead of none. If Puerto Rico were a state, their people could help to choose our President. Now they cannot. A host of policy decisions are made in Puerto Rico's name on behalf of Puerto Rico's people without their full and equal input or consent.

This is deeply, deeply unfair. Whether Puerto Ricans decide in favor of statehood or not, there is an existing inequality that needs to be addressed. The people of Puerto Rico could have more representatives in Congress than they have today, with or without statehood. While I do not represent Puerto Rico, there is a very large Puerto Rican population in central Florida, and I am here because the people of Puerto Rico have the right to full and equal representation.

Residents of Puerto Rico have laid down their lives in defense of American democratic values for over nine decades. In that time, they have never been given the chance to express their views about their political relationship with the United States by means of a fair, neutral and democratic process sponsored by Congress. This must change. Our history, our American history, is a history of progress toward equality, diversity and tolerance.

Originally, our Constitution provided that black slaves counted as only three-fifths of a human being. We needed to fight a civil war to change that and to end that. In 1958, we admitted the first state, Hawaii, that was a state, most of whose people are not white. Now we have a Supreme Court nominee who is a Puerto Rican and we have our first African-American president. This is our progress toward equality, diversity and tolerance. The people of Puerto Rico deserve no less.

In any case, we owe it to them to let them make their choice. This is what democracy means. This is what freedom means. Thank you for allowing my testimony before the Committee.

[The prepared statement of Mr. Grayson follows:]

Statement of The Honorable Alan Grayson, a Representative in Congress from the State of Florida

Thank you for allowing me to testify before this committee on such an important matter. This legislation is about what is right and what is fair.

Since 1898, residents of Puerto Rico have been deprived of full and equal political representation. Though its residents are American citizens, the island is not a state, and its residents have no equal voting representation in Congress. Given the choice, Puerto Ricans might opt to change this situation. Some in Puerto Rico might opt for statehood for the island, some might opt for independence, and some might opt for sovereign association of the status quo. But Puerto Ricans have never been invited by Congress to make this choice. They are American citizens, but deprived of voting rights.

If Puerto Rico were a state, it would have six Representatives in Congress, instead of one who cannot vote on the floor of the House. If Puerto Rico were a state, it would have two Senators instead of none. If Puerto Rico were a state, the people there could help choose our President. Now they cannot. A host of policy decisions are made in Puerto Rico's name, on behalf of Puerto Rico's people, without their full and equal input or consent. That is deeply, deeply unfair.

Whether Puerto Ricans decide in favor of statehood or not, there is an existing inequality that needs to be addressed. The people of Puerto Rico could have more representatives in Congress than they have today, with or without statehood.

While I do not represent Puerto Rico, there is a very large Puerto Rican population in Central Florida. And I'm here because the people on the island of Puerto Rico have the right to be full and equal representation. Under this legislation, voters will be asked by Congress whether they wish to maintain Puerto Rico's present form. If a majority of voters cast their ballots in favor of a different political status, the government of Puerto Rico will be authorized to conduct a second vote among three options: independence, statehood, or sovereignty in association with the United States.

Residents of Puerto Rico have laid down their lives in defense of American democratic values for over nine decades. In that time, they have never been given the chance to express their views about their political relationship with the United States by means of a fair, neutral, and democratic process sponsored by Congress. This must change. I am proud to be one of the original co-sponsors of the Puerto Rico Democracy Act of 2009.

In any case, we owe it to the people of Puerto Rico to let them make this choice. This is what democracy means. This is what freedom means.

Thank you for allowing this testimony before the committee.

The CHAIRMAN. Thank you, gentlemen. The Chair would also ask unanimous consent at this point in the record to insert the statement of our Honorable Majority Leader of the House, Steny Hoyer, in support of this legislation.

The Chair recognizes the Ranking Member, Mr. Hastings?

Mr. HASTINGS. I will yield to the gentleman from Alaska.

Mr. YOUNG. I thank the gentleman for yielding, and thank you, Mr. Chairman, for this hearing. I want to thank the witnesses that are going to be on the panel. I notice we have the distinguished Governors and ex-Governors. This is not a new subject to this congressman. Everybody knows where I stand on this issue. I have promoted this bill, passed it through this Committee and onto the Floor of the House and when I got to the Floor the day of the vote, we had a 45-vote margin. By the time the vote was taken, it passed by one vote.

I don't think the issue is, frankly, what we were trying to do. At that time, it was the English only language that really killed us and hopefully this won't come up again, but again, I thank the witnesses. This is something that is long overdue, and we should do it, give them a chance to do what is right, give us a chance to do what is right, and I thank you, Mr. Chairman, for having the hearing. At this time, though, I would like to ask unanimous consent to submit for the record Miriam J. Ramirez's statement, if I could.

The CHAIRMAN. Sure. Without objection, so ordered.

Mr. YOUNG. And I yield back.

Statement submitted for the record by Miriam J. Ramirez, MD, San Juan, Puerto Rico

Honorable Nick J. Rahall, Chairman of the Natural Resources Committee, Honorable Members and staff,

I have prepared this statement with the sincere hope that it is useful to the Members of this Committee and to other Members of Congress who need to understand the urgency of Self Determination for the territory of Puerto Rico; so as to improve the life of the U.S. Citizens who reside there.

I am very disappointed that no time is available to hear mine and others' oral testimony during the National Resources Committee Hearings. Having spent the last 30 years of my life working directly with Congress and the various White House Administrations on this issue has given me the experience and knowledge to contribute positively to the process. I am therefore requesting that my statement be introduced for the record.

I praise the efforts of Congressman Young and others, who organized and conducted hearings around the island during the Young Bill legislative process. Not only hundreds of my fellow citizens were able to express their views, but the process also served to educate all involved.

I also urge this Committee to search and analyze the thousands of pages of documents, including remarkable and expensive studies made by the GAO, the CRS, the various Administrations and the testimonies of many in hearings, which have touched and reported on all issues regarding this process. (I am including a partial list of those at the end of my written statement).

But, I am not too optimistic. Those who might want to help us will have to overpower the economic powers that benefit from the actual relationship of the U.S. with Puerto Rico. They have total control over our dear island, to the extreme of intervening in our elections and have participation designing our laws and government programs for their own convenience. I'm still trying to find out where the many millions of dollars came from, to lobby and campaign in Congress against the Young bill.

I am totally convinced, and have tons of material to sustain my theory, that we would probably be more successful if we held these hearings and negotiated directly with the immense economic powers that control Puerto Rico. Perhaps we would be better served by testifying somewhere in Wall Street, or wherever it is that they have their U.S. tax shelters offices; be it Brussels or K Street.

Since I know they are monitoring these hearings, I take the opportunity to offer these Corporations a better deal than what they have now, which results in bilking the U.S. Treasury. After losing Section 936, they now came up with the gimmick to operate under the IRS code as CFC's which gives them tax benefits **for operating in a foreign country. Yes, that's right!**

Many of you don't know that CFC's operate in PR under the premise of being domestic Corporations established in a foreign country. And GUESS WHAT? **The Territory of Puerto Rico is the foreign country they operate on!** BINGO! So you wonder why the status question does not move in over a hundred years.

While the U.S. Tax payer is unemployed, sweating it out and losing their homes, the U.S. actually rewards these corporations with tax benefits to operate in foreign countries and do business! So for them, it is convenient to convert Puerto Rico, as far as the IRS, to a foreign country! I have found their fingerprints all over every attempt at self determination we have had, so as to prevent a process that would convert Puerto Rico into a state. I beg Congress and: President Obama's Administration, to give incentives to the so called CFC's to do their operations in the 50 states plus the U.S. territories.

Take some time out also to see what this gimmick is costing the U.S. Treasury! And while you're doing that, think of the real cost to the $10k per capita and double digit unemployment of the U.S. citizens in Puerto Rico.

The CFC's were once known as the **"Corporate Welfare" Section 936** companies and they thought a bunch of ladies and old people from Puerto Rico who lobbied against them were harmless. I guess they never heard the phrase "never underestimate your enemy."

Oh... and I just love to see the leaders, with their generously funded campaigns, from all parties, recently helping them to lobby to get better tax credits under said IRS Code. They justify their actions saying it helps the economy. If you believe that, I'd like to sell you a bridge I have in San Francisco.

Have you been informed that all elected leaders in Puerto Rico, from all parties, have reached a very good consensus on that issue? That's right... those leaders who never seem to reach consensus on anything are now peaches and cream in a united front to raise the benefits for the CFC's!!

But, relax! I have come up with a way to stop all the fighting and bring my BP down. After all, I am now a 68 years old retired medical doctor and lately I have had some difficulty raising the trillions of $$ needed to beat the CFC's which we beat before when they had a different disguise..

Therefore, I will use this opportunity to formally ask these companies to join us in our quest for Statehood. I will personally work with them to negotiate a good enabling act that will allow them to operate with benefits until PR's economy comes at par with the rest of the states.

I also advise them to think twice before refusing my offer... Some in Washington are very familiar with my persistence and determination.

REGARDING H.R. 2499:

I have studied the language on the bill and consulted with many of my legal advisors and constitutional experts. We have come to the conclusion that it is probably the worst designed bill that has been introduced in Congress to provide for a process of Self Determination for Puerto Rico, We supported Congressman's Serrano's Bill, the Puerto Rico Democracy Act of 2007 and cannot understand why it was not reintroduced.

As it now appears, H.R.2499 promises to be the worst and most confusing bill ever presented thus far in Congress. If approved as it is, I am sure the people of Puerto Rico will not know, or make an informed decision on what they are voting for.

I will assume that the bill in this language is the result of inexperience. However, I cannot discard that this might be a well planned concocted process, controlled by those who are served well economically by Puerto Rico's actual relationship, with the purpose of legalizing the status quo,

In order to resolve the obvious defects of H.R. 2499, we suggest the following language to substitute language in H.R. 2499:

SEC. 2. FEDERALLY SANCTIONED PROCESS FOR PUERTO RICO'S SELF-DETERMINATION.

SEC. 2. ~~(a) First Plebiscite—The Government of Puerto Rico is authorized to conduct a plebiscite in Puerto Rico. The 2 options set forth on the ballot shall be preceded by the following statement: 'Instructions: Mark one of the following 2 options:~~

'(1) Puerto Rico should continue to have its present form of political status. If you agree, mark here XX.

'(2) Puerto Rico should have a different political status. If you agree, mark here XX.'.

PROPOSED SUBSTITUTE LANGUAGE:

SEC. 2. *(a) Plebiscite—The Puerto Rico State Elections Commission shall conduct a plebiscite in Puerto Rico not later than December 31, 2010. The two options set forth on the ballot shall be preceded by the following statement:*

Instructions: Mark one of the following two options:

(1) *Puerto Rico should continue to have a territorial relationship with the United States. If you agree, mark here ____*

(2) *Puerto Rico should pursue a constitutionally-viable permanent non-territorial status. If you agree, mark here ____*

Reasoning behind decision to strike out Sections 2.a (1) and (2)

The phrase "present form of political status" will confuse people in Puerto Rico into thinking that the present relationship has been defined as an acceptable permanent status by Congress.

By changing the first question, Sec. a(2) makes sense.

SEC. 2 (b) Procedure if Majority in First Plebiscite Favors Option 1—If a majority of the ballots in the plebiscite are cast in favor of Option 1, the Government of Puerto Rico is authorized to conduct additional plebiscites under subsection (a) at intervals of every 8 years from the date that the results of the prior plebiscite are certified under section 3(d).

PROPOSED SUBSTITUTE LANGUAGE:

SEC. 2 (b) Procedure if Majority in First Plebiscite Favors Option 1—If a majority of the ballots in the plebiscite are cast in favor of Option 1, the Government of Puerto Rico is authorized to conduct additional plebiscites as deemed necessary.

Reasoning behind decision to strike out (b):

Congress should not, by law, rule legislate intervals of eight years before the U.S. citizens of Puerto Rico can initiate a self determination process.

SEC. (c) Procedure if Majority in First Plebiscite Favors Option 2—If a majority of the ballots in a plebiscite conducted pursuant to subsection (a) or (b) are cast in favor of Option 2, the Government of Puerto Rico is authorized to conduct a plebiscite on the following 3 options:

(1) Independence: Puerto Rico should become fully independent from the United States. If you agree, mark here ___

~~(2) Sovereignty in Association with the United States: Puerto Rico and the United States should form a political association between sovereign nations that will not be subject to the Territorial Clause of the United States Constitution. If you agree, mark here XX.~~

(3) Statehood: Puerto Rico should be admitted as a State of the Union. If you agree, mark here XX. completely and keep (1) and (3).

Reasoning behind decision to striking out all of Sec. C.(2):

People already voted on the territorial relationship in the first question.

A sovereign association with the U.S. cannot be negotiated into permanent status.

WARNING

If the language for (Sec. c.2) remains as is, the following may be heard during the campaign pre-referendum process:

"Sovereignty in Association with the United States:"

(WOW! That means I will keep getting food coupons, welfare, Pell grants, and unemployment and continue not paying taxes permanently? YEAH! I'm voting for that one!)

"Puerto Rico and the United States should form a political association between sovereign nations "

(This gets better... that means I will keep my U.S. citizenship, with all its benefits! Is this permanent? Whadda you mean No? I don't believe you... Congress passed that bill!)

On **...."That will not be subject to the Territorial Clause of the United States Constitution. If you agree, mark here".**

(Great! Then we will be under some other section of the U.S. Constitution! NO? Then why is that mentioned? ".I don't believe you. Can someone from Congress clarify please?)

Our heartfelt and sincere thanks to our friends and heroes, President George H.W. Bush, President Bill Clinton, President George W. Bush, and Congressmen Don Young, Dan Burton, Elton Gallegly, José Serrano, Bob Lagomarsino, and to our dedicated friends, Mr. Manase Mansur, Mr. Jeffrey Farrow, Mr. Andrew Card, and Mr. Ruben Barrales, who with many others, have dedicated an outstanding portion of their time trying to help the people of Puerto Rico.

Oh, and if you decide to have a hearing to hear the people, please include me. In the meantime I am adding to my statement, a summary of historical data that I hope may be useful to you.

Thank you,

Miriam J. Ramirez MD

Dr. Miriam J. Ramirez is Past Vice President of the New Progressive Party in Puerto Rico until her resignation in November of 2008. She was also National Committeewoman for the Republican Party in Puerto Rico, President of the Republican Women of Puerto Rico and former Puerto Rico State Senator (2000-2004).

In addition; of founder and President of Puerto Ricans in Civic Action, a non-partisan organization working to secure political and economic equality for the four (4) million United States citizens resident on the island and who delivered 350,000 individually signed petitions to Congress to address the statehood issue.

Since 1982, Dr. Ramirez spearheaded the grassroots lobbying efforts of the group in the United States Congress. She was instrumental in scaling back Section 936 tax exempt benefits in the Omnibus Budget Reconciliation Act of 1993. Tax Sparing benefits have played a significant role, and influence, in the political and economic life of Puerto Rico. She was also instrumental in the introduction and passage of H.R.856, also known as the Young Bill.

Dr. Ramirez also spearheaded the effort to support of the permanence and training of the U.S. Armed Forces and the Navy in Vieques, Puerto Rico.

Dr. Ramirez, is an Army brat, a widow, a mother of five children, cherishes six grandchildren and is retired from a gynecological medical practice located in Puerto Rico.

GAO STUDIES RELATED TO THE ISSUE OF THE STATUS OF PUERTO RICO

DATE	TOPIC
1980	**Experiences of Past Territories Can Assist *Puerto Rico* Status Deliberations** GGD-80-26, March 7, 1980 Quick View Summary (HTML) Full Report (PDF, 100 pages)
1981	***Puerto Rico*'s Political Future:** A Divisive Issue With Many Dimensions GGD-81-48, March 2, 1981 Quick View Summary (HTML) Full Report (PDF, 167 pages)
1982	**Changes Are Needed in the Proposed Departmental Review and Evaluation of the *Puerto Rico* Block Grant** CED-82-50, February 24, 1982 Quick View Summary (HTML) Full Report (PDF, 5 pages)
1985	**Issues Affecting U.S. Territory and Insular Policy** NSIAD-85-44, February 7, 1985 Quick View Summary (HTML) Full Report (PDF, 113 pages)
1986	**U.S. Territory and Insular Policy** 129593, April 10, 1986 Quick View Full Report (PDF, 7 pages)
1987	**Welfare and Taxes:** Extending Benefits and Taxes to *Puerto Rico*, Virgin Islands, Guam, and American Samoa HRD-87-60, September 15, 1987 Quick View Summary (HTML) Full Report (PDF, 216 pages)
1989	***Puerto Rico*:** Update of Selected Information Contained in a 1981 GAO Report HRD-89-104FS, August 9, 1989 Quick View Summary (HTML) Full Report (PDF, 69 pages)
1989	***Puerto Rico*:** Background Information on Applicable Federal Legislation, Its Governmental Structure, and Its Finances T-HRD-90-7, November 15, 1989 Quick View Summary (HTML) Full Report (PDF, 15 pages)
1990	Puerto Rico: Information for Status Deliberations HRD-90-70BR, March 7, 1990 Quick View Summary (HTML) Full Report (PDF, 74 pages)
1990	***Puerto Rico*:** Commonwealth Election Law and Its Application to a Political Status Referendum HRD-90-60, May 2, 1990 Quick View Summary (HTML) Full Report (PDF, 68 pages)
1991	**U.S. Insular Areas:** Applicability of Relevant Provisions of the U.S. Constitution HRD-91-18, June 20, 1991 Quick View Summary (HTML) Full Report (PDF, 111 pages)
1992	***Puerto Rico*:** Audit of Grant Funds Provided to Three Major Political Parties HRD-92-29, January 15, 1992 Quick View Summary (HTML) Full Report (PDF, 20 pages)
1992	**Pharmaceutical Industry:** Tax Benefits of Operating in *Puerto Rico* GGD-92-72BR, May 4, 1992 Quick View Summary (HTML) Full Report (PDF, 42 pages)
1993	***Puerto Rico*:** Confusion Over Applicability of the Electoral Law to Referendum Process HRD-93-84, May 28, 1993 Quick View Summary (HTML) Full Report (PDF, 20 pages)
1993	**Tax Policy:** *Puerto Rico* and the Section 936 Tax Credit GGD-93-109, June 8, 1993 Quick View Summary (HTML) Full Report (PDF, 70 pages)
1994	**U.S. *Insular* Areas:** Development Strategy and Better Coordination Among U.S. Agencies Are Needed NSIAD-94-62, February 7, 1994 Quick View Summary (HTML) Full Report (PDF, 36 pages)
1996	Insular Areas Update GGD-96-184R, September 13, 1996 Quick View Summary (HTML) Full Report (PDF, 34 pages)
1996	**Tax Policy:** Analysis of Certain Potential Effects of Extending Federal Income Taxation to *Puerto Rico* GGD-96-127, August 15, 1996 Quick View Summary (HTML) Full Report (PDF, 62 pages)
1997	**U.S. Insular Areas:** Application of the U.S. Constitution OGC-98-5, November 7, 1997 Quick View Summary (HTML) Full Report (PDF, 75 pages)
1998	***Puerto Rico*:** Potential Federal Income Tax Revenues Resulting From Statehood GGD-98-166R, July 8, 1998 Quick View Summary (HTML) Full Report (PDF, 10 pages)

HISTORICAL EVENTS REGARDING PUERTO RICO'S RELATIONSHIP WITH THE UNITED STATES

Treaty Of Paris: December 10, 1898

Article II—Spain ceded Puerto Rico to the United States.

Article IX—"In case they (Spanish subjects) they remain in the territory they may preserve their allegiance to the Crown of Spain by making before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which the may reside. The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress."

First Organic Act Of Puerto Rico—1900

Enacted temporarily to provide revenues and civil government for Puerto Rico, and for other purposes

Section 7: "That all inhabitants continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine (April 11, 1899) and then resided in Puerto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Puerto Rico, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the eleventh day of April nineteen hundred, in accordance with the provisions of the treaty of peace between the United States and Spain entered into on the eleventh day of April, eighteen hundred and ninety nine;"

Organic Act Of 1917, As Amended (Jones Act)

Section 5: That all citizens of Puerto Rico, as defined by section seven of the Act of April 12th, nineteen hundred..... and are not citizens of any foreign country, are hereby declared, and shall be deemed and held to be, citizens of the United States."

Public Law 600—Approved by the 81st. Congress, July 3, 1950

ADDENDUM

HISTORICAL CONGRESSIONAL AND EXECUTIVE ACTIONS REGARDING THE STATUS OF PUERTO RICO.

Roosevelt Administration: (1933-1945)

As a result of a personal relationship between then Senator Muñoz Marin (the "creator" of Commonwealth) and a reporter by the name of Ruby Black, and in turn through this reporter's close relationship with Mrs. Roosevelt, they convinced President Roosevelt that in the 40's, Puerto Rico was on a verge of a revolution.

Muñoz also enlisted the support of then Secretary of Interior, Harold Ickes, who sent President Roosevelt a memo on March 3, 1943, urging him to announce the decision to order a revision of the Organic Act so as to provide for the election of a governor. He recommended Muñoz Marin as the leader of the Puerto Rican group. Finally on March 5, 1943, Pres. Roosevelt sends a letter to Congress urging the revision of the Organic Act.

Truman Administration: (1945-52)

1947—Congress authorized the people of Puerto Rico to elect their own governor.

1949—Under President Truman, Muñoz Marin became the first elected governor of Puerto Rico. (By now Muñoz Marin is the man with good ties to Washington.) He succeeds in convincing President Truman that the people of Puerto Rico be allowed to adopt a Constitution.

1950—A bill, S. 3336, was introduced in Congress to authorize the people of Puerto Rico to adopt their own Constitution and to organize a local government.

> **Senate Report No. 1779 and the House Report No. 2275 of S. 3336 (Pgs. 2682-2683)** "It is important that the nature and general scope of S. 3336 be made absolutely clear. The bill under consideration would not change Puerto Rico's fundamental, political, social and economical relationship to the United States. Those sections of the Organic Act of Puerto Rico pertaining to the political, social, and economic relationship of the United States and Puerto Rico concerning such matters as the applicability of United States laws, customs, internal revenue, Federal judicial jurisdiction in Puerto Rico, Puerto Rican representation by a Resident Commissioner, etc., would remain in force and effect, and upon enactment of S. 3336

would be referred to as the Puerto Rican Federal Relations Act. The sections of the Organic Act which section 5 of the bill would repeal are the provisions of the act concerned primarily with the organization of the local executive, legislative, and judicial branches of the government of Puerto Rico and other matters of purely local concern".

(Pg. 2684) "Puerto Rico is unincorporated territory"

(Pg. 2684) Sen. Joseph C. O'Mahoney said: "Nor will it in any way preclude a future determination by the Congress of Puerto Rico's ultimate status. The bill merely authorizes the people of Puerto Rico to adopt their own constitution and to organize a local government

- **1950—Public Law 600—Approved by the 81st. Congress July 3, 1950**
- **1951—President Truman writes Governor Muñoz:**

  "It gives me great pleasure to receive word from you that the overwhelming majority of the voters of Puerto Rico desire to draft their own constitution."... "It seems to me in fairness to the people of Puerto Rico, that only when these economic and social goals are clearly in sight can they decide as to what ultimate relationship with the United States they desire."

- **1952—Resolution 22:**

  The PDP controlled Puerto Rico Constitutional Convention purposely approves an erroneous translation of Commonwealth into "Free Associated State" (Estado Libre Asociado).

- **1953—January 16: (THE UNITED NATIONS)**

  Gov. Muñoz exerts political pressure on President Truman, days before Truman leaves the Presidency on January 19, 1953, to inform the United Nations that Puerto Rico should not be included among the non-self governing areas. Truman does this, hours before leaving office, on the eve of Eisenhower's swearing in ceremony.

Eisenhower Administration: (1953-1960)

(This is exactly the moment in history when Muñoz Marin and the Commonwealth Party, truly begins to misinform Washington and the people of Puerto Rico, regarding Puerto Rico's relationship with the US.)

Puerto Rico's Resident Commissioner, at Muñoz' urging, introduces the Fernos-Murray bill to culminate Commonwealth. Its pretensions were so outrageous that it was defeated in Congress.

- **January 17, 1953:**

  Governor Muñoz sent a letter to the President Eisenhower, who swore office on January 19th, where he misconstrues the facts on Puerto Rico's relationship with the United States.

  Among other things, the letter said:.

- "On July 25, 1952, the Commonwealth of Puerto Rico was formally installed in response to the wish of an overwhelming majority of the people of Puerto Rico pursuant to a compact between them and the Government of the United States. Puerto Rico became a Commonwealth in free and voluntary association with the United States."
  - **False: The United States did not create a status in the nature of a compact with Law 600.**
- "In the 1948 elections the three alternatives were fully presented to the electorate by the three main political parties". The preference of the people, expressed in an election which was as democratic as any in the world, was unmistakably expressed in favor of the third alternative: a free commonwealth associated with the United States on the basis of mutual consent.
  - **False: No plebiscite on the status formulas was ever held in Puerto Rico until 1967. The 1948 election was a general election, authorized by Congress, where the people were given for the first time the opportunity to elect a governor in Puerto Rico.**

- "Their choice is aptly summed up in the Spanish name for the new body politic, "Estado Libre Asociado. On July 3, 1950, the 81st. Congress enacted Public Law 600. This was, in effect, an offer by the Congress to the people of Puerto Rico, which we might accept or reject, to enter into a compact defining the status of Puerto Rico and the relationship between the respective communities."
  - **False: The Constitutional Convention specified that Free Associated State would signify Commonwealth, not a compact of free association. No public hearings were held for Law 600, and the House and Senate Reports on Law 600 specifically say that Puerto Rico's status would not change.**
- "Our status and the terms of our association with the united States cannot be changed without our full consent"
  - **False: Law 600 in no way precluded a future determination by the Congress of Puerto Rico's ultimate status**
- "The government of the Commonwealth of Puerto Rico will be ready at all times to cooperate with the United States in seeking to advance the purposes and principles of the United Nations."
  - **False: The United States citizens in Puerto Rico do not "Cooperate with the United States" we are part of the United States and as such, have fought in all wars since World War I.**

Governor Muñoz Marin, the man in charge of federal funds and programs since Roosevelt's New Deal, was too powerful in Puerto Rico for anyone to question his party's assertions.

Kennedy Administration: (1961-1963)

Through Governor Muñoz Marin, relationship with the Democrat Party and President John Kennedy, the PDP Party pushed for a "new compact" with greater powers for Puerto Rico.

When this was proposed to the Kennedy Administration, Harold F. Reiss, a member of Robert Kennedy's staff said:—If that's what you want, ask for independence and we'll favor it."

(Puerto Rico—Whither Commonwealth? J. Garcia Pasalacqua, Orbis, Vol 15 #3, 1971) According to Pasalacqua, all efforts between 1959 and 1969, to make permanent the creation of Commonwealth permanent, failed.

- **1961: THE KENNEDY MEMORANDUM**

  The political relationship of the Muñoz administration with President Kennedy paid off. He issued a Presidential Memorandum in 1961, based on information given to him by Muñoz, which called Puerto Rico's relationship with the United States "unique" and in the nature of a "compact."

- **Johnson Administration: (1964-1968)**

  As a mandate left from the Kennedy Administration, a Commission on Status was created to look into the status issue. This Commission was composed of Members of Congress and appointed individuals from Puerto Rico.

  During the Congressional debate, the Congressmen noted in their findings, that PR Law 95 would be a safety net for the people since it provided for a plebiscite by petitions from the people, if the people wanted a change in status. However, when the Law calling for a plebiscite in 1967 was passed by the local legislature, they derogated Law 95 so as to take away that right from the United States citizens in Puerto Rico.

Note: All of our efforts to have Law 95 reintroduced from 1980 to 1992, failed. We were blocked by the PDP's Resident Commissioner at the time. This would give a powerful tool to the UJS citizens in Puerto Rico to resolve the status issue

- **1967—**A locally defined plebiscite was held in 1967 where, even though commonwealth was defined with all the privileges of a state of the Union without taxation, statehood received a good number of votes. With extraordinary benefits without taxation, Commonwealth won easily. The Republican statehood party and many statehooders boycotted the process, claiming it was stacked and would not solve the final status for Puerto Rico. Under Luis Ferre, a group of statehooders bolted from the Republican Party and participated in the plebiscite.

From that moment on, the information on Puerto Rico became very confusing, both for members of the United States Congress and for the Executive branch. This

alteration of the historical facts regarding the political relationship of Puerto Rico with the United States created the turbulent atmosphere from where Congress started new discussions in 1985.

The pro-statehood groups organized in a new political party, called the New Progressive Party (NPP), which won the 1968 elections and Luis Ferre became Governor. The NPP did not initiate any processes during the next 20 years to further the debate and achieve Congressional action to resolve the Status of Puerto Rico.

It is no wonder that people in Washington and in Puerto Rico are confused about the relationship between Puerto Rico and the United States. This has been a well planned process, which goes back fifty years, to attempt to by pass the U.S. Constitution and the laws of the United States, to create a unique unconstitutional status for the territory of Puerto Rico, without the U.S. approval or the people voting for it.

1967-1985 No significant status actions were made either by Congress or the Executive.

Reagan Administration: (1981-1988)

- **1985—**Puerto Ricans in Civic Action, a grassroots organization organized in Puerto Rico which delivered 350,000 petitions for Statehood to the United States Congress. This effort sparked the discussion and definite actions by Congress. As a first response, Congressman Robert Lagomarsino and Senator Bob Dole introduced similar bills in the House and Senate to discuss statehood for Puerto Rico. Congressional action has continued until today.

George H.W. Bush Administration: (1989-1992)

- President Bush mentioned Puerto Rico in his first State of the Union message at the request of Puerto Ricans in Civic Action.
- Senator Bennett Johnston introduced a bill in the Senate to discuss Puerto Rico's status. This effort failed when then Governor of Puerto Rico, Hernandez Colon, President of the Popular Democratic Party (PDP), bolted from the process because of the PDP's unsatisfaction with Congress' definition of Commonwealth.
- **BUSH MEMORANDUM—**President Bush signs a new Memorandum, derogating the Kennedy Memorandum, to clarify Puerto Rico's relationship with the United States to the various agencies.

William Clinton Administration: (1993-2000)

- Created the Task Force on Puerto Rico at the request of then Governor Pedro Rossello.

George W. Bush Administration: (2001-2008)

- **TASK FORCE REPORT—**President Bush continued the work begun by his predecessor and ordered the Task Force to deliver a final report. This was presented in December 2005 and is the topic of this Committee's hearing today.

The CHAIRMAN. The gentleman from Puerto Rico?

Mr. PIERLUISI. Unless we are going to be posing questions, I am fine. I just want to thank both of you for appearing. It is my privilege to have both of you as cosponsors, and so this is a good day for Puerto Rico, and I am happy you are being part of it.

The CHAIRMAN. Do any members wish to ask questions of their colleagues? What did you say, Don? If not, then gentlemen, we thank you very much. Of course, as our fellow colleagues, you are welcome to join the Committee if you wish and listen to the remaining witnesses and participate however fashion you wish.

Mr. BURTON. Mr. Chairman, as we leave the table, I would just like to say, I hope all of my colleagues get a chance to go and visit Puerto Rico and talk to the people down there. I think if they do, they will have a very positive attitude about Puerto Rico and what they really should be doing.

The CHAIRMAN. The Chair will second those comments. OK, thank you, gentlemen. I will now call up panel number two, composed of our former dear colleague yet still dear friend and a mem-

ber of this Committee on Natural Resources, now the Governor of Puerto Rico, Luis Fortuño. Governor, we are happy to have you with us today. We appreciate your many visits back to your old stomping grounds to work on this issue and your dedicated leadership on behalf of the people of Puerto Rico.

We do have your prepared testimony. It will be made part of the record as if actually read, and you may proceed as you desire. Luis?

STATEMENT OF LUIS G. FORTUÑO, GOVERNOR OF PUERTO RICO

Mr. FORTUÑO. Thank you Mr. Chairman and certainly Ranking Member Hastings and the other members of the Committee for the opportunity to appear before this Committee to express my support of H.R. 2499, the Puerto Rico Democracy Act of 2009. Mr. Chairman, I appear before you as Governor of Puerto Rico. As you know, I am also President of the New Progressive Party, which advocates statehood as a final solution for the island's more than a century old status issue, but today, as Governor, I appear before this Committee in representation of all of the residents of the island.

I have asked former Governor and former Resident Commissioner and long-time member of this Committee, Carlos Romero Barceló, to present the official position of the New Progressive Party, and he will do so later on this morning. Mr. Chairman and Ranking Member Hastings, I want to commend both of you for your leadership in bringing forward the discussion of this fundamental issue of American democracy. I also want to thank, commend Resident Commissioner Pierluisi for his leadership in introducing this bill, thus bringing his 4 million strong constituency of disenfranchised American citizens one step closer to true self-determination.

As you know, the right of the U.S. citizens of Puerto Rico to decide their political future was one of my priorities when I served in Congress and on this Committee from 2005 until last year when I was elected Governor, and continues to be a top priority of my administration. For that reason, I was especially grateful to President Obama for his commitment, the commitment he expressed not just to me, but the people of Puerto Rico on the occasion of my inauguration as Governor, to work together to ensure that the issue of Puerto Rico's ultimate political status is finally resolved during the first four years of his administration.

With your permission, Mr. Chairman, I would like to submit President Obama's letter for the record along with my entire written testimony.

The CHAIRMAN. Without objection.

Mr. FORTUÑO. Mr. Chairman, the reasons to support this bill are so self-evident they should not have to be argued. 233 years after the Declaration of Independence, and 220 after the ratification of the U.S. Constitution, our nation continues to sanction an arrangement of governance over 4 million of its citizens that is abhorrent to the sacred principles enshrined in that declaration because of the anachronistic survival of the territory clause of that Constitution.

That quandary of American democracy must come to an end. It is the right thing to do, and the time to do it is now. Whatever may

have been the role of this territorial system in the birth and growth of our nation, the fact is that our founding fathers never intended it as a permanent way of governance for the Federal government over the citizens of the republic. More importantly, it clearly offends the values of American democracy in the 21st century, especially after Congress has allowed such an inherently undemocratic system to remain in place without expressly providing the governed the opportunity to voice their opinion.

Puerto Rico has been a U.S. territory for 111 years and its residents have been U.S. citizens since 1917. Yet, Congress has never formally consulted us about our preferences regarding the island's political status. Not once. With this bill, it would. It should. It is the right thing to do. Though surely Puerto Ricans have expressed their views on the island's political status before. In fact, some members may think that is all we do when we come here.

Indeed, for far too long all Congress has had to do is listen courteously from time to time, but it has never asked directly the 4 million U.S. citizens in Puerto Rico what they think, and asking makes all the difference in the world. It invests you in the process in a way that just listening does not. Puerto Ricans have made myriad contributions to the nation, both in peace and in wartime, as thousands of our sons and daughters have laid down their lives in defense of American democratic values for over nine decades.

Yet, we have never been given the chance to express our views about our political relationship with the United States in the context of a fair, neutral and democratic process sponsored by Congress. This bill will, at long last, give us that chance. What could be more right? The bill provides for a just and impartial process of self-determination for Puerto Rico. The legislation does not exclude or favor any status option. It allows the people of Puerto Rico to maintain the island's present territorial status if they so choose.

If they do, the bill provides for periodic plebiscites to ask the question again, thus underscoring the sense of the Congress that our territorial status is, by nature, nonpermanent. But if instead the people of Puerto Rico opt for change, then they must choose among the three constitutionally valid, permanent non-territorial options of statehood, independence, or sovereignty in association with the United States. No smoke or mirrors allowed.

In short, the bill enables the people of Puerto Rico to express their wishes regarding the island's political status directly, in the ballot box, through a series of democratic votes that will ensure that the views of all the people are heard on this fundamental question. Mr. Chairman, over the years the congressional record has been filled with testimony that explains why it is both crucial and urgent for the people of Puerto Rico to finally resolve the political status issue.

The reality is that the island's current status does not enable the people of Puerto Rico to fulfill their potential for social, economic and political development. Despite the influx of some $20 billion in overall Federal assistance every year, Puerto Rico's chronic economic underperformance in comparison to the national standard continues to be a source of bitter disappointment. This economic reality translates into human discouragement over unrealized dreams that continue to force thousands of my constituents every

month to move to the mainland in search of better opportunities and equality.

Thus, we have forged and overall and growing consensus in Puerto Rico that our current relationship with the United States—territorial, unequal in the rights and duties of its citizens, not fully democratic, not fully self-governing and not fully consensual—no longer serves either Puerto Rico or the U.S. well. But Mr. Chairman, the urgency over this matter is not only Puerto Rico's, but the nation's. As the enemies of our country seek to question our moral leadership around the world, America must ensure that it continues to lead by example, and it must do so boldly, as President Reagan did in Berlin when he challenged President Gorbachev to dismantle the Iron Curtain, or as President Obama has done recently reminding us repeatedly that America must live true to its values and that support for democracy begins right here at home.

The importance of the U.S. leading by example by holding itself to the same standards it demands of others is no less applicable in the case of Puerto Rico. If anything, more so, precisely because Puerto Ricans are proud American citizens. Yet, the American citizens of Puerto Rico are separated from their counterparts in the States by a wall of political inequality built upon the foundation of our current territorial status.

Mr. Chairman, it is time to tear down that wall. I urge the Committee to favorably consider H.R. 2499. It is the right thing to do, and the very least that the 4 million U.S. citizens of Puerto Rico deserve. Thank you very much, and thank you for your leadership, Mr. Chairman.

[The prepared statement of Mr. Fortuño follows:]

Statement of The Honorable Luis G. Fortuño,
Governor of Puerto Rico

Thank you, Mr. Chairman and Ranking Member Hastings for the opportunity to appear before this Committee to express my support of H.R. 2499, the Puerto Rico Democracy Act of 2009.

Mr. Chairman, I appear before you as Governor of Puerto Rico. As you know, I am also the president of the New Progressive Party, which advocates statehood as the final solution for the island's more-than-a-century-old status issue. But today, as Governor, I appear before this Committee in representation of all the residents of the island. I have asked former Governor and former Resident Commissioner—and long-time member of this Committee—Carlos Romero-Barceló to present the official position of the New Progressive Party and he will do so later on this morning.

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As you know, the right of the U.S. citizens of Puerto Rico to decide their political future was one of my priorities when I served in Congress and on this Committee from 2005 until last year—when I was elected Governor—and continues to be a top priority of my administration. For that reason, I was especially grateful to President Obama for the commitment he expressed not just to me, but to the people of Puerto Rico, on the occasion of my inauguration as Governor, to work together to ensure that the issue of Puerto Rico's ultimate political status is finally resolved during the first four years of his Administration.

With your permission, Mr. Chairman, I would like to submit President Obama's letter for the record along with my entire written testimony.

Mr. Chairman, the reasons to support this bill are so self-evident they should not have to be argued. Two hundred and thirty three years after the Declaration of Independence and two hundred and twenty after the ratification of the U.S. Constitution, our Nation continues to sanction an arrangement of governance over four

million of its citizens that is abhorrent to the sacred principles enshrined in that Declaration because of the anachronistic survival of the Territory Clause of that Constitution. That quandary of American democracy must come to an end. It is the right thing to do. And the time to do it is now.

Whatever may have been the role of the territorial system in the birth and growth of our Nation, the fact is that our Founding Fathers never intended it as a permanent way of governance by the federal government over the citizens of the Republic. More importantly, it clearly offends the values of American democracy in the 21st century, especially as Congress has allowed such an inherently undemocratic system to remain in place without expressly providing the governed the opportunity to voice their opinion.

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Puerto Ricans have made myriad contributions to the Nation, both in peace and in wartime—as thousands of our sons and daughters have laid down their lives in defense of American democratic values for over nine decades. Yet, we have never been given the chance to express our views about our political relationship with the United States in the context of a fair, neutral and democratic process sponsored by the Congress. This bill will, at long last, give us that chance. What could be more right?

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In short, the bill enables the people of Puerto Rico to express their wishes regarding the Island's political status directly, in the ballot box, through a series of democratic votes that will ensure that the views of all the people are heard on this fundamental question.

Mr. Chairman, over the years the Congressional Record has been filled with testimony that explains why it is both crucial and urgent for the people of Puerto Rico to finally resolve the political status issue.

The reality is that the island's current status does not enable the people of Puerto Rico to fulfill their potential for social, economic and political development.

Despite the influx of some $20 billion in overall federal assistance every year, Puerto Rico's chronic economic under-performance, in comparison to every national standard, continues to be a source of bitter disappointment. This economic reality translates into human discouragement over unrealized dreams that continue to force thousands of my constituents every month to move to the mainland in search of better opportunities and equality.

Thus, we have forged an overall and growing consensus in Puerto Rico that our current relationship with the U.S.—territorial, unequal in the rights and duties of citizenship, not fully democratic, not fully self-governing and not fully consensual—no longer serves either Puerto Rico or the U.S. well.

H.R. 2499 is about the right of the inhabitants of Puerto Rico to self-determination as a means to achieve a full measure of self-government. But the issues before this Committee are not whether Puerto Rico is an "unincorporated territory"; what is the meaning of the phrase "in the nature of a compact" included in Public Law 600; or whether the so-called "enhanced Commonwealth" would be subject to the Territory Clause of the Constitution.

Puerto Rico's political status problem is neither complex nor difficult to solve. It only takes principled leadership.

The fundamental issue that the Puerto Rico Democracy Act of 2009 brings before Congress is the significance of American citizenship and it puts before you one simple question: did the framers of our Constitution intend American citizenship to be a source of equal rights?

The action required from Congress will plainly derive from the answer—and one would hope not to find a single Member of Congress that says the answer is "no", or that "it depends."

The answer was clearly and unequivocally "yes" when the Civil War was fought to end slavery..."yes" when women were recognized the right to vote...and "yes" when the Supreme Court decided that separate was not equal.

Clearly, the framers of the Constitution did not intend some American citizens to be deprived of rights that other American citizens enjoy. And yet Puerto Rico is a community of American citizens who are deprived of the most basic rights of citizenship in a representative democracy: the right to vote and the right to be represented in the political body that enacts the laws by which they must abide.

Thus, the consequence of not taking action would be to renounce the principles of the Declaration of Independence and to devalue the rights recognized in the Constitution into a rhetorical expression. Is this Nation not dedicated to the proposition that all men are created equal? And are not all citizens guaranteed the equal protection of the laws?

But, Mr. Chairman, the urgency over this matter is not only Puerto Rico's, but the Nation's. As the enemies of our country seek to question our moral leadership around the World, America must ensure that it continues to lead by example. And it must do so boldly—as President Reagan did in Berlin when he challenged President Gorbachev to dismantle the Iron Curtain. Or as President Obama has done recently reminding us repeatedly that America must live true to its values and that support for democracy begins at home.

The importance of the U.S. leading by example by holding itself to the same standards it demands of others is no less applicable in the case of Puerto Rico; if anything, more so precisely because Puerto Ricans are American citizens. Yet the American citizens of Puerto Rico are separated from their counterparts in the States by a wall of political inequality built upon the foundation of our current territorial status. Mr. Chairman, it's time to tear down that wall.

I urge the Committee to favorably consider H.R. 2499. It is the right thing to do...and the very least that the four million U.S. citizens of Puerto Rico deserve.

Thank you very much.

[The letter from President-Elect Barack Obama submitted for the record by Mr. Fortuño follows:]

THE OFFICE
of the
PRESIDENT
ELECT

January 2, 2009

The Honorable Luis G. Fortuño
Governor-elect
Commonwealth of Puerto Rico

Dear Governor-elect Fortuño:

I want to send my congratulations and best wishes to you on becoming Puerto Rico's ninth elected Governor. I also send my best to your wife, Lucé, and to your three children, who are justifiably proud of your election as Governor of Puerto Rico.

At this defining moment in our history, we are confronted with tremendous challenges in Puerto Rico and throughout the United States. I know that you understand the enormity of the tasks that lie ahead. While the road will be long, and our climb steep, I am as hopeful as ever that we will overcome whatever faces us and work together - in unity - to make a better tomorrow for our people.

Job Number One is to restore our economy. I have been working with our congressional leaders to forge a plan to reinvigorate our national economy. I will work with you, Resident Commissioner-elect Pedro Pierluisi and the other leaders of Puerto Rico to make sure that Puerto Rico is an integral part of our economic recovery plan. I understand the economic strains that have taken hold in Puerto Rico and will work with you to put Puerto Rico on the path to greater economic prosperity.

During my campaign, we pledged to seek equal coverage of Puerto Rico in federal health care assistance programs. We also pledged to seek the equitable treatment of Puerto Ricans in programs providing financial assistance to working families, and to develop measures to encourage job-creating investments in Puerto Rico. Although it may take some time to implement all of these proposals, Puerto Rico deserves no less.

We also pledged during my campaign to work with Congress and all groups in Puerto Rico to enable the question of Puerto Rico's status to be resolved during the next four years. I am fully aware of the difficulties that Puerto Rico has faced in the past when dealing with this issue, but self-determination is a basic right to be addressed no matter how difficult. Your right to self-determination is deepened even further by the brave service that Puerto Ricans have provided to the nation's armed forces, protecting all our people from foreign dangers throughout the past century. We will work to give a voice to the people of Puerto Rico to enable them to determine their political future.

We have set out an ambitious agenda for Puerto Rico over the next four years. It will not be easy to accomplish. But we cannot sit back and wait for someone else, at

THE OFFICE of the
PRESIDENT ELECT

some other time, to do something about it. This time must be different. During this campaign, I had the opportunity to visit Puerto Rico, and I saw the real desire among the people to work together to bring about real, lasting improvement to Puerto Rico.

Congratulations once again on your historic victory. I look forward to working with you, Resident Commissioner-elect Pedro Pierluisi and other leaders to achieve these goals for Puerto Rico. So, let me say to you: "¡Que Viva Puerto Rico!" Thank you very much. God bless you all.

Sincerely,

Barack Obama

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202 540 3000

The CHAIRMAN. Thank you, Governor, for your superb testimony and the excellent points made therein. I would note as well that this is not the only issue that you come visit me or other Members of Congress. You as well as your predecessors have visited with me in my capacity as Vice Chairman of the Transportation and Infrastructure Committee as well, in regard to your unique transportation problems in Puerto Rico, and other issues, but your leadership and your dedication to the people of Puerto Rico are to be highly commended.

I have no specific questions. I will recognize the gentleman from Washington, Mr. Hastings.

Mr. HASTINGS. Thank you, Mr. Chairman, and Mr. President, good seeing you again. I just have two questions. The first one would be on the second plebiscite where this legislation eliminates the option of commonwealth, and I would just like you to respond to that. I know the Resident Commissioner did that, but I would like you to respond to that because I know it is something that is heavily discussed within Puerto Rico, so if you would respond to that, I would appreciate it.

Mr. FORTUÑO. Sure. Let me tell you something. I believe that the reason why we come here is because the 4 million U.S. citizens that I represent deserve a fair playing field to express their feelings as to their status, and only Congress can provide for that, and what we have done is make sure that, first of all, understand whether the people of Puerto Rico want change or not. It may be that the voters will decide that they want to remain a territory.

If they decide to do so, then so be it. However, if we decide for change, there are only three viable options, and actually, I refer you to this Committee's report dated April 22, 2008, where actually it states very clearly that there are only three options acceptable under the U.S. Constitution. One is statehood and there are 50 extremely successful examples of that. There is independence, and

there are over 200 examples of that. Some are successful, some are not.

And then the third one is nationhood in free association with the United States, which means that it could be unilaterally terminable by either side, and that is very clear and actually three different administrations under Republicans and Democrats, the Justice Department, the GAO and this Congress have stated so clearly. I will go even further. In this bill, 2499, there are three options if we decide we want change. One is statehood, one is independence, as cited here, and then the other one is that association of two sovereign nations.

The platform presented by the second largest party in Puerto Rico stated very clearly that they were moving in that direction, and actually, the language in this bill is taken from their platform. So, it is taken from what they proposed to the people of Puerto Rico less than a year ago. I would hope that they would not come here today to argue against what they proposed to the people of Puerto Rico less than 12 months ago. So we are being fair. These are exactly what the different three parties of Puerto Rico have proposed to the voters, and the voters, less than 12 months ago, very clearly stated that they wanted to express themselves directly in the ballot box through a plebiscite.

That was one of the main issues in our campaign, and the other main opposition parties stated that they wanted a different vehicle for that, and Mr. Pierluisi and I clearly stated that if you voted for us, we would come here to ask for a congressionally mandated process.

Mr. HASTINGS. I appreciate the President's response to that, and my second question, I know we have votes going on, H.R. 2499 removes the constitutional convention. The most two recent states that were introduced, as alluded to by our friend from Tennessee, Alaska and Hawaii did have that. That is not involved here, and I would just like your response on that also.

Mr. FORTUÑO. Sure, and I thank you for that question. First of all, Mr. Pierluisi and I in our respective campaigns stated that we wanted the people to express themselves directly, through the ballot box, in the same way we do it here in every state, in the same way we have asked and promoted that the people of Iraq and Afghanistan do so. It is not through conventions, but through a direct vote. So in that sense, that was our commitment. We won by the largest margin in two generations in Puerto Rico, so that is the mandate that we got from the people of Puerto Rico.

They want to express themselves. I saw a poll recently about this issue, and not only do most people want to express themselves directly, but actually, 74 percent believe that it is a very important issue. So, we are coming here, not because we have a special interest on this issue. It is because our constituents believe it is very important. Just imagine, these are 4 million U.S. citizens that actually, as Mr. Burton so eloquently put it this morning, actually we have contributed more of our men and women in uniform to war than any other state but one, and every time I would sit here and I would leave to visit our soldiers at Walter Reed, my question will actually come back to haunt me: Why couldn't these men or women

in uniform, just for the fact that they are from Puerto Rico, they could not elect their Commander-In-Chief?

That is morally wrong in the 21st century. If we are going around the world declaring that democratic values should be preserved, we must start at home, and this is the way to do it.

Mr. HASTINGS. I thank you for your consideration and your time and thank you for your response.

Mr. FORTUÑO. Thank you.

The CHAIRMAN. As the gentleman from Washington noted, we do have votes going on now on the Floor of the House. I am going to have to excuse myself to attend that and then a mark-up in our Transportation Committee, and I am going to ask the gentlelady from Guam if she would be so kind as to continue the hearing so that we don't disparage our witnesses' time, and we will not recess but continue this hearing under the gentlelady from Guam's leadership.

Mr. FORTUÑO. Thank you, Mr. Chairman.

The CHAIRMAN. And before I leave, I will recognize the gentleman from Puerto Rico for his questions.

Mr. PIERLUISI. Thank you, Governor Fortuño. Thank you for your service to Puerto Rico, for your friendship and for your testimony this morning. I only have one question for you. Sometimes I am asked, why does the Federal government need to authorize this? Can't the Governor of Puerto Rico simply do a referendum in Puerto Rico? I am sure you have been asked the same thing. How do you respond to this?

Mr. FORTUÑO. Sure. Thank you for that question, actually. I will say there are two main reasons why we come before this Committee to request for an opportunity to express ourselves directly. The first one is that there is a dispute in Puerto Rico as to what the options are, and I don't think that is news to anyone here. This Committee has been very clear. Actually, in its report dated April 22, 2008, it states what the options are, but there are some that, depending on the month or the year, may change their positions.

So this will actually make sure that the voters will know and understand clearly what the options are, and that we will have a just and level playing field for everyone. Second, it will give Puerto Rican voters some assurance that the status choices before them will be meaningful and that the process will be meaningful, because we have had a couple of votes in the past that led us nowhere. This way, we would know that there is an engagement on the part of Congress to request our opinion and to continue that dialogue, and that has to happen and the only way for it to happen would be through a direct vote in a plebiscite that is sanctioned by this Congress.

Mr. PIERLUISI. Thank you.

Ms. BORDALLO. [Presiding.] I thank the gentleman from Puerto Rico and before we proceed, this is a good example here. We are not able to vote for final passage of a bill in the House of Representatives, so we have American Samoa here, we have Puerto Rico and Guam. So at this time as Chair, I would like to recognize the gentleman from American Samoa, Mr. Faleomavaega.

Mr. FALEOMAVAEGA. I just wanted to offer my personal welcome to the Governor of Puerto Rico, my dear friend and former col-

league of this Committee and a member of the House, Governor Fortuño.

Mr. FORTUÑO. Thank you.

Mr. FALEOMAVAEGA. And I also want to commend the gentleman from Puerto Rico, the Resident Commissioner, for his initiative in leadership, and what a beautiful display of true leadership to see that there is mutual understanding and working relationship between the Governor and our Resident Commissioner, to see that ultimately, the people of Puerto Rico must make this decision independently, not from any pressures, although I do respect that some of our colleagues have already stated publicly their preferences.

This member, Madam Chair, does not have a preference. I really would hope that there is a sense of neutrality, so there is no—I don't know what is a better word, I am still learning how to speak English—interference, I suppose, undue influence I think is a better word, but that ultimately this decision must be made by the good people of Puerto Rico, and I think this legislation provides for that. So, again, I want to commend our good friend, the Resident Commissioner and Governor Fortuño.

Always good to see you, and I also notice our former colleague and former Governor of Puerto Rico, Governor Romero. Good to see you as well. Thank you, Madam Chair.

Mr. FORTUÑO. Thank you. If I may, it is great to see you again and I thank you for those kind words, and as Madam Chair was stating, it behooves all of us to understand why, representing U.S. citizens, yet when laws that apply to our citizens are voted on, we would not have a direct participation in that process. Perhaps 200 years ago it was something that could be worked out. Now, it is something that has to be resolved right away.

Mr. FALEOMAVAEGA. Madam Chair, if I might note also, the Governor's comments, I never forget what the former delegate from Guam had said, the Brigadier General retired Marine Corps former member of the House, our good friend, Congressman Ben Blaz, he said, we are equal in war but not in peace, and he could not have said it better. Thank you, Governor. Thank you, Madam Chair.

Mr. FORTUÑO. Thank you for those kind words.

Ms. BORDALLO. I thank the gentleman from American Samoa, and I wish to make very brief remarks before we continue on with the second panel. Again, welcome Governor. Buenos dias to everyone from Puerto Rico. I see many of my old friends, former Governors, in the audience and it is good to see you all again. First I would like to welcome you as a former colleague. Governor Fortuño, we worked on many projects here in the House of Representatives.

In fact, we were co-chair of the Congressional Art Awards, and that is ongoing right now. I also add my welcome to all of the party leaders and legislators from Puerto Rico who have traveled to testify today and to share with us on behalf of the people of Puerto Rico their insights and views on this most important issue. I also commend our distinguished colleague, Mr. Pierluisi, for his diligent efforts in crafting H.R. 2499, and for working to advance it so quickly to the stage in the process.

We are encouraged by the steadfast leadership and commitment of our Chairman, Mr. Rahall, in addressing the issues important to

the territories. Guam, like Puerto Rico, was ceded to the United States from Spain under the Treaty of Paris in 1898, which ended the Spanish-American War. The Chamorro people of Guam, who I represent, like our brothers and sisters in Puerto Rico, are awaiting fulfillment of their political aspirations and an opportunity to fully exercise their rights to self-determination.

This hearing affords us the opportunity, once again, to learn of the current views of the leaders of Puerto Rico on the status issue. Congress must be responsive to the views of the people of Puerto Rico, and this Committee holds the institutional obligation for the faithful discharge of the constitutional responsibility to address the political status of Puerto Rico and other territories under Article IV of the United States Constitution.

Congress has historically given greater attention to addressing the status issue for Puerto Rico than it has for Guam. It is apparent, given this track record and the political reality, that Guam's status is unlikely to be addressed by Congress as long as the issue of status for Puerto Rico remains under consideration. So we are looking to you as leaders, and I urge this Committee to impartially and promptly respond to the views of the people of Puerto Rico on the issue, and I thank you, Governor, for testifying this morning.

Mr. FORTUÑO. Well, thank you for those kind words and for your leadership as well, and you have always been a friend of Puerto Rico and I thank you for that, on many issues, not just this one. So again, we are in debt with you and with the people you represent.

Ms. BORDALLO. Thank you very much, Governor, and now I would like to thank you and excuse you, and we will bring on Panel 3, The Honorable Carlos Romero Barceló, former Governor of Puerto Rico and a good friend of mine; The Honorable J. Héctor Ferrer Ríos, President of the Popular Democratic Party; The Honorable Rubén Berríos-Martínez, President of the Puerto Rican Independence Party. Thank you, gentlemen, for coming to Washington to testify on this very important issue, and at this time I would like to recognize The Honorable Carlos Romero Barceló, former Governor of Puerto Rico from 1977 to 1982. Welcome to Washington, Governor.

STATEMENT OF CARLOS ROMERO BARCELÓ, FORMER GOVERNOR OF PUERTO RICO

Mr. ROMERO BARCELÓ. Thank you. Thank you, Madam Chairman, all the members of the Committee here, and our Resident Commissioner Pedro Pierluisi and Eni Faleomavaega and the Congressman from—I am sorry.

Ms. BORDALLO. Staff.

Mr. ROMERO BARCELÓ. Oh, he is staff. OK. I didn't recognize him. It is a pleasure to be here and to have an opportunity to talk about a very, very dear subject to all of us in Puerto Rico, and as we discuss H.R. 2499, we must ask ourselves, why are we involved in seeking congressional action to sanction the self-determination process for the people of Puerto Rico? In the first place, because the vast majority of the people of Puerto Rico are not satisfied with the existing legal, constitutional, political and economic colonial relationship with our nation called commonwealth.

In the second place, because we, the vast majority of American citizens in Puerto Rico, believe in democracy. We are tired of and upset with our undemocratic colonial, or territorial as you wish, relationship with the Nation of our citizenship, where we are denied the right to vote in national elections and to be fully represented in Congress. We have been disenfranchised American citizens for 92 years. It is time to end it.

In the third place, because our so-called commonwealth relationship with the Federal government has been rejected by a majority of the voters in the last two referendums held in 1993 and 1999. Therefore, we are now being ruled by the President and Congress without the consent of the majority of the people of Puerto Rico. And in the fourth place, because we are tired of being lied to and hoodwinked by the political leaders who advocate and defend the disenfranchisement of all American citizens in Puerto Rico, by those who cynically claim to believe in democracy, yet are willing to remain disenfranchised forever as long as they don't have to pay Federal income taxes, and by those who want to participate and be treated equally in all Federal programs but do not want to contribute to the U.S. Treasury as do our fellow citizens in the 50 states.

H.R. 2499, like its predecessor, H.R. 900, seeks to move Congress and the President into more active roles in providing the 4 million disenfranchised American citizens in Puerto Rico with a process by which to achieve full sovereignty or to share the nation's sovereignty as equal partners with the 50 states of the union. In order to provide a process that will achieve the solution to Puerto Rico's unsolved status dilemma, we must start by officially unmasking commonwealth, so that the U.S. citizens of Puerto Rico will not be lied to and deceived once more.

Our people, our Federal citizens of the 50 states and the world, have been lied to since our commonwealth constitution was adopted in 1952. As I have more fully explained in my column in Caribbean Business on June 15, 2009, a copy of which I attached to my statement, when the bills authorizing the drafting and adoption of our local constitution were in the process of being considered by Congress, Governor Muñoz Marin wanted the name "Free Associated State," which is the proper translation of "Estado Libre Asociado," to be used in the bills to be considered by Congress, but his legal advisor and lobbyist, Abe Fortas, may he rest in peace, warned him that the name "Free Associated State" would never be approved by Congress because it was obviously misleading.

Puerto Rico was not a state, nor free, nor associated with the United States. Puerto Rico was a United States territory subject to Article IV, Section III of the U.S. Constitution, better known as the territorial clause. On the other hand, the word "commonwealth" has no specific meaning and is applied to any body politic, such as a state, a territory, a province, a nation if you have it. As a matter of fact, we have four states in the union whose official name is commonwealth instead of state: Kentucky, Pennsylvania, Massachusetts and Virginia.

Instead of clarifying the political and legal relationship, the name commonwealth opened the doors for the biggest political hoax ever perpetrated upon the people of Puerto Rico, upon our fellow

American citizens, upon the Latin American countries and the United Nations. Puerto Rico was touted as having become a fully self-governing commonwealth. The truth is, the fact is that Puerto Rico didn't achieve any more powers or control of government affairs than it had as a territory. In the Commonwealth of Puerto Rico, the supreme law of the land is the Constitution of the United States, followed by Federal laws which prevail over our own local constitution and our own local laws.

We are subject to the laws passed by Congress, laws dealing with taxation, minimum wage, unfair labor practices, commerce, health care, banking, transportation, communications, criminal acts, and many others which are enacted by Congress without our consent. However, they are fully applicable in Puerto Rico. Sine 1898, we have been and still are governed by the President and Congress without our consent. Before 1952, we were a colony by conquest as a result of the Spanish-American War 1898.

Nothing shameful about that, but in 1952, the U.S. citizens in Puerto Rico were enticed and led to vote to become a colony by consent. By voting for a commonwealth, the people of Puerto Rico consented to the colonial relationship. The consent was obtained by misleading the people into believing that we are becoming a fully autonomous body politic. The commonwealth supporters who have continuously lied to and misled our people now demand consensus in the decolonization process.

They demand consensus because they know that consensus will never be achieved. They will never agree to a true and clear definition of the legal, political and economic relationship between the 4 million American citizens in Puerto Rico and our fellow citizens in the 50 states. If they refuse to tell the people of Puerto Rico the truth, a consensus will never be achieved. To accept or insist on consensus is to become an accomplice to the lies perpetrated on our people since 1952. The commonwealth supporters object to the truth regarding the legal, political and economic relationship between Puerto Rico and the 50 states.

They also object to telling the people the truth about what full sovereignty would mean in relation to our American citizenship and how Congress would react to the proposal of a sovereign nation fully populated by U.S. citizens not subject to congressional authority. In Congress, that is a no-no. If Lincoln had sought consensus between those who demanded the emancipation of slaves and those who defended slavery, the Emancipation Proclamation would never have been signed and the history of our nation would be very different from what it has been. Most probably, Barack Obama would not be our President today.

If the President and Congress had sought consensus before the Civil Rights Act and the Voting Rights Act were enacted, would they have been considered and enacted when they were? Of course not. They were passed because the majority ruled, as it should be in a democracy. The proposals and arguments of the minority must be considered and analyzed, but to require a consensus is to turn our democratic system upside down and allow the minority to prevail by allowing them to veto the majority.

No one can disagree that Puerto Rico needs to solve its status dilemma, but so does our nation. The United States cannot remain

and act as an inspiration and example of democracy throughout the world while it maintains 4 million of its citizens disenfranchised and deprived of representation in their nation's Congress. Such a disenfranchisement and denial of representation is anathema to democracy. How can our nation spend billions of dollars to bring democracy to Iraq where it isn't appreciated and the majority probably are not sure they even want it, while it denies the right to vote and the right to representation to 4 million of its own citizens?

Why is it right to impose democracy by force in Iraq while it is considered unfair to tell the truth to 4 million American citizens so that they can make an intelligent and realistic choice? In 1952, Puerto Rico's constitution was adopted and a referendum held in spite of the opposition of the then second largest political party, the Independence Party, which proposed independence for Puerto Rico. Did Congress require consensus then? No.

In 1967, a plebiscite was held by the majority party, the Popular Party, and the three options, commonwealth, statehood and independence, were defined by the Popular Party. The opinions and proposals of the Statehood Republican Party and the Independence Party were disregarded. Both opposition parties boycotted the plebiscite. There was no consensus in 1967. Now, the Popular Party demands consensus because it doesn't want any referendum which presents to the people the true facts of our relationship with our fellow citizens in the 50 states.

They know that if the naked truth is presented to our people, the so-called commonwealth will be soundly rejected. If the people want an association with the United States as the sovereign nation of Puerto Rico, that is a relationship to be negotiated after Puerto Rico becomes a separate sovereignty if the people so choose, not before. For the reasons set forth above, the New Progressive Party promised the people of Puerto Rico in its party platform submitted to the voters in 2008 that it would propose and promote a congressionally sanctioned plebiscite.

The New Progressive Party's candidate for Governor, Luis Fortuño, won by a landslide with a majority of more than 225,000 votes, the largest majority obtained by any candidate for Governor since our early 60s. The results were a clear mandate for his proposed socioeconomic alternatives and for fulfillment of the promise to promote a congressionally sanctioned status plebiscite. In further—to our party's and our government's commitment to propose a plebiscite sanctioned by Congress, our Resident Commissioner, Pedro Pierluisi, together with numerous Members of Congress, introduced House bill 2499.

In representation of the New Progressive Party, which achieved a landslide victory in the House and Senate elections in Puerto Rico in 2008, we wholeheartedly support the proposal of a Federally sanctioned self-determination process proposed by Resident Commissioner Pedro Pierluisi in H.R. 2499. However, we propose that H.R. 2499 be amended to incorporate more precise and clear definitions of the alternatives to be submitted to the voters, such as those contained in H.R. 900, filed by Congressman José Serrano and Luis Fortuño, by the Chairman of the Committee, Nick Rahall, Don Young, Steny Hoyer and many others.

The wording of the ballot proposed for the first plebiscite, and I am talking about the bill that was submitted, not the bill that came out of Committee, on page 4 of H.R. 900, it is more precise and clear than the language proposed in H.R. 2499 for the ballot on the first plebiscite. The only change I would propose to the language in H.R. 900 would be to eliminate the page 4, the word "basic," which precedes "laws" in the third line of paragraph, subparagraph 1.

The paragraph would read as follows, "Puerto Rico should continue the existing form of territorial status, as defined by the Constitution, laws and policies of the United States. If you agree, mark here." That would be the first proposal to the people of Puerto Rico. If they vote yes, it stays the same. If they vote no, well, then we would have another plebiscite. I propose that H.R. 900 as introduced be redrafted with minimum changes, such as eliminating Section 2 in the findings, starting on page 2, which is the one that gives a vote to those born in Puerto Rico.

That clause cannot be worked out. It is impossible to work it out because some people were born there and they have never come back and they don't even think about Puerto Rico. Others were born there and they come here, they have lived here, they are interested, but they are not going to die in Puerto Rico, their children are not going to be in Puerto Rico so how could they vote on the future of Puerto Rico? And besides, logistically, it would be impossible.

All definitions and proposals in H.R. 900 are very clear, concise and true. It presents the choices as they are, leaving little room for misleading and lying as to what is the reality and what is constitutionally, legally and politically achievable. It protects the U.S. Congress from becoming an accomplice to the lies and demagoguery of the previous plebiscites. If the explanation of the commonwealth status option is not politically or economically attractive, it is because it isn't.

There is nothing attractive about the commonwealth if you look at it as what it is, and that is what they don't want to tell the people, what it is, which is a colony. Why should Congress allow them any more room to misrepresent their option? Now, the time has come for the United States to fulfill its responsibility and its commitment to put an end to colonial relationships wherever they exist and to bring the blessings of democracy to all throughout the world while respecting the sovereignty and the cultural differences.

President Obama is committed. Congress can do no less. Why not begin at home with Puerto Rico? Thank you.

[The prepared statement of Mr. Romero Barceló follows:]

Statement of The Honorable Carlos Romero Barceló, Former Governor of Puerto Rico

As we discuss H.R. 2499, we must ask ourselves—Why are we involved in seeking congressional action to sanction a "self-determination process for the people of Puerto Rico"?

In the first place, because the vast majority of the people of Puerto Rico are not satisfied with the existing legal, constitutional, political and economic colonial relationship with our Nation, called "Commonwealth".

In the second place, because we, the vast majority of American citizens in Puerto Rico, believe in democracy. We are tired of and upset with our undemocratic colonial (or territorial if you wish) relationship with the nation of our citizenship, where we

are denied the right to vote in National elections and to be fully represented in Congress. We have been disenfranchised American citizens for 92 years. It's time to end it.

In the third place, because our so called "commonwealth" relationship with the federal government has been rejected by a majority of the voters in the last two referendums held in 1993 and 1999. Therefore, we are now being ruled by the President and Congress without the consent of the people of Puerto Rico.

And in the fourth place, because we are tired of being lied to and hoodwinked by the political leaders who advocate and defend the disenfranchisement of all American citizens in Puerto Rico; by those who cynically claim to believe in democracy, yet are willing to remain disenfranchised forever, as long as they don't have to pay federal income taxes; and by those who want to participate and be treated equally in all federal programs, but do not want to contribute to the U.S. Treasury, as do our fellow citizens in the fifty (50) states.

H.R. 2499, like its predecessor H.R. 900, seeks to move Congress and the President into more active roles in providing the 4,000,000 disenfranchised American citizens in Puerto Rico, with a process by which to achieve full sovereignty or to share the Nation's sovereignty as equal partners with the 50 states of the Union.

In order to provide a process which will achieve a solution to Puerto Rico's unsolved states dilemma, we must start by officially unmasking "Commonwealth", so that the U.S. citizens of Puerto Rico will not be lied to and deceived.

Our people, our fellow citizens in the fifty states, and the world, have been lied to since our "commonwealth" constitution was adopted in 1952. As I have more fully explained in my column in Caribbean Business on June 15, 2009, (copy of which is attached hereto) when the bills authorizing the drafting and adoption of our local constitution were in the process of being considered in Congress, Gov. Muñoz Marín wanted the name "Free Associated State", which is the proper translation of "Estado Libre Asociado", to be used in the bills to be considered by Congress. But, his legal advisor and lobbyist, Abe Fortas, warned him that the name "Free Associated State" would never be approved by Congress, because it was obviously misleading. Puerto Rico was not a state, nor free, nor associated. Puerto Rico was a United States Territory subject to article IV, sec. 3 of the U.S. Constitution, known as the territorial clause.

On the other hand, the word "commonwealth" has no specific meaning and is applied to any "body politic", such as a state, territory or province.

As a matter of fact, we have four states in the Union whose official name is "Commonwealth", instead of "state". They are: Kentucky, Pennsylvania, Massachusetts, and Virginia. Instead, of clarifying the political and legal relationship, the name "commonwealth" opened the doors for the biggest political hoax ever perpetuated upon the people of Puerto Rico, our fellow American citizens, the Latin American countries and the United Nations.

Puerto Rico was touted as having become a fully self-governing "commonwealth". The truth of the fact is that Puerto Rico didn't achieve any more powers or control of government affairs than it had as a territory. In the "Commonwealth of Puerto Rico" the supreme law of the land is the Constitution of the United States, followed by federal laws, which prevail over our own local constitution and our local laws. We are subject to the laws passed by Congress. Laws dealing with taxation, minimum wage, unfair labor practices, commerce, health care, banking, transportation, communications, criminal acts and many others which are enacted by Congress without our consent, however, they are fully applicable in Puerto Rico.

Since 1898 we have been, and still are, governed by the President and Congress without our consent. Before 1952 we were a colony by conquest, as a result of the Spanish American War in 1898. In 1952, the U.S. citizens in Puerto Rico were enticed and led to vote to become a colony by consent. By voting for "commonwealth", the people consented to the colonial relationship. The consent was obtained by misleading the people into believing that we were becoming a fully autonomous body politic.

The "Commonwealth" supporters, who have continuously lied to and misled our people, now demand "consensus" in the decolonization process. They demand "consensus" because they know that "consensus" will never be achieved. They will never agree to a true and clear definition of the legal, political and economic relationship between the 4,000,000 American citizens in Puerto Rico and our fellow citizens in the fifty states. If they refuse to tell the people of Puerto Rico the truth, a "consensus" will never be achieved.

To accept or insist on "consensus" is to become an accomplice to the lies perpetuated on our people since 1952. The commonwealth supporters object to the truth regarding the legal, political and economic relationship between Puerto Rico and the fifty states. They also object to telling the people the truth about what full sov-

ereignty would mean in relation to our American citizenship, and how Congress would react to the proposal of a sovereign nation fully populated by U.S. citizens, not subject to Congressional authority. In Congress, that's a no-no.

If Lincoln had sought "consensus" between those who demanded the emancipation of slaves and those who defended slavery, the Emancipation Proclamation would never have been signed and the history of our nation would be very different from what it has been. Most probably Barack Obama would not be our President today.

If the President and Congress had sought "consensus" before the Civil Rights Act and the Voting Rights Act were enacted, would they have been considered and enacted when they were? Of course not. They were passed because the majority ruled, as it should be in a democracy.

The proposals and arguments of the minority must be considered and analyzed. But, to require a "consensus", is to turn our democratic system upside down and allow the minority to prevail, by allowing them to veto the majority's proposal.

No one can disagree that Puerto Rico needs to solve its status dilemma, but so does our Nation. The United States cannot remain and act as the inspiration and example of democracy throughout the world, while it maintains 4,000,000 of its citizens, disenfranchised and deprived of representation in their nation's Congress. Such a disenfranchisement and denial of representation is anathema to democracy.

How can our Nation spend billions of dollars to bring democracy to Iraq, where it isn't appreciated and the majority probably is not sure they even want it, while it denies the right to vote and the right to representation to 4,000,000 of its citizens. Why is it right to impose democracy by force in Iraq, while it is considered unfair to tell the truth to 4,000,000 American citizens so that they can make an intelligent and realistic choice?

In 1952, P.R.'s Constitution was adopted in a referendum held in spite of the opposition of the then second largest political party; the Independence Party, which proposed independence for Puerto Rico. Did Congress require "consensus" then? No.

In 1967, a plebiscite was held by the majority party, the Popular Party, and the three options: commonwealth, statehood and independence were defined by the Popular Party. The opinions and proposals of the Statehood Republican Party and the Independence Party were disregarded. Both opposition parties boycotted the plebiscite. There was no consensus in 1967.

Now the Popular Party demands "consensus", because it doesn't want any referendum which presents to the people, the true facts of our relationship with our fellow citizens in the fifty states. They know that if the naked truth is presented to our people, the so called "commonwealth" will be soundly rejected.

If the people want an association with the United States as the sovereign nation of Puerto Rico, that is a relationship to be negotiated after Puerto Rico becomes a separate sovereignty if the people so chose.

For the reasons set forth above, the New Progressive Party promised the people of Puerto Rico in its party platform, submitted to the voters in 2008, that it would propose and promote a congressionally sanctioned plebiscite.

The New Progressive Party's candidate for Governor, Luis Fortuño, won by a landslide with a majority of more than 225,000 votes. The largest majority obtained by any candidate for Governor since the early 60's. The results were a clear mandate for his proposed socioeconomic alternatives and for fulfillment of the promise to promote a congressionally sanctioned status plebiscite.

In furtherance of our party's and our Governor's commitment to propose a plebiscite sanctioned by Congress, our Resident Commissioner, Pedro Pierluissi, together with numerous members of Congress, introduced H.R. Bill 2499.

In representation of the New Progressive Party, which achieved a landslide victory in the House and Senate elections in 2008, we wholeheartedly support the proposal of a federally sanctioned self-determination process proposed by Resident Commissioner, Pedro Pierluissi, in H.R. 2499.

However, we propose that H.R. 2499 be amended, or a substitute bill presented, which incorporates more precise and clear definitions of the alternatives to be submitted to the voters, such as those contained in H.R. 900, filed by Congressman José Serrano and Luis Fortuño, joined by the Chairman of this Committee, Nick Rahall, Don Young, Steny Hoyer and many others.

The wording of the ballot proposed for the First Plebiscite on page 4 of H.R. 900 is more precise and clear than the language proposed in H.R. 2449 for the ballot on the First Plebiscite. The only change I would propose to the language in H.R. 900 would be to eliminate on page 4, the word "basic" which precedes "laws" in the third line of subparagraph (1). The paragraph would read as follows:

> "(1) Puerto Rico should continue the existing form of territorial status as defined by the Constitution, laws and policies of the United States. If you agree, mark here————."

The rest of bill H.R. 900 is not only clearer and more precise in the definitions and choices to be submitted to the voters, than H.R. 2499, but it was discussed at length with the New Progressive Party leadership, and was enthusiastically endorsed. H.R. 2499 has just been recently distributed to the party leadership, but has not yet been discussed in detail.

I propose that H.R. 900 be redrafted with minimum changes, such as eliminating "Sec.2 Findings" starting on page 2, line 8, up to page 4 line 8. Eliminate also the word "basic" as indicated above, and eliminate subparagraph (2) of paragraph (d) on page 7, beginning on line 17, and ending on page 8, line 2. With the changes indicated above, H.R. 900 should be filed as a substitute bill for H.R. 2449.

All definitions and proposals in H.R. 900 are clear, concise and true. It presents the choices as they are, leaving little room for misleading and lying as to what is the reality and what is constitutionally, legally and politically achievable. It protects the U.S. Congress from becoming an accomplice to the lies and demagoguery of the previous plebiscites. If the explanation of the "commonwealth" status option is not politically or economically attractive is because in reality, it isn't. Why should Congress allow them any room to misrepresent their option?

No. The time has come for the United States to fulfill its responsibility, and its commitment to put an end to colonial relationships wherever they exist and to bring the blessings of democracy to all throughout the world while respecting the sovereignty and the cultural differences. President Obama is committed. Congress can do no less. Why not begin at home, with Puerto Rico.

Ms. BORDALLO. Thank you very much, Governor, for your impassioned testimony, and I would now like to recognize The Honorable J. Héctor Ferrer Ríos, President of the Popular Democratic Party.

STATEMENT OF HÉCTOR FERRER RÍOS, PRESIDENT, POPULAR DEMOCRATIC PARTY

Mr. FERRER RÍOS. Good morning, Madam Chairwoman, Commissioner Pierluisi and distinguished members of this Committee. My name is Héctor Ferrer. I come before you as President of the Popular Democratic Party, House Minority Leader, and on behalf of thousands of Puerto Ricans who will be denied their natural right of self-determination if H.R. 2499 becomes law. Along with my oral testimony, I am submitting for the record our previously written testimony to the Committee, sent electronically on Monday, June 22, 2009.

H.R. 2499 is not a self-determination process. How can it be when the process has been carefully crafted to favor statehood in a highly irregular two-round plebiscite whereby the commonwealth option is put for ratification or rejection, alone and unnamed in the first round? Their intention is obvious. Commonwealth has been the winner of all plebiscites held in the past 60 years. Statehood cannot beat commonwealth in a face-to-face contest, but this scheme, wherein commonwealth is faced against a merger of pro-statehood and independence forces, would create a narrow majority against commonwealth.

The second round will be then a runoff election, but not in the traditional sense of a runoff between the two most supported options in the first round. It would be a runoff between the historically second and third places finishers and a third option that is not supported by any principal party on the island. This second round is conceived only to construct an artificial majority for statehood. Members of the Committee, this bill is not a self-determination process.

It is a well designed scheme to force statehood upon Puerto Rico without a fair and democratic process. Madam Chairwoman,

H.R. 2499 doesn't comply with two important commitments made to the people of Puerto Rico. First of all, on February 12, 2008, President Barack Obama wrote to the former Governor Acevedo Vilá that he as President, and I quote, "will work closely with the Puerto Rican government, its civil society, and with Congress to create a genuine and transparent process for self-determination that will be true to the best traditions of democracy. As President, I will actively engage Congress and the Puerto Rican people in promoting this deliberative, open and unbiased process that may include a constitutional convention or a plebiscite, and my administration will adhere to a policy of strict neutrality on the Puerto Rican status matter. My administration will recognize all valid options to resolve the questions of Puerto Rico's status, including commonwealth, statehood and independence."

President Obama rejected the White House Task Force report's conclusion. Second, the 2008 Democratic National Convention Platform states on page 57 that the White House and Congress will work with all groups in Puerto Rico to enable the question of Puerto Rico's status to be resolved during the next four years. So my question to you, distinguished members of the Committee, is this an open and an unbiased process? In what page or section of H.R. 2499 the people of Puerto Rico can choose the valid option of commonwealth, as promised by President Barack Obama and defined by those who support it?

And finally, when was my party invited to create a genuine and transparent process for self-determination that will be true to the best traditions of democracy? Madam Chairwoman and distinguished members of the Committee, I invite you to start all over again. As President of the Popular Democratic Party, I encourage Congress to insist upon a real self-determination mechanism that will not force statehood upon the people of Puerto Rico.

I instead support a process that will provide productive and democratic ballot options. H.R. 2499 does not do that. Nevertheless, if the determination of this Committee and of Congress is to favor statehood, I will make things simpler for you. I propose only one simple plebiscite. Let the people of Puerto Rico decide, statehood, yes or no. Governor Fortuño recently said, it is time for them to consult us. Grant Governor Fortuño's wish. Let the people of Puerto Rico decide, statehood, yes or no.

I will also insist, respectfully, that you outline statehood to the people of Puerto Rico. Tell us if you are willing to commit to statehood on a first vote with a simple majority, or if it is going to be like the process held by Hawaii and Alaska that took at least three elections and a supermajority of the vote of almost 90 percent. Tell us, the people of Puerto Rico, if we will be admitted as the first Spanish-speaking state, if the seven representatives from Puerto Rico to this Congress will be allowed to express themselves in their native language, or tell a country where less than 15 percent of its people are fully bilingual if we need to comply with English as our primary language, like Louisiana, Oklahoma and Mexico do.

Explain to us that with statehood, our tax burden will increase. Tell us that we will lose our international representation in sports and cultural activities, and also, explain to us, if the route to statehood is through becoming an incorporated territory for an unknown

amount of years. Tell us that Alaska fought for almost 40 years before being granted statehood, and Hawaii for almost 60 years after being accepted as an incorporated territory.

H.R. 2499 is the continuous effort started 10 years ago in this same Congress with what was known as the joint bill. When the bill didn't prosper, the same characters that come here today went to Puerto Rico and approved a plebiscite defining commonwealth without our participation. Their goal was to provoke an artificial majority in favor of statehood, and with the intention of disenfranchising the majority of the voters of Puerto Rico.

The result of that attempt was that 50.3 percent of the voters rejected all the definitions and voted for none of the above. Statehood lost again. To avoid a repetition of that humiliating defeat, Governor Fortuño's recently appointed judges to our Supreme Court have, in a three-week-old decision, also disenfranchised that 50.3 percent of the votes by eliminating that option. So, Madam Chairwoman and distinguished members of the Committee, what I am saying is that it is a shame that people come here to this Congress asking for statehood based on disenfranchising the majority of the voters.

What a way of asking for statehood. On behalf of myself and thousands of American citizens who support the full development of the autonomous character of the commonwealth based on the principles of sovereignty, association and joint responsibilities within a compact with the United States, respectfully request to be included in this process and not excluded. The Popular Democratic Party believes in a political association with dignity, not colonial or territorial, between Puerto Rico and the United States, based in the right of the people of Puerto Rico to decide its fundamental issues and the permanence and irrevocability of our American citizenship.

Therefore, distinguished Members of Congress, I urge you not to approve H.R. 2499 and instead begin a true self-determination process for the people of Puerto Rico. Thank you very much.

[The prepared statement of Mr. Ferrer Ríos follows:]

Statement of The Honorable Héctor J. Ferrer Rios, President of Popular Democratic Party, and House Minority Leader, Puerto Rico House of Representatives

Dear Chairman Rahall:

My name is Héctor Ferrer Ríos, President of the Popular Democratic Party and House Minority Leader.

H.R. 2499 simply appears to call for a non-binding expression by the Puerto Rican people as to their political status preference. Beyond its seemingly innocuous facade, lies an unusual and unprecedented two round voting scheme designed to predetermine the outcome by producing an artificial statehood majority.

Fundamentally, plebiscites and referenda are democratic mechanisms for determining by direct vote a people's own destiny. These are methods with which to identify, and subsequently implement, the people's most favored avenues of politico-constitutional evolution—as selected by those peoples themselves. And the common denominator of any such democratic exercise is fairness. The legislator's fair and equitable treatment of the options is paramount to assuring the legitimacy of any such self-determination process.

To the extent the legislative authority decides to sub-categorize the options to be presented to the people, in order to configure the voting system in a way that would assure a particular outcome, it is imposing its bias and annulling the legitimacy of the process.

That is what H.R. 2499 attempts. In it, the drafters have arbitrarily separated what they regard a "territorial and impermanent" option from purportedly "non-territorial and permanent" ones. Following that rationale, the bill calls for an initial round limited to a yes or no vote on the "current political status", followed by a second round among all other options if the current political status fails to achieve 50% of the vote in the first round. Such action renders the process patently biased.

Historical background illustrates what is at play here. Back in 1993, after a landslide victory in the general elections, the pro-statehood governor quickly called for a plebiscite expecting his personal popularity to translate into a similar win for statehood. The governor allowed each of the parties to decide how their status option would appear defined on the ballot. To his surprise, Commonwealth won with 48.6% of the vote to statehood's 46.5% and independence's 4.4.%.

Pledging not to let that happen again, governor Rosselló called for a new plebiscite in 1998, but this time he drafted the Commonwealth's definition himself and in such unpalatable terms that the Commonwealth party could not endorse it. To his total dismay, the Commonwealth party asked its supporters to vote instead under a "none of the above" option sanctioned by local courts. Commonwealth status d/b/a "none of the above" prevailed again with 50.3% of the vote against statehood's 46.5%, independence's 2.5%. A new option called Free Association got a meager 0.3%.

After the 1998 humiliation, the statehood party went back to the drawing board and came up with a scheme that now takes the form of H.R. 2499. The 1993 plebiscite taught them that statehood can never beat Commonwealth in a face to face contest and the 1998 plebiscite showed them that the Commonwealth supporters are not easily excluded from the process. And so the idea of a two round vote.

The pro-statehood Resident Commissioner from Puerto Rico reasonably thinks that splitting the vote should result in a huge win for statehood. That conclusion is supported by history. Take the 1993 plebiscite results mentioned above. Commonwealth was the people's top choice. If that vote had been divided into two rounds, as H.R. 2499 proposes, Commonwealth's otherwise 48.6% victory would have meant a rejection, and the people would have been forced to choose between what were, and probably still are, their second and third choices. Based on those 1993 numbers, it is reasonable to conclude that statehood, although not the people's preferred choice, would achieve an overwhelming majority of the votes in the second round.

The statehood party has already made sure that the "none of the above" option can no longer foil a statehood majority as it did in 1998. "None of the above" was a judicially mandated option based on constitutional grounds regarding the individual's right to vote. But the current pro-statehood governor had the opportunity to change the Puerto Rico Supreme Court's ideological composition by filling three vacancies; and just a few ago, a 4-3 majority, without having a case or controversy on this issue before it, quickly reversed the earlier ruling requiring this option.

H.R. 2499 is now the final piece of the statehood party's assault on Puerto Rico's right to self-determination. It is crude, unabashed, undemocratic gimmickry.

The two round setup has its genesis in heavily flawed conclusions regarding the current Commonwealth status found in a Presidential Task Force Report.

Executive Order 13183 (dated December 23, 2000), as amended by Executive Order 13319 (dated December 3, 2003), created a President's Task Force on Puerto Rico's Status (the "Task Force") to "report on its actions to the President as needed, but no less than once every 2 years, on progress made in the determination of Puerto Rico's ultimate status." Pursuant to such directive, the Task Force issued its initial report on December 22, 2005, and the first follow up addendum report on December 21, 2007 (hereinafter the "Task Force Reports"). A final report is due this coming December 2009.

Ever since the publication of the initial Task Force Report in December 2005, the Popular Democratic Party openly challenged the Task Force Reports' main legal conclusions; namely, that despite the establishment of Commonwealth status in 1952, Puerto Rico remains to this day an unincorporated territory of the United States subject to Congress's plenary powers under the Territory Clause of the U.S. Constitution [1] and as such can be unilaterally ceded or conveyed to any other sovereign country and, moreover, that the U.S. citizenship of the people of Puerto Rico is likewise revocable by Congress. For the past three and a half years, the PDP has forcefully contended that the authors of the Task Force Reports blatantly failed to substantiate their obtuse legal conclusions and inexcusably overlooked the robust and consistent corpus of U.S. Supreme Court precedent to the contrary.

During the 2008 Presidential Campaign, President Obama explicitly rejected the legal conclusions contained in the Task Force Reports. In a letter addressed to then

[1] [sic]

Governor Aníbal Acevedo Vilá (the "President's Letter") (dated February 12, 2008), President Obama challenged head-on the Task Force's irrational proposition that Puerto Rico (along with the 4 million Puerto Ricans inhabiting the island) can be ceded or transferred to a foreign country at Congress's whim.

> I reject the assertion in reports submitted by a Presidential Task Force on December 22, 2005 and December 21, 2007 that sovereignty over Puerto Rico could be unilaterally transferred by the United States to a foreign country.

Moreover, the president contended that,

> The American citizenship of Puerto Ricans is constitutionally guaranteed for as long as he people of Puerto Rico choose to retain it. The erroneous legal conclusions put forward by the Task Force, as referenced above, are derailing Puerto Rico's self-determination process into a profound, unnecessary and unfair state of confusion. Such conclusions have now been used to legitimize and recommend a highly irregular two-round self-determination process, whereby the current Commonwealth option (in light of its alleged territorial nature) is put on for ratification or rejection in the first round, and, assuming rejection, then statehood and independence face it off in a second and definitive last round. This is contrary to the norm in all two-round voting processes where electors vote all status options in the first round, and then vote again in a face-off between the two most voted formulas in the final round.

As the subsequent sections show, President Obama was right in rejecting the legal conclusions rendered by the Task Force Reports because they run afoul the most basic values of substantive justice and equality under the law; all of which have been at the heart of American constitutionalism since the early days of the Republic—as were so eloquently echoed in the President's Letter.

A. Congress no longer holds plenary powers over Puerto Rico and consequently cannot unilaterally cede Puerto Rico.

The Task Force Reports embrace the untenable proposition that the Federal Government can unilaterally cede Puerto Rico, if it so wishes, to any other sovereign (e.g. Venezuela, Cuba or Iran) without the consent of the people of Puerto Rico as an exercise of its plenary powers over the island under the Territory Clause of the U.S. Constitution. Specifically, the authors of the Task Force Reports conclude that: "[t]he Federal Government may relinquish United States sovereignty by granting independence *or ceding the territory to another nation—"* Ignoring the canon of legal construction articulated through the years by the U.S. Supreme Court to the effect that Puerto Rico shed its status as an unincorporated territory with the attainment of Commonwealth status in 1952, the drafters of the Task Force Reports claim that such event did not change Puerto Rico's relationship with the United States. Such posturing, in turn, rests on the perverse notion that Congress intentionally deceived the people of Puerto Rico when it entered into the compact elevating Puerto Rico's status from an unincorporated territory to a Commonwealth, and instead retained plenary powers—including the authority to unilaterally cede or even sell Puerto Rico to any foreign nation.

President Obama was right in rebuffing such untenable conclusion. Neither the 2005 Task Force nor its 2007 sequel identifies any legal authority substantiating a contention so incendiary that flies in the face of U.S. Supreme Court jurisprudence (blithely ignored by the drafters of the Task Force Reports) that has explicitly recognized that the creation of the Commonwealth of Puerto Rico was effected through a compact wherein Congress relinquished powers over Puerto Rico making it sovereign over matters not ruled by the U.S. Constitution.

Not surprisingly, the federal courts have forcefully rejected the argument that would render Public Law 600 an entirely illusory legislative gesture. The U.S. Court of Appeals for the First Circuit addressed the issue in one of its first judicial interventions shortly after the Commonwealth's creation. Rejecting the contention that Public Law 600 was merely another Organic Act, Chief Judge Magruder, writing for the First Circuit, concluded that, *"We find no reason to impute to the Congress the perpetration of such a monumental hoax."*

If, as suggested in the Task Force Reports, the compact entered into pursuant to Public Law 600 did not transform Puerto Rico's political status, then the United States perpetrated a "monumental hoax" not only on the people of Puerto Rico, but also on the General Assembly of the United Nations. Specifically, in 1953 the United States advised the United Nations that it would no longer report on Puerto Rico as a "non self-governing territory" under Article 73(e) of the United Nations Charter."

In the Cessation Memorandum, the United States formally advised the United Nations that the incremental process of the "vesting of powers of government in the

Puerto Rican people and their elected representatives" had "reached its culmination with the establishment of the Commonwealth of Puerto Rico and the promulgation of the Constitution of this Commonwealth on July 25, 1952." The Cessation Memorandum explicitly declares that, "[w]ith the establishment of the Commonwealth of Puerto Rico, the people of Puerto Rico have attained a full measure of self-government."

In describing the "principle features of the Constitution of the Commonwealth," the Cessation Memorandum noted that the new Constitution, "as it became effective with the approval of the Congress, provides that "[i]ts political power emanates from the people and shall be exercised in accordance with their will, within the terms of the compact agreed upon between the people of Puerto Rico and the United States of America."

Mason Sears, the United States Representative to the Committee on Information from Non-Self-Governing Territories, explained the legal significance under American law of the fact that Puerto Rico's Constitution resulted from a compact,

> A most interesting feature of the new constitution is that it was entered into in the nature of a compact between the American and Puerto Rican people. A compact, as you know, is far stronger than a treaty. A treaty usually can be denounced by either side, *whereas a compact cannot be denounced by either party unless it has the permission of the other.*

Moreover, Frances Bolton, U.S. Delegate to the United Nations' Fourth Committee, made it plain clear that while "the previous status of Puerto Rico was that of a territory subject to the absolute authority of the Congress of the United States in all governmental matters [...] the present status of Puerto Rico is that of a people with a constitution of their own adoption, *stemming from their own authority, which only they can alter or amend [...]*"

The United Nations accepted at face value the representations made by the United States. The General Assembly recognized, "the people of the Commonwealth of Puerto Rico, by expressing their will in a free and democratic way, have achieved a new constitutional status." Resolution 748, VIII (Nov. 3, 1953). On approving the Cessation Memorandum on Puerto Rico, the General Assembly further stated that,

> [I]n the framework of their Constitution and of the compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity.

The U.S. Supreme Court has confirmed that view. In *Calero Toledo v. Pearson Yacht Leasing Co.,* 416 U.S. 663 (1974), the Supreme Court motu proprio addressed the issue of whether Puerto Rico statutes were State statutes for purposes of the Three-Judge Court Act (28 U.S.C. § 2281). The issue was of great import, for the predominant reason behind the law was requiring that issues about the constitutionality of State statutes be resolved before a three judge district court panel in order to avoid unnecessary interference with the laws of a sovereign State of the Union. That "predominant reason" did not exist in respect of territories because they do not enjoy the attributes of sovereignty of States within the U.S. federal structure. For that reason, the Supreme Court had already ruled in *Stainback v. Mo Hock Ke Lok Po,* 336 U.S. 368 (1949) that the legislative enactments of the Territory of Hawaii were not State statutes for purposes of Judicial Code § 266 (predecessor to 28 U.S.C. § 2281). Similarly, the First Circuit had arrived at the same conclusion with respect to Puerto Rico in *Benedicto v. West India & Panama Tel. Co.,* 256 F.417 (1st Cir. 1919).

Stainback and Benedicto, of course, were decided before Puerto Rico became a Commonwealth, so the issue had to be examined afresh and the opportunity finally arouse in *Calero Toledo*. As the *Calero Toledo* Court narrates, Puerto Rico's Commonwealth status was preceded by a series of Organic Acts,

Following the Spanish-American War, Puerto Rico was ceded to this country in the Treaty of Paris, 30 Stat. 1754 (1898). A brief interlude of military control was followed by congressional enactment of a series of Organic Acts for the government of the island. Initially these enactments established a local governmental structure with high officials appointed by the President. These Acts also retained veto power in the President and Congress over local legislation.

The creation of the Commonwealth, as the Court suggests by voice of Justice Brennan, followed a materially different procedure,

By 1950, however, pressures for greater autonomy led to congressional enactment of Pub. L. 600, 64 Stat. 319, which offered the people of Puerto Rico a compact whereby they might establish a government under their own constitution. Puerto Rico accepted the compact, and on July 3, 1952 Congress approved, with minor amendments, a constitution adopted by the Puerto Rican populace [...] Pursuant to

that constitution the Commonwealth now "elects its Governor and legislature; appoints its judges, all cabinet officials, and lesser officials in the executive branch; sets its own educational policies; determines its own budget; and amends its own civil and criminal code" (citing Leibowitz, *The Applicability of Federal Law to the Commonwealth of Puerto Rico,* 56 GEO. L. J. 219, 221 (1967)).

The Calero Toledo Court recognized that the Commonwealth's creation effected "significant changes in Puerto Rico's governmental structure." It then quoted at length, and with apparent approval, from Chief Judge Magruder's observations in *Mora v. Mejías,* 206 F.2d 377 (1st Cir. 1953) that "Puerto Rico has thus not become a State in the federal Union like the 48 States, but it would seem to have become a State within a common and accepted meaning of the word—It is a political entity created by the act and with the consent of the people of Puerto Rico and joined in union with the United States of America under the terms of the compact."

Two years later, in *Examining Board v. Flores de Otero,* 426 U.S. 572 (1976), the Supreme Court again examined the juridical nature of Puerto Rico's Commonwealth status and held that for purposes of Section 1983 jurisdiction the island enjoyed the same attributes of sovereignty as a State of the Union. The Court found that "the purpose of Congress in the 1950 and 1952 legislation was to accord to Puerto Rico the degree of autonomy and independence normally associated with States of the Union [...]." The Court reasoned, moreover, that through the establishment of the Commonwealth, "Congress relinquished its control over the organization of the local affairs of the island and granted Puerto Rico a measure of autonomy comparable to that possessed by the States."

Six years later, in *Rodriguez v. Popular Democratic Party,* 457 U.S. 1 (1982), the issue before the Supreme Court was whether a local political party could be granted statutorily the power to fill an interim vacancy in the Puerto Rican Legislature. Arguing for the PDP, former Justice Abe Fortas wrote,

> The Commonwealth of Puerto Rico, as this Court has stated, "occupies a relationship to the United States that has no parallel in our history". *Califano v. Torres* 435 U.S. at 3, 98 S.Ct. at 907, fn. 4. That it is an "autonomous political entity," "in the framework of the compact agreed upon with the United States" has been recognized by formal action and resolution of the United Nations on the basis of representations of the United States.

Fortas added,

> There can be no doubt that the Commonwealth of Puerto Rico has "freedom from control or interference by the Congress in respect of internal government and administration..." *Mora v. Mejias,* 115 F.Supp. 610 at 612 (D.P.R. 1953) (Three-Judge Court), quoted in *Calero-Toledo v. Pearson Yacht Leasing Co.,* 416 U.S. at 674, 94 S.Ct. at 2087. The Compact between the United States and the people of Puerto Rico incorporated the repeal of most of the provisions of the Organic Act of 1917, including repeal of the Bill of Rights contained therein and the provisions for local government. The provisions of the Organic Act that were continued by the Compact were directed to the interrelationships of Puerto Rico and the United States: Affirmation that Puerto Ricans are citizens of the United States; that Puerto Rico is free of United States Internal Revenue laws; that trade between the two shall be free of export duties; and that the rights, privileges and immunities of citizens of the United States shall be respected in Puerto Rico.

The Court, agreeing with the PDP's position, accorded the same deference to the Puerto Rico Legislature that it accords the States, "Puerto Rico, like a state, is an autonomous political entity, 'sovereign over matters not ruled by the Constitution.'" Based on the principle that fundamental constitutional rights apply to the people of Puerto Rico, the Court concluded that "it is clear that the voting rights of Puerto Rico citizens are constitutionally protected to the same extent as those of all other citizens of the United States." In reaching this conclusion the Court cited approvingly the following excerpt from a decision authored by then Circuit Judge Stephen Breyer in *Cordova & Simonpietri Ins. Agency Inc. v. Chase Manhattan Bank N.A.,* 649 F. 2d 36, 39-42 (1st Cir. 1981),

> [In 1952] Puerto Rico's status changed from that of a mere territory to the unique status of Commonwealth. And the federal government's relations with Puerto Rico changed from being bounded merely by the territorial clause, and the rights of the people of Puerto Rico as United States citizens, to being bounded by the United States and Puerto Rico Constitutions, Public Law 600, the Puerto Rican Federal Relations Act and the rights of the people of Puerto Rico as United States citizens.

Between *Flores de Otero* (1976) and *Rodriguez* (1982), the Supreme Court delivered a very short *per curiam* decision that has been misinterpreted by anti-Commonwealth sectors in Puerto Rico, by some federal courts and by the Task Force.

In *Harris v. Rosario,* 446 U.S. 651 (1980), the Supreme Court held that Puerto Rico could receive less assistance than the States under the Aid to Families with Dependent Children Program. In a two paragraph decision, the Court found that Congress pursuant to the Territory Clause of the U.S. Constitution could treat Puerto Rico differently than the States so long as there is a rational basis for its actions.

The Task Force Report interprets *Harris* as holding "that Puerto Rico remains fully subject to congressional authority under the Territory Clause." But that reading confuses what *Harris* is about and ignores that the U.S. Supreme Court has clearly recognized that Puerto Rico enjoys full sovereignty over its internal affairs. If the Supreme Court said in 1976 that "Congress relinquished its control over the organization of the local affairs of the island and granted Puerto Rico a measure of autonomy comparable to that possessed by the States"[2] and then in 1982 that Puerto Rico is "sovereign over matters not ruled by the Constitution"[3] it is then wrong to interpret *Harris* in 1980 saying that Puerto Rico remains fully subject to congressional authority under the Territory Clause. These two notions are antithetical. So either the Supreme Court was twice contradicting itself, or *Harris* is being misread. We strongly believe the latter is the case.

The Supreme Court did not contradict itself. *Harris* deals with a federal assistance program, a legislative area within Congress' exclusive purview. It does not deal with the internal affairs of the Commonwealth. In ruling that Congress could treat Puerto Rico differently than a State for purposes of federal fund allocations, the Supreme Court was not suggesting that Congress retained its plenary powers over Puerto Rico under the Territory Clause. But there is even more to *Harris.*

The Supreme Court does say in *Harris* that Congressional power over Puerto Rico arises from the Territory Clause. That is a reflection of the Constitution's vintage. Its textual configuration reflects the conditions of its time. While Congress enjoys plenary powers pursuant to the Territory Clause, the Supreme Court has long recognized that Congress can relinquish such authority. It may do so, for instance, by admitting a Territory as a State, in which case Congressional power over the former Territory is transformed from plenary to limited under U.S. Constitution Article 1. While Puerto Rico did not become a State on July 25, 1952, Congress did relinquish (as the Supreme Court has consistently found) the same powers over Puerto Rico that it relinquishes when admitting a Territory as a State of the Union. In the case of the Commonwealth of Puerto Rico, while the remaining Congressional powers are exercised pursuant to the Territory Clause, for lack of a more specific source of constitutional authority, those powers are no longer plenary.

The courts and the U.S. Justice Department before 1990 have long recognized that the territorial power, like other federal powers, demands flexibility on the part of Congress and hesitation on the part of those who like the authors of the Task Force Reports would confine the exercise of those powers to rigid or arbitrary categories. In 1963 the U.S. Justice Department saw this very clearly, and quoted a memorandum written by future Justice Felix Frankfurter in 1914 when he was a law officer in the U.S. Department of War:

> The form of the relationship between the United States and [an] unincorporated territory is solely a problem of statesmanship. History suggests a great diversity of relationships between a central government and [a] dependent territory. The present day shows a great variety in actual operation. One of the great demands upon creative statesmanship is to help evolve new kinds of relationship[s] so as to combine the advantages of local self-government with those of a confederated union. *Luckily, our Constitution has left this field of invention open.* The decisions in the Insular cases mean this, if they mean anything; that there is nothing in the Constitution to hamper the responsibility of Congress in working out, step by step, forms of government for our Insular possessions responsive to the largest needs and capacities of their inhabitants, and ascertained by the best wisdom of Congress.

Eight years later, the Office of Legal Counsel, under then-Assistant Attorney General William H. Rehnquist, expounded on Frankfurter's functionality argument:

> [T]he Constitution does not inflexibly determine the incidents of territorial status, i.e., that Congress must necessarily have the unlimited and plenary power to legislate over it. Rather, Congress can gradually relinquish those powers and give what was once a Territory an ever-increasing measure of self-government. Such legislation could create vested rights of a political nature, hence it would bind future Congresses and cannot be "taken backward" unless by mutual agreement.

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[2] [sic]
[3] [sic]

That is precisely what *Flores de Otero* holds with respect to Puerto Rico.

A thorough reading of *Harris,* moreover, reveals that Congress' relinquishment of powers over Puerto Rico went beyond matters of internal governance. Even with regards to the allocation of federal funds, the Supreme Court makes clear in *Harris* that Congress cannot exercise unrestricted powers over Puerto Rico. It can only treat Puerto Rico differently to the extent there is a rational basis for doing so. If Congress had plenary powers over Puerto Rico, it would not need to have a rational basis to discriminate.

The Task Force Reports' erroneous reading of *Harris* constitutes their most fatal flaw. It leads their authors to make the colossal mistake of asserting that, "[a]s long as Puerto Rico remains a territory of the United States, Congress may not impair the constitutional authority of later Congresses to alter the political powers of the government of Puerto Rico by entering into a covenant or compact with Puerto Rico or its residents." In the same way that a future Congress cannot de-admit Alaska, Hawaii or Texas, or revoke the independent status of the Philippines, it cannot reclaim powers relinquished to the people of Puerto Rico.

The federal circuit courts of appeals have also recognized that Puerto Rico is no longer merely an unincorporated territory. See e.g. *United States of America v. Marco Laboy-Torres,* 553 F. 3d 715, 721 (3rd Cir. 2009) ("Puerto Rico possesses 'a measure of autonomy comparable to that possessed by the States.'"); *Emma Rodriguez v. Puerto Rico Federal Affairs Administration* 435 F. 3d 378, 379-80 (DC Cir. 2006) ("Through popular referendum, the people of Puerto Rico approved Public Law 600's proposed allocation of power—supreme national power to the U.S. Congress and full local control to the Puerto Rican government—and then adopted a—constitution."); *Romero v. United States,* 38 F. 3d 1204 (Fed. Cir. 1994) ("Congress approved the proposed Constitution of the Commonwealth of Puerto Rico, which thenceforth changed Puerto Rico's status from that of an unincorporated territory to the unique one of Commonwealth."); *United States v. Quinones,* 758 F.2d 40 (1st Cir. 1985) ("The authority of the federal government emanated thereafter from the compact itself. Under the compact between the people of Puerto Rico and the United States, Congress cannot amend the Puerto Rico Constitution unilaterally, and the government of Puerto Rico is no longer a federal government agency exercising delegated power.").

There is scattered case law asserting that Puerto Rico still is subject to the plenary powers of Congress under the Territory Clause. In *U.S. v. Sánchez,* 992 F.2d 1143, 1151-53 (11th Cir. 1993) the Eleventh Circuit disagreed with consistent First Circuit case law and held that Puerto Rico is not a separate sovereign for purposes of the dual sovereignty exception to the Double Jeopardy Clause. That patently wrong view is supported by Judge Torruella out of the First Circuit, who espoused it in his dissident opinion in *United States v. Lopez Andino,* 831 F.2d 1164 (1st Cir.1987) and then slipped a line to that effect writing for the majority in *Dávila-Pérez v. Lockheed Martin Corp.,* 202 F.2d 464, 468 (1st Cir. 2000) (holding that Puerto Rico is a territory under the Defense Base Act). All of these cases rely on the same erroneous interpretation of *Harris v. Rosario.* These cases have been wrongly decided and must be discarded.

Both the constitutional history of the relationship between the United States and Puerto Rico and the relevant Supreme Court cases confirm that Puerto Rico's Commonwealth status is predicated upon a binding compact, created through the mutual consent of the sovereign parties and revocable, likewise, only by the mutual consent of such parties.

The Task Force Reports' blatantly outrageous conclusion that the United States can unilaterally cede the Commonwealth of Puerto Rico, without the consent of its people, to any foreign country of its choosing is not only superficial and highly un-American but also without any legal merit.

B. The U.S. Citizenship of the People of Puerto Rico.

The drafters of the Task Force Reports also adhere to the unfounded notion that Congress can rescind the U.S. citizenship of the 4 million Puerto Ricans born in the island. The Task Force Reports adamantly suggest that "[i]ndividuals born in Puerto Rico are citizens of the United States by statute (rather than by being born or naturalized in the United States)," and that as such "if Puerto Rico were to become an independent sovereign nation, those who chose to become citizens of it or had U.S. citizenship only by statute would cease to be citizens of the United States, unless a different rule were prescribed by legislation or treaty [...]."

It is a well-settled principle of federal law that the citizenship rights of people born in Puerto Rico are protected by the constitutional guarantees of due process and equal protection of the laws emanating from the U.S. Constitution.

The history of the U.S. citizenship of the Puerto Rican people begins with the 1899 Treaty of Paris, which provided that, "[t]he civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress." The Foraker Act, enacted on April 12, 1900, put an end to military rule and established a civil government in the island. But it was not until the enactment of the 1917 Jones Act that Puerto Ricans were granted U.S. citizenship. The 1940 Nationality Act, moreover, defined "United States" as "the continental United States, Alaska, Hawaii, Puerto Rico and the Virgin Islands of the United States," and determined that the people who were born "in the United States" were citizens at birth. The 1952 Immigration and Nationality Act, from which most Puerto Ricans today trace their U.S. citizenship, tracked the language of the 1940 statute.

The Citizenship Clause of the Fourteenth Amendment states, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." By its terms, the text of the Fourteenth Amendment extends American citizenship to persons born or naturalized "in the United States." The Commonwealth of Puerto Rico is certainly "in the United States," as specifically acknowledged in the Immigration and Nationality Act and elsewhere. Thus, the people of Puerto Rico clearly qualify as "constitutional" or "Fourteenth Amendment" citizens.

The Supreme Court has interpreted the Fourteenth Amendment as granting irrevocable constitutional citizenship to those persons born within a jurisdiction such as Puerto Rico. In the *Slaughter-House Cases,* 83 U.S. (16 Wall.) 36 (1872), the Supreme Court directly rejected the claim that only citizens of a State are United States citizens under the Fourteenth Amendment. The Court found *inter alia* that "[...] persons may be citizens of the United States without regard to their citizenship of a particular State, and—by making *all persons* born within the United States and subject to its jurisdiction citizens of the United States."

In light of the Slaughter-House Cases and the Supreme Court's common-law interpretation of the Citizenship Clause, it is clear that persons born "within the United States"—such as the people of Puerto Rico—are constitutional U.S. citizens. In *Afroyim v. Rusk,* 387 U.S. 253, 262 (1967), the Supreme Court explained that Congress cannot revoke Fourteenth Amendment citizenship,

> [The Fourteenth Amendment] provides its own constitutional rule in language calculated completely to control the status of citizenship: "All persons born or naturalized in the United States—are citizens of the United States..." There is no indication in these words of a fleeting citizenship, good at the moment it is acquired but subject to destruction by the Government at any time. Rather the Amendment can most reasonably be read as defining a citizenship which a citizen keeps unless he voluntary relinquishes it.

Thus, *Afroyim* makes clear that Congress may not rescind or revoke the U.S. citizenship of people born in Puerto Rico. The Task Force Reports' contrary conclusion is patently incorrect. The Supreme Court has only recognized one revocable variant of U.S. Citizenship. Both the 1940 Nationality Act and 1952 Immigration and Nationality Act, as well as subsequent federal statutes, contain provisions regarding persons born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States. They are regarded as U.S. Citizens, but if they fail to reside in the United States or its outlying possessions for a prescribed period or periods of time between given ages, they automatically, by statute, lose that citizenship.

Quite clearly, the people of Puerto Rico do not fall under this latter category. Puerto Ricans are born in the United States for purposes of the Fourteenth Amendment. Their citizenship, thus, is irrevocable.

Rather than designing a process whereby all three options—namely commonwealth, statehood and independence—are voted on side-by-side, H.R. 2499, in accordance with the Task Force Report, adopts a rigged two-step process designed to kill the commonwealth option in the first round of voting.

The intentional exclusion of the Commonwealth option from the ballot is particularly problematic because it is based on unviable legal arguments (as discussed in extenso in Section II above). And, moreover, because it constitutes an openly discriminatory and politically-motivated maneuver lacking any legitimate, let alone compelling, governmental interest. It runs afoul the voters of Puerto Rico's most basic equal protection and due process rights. Moreover, it is at odds with the Obama Administration's commitment (as stated in the President's Letter) to "recognize all valid options to resolve the question of Puerto Rico's status, including commonwealth, statehood and independence."

The Supreme Court has long recognized "the political franchise of voting as a fundamental political right, because [it] [is] preservative of all rights." Thus, "once the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment" and will be "closely scrutinized and carefully confined." In adjudicating challenges to laws regulating elections, the Supreme Court has consistently invalidated laws that have a "real and appreciable impact on the exercise of the franchise" by denying voters "a choice on the issues."

As contended above, the ballot prescribed by H.R.2499 effectively denies the voters the option of continuing and enhancing Puerto Rico's Commonwealth status. Thus, H.R. 2499's voting process clearly infringes on the voting rights of Puerto Rico's voters by presenting the people of Puerto Rico with a factually inaccurate choice—a false choice—as to their future political status. Moreover, it discriminates against a substantial segment of Puerto Rico's citizens (those who support Commonwealth status).

It is a well-settled principle of U.S. law that there is no legitimate governmental interest in mandating the inclusion of inaccurate information in a voter referendum or plebiscite. Indeed, the only apparent rationale for H.R. 2499's misguided voting process is a desire to manufacture an artificial majority in favor of statehood. Such discriminatory purpose is anathema to the fundamental electoral rights protected both by the Commonwealth Constitution and the U.S. Constitution. The Task Force's recommended two-round voting process does not withstand constitutional scrutiny.

During the campaign, President Obama made a commitment that his Administration would openly engage the people of Puerto Rico in engineering a "genuine and transparent process of self-determination that will be true to the best traditions of democracy." He said:

> As President, I will actively engage Congress and the Puerto Rican people in promoting this deliberative, open and unbiased process, that may include a constitutional convention or a plebiscite, and my Administration will adhere to a policy of strict neutrality on Puerto Rico status matters. My Administration will recognize all valid options to resolve the question of Puerto Rico's status, including commonwealth, statehood, and independence.

H.R. 2499 is anything but deliberative, open or unbiased.

As President of the Popular Democratic Party, I encourage Congress to insist upon a real self-determination mechanism that will not force statehood upon the people of Puerto Rico, and instead to support a process that will provide productive and democratic options. H.R. 2499 does not do that.

Ms. BORDALLO. I thank the gentleman very much for his views, and now I would like to recognize The Honorable Rubén Berríos-Martínez, President of the Puerto Rican Independence Party.

STATEMENT OF RUBEN ANGEL BERRÍOS-MARTÍNEZ, PRESIDENT, PUERTO RICAN INDEPENDENCE PARTY

Mr. BERRÍOS-MARTÍNEZ. Good morning to the members of this Committee.

Ms. BORDALLO. Would you come closer to the mic?

Mr. BERRÍOS-MARTÍNEZ. Yes, good morning to you. The bill under consideration, as it stands, is unacceptable and destined to failure. The experience of the last 20 years demonstrates that Congress will not enact legislation that directly or indirectly promises statehood to Puerto Rico as does H.R. 2499. Aversion to statehood for Puerto Rico is the main obstacle to the approval of this legislation, even though few Members of Congress would publicly admit it.

No one wants to be perceived as anti-democratic or politically incorrect. Some prominent members of this House have already advanced that there is no consensus among Puerto Rico's political parties as an excuse to stall even the consideration of this measure, but Congress should not point to lack of consensus in Puerto Rico as a pretext for inaction. Having signed and ratified the Inter-

national Covenant of Civil and Political Rights, the United States is legally bound under Article I of the treaty to, and I quote, "promote the realization of the right of self-determination."

The right of self-determination or independence is an inalienable right of the Puerto Rican people which can be exercised even in the face of congressional indifference or opposition. Nevertheless, the U.S. is under a moral and legal obligation to promote a process or provide a procedural mechanism through which the people of Puerto Rico can exercise this right. It should therefore enact legislation to facilitate a final status solution for Puerto Rico.

Accordingly, I propose that the bill be amended to achieve two goals: first, to facilitate its approval by both the House and the Senate; and second, to accommodate the reasonable demands of the Puerto Rican political parties and organizations so that any opposition would clearly be a mere excuse not deserving any serious consideration. The amendments I propose here today, taken as a whole, provide a different and more viable approach to Puerto Rico's status problem.

First of all, the language contained in the bill regarding the first vote should be amended to clarify the territorial nature of the present status. Second, and even more important, simultaneously with this vote, Puerto Ricans should express in the same ballot their preference for either a constituent assembly or a plebiscite as the mechanism for expressing their aspirations concerning substantial non-territorial options for our political future.

Congress would then be in a position to respond to the status choice of Puerto Ricans in either a constituent assembly to be convened under the laws of Puerto Rico or a plebiscite to be convened under the laws of Puerto Rico. Consequently, the second vote in H.R. 2499 would be eliminated. This approach takes into account the different procedural mechanisms proposed by Puerto Rico's political parties, provides a mechanism to overcome the existing deadlock through the expression of the popular will, and bypasses the alleged lack of political consensus as a rationalization to stall the process.

We may not agree on the substantive status options, but we can surely agree on a method for selecting a procedural mechanism to facilitate the solution to Puerto Rico's status problem. No one who claims to respect the will of the people should object to having the people decide whether to continue or not under the present territorial status, or that the people should decide whether the procedural mechanism for deciding on the future status should be a constituent or constitutional assembly or a referendum. That is precisely what we are proposing here today.

We acknowledge, furthermore, the grave political reality that the U.S. Congress will not act on status unless it has to, unless it is forced to, but Congress, by inaction, will not be able to avoid confronting Puerto Rico's status problem, at least not this time. If Congress does not legislate, the pro-statehood leadership has made clear that it will hold a local plebiscite or referendum which we can surely expect will be designed to elicit a result favorable to statehood.

Either Congress approves, as we propose, a rational and fair procedural mechanism to solve Puerto Rico's colonial problem, or it al-

lows irrational forces propelled by circumstantial majorities to control the process. To conclude, let me bring before you an important final consideration. The Puerto Rican colonial problem affects the foreign relations of the United States with Latin America. Last week, at the initiative of nine Latin American and Caribbean countries, the U.N. Committee on Decolonization approved a unanimous resolution which requires the U.S. to comply with its decolonizing obligations with respect to Puerto Rico, in accordance with General Assembly Resolution 1514 [XV].

Similarly, 33 of Latin America's most important political parties representing a very wide ideological spectrum also recently approved a similar resolution. The national interest of the United States, as proclaimed by President Barack Obama in the Summit of the Americas two months ago, demands a new relationship with Latin America. For Latin America, Puerto Rico's colonial status is a symbol of outdated and discredited imperial policies. The issue is, and has always been, how far does the southern border of the U.S. extend into Latin America and the Caribbean?

If the U.S. aspires to establish a new relationship with Latin America based on mutual respect and cooperation, it must squarely face and actively contribute to the solution of the colonial problem of Puerto Rico, a Latin American nation. Thank you very much.

[The prepared statement of Mr. Berríos-Martínez follows:]

Statement of Rubén Berríos-Martínez, President, Puerto Rican Independence Party

The bill under consideration, as it stands, is unacceptable and destined to failure. The experience of the last 20 years demonstrates that Congress will not enact legislation that directly or indirectly promises statehood to PR, as does H.R. 2499.

Aversion to statehood for Puerto Rico is the main obstacle to the approval of this legislation, even though few Members of Congress would publicly admit it. No one wants to be perceived as antidemocratic or politically incorrect.

Some prominent members of this House have already advanced that there is no consensus among Puerto Rico's political parties as an excuse to stall even the consideration of the measure. But Congress should not point to lack of consensus in Puerto Rico as a pretext for inaction. Having signed and ratified the International Covenant of Civil and Political Rights, the United States is legally bound under Article 1 of the treaty to "promote the realization of the right of self-determination", a basic human right.

The right to self-determination and independence is an inalienable right of the Puerto Rican people, which can be exercised even in the face of congressional indifference or opposition. Nevertheless, the U.S. is under a moral and legal obligation to promote a process or provide a procedural mechanism through which the people of Puerto Rico can exercise this right. It should therefore enact legislation to facilitate a final status solution for Puerto Rico.

Accordingly, I propose that the bill be amended to achieve two goals: first, to facilitate its approval by both the House and the Senate; and second, to accommodate the reasonable demands of Puerto Rican political parties and organizations, so that any opposition would clearly be a mere excuse, not deserving of any serious consideration.

The amendments I propose here today taken as a whole provide a different and more viable approach to Puerto Rico's status problem. First of all, the language contained in the bill regarding the first vote should be amended to clarify the territorial nature of the present status. Secondly, and even more important, simultaneously with this vote, Puerto Ricans should express, in the same ballot, their preference for either a constituent assembly or a plebiscite as the mechanism for expressing their aspirations concerning substantive non territorial options for our future political status. Congress would then be in a position to respond to the status choice to be made by Puerto Ricans in either a constituent assembly (proposed by the PDP and the PIP) or a plebiscite (proposed by the NPP) and to be convened under the

laws of Puerto Rico. The second vote in H.R. 2499 would consequently be eliminated.

This approach takes into account the different procedural mechanisms proposed by Puerto Rico's political parties, provides a mechanism to overcome the existing deadlock through the expression of the popular will, and bypasses the alleged lack of political consensus as a rationalization to stall the process. We may not agree on the substantive status options, but we can surely agree on a method for selecting a procedural mechanism to facilitate the solution to Puerto Rico's status problem.

The pro-statehood New Progressive Party has agreed with the Puerto Rican Independence Party on the desirability of posing the first question to the people regarding the need to revise the present relationship. Even the pro-commonwealth Popular Democratic Party, despite allegations that the first question would be skewed against commonwealth, advocates various modifications to the present arrangement. Regarding the second question on procedural mechanisms, the Puerto Rican Independence Party has long proposed calling for a sovereign constitutional status assembly, elected by the people in the exercise of its inalienable right to self-determination and independence, to choose among non colonial and non territorial alternatives in accordance to international law. The prevailing status option would be ultimately approved or rejected by a direct vote of the Puerto Rican people. The Popular Democratic Party has also endorsed the idea of the constitutional assembly status, albeit of a different nature. The New Progressive Party has advocated the alternative procedural mechanism of a referendum or plebiscite, but agrees with the fundamental concept that all alternatives posed before the people ought to be non colonial and non territorial. There are differences between us, but there is ample common ground for agreement.

No one who claims to respect the will of the people should object to having the people decide whether to continue or not under the present status; or that the people should decide whether the procedural mechanism for deciding on the future status of Puerto Rico should be a constituent or constitutional status assembly, or a referendum. That is precisely what we propose.

We acknowledge the political reality that the U.S. Congress will not act on status unless it has to. But Congress by inaction will not be able to avoid confronting Puerto Rico's status problem. If Congress does not legislate, the pro-statehood leadership has made clear that it will hold a local plebiscite or referendum which we can surely expect will be designed to elicit a result favorable to statehood. Either Congress approves, as we propose, a rational and fair procedural mechanism to solve Puerto Rico's colonial problem, or it allows irrational forces propelled by circumstantial majorities to control the process.

To conclude, let me bring before you an important final consideration. The Puerto Rican colonial problem affects the foreign relations of the U.S. with Latin America. Last week, at the initiative of nine Latin American and Caribbean countries, the United Nations Committee on Decolonization approved a unanimous resolution which requires the U.S. to comply with its decolonizing obligations with respect to Puerto Rico, in accordance with General Assembly Resolution 1514 (XV). Similarly, thirty-three of Latin America's most important political parties representing a wide ideological spectrum, also recently approved a similar resolution.

The national interest of the U.S., as proclaimed by President Barack Obama in the Summit of the Americas two months ago, demands a new relationship with Latin America. For Latin America, Puerto Rico's colonial status is a symbol of outdated and discredited policies. The issue is "and has always been—how far does the Southern border of the U.S. extend into Latin America and the Caribbean. If the U.S. aspires to establish a new relationship with Latin America based on mutual respect and cooperation, it must squarely face and actively contribute to the solution of the colonial problem of Puerto Rico, a Latin American nation.

Thank you.

Ms. BORDALLO. I thank the gentleman very much for his views as a representative of the Puerto Rican Independence Party, and now, I am going to recognize members in the Committee to ask questions of the witnesses, and I will begin by recognizing the Ranking Member, Mr. Hastings.

Mr. HASTINGS. Thank you very much, Madam Chairwoman. I have no questions. I apologize, with these votes, that I am coming and going, but I look forward to reviewing your testimony. Thank you very much.

Ms. BORDALLO. I would like to mention for the record, to show that Governor Fortuño is still with us, and unlike so many witnesses who testify and then leave the room, by his presence, Governor Fortuño is showing his commitment to the bill and the issue at hand. So I thank you, Governor, for staying with us.

I would like to now recognize the author of the bill, The Honorable Pedro Pierluisi from Puerto Rico.

Mr. PIERLUISI. Thank you, Madam Chair. Welcome, and I thank you so much, all of you, for appearing today. Let me start by commenting that I noticed that both Governor Fortuño and distinguished Puerto Rican leader Rubén Berríos coincide in one issue. I see that both of you are concerned with the fact that the bill doesn't specify or describe the current status as territorial, as a territory, as what it is, and I see your point. Your point is well-taken. I am sure this Committee, the members of the Committee, will weigh it in due course, and I thank you for pointing that out.

In the case of Governor Romero Barceló, I would like you to expand a bit, if you may, on why—you are so experienced dealing with this issue, in the Congress, in Puerto Rico, lifelong. Why is it so important that the Congress take the lead on this issue?

Mr. ROMERO BARCELÓ. Because of what I mentioned in my testimony, that the people of Puerto Rico have been lied to and are being lied to as to what commonwealth means. So, people of Puerto Rico don't—people in the Popular Party believe that the commonwealth is not a territorial status. They feel that the commonwealth is autonomy, full autonomy. I have spoken to lawyers, Popular Party lawyers, that say that Puerto Rico is sovereign in our labor laws.

What about the minimum wage? What about the unfair labor practices? All Federal labor laws are applicable in Puerto Rico, as are so many other laws. They have told the people of Puerto Rico for ages, for decades, that we were fiscally autonomous. Now, Congress took 936 away. We are not autonomous. We have some taxation benefits that are legislated by Congress, not by the Constitution, not by any compact, but legislated by Congress, and Congress can take them away.

We are subject to congressional will. So, the people of Puerto Rico have to understand that if they want commonwealth, that is the option, that is their right to want it, but that they are also saying that they want to remain as a territory, because Congress will not deal with a sovereign nation and have that sovereign nation have U.S. citizens who are not under the jurisdiction of Congress. That is a no-no, and we all know that, so Congress should be clear and let the people of Puerto Rico know, look, you want an association? That is a form of independence.

Once you are independent, you can go into an association, but how can you have a compact of association when you are not a sovereign nation? So you have to be a sovereign nation first, so that is a modality of independence. Fine, but it is not a separate status. It is a modality of independence. So there are actually only two choices. We can either have sovereignty, full sovereignty as an independent nation, and then enter into any kind of association with the United States, or we can share the sovereignty of the Nation with all the 50 states as equal partners, with six or seven con-

gressmen and two senators, and then we share in the sovereignty, and also the Constitution guarantees to the states all those powers which are not delegated to Congress by the Constitution, whereas a territory has no such powers.

The Congress has complete authority over the territory, pursuant to Article IV, Section III of the Constitution.

Mr. PIERLUISI. Mr. Berríos, you are a professor of law? I see that in your vision, statehood is not something that the Congress will ever offer to Puerto Rico. I disagree with you. We don't need to belabor this point, but one thing that comes to my mind is that, and I want to see if we agree here, as a matter of international law, it cannot be questioned that there are three possible political status for Puerto Rico, for any territory, like Puerto Rico: statehood, incorporation into the United States as a state; independence, the status that you advocate for; and what has been called free association, an association between two sovereign nations that is terminable by the will of either party.

Now, my question is, first, do you agree that those are the legally viable options as a matter of international law and U.S. domestic law, and second question, what are the differences in your mind between independence and free association?

Mr. BERRÍOS-MARTÍNEZ. Well, according to international law, there is no question in anybody's mind, in any jurist's mind, that there are only three possible alternatives in order for a nation to comply with the decolonizing factors set about by the different resolutions, and of course, always maintaining the inalienable right to self-determination and independence under any other of the two alternatives. That is from the juridical point of view, but I must point out that for me, statehood is unacceptable, not only because of moral, political, ethical reasons, but because it is another form of colonialism, another mask of colonialism, not from a juridical point of view; from a sociological, historical and political point of view.

The problem of Puerto Rico is dependence in every aspect of life, and statehood will not solve the dependence problem of Puerto Rico, it will just mask it in another manner. But juridically, juridically there are three solutions: independence, integration, that is statehood, or free association. The difference between free association and independence is very clear in international law. First of all, the Nation which, in its sovereignty, delegates certain aspects, powers, to another nation, retains the capacity to declare its independence.

But besides that, my main problem with the free association formula is that I can think of no power that a free and independent Puerto Rico could delegate or should delegate to the United States. This is an exceptional solution for very strange and rare cases, very small islands in the different places of the world, no less respectful because of that, that for example, have nobody to operate their landing fields. They lack those capacities that make for a full independence, so they delegate temporarily or until either party decides as a country, certain aspects of their powers, but definitely, it is a form of sovereignty which people may opt for, and in Puerto Rico, some people are proposing that idea, some people, I may say, inside

the Popular Democratic Party, but those are essentially the differences between the two.

Mr. PIERLUISI. Thank you. Madam Chair, I ask unanimous consent if I can ask one additional question for the third member of the panel. I know I have exceeded my time.

Ms. BORDALLO. No objection. So ordered.

Mr. PIERLUISI. OK. Mr. Ferrer, again, thank you so much for appearing. I listened to your presentation carefully, and there is something that troubles me and I want to inquire into it. First of all, I would like to make, Madam Chair, as part of the record a copy of the platform of the Popular Democratic Party, specifically the section dealing with Puerto Rico's political status.

Ms. BORDALLO. No objection. So ordered.

2[NOTE: The Popular Democratic Party platform submitted for the record has been retained in the Committee's official files.]

Mr. PIERLUISI. Mr. Ferrer, and I am sure you know that platform in and out, I have reviewed it myself as part of the process of drafting the bill, and when I review this platform, and it will be part of the record, I see that your party and all of its candidates before the last elections, less than a year ago, asked for several things: first, sovereignty; second, recognition of Puerto Rico as a nation; third, the power to decide which Federal laws would apply to Puerto Rico; and in addition, the creation of a national trust consisting of 20 years of Federal funding to promote self-sufficiency in the island.

And one thing that cannot be contested is that your party does not want Puerto Rico to be subject to the territorial clause of the U.S. Constitution. Now, I have read this platform. All of that is there. Do you stand by that platform or are you walking away from it?

Mr. FERRER RÍOS. Thank you for the question, Mr. Commissioner, and I will answer the question. First of all, I would like to say that when you were Secretary of Justice of Puerto Rico in 1993, you said, and I am going to read it in Spanish because I am going to translate, when you were invited as a witness to discuss a plebiscite, the law for the plebiscite, you said, "Se le esta dando la oportunidad a los principales partidos politicos que esposen sus definiciones." Translate: We are giving the opportunity to every principal party, every political principal party, to define their status.

This is what you said in 1993. Before you presented this bill, I called you, Mr. Commissioner, and I told you that we were not being represented in your bill, that we wanted to sit with you and discuss your bill, and you told me that you were going to present the bill and then if we had any amendment, just bring it to the Committee. You said that my statement troubles you. Well, the whole bill troubles me, because you are disenfranchising 800,000 people, Puerto Ricans, that you represent here in Congress, because they cannot vote in your bill.

Second, Puerto Rico is a nation. We are different from the United States. We have cultural and Latin heritage that United States doesn't have. We are a different nation, and I think that is clear in every Puerto Rican mind, because we are proud American citizens, but we love what we are. We are Puerto Ricans first. Second,

sovereignty. Sovereignty is the right of the people to choose. Self-determination, the base of self-determination is sovereignty, and what we said in our platform, which you are, and I am sorry to say that you are not correctly reading it, says, and I am going to read it again in Spanish, "Por eso impulsamos y apoyamos el desarrollo economico del Estado Libre Asociado, partiendo los principios de soberania, asociacion y responsabilidad compartidas con Estados Unidos. El Partido Pro-Democratico cree en una asociacion politica digna, no colonial ni territorial, entre Puerto Rico y Los Estados Unidos fundamentada en el poder del pueblo de Puerto Rico a decidir sus asuntos fundamentales y indisoluble de la ciudania americana."

In that platform, it is not free association, and your definition in that second round, it is free association, but I am going to translate what I just read. It says, we support the full development of the autonomous character of the commonwealth based on the principles of sovereignty, association and joint responsibilities within a compact with the United States. Then it says, the Popular Democratic Party believes in a political association with dignity, not colonial or territorial, between Puerto Rico and the United States, based in the right of the people of Puerto Rico to decide its fundamental issues and the permanence and irrevocability of our American citizenship.

That is what our platform says. It doesn't say the definition you have on your bill, with all my respect, Commissioner.

Mr. PIERLUISI. Can you point to any inconsistency? The bill says, sovereignty in association with the United States. Puerto Rico and the United States should form a political association between sovereign nations that will not be subject to the territorial clause of the United States Constitution. I just listened to you and I don't see any inconsistency. Can you point to any?

Mr. FERRER RÍOS. Yes, you are talking about free association, and we are not talking about free association, and as Mr. Berríos says, free association comes from independence.

Mr. PIERLUISI. If I may, Madam Chair, I am going to raise something else. It is just for clarification, for purposes of clarifying the record, Mr. Ferrer in his written submission to the Committee, specifically on page 3 of his written submission, he states that in a February 12, 2008, letter to former Governor Aníbal Acevedo Vilá, then-candidate Barack Obama contended that the two-plebiscite process is highly irregular and against the norm.

I would like to make part of the record that specific letter that Mr. Ferrer is referring to, because when I read that letter, I do not see any mention whatsoever of the two-part plebiscite process by now-President Barack Obama. I have to believe, Mr. Ferrer, that it was just an inadvertent mistake on your part when quoting from that letter, and I just want to clarify for the record the statements made by Mr. Obama, then Mr. Obama, now our President, simply referred to citizenship, our citizenship, and his view that it cannot be deprived or withdrawn without due process, without constitutional implications, and the second statement he made also was he rejected the fact that Puerto Rico could be ceded or transferred to another nation.

He made those two points, and I should say for the record, Madam Chair, that I agree with now-President Obama. This bill, 2499, doesn't deal with either issue, either citizenship or a transfer of Puerto Rico to a foreign nation, but again, I just want the record to be clear that Mr. Obama, then-candidate Obama, now President Obama, never in that letter referred to the two-part plebiscite process as an irregular process, and that should be part of the record.

Ms. BORDALLO. I thank my colleague. I am going to have to cut off the discussion here because we have one more panel to be heard, but the Obama letter will be entered into the statement along with the others. No objection to that. So ordered.

I recognize now the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Madam Chair, in interest of—I realize the gentleman from Puerto Rico needs additional time. I will be glad to yield him a portion of my time for any other questions.

Mr. PIERLUISI. No, I believe Mr. Ferrer wanted to reply, and so I do not mind using my time for that purpose, if you may, Madam Chair.

Ms. BORDALLO. We will return, but let us, I would like to recognize the gentlelady from the Virgin Islands, if she has any questions.

Ms. CHRISTENSEN. Thank you, Madam Chair, and I, well, I don't really apologize for not being here earlier, because—but I regret not having been here at the beginning of the hearing, because I was at Energy and Commerce and with everyone else going out to vote I had the opportunity to get my question in to Secretary Sebelius early and was able to ask her about lifting the cap on Medicaid for the territories, to which she really didn't have a specific answer, but indicated a willingness to work with us on it.

But I would like to welcome Governor Fortuño, our former colleague, Congressman Romero Barceló, our Secretary of State and all of the other distinguished individuals and the representatives of the Independence Party and the Popular Democratic Party who are with us this morning. I want to congratulate my colleague, Mr. Pierluisi, the Resident Commissioner, for making an attempt to move toward what I consider to be a somewhat fairer bill, but unlike Governor Fortuño and Mr. Berríos, I am glad that the word "territory" is out.

I had a problem with it in the previous Congress. To me it is not a description that the people of Puerto Rico have ever really used in describing themselves, and therefore, to me, it may be confusing to many and inflammatory to some. My main concern about the bill, though, is the fact that the opportunity to vote for a different or perhaps what has been called an enhanced commonwealth is not present in the second plebiscite. I think it could possibly be interpreted by the voters that it too is a different political status because it would be different from the commonwealth that now exists, and so my question is, why not give the people of Puerto Rico the opportunity to choose in that second plebiscite a different commonwealth?

Basically, that is my question, to all of the panelists.

Mr. ROMERO BARCELÓ. If that choice were clear to say that in order to have any kind of sovereignty, have a separate sovereign nation, that there would be no U.S. citizenship, I have no problems

with that, but if they think that they can have a sovereignty with U.S. citizenship, that is a no-no. Congress would never go for that, so that would be lying to the people of Puerto Rico, misleading the people of Puerto Rico.

Ms. CHRISTENSEN. You know, as I envision it, though, Congressman, I just, I see that as an evolving process of the people of Puerto Rico, then maybe through a constitutional assembly or some other process, decide what that commonwealth would be.

Mr. ROMERO BARCELÓ. You know, the constitutional assembly, I don't—the constitutional assembly, what is it assembled for? To draft a constitution or to approve a new constitution? Constitutional assembly called in to define the options of status? That is absurd.

Ms. CHRISTENSEN. OK, well, maybe my choice of words, but an assembly of the people however it might be called. Let me give the other two panelists an opportunity to answer the question.

Mr. BERRÍOS-MARTÍNEZ. Let me start by your first question and then by the constituent assembly, what it means. Enhanced commonwealth is another form of territory, and we are trying to finally decide on the Puerto Rican status issue.

Ms. CHRISTENSEN. What if the people are not ready to make that decision?

Mr. BERRÍOS-MARTÍNEZ. Well, they can opt to remain as they are. They can opt to remain—but you cannot freely determine yourself out of self-determination, it is a contradiction in terms. You have status options of equal juridical validity. You cannot have status options of different juridical validity to pose before people. Where you can differ and try to reach a consensus is the procedural mechanism as to how to make the decision, and there, I must explain that the constituent assembly for status, or a constitutional assembly for status, will be elected by the people and the people will choose either statehooders, independentistas, or people who believe in the third alternative.

After the constituent assembly meets and reaches a decision, the alternative that triumphs will be again submitted to the people in a yes or no referendum. They vote in the first instance and in the second instance, and then with that decision we come to Congress, but then we go into a dialogue with Congress, the representatives of the majority of the constitutional assembly, with Congress in an ongoing process until we solve the problem. That is the constitutional assembly, is a fully democratic by the direct vote of the people in two instances.

The other choice is a referendum or plebiscite, and then the people of Puerto Rico, what we propose is that they choose between the two methods. What can be more democratic than that? Who can object to the people of Puerto Rico choosing whether they want a constituent assembly or a referendum or plebiscites? That is what we are proposing, but I must again repeat, the alternatives must be of equal juridical stature, and these are, according to international law, free association, statehood or independence, but then you give the people of Puerto Rico to remain in the colonial or territorial system if they so wish.

It sounds a little absurd to ask people that, but many people in Puerto Rico have been led to believe that colonialism is good. But

people cannot self-determine themselves out of self-determination, and what we are trying is to reach a self-determination bill in this House.

Ms. CHRISTENSEN. Madam Chair, could I ask unanimous consent that I get just a response from the third panelist?

Ms. BORDALLO. Yes.

Ms. CHRISTENSEN. Thank you.

Mr. FERRER RÍOS. Thank you.

Ms. BORDALLO. At this time, I thank the gentlelady from Virgin Islands and I would like—oh, I see. I am sorry.

Mr. FERRER RÍOS. I agree with the definition Mr. Berríos just gave us about the constitutional assembly, and we believe in the constitutional assembly. It is not on the bill. Second, I would like to defer from the interpretation of the international law. The United Nations has said that the principles on equality of rights and the free self-determination of the nations can be sustained not on three options. It is in Spanish, but I am going to translate.

I am going to read it in Spanish first and then I am going to translate. "El establecimiento de un estado soberano independiente, la libre asociacion o integracion con un estado independiente, o la situacion de qualquier otra condicion politica libremente decidida por un pueblo constituyen formas del ejercicio del derecho de la libre determination de este pueblo." What it says is that a nation can self-determine itself through the establishment of a free, sovereign state, would be a republic or independent nation, free association, or the integration to the independent state, that would be statehood, and it also says, or any other political condition freely decided by the Nation constitutes forms of the exercise of the right of self-determination.

So, enhanced commonwealth in international law can be recognized.

Mr. ROMERO BARCELÓ. Madam Chairman, may I make a statement?

Ms. BORDALLO. You are——

Mr. ROMERO BARCELÓ. I would like to make a statement on this issue also. We are talking about sovereignty, we are talking about constitutional conventions, we are talking about—but, my concern is this. In Puerto Rico, we are U.S. citizens. We are American citizens. How can we establish any kind of a procedure where I and my children and my children's children and the rest of the American citizens can be disenfranchised? Isn't that an anathema to our democracy?

Isn't that just the opposite of what our democracy stands for? How can anybody allow such a process to go? How can anyone vote against my right to vote? How can anybody impede me from voting for now and forever, and my children, as an American citizen? That is the problem here that is not being discussed. That is the problem with the commonwealthers, that they want to be a separate nation but they also want to be U.S. citizens. Oh, and they want the benefits too, but they don't want to pay taxes.

This is the issue here, U.S. citizenship, and how can we have U.S. citizenship? Either by being a state where we can vote and have representation, or be a sovereign nation and we can then vote in the sovereign nation. Otherwise, we are disenfranchised.

Mr. BERRÍOS-MARTÍNEZ. Yes, I must correct now—I don't want to speak as an expert on international law or as a professor in international law, but I am here as a representative of a political party and I must correct some political mistakes. I have heard everything from some of the leaders of the PPD trying to put commonwealth to the level of other alternatives. Now they dig up this almost 30-year-old resolution of the U.N. which bears no relationship to the Puerto Rican case that is a principle of international law that says "lex specialis deroga generalis," the special law derogates, goes over, the one which is general.

But aside from that, you have to understand, this resolution, within the context of Resolution 1514 [XV], nothing in this resolution, which is a general resolution regarding general principles of international law and issues of international law, can run contrary to Resolution 1514 [XV]. Of course there can be other ways to exercise self-determination. France can enter into a treaty with China, and that is a way to exercise self-determination regarding the relationship between the two nations, but that doesn't mean that you can choose to be a political slave.

You cannot choose to be undemocratic. You cannot choose yourself out of self-determination, and in Puerto Rico they are trying to argue through this indirectly. It is like a rabbit out of a hat. They pull out now this 2625, which has nothing to do with Puerto Rico, nor will—nor runs contrary to 1514—because they have no other argument.

Ms. BORDALLO. I want to thank the gentleman. The time is expired.

Mr. BERRÍOS-MARTÍNEZ. And that should be clear because it is the last of the desperate moves now in the juridical field to avoid confronting the issue of finally determining Puerto Rico's status issue.

Ms. BORDALLO. We understand. We would like to go on. I would remind the witnesses that we have another panel to be heard and some of the members here have votes, and so I want to be able to hear everybody's viewpoint. The gentleman from American Samoa, if you could wrap it up?

Mr. FALEOMAVAEGA. Thank you, Madam Chair. Reclaiming my time, this panel is very important, Madam Chair, because these three distinguished gentlemen represent probably the three major political persuasions among the people of Puerto Rico. I do want to personally welcome again my good friend and former colleague, Governor Romero, for being here, and I must say, sir, I do admire your consistency. You have never wavered once for the last 30 years or 40 years in being a strong advocate of statehood, and for that, I respect you for that, and the gentleman also, Mr. Ríos, I suspect that you are with the Commonwealth Party, and also the gentleman, Mr. Ferrer, I have also admired your consistency being a strong advocate of——

Mr. FERRER RÍOS. On the losing side, that is the difficult consistency.

Mr. FALEOMAVAEGA. Well, and we were talking about all different kinds of political associations and I have a fair list here with me. It is independence, it is statehood, it is commonwealth, it is free association, it is a territory, like we can claim the moon also

as a territory of the United States, and then territory can either be unincorporated or unorganized. That is the great claim that we have in my territory. We are both an unincorporated and unorganized territory of the United States.

Then there is also the enhanced commonwealth and then also the compact of free association that the Micronesian entities have now achieved, very much similar to the commonwealth status, I believe, in what the enhanced status commonwealth that our friend Mr. Ríos is trying to advocate here. Gentlemen, I just wanted to ask you, the bill simply provides for the first round of the plebiscite in a most fair manner conducted under the auspices of this Federal mandate, and it is just two questions, you support the present political status or other political options.

Is that a fair—I don't see any unfairness in the way it is proposed in the bill. Is that acceptable to all you three gentlemen?

Mr. ROMERO BARCELÓ. I want to make clear that it is a territory that we are voting on, whether we want the territory or not, because it is a territory, but what I feel that cannot be done is you cannot hide from the people the fact that we are a territory. It has been decided by the courts, the Supreme Court. Congress has looked into it. Congress has said yes, they are a territory. Congress acts as though it were a territory, so let the people of Puerto Rico know that that is what it is when they vote.

That is all I am asking. Don't hide it, because if we hide it that is not telling the truth fully and not telling the truth fully is lying.

Mr. FALEOMAVAEGA. Mr. Ríos?

Mr. FERRER RÍOS. No, it is not, sir. No, it is not. It is a first round where you merge together the statehood and independence forces against the commonwealth, and if you sum up the votes of statehood and independence and even if they haven't won any plebiscite for the past 60 years, they are going to defeat, then, commonwealth, because it is two against one, and then, on a second runoff, you are taking out the status as one and replace it.

It is like next election, next election, and I will do it with all respect next election, will go to Puerto Rico and ask the people of Puerto Rico in a referendum, Mr. Pierluisi, yes or no, and then Mr. Pierluisi loses that election and then the runoff is between our candidate and the candidate of the Independence Party.

Mr. FALEOMAVAEGA. Mr. Ríos, I know it would interest you that we did have a plebiscite a couple of years ago in Puerto Rico where the results were 48 percent was with commonwealth, 46 percent was with statehood, and then the remaining percentage, which is what, 6 percent, went to independence and the other options. Is this the concern that you have, Mr. Ríos, is the fact that——

Mr. FERRER RÍOS. Yes, that was the plebiscite of 1993, but the plebiscite of 1998, Mr. Pierluisi's party drafted definitions that didn't define commonwealth, so we had to go in another option that was none of the above, and in that plebiscite in 1998, none of the above won 50.3 percent of the vote, but what happened now, Mr. Congressman, is that the last three judges appointed to our Supreme Court by Governor Fortuño dismissed that option, none of the above, in a recent case, so they have disenfranchised 50.3 percent of those votes in upcoming plebiscites or local plebiscites

because then we won't have that none of the above option if we are not able to define commonwealth.

Mr. FALEOMAVAEGA. Madam Chair, my time is up. Thank you, gentlemen. Appreciate it.

Ms. BORDALLO. I thank the gentleman from American Samoa very much, and I welcome my colleague, Mr. Sarbanes from Maryland. We want to thank all of you for testifying this morning, because it is still morning, and I would like to welcome the third panel. Please come forward and take your seats, The Honorable Thomas Rivera-Schatz, Senate President, Senate of Puerto Rico; The Honorable José L. Dalmau-Santiago, Minority Leader, Senate of Puerto Rico; The Honorable Jenniffer González-Colón, Speaker, Puerto Rico House of Representatives; and The Honorable Eduardo Bhatia, Designee of the House Minority Leader.

Would the second panel please be seated, and in the interest of time, we do have a five-minute rule, so if you can reduce your statement to about five minutes, and I would like to remind you that your full written statement will be entered into the record, and before we begin, I would like to ask the Committee that a statement from a group called English First would be entered into the record as well as a written statement from The Honorable José F. Aponte Hernandez be entered into the record. I have no objections. So ordered.

I would like at this time now to recognize the Senate President, the Senate of Puerto Rico, The Honorable Thomas Rivera-Schatz.

STATEMENT OF THOMAS RIVERA-SCHATZ, SENATE PRESIDENT, SENATE OF PUERTO RICO

Mr. RIVERA-SCHATZ. Madam Chair, good day to you, as well as to the Resident Commissioner Pierluisi and to each of the other members of the House Committee on Natural Resources. For the record, my name is Thomas Rivera-Schatz. I am the President of the Senate of Puerto Rico. I wish to express my deepest appreciation on behalf of the Senate of Puerto Rico for the great interest you have shown in considering the affiliation of 4 million Americans residing in Puerto Rico.

I have come here today to express my support for H.R. 2499, the Puerto Rico Democracy Act of 2009. It is fitting that we gather here today to discuss a democracy act for Puerto Rico when we are about a month away from commemorating 111 years of becoming a U.S. territory. Full democracy has not been achieved in Puerto Rico. Puerto Ricans who live in the island cannot vote for the President, nor can we elect senators or voting members in the House of Representatives.

Thus, we are citizens of the most democratic country of the world but ironically, we have been deprived of enjoying full benefits and responsibilities of our citizenship. The status dilemma of 4 million American citizens residing in Puerto Rico is a civil rights issue. It is an issue of equality and freedom. The right of self-determination of 4 million American citizens is also a national Hispanic issue that is being closely watched by American citizens of Hispanic origin with great implications in the national political scene today.

Our nation has shown its best colors in conflicts around the world. It has shown that we are willing to fight and shed our blood

in the cause of freedom. That was the case in world wars, in Korea and Vietnam, in Bosnia and Herzegovina, in Iraq and Afghanistan, and many other international conflicts. Thousands of American citizens from the territory of Puerto Rico gave their lives, shed their blood in those historical conflicts, and continue to do so defending democracy and freedom.

However, those American citizens of Puerto Rico are denied their rights despite our great contributions to the United States. Over 100 Puerto Ricans have died in Iraq and Afghanistan since 2001. Many others have been wounded and decorated for their valor. Surprisingly, still today, their vote for their Commander-In-Chief is legally precluded. How can we argue that we went to Iraq and Afghanistan to, among other things, provide democracy and self-determination to the oppressed people of those countries, but refuse to grant the same basic principles to the people of Puerto Rico?

On this matter, I am encouraged with the President Barack Obama commitment to the people of Puerto Rico. In a letter sent to the Governor Luis Fortuño on January 2, 2009, and read during the Governor's inaugural ceremony, the President reminded the people of Puerto Rico his pledge to work with the Congress to enable to question of Puerto Rico status to be resolved during the next four years. President Obama concluded with the following commitment, and I quote, "We will work to give a voice to the people of Puerto Rico to enable them to determine their political future."

The time to give a voice to Puerto Rico is now by approving H.R. 2499. In Puerto Rico, for the first time in our history, the three traditional political parties representing different solutions for the status dilemma agree on the necessity of seeking a political status that removes Puerto Rico from the territorial clause of our U.S. Constitution. Continuing with the territorial status is not a solution since it maintains the island shackled to a territorial clause.

The only acceptable non-territorial, non-colonial status solutions under international law are statehood, independence, and free association. I suggest H.R. 2499 be amended to state that the three options in the second plebiscite, provided by Section 2, paragraph 3, shall be in accordance with international law. This will dissipate any doubts as to the non-territorial, non-colonial nature of the options. This bill is a good first step to decolonize the territory of Puerto Rico, but H.R. 2499 does not commit or mandate the U.S. Congress to implement the will of the democratic expression of 4 million American citizens.

This bill must establish in the minds of every member of the Congress and the President that the will of the citizens in Puerto Rico must be respected and implemented. Without a commitment from Congress to implement the democratically expressed result is to deny freedom. Maintaining 4 million American citizens in the territory without empowerment of equality is to maintain a state of apartheid in the 21st century. If our nation wants to project trust and good will to our neighbors and the international community, it must eliminate the anachronism of a territory with 4 million unequal American citizens.

I strongly believe that H.R. 2499 should be amended in Section 3 to add a new paragraph E stating that U.S. Congress shall execute the results of the second plebiscite and approve legislation to implement the mandate of the people of Puerto Rico. Last May, a handful of individuals from Puerto Rico interrupted a session of the Congress to express their frustration about our political status. While we know that the vast majority of Puerto Ricans do not share the political view of this small group, the fact remains that the American citizens of Puerto Rico do want Congress to listen.

Give the people of Puerto Rico the opportunity to properly express themselves by approving H.R. 2499 and you will realize that just as our men and women in uniform help defend the American flag, our people deeply value the democratic principles that America represents. In a letter to Henry Pierce written on April 6, 1859, President Lincoln said, those who deny freedom to others deserve it not for themselves, and under a just God, cannot long retain it.

Give the people of Puerto Rico the freedom to choose a final political solution by providing a fair and legal self-determination process based on non-territorial, non-colonial final permanent options. I respectfully ask you to succeed where more than 50 previous Congresses have failed. I ask that you recommend to the House approval of the Puerto Rico Democracy Act of 2009, and I respectfully request that you adopt the suggested amendments.

I would like to conclude my remarks by paraphrasing President Obama's statement. Those who stand up for justice are always on the right side of history. Stand on the right side of history. Approve H.R. 2499. Thank you very much.

[The prepared statement of Mr. Rivera-Schatz follows:]

Statement of Thomas Rivera-Schatz, Esq., President of the Senate of Puerto Rico, 2009- ; Electoral Commissioner of the New Progressive Party (Statehood Party) of Puerto Rico, 2000-2007; General Secretary, New Progressive Party (Statehood Party) of Puerto Rico, 2004-2007; Assistant District Attorney, Puerto Rico Department of Justice, 1996-1999

Chairman Rahall: good day to you, as well as to Resident Commissioner Pierluisi and to each of the other members of the House Committee on Natural Resources. For the record, my name is Thomas Rivera-Schatz. I am the President of the Senate of Puerto Rico. I was elected senator-at-large on November 4, 2008 in a landslide victory of the New Progressive Party, the party that promotes statehood for Puerto Rico. For the first time in 40 years a political party in Puerto Rico elected all the candidates it was allowed by law to nominate for the Senate.

Mr. Chairman I wish to express my deepest appreciation on behalf of the Senate of Puerto Rico for the great interest you have shown in considering the aspirations of the 4 million Americans residing in Puerto Rico in solving their political status dilemma.

I have come here today to express my support for H.R. 2499, the Puerto Rico Democracy Act of 2009. It is fitting that we gather here today to discuss a "Democracy Act" for Puerto Rico when we are but a month away from commemorating 111 years of becoming a U.S. territory. Indeed the people of the longest held territory in U.S. history have yet to be inquired by Congress whether they are content with the territorial arrangement that has besieged us, first under Spain and now by the United States.

Full democracy has not been achieved in Puerto Rico. True, we elect all our local and state government officials, but Puerto Ricans who live in the island cannot vote for the President nor can we elect Senators or voting members in the U.S. House of Representatives. Living in a territory means having no say in the national government, despite the fact that this Congress and the President make decisions every day that affect the daily lives of 4 million Americans that make Puerto Rico their home. Thus, we are citizens of the most democratic country of the world but iron-

ically we have been deprived of enjoying the full benefits and responsibilities of our citizenship.

The status dilemma of 4 million American citizens residing in Puerto Rico is a civil rights issue; it is a national issue of equality and freedom! The right of self determination of 4 million American citizens is also a national Hispanic issue that is being closely watched by all American citizens of Hispanic origin, with great implications in the national political scene today, in the 2010 Congressional elections and in the 2012 Presidential election.

The base for validating the discrimination against 4 million American Citizens was set by the same U.S. Supreme Court which validated racial segregation in *Plessy v. Ferguson,* 163 U.S. 537 (1896). In that case, a discriminating majority argued that races could be "Separate but Equal". In the Case of Puerto Rico, in *Downes v. Bidwell,* 182 U.S. 244; 21 S. Ct. 770; 45 L. Ed. 1088 (1901), the same discriminating majority gave birth to a new theory of incorporated and unincorporated territories, theories not found even in the darkest penumbras of constitutional interpretation. Using these arguments, as they did in the Plessy case, they added that Puerto Rico was a territory "Belonging to, but not a part of" and that we were "Foreign, in a domestic sense". Some 50 years later, in *Brown v. Board of Education,* 347 U.S. 483 (1954), a progressive U.S. Supreme Court rejected the argument of "Separate but Equal" and established that "Anything separate, was inherently unequal".

More than 100 years later, we still await the sensible voice of reason that rejects discrimination, and understands that there is no way you can "belong to, but not be part of", and mostly, nothing can ever be "foreign in a domestic sense". This is clearly a case of geographic segregation. As stated before in the Brown case, "Anything separate is inherently unequal". It is simply un-American for our Nation to maintain the American territory of Puerto Rico as separate and unequal.

Our Nation has shown its best colors in conflicts around the World. It has shown that we are willing to fight and shed our blood in the cause of freedom. That was the case in the two World Wars, in Korea and Vietnam, in Bosnia-Herzegovina, in Iraq and Afghanistan and many other international conflicts. Thousands of American citizens from the territory of Puerto Rico gave their lives; shed their blood in those historical conflicts, and continue to do so defending democracy and freedom.

However, the American citizens of Puerto Rico are denied their rights despite our enormous contributions to the United States. In fact, American soldiers from Puerto Rico have sustained higher per capita service-connected disabilities than soldiers from the States. Well over 100 Puerto Ricans have died in Iraq and Afghanistan since 2001; numerous others have been wounded and/or decorated for their valor. Surprisingly, still today, their vote for their Commander-in-Chief is "legally" precluded.

After 111 years of jurisdiction over Puerto Rico, now is the moment and time for our Nation to show its best colors to the 4 million American citizens residing in the territory by granting us the freedom to choose our final political destiny. How can we argue that we went to Iraq and Afghanistan to, among other things, provide democracy and self determination to the oppressed people of those countries but refuse to grant the same basic principles to the people of the U.S. territory of Puerto Rico? It is ironic that hundreds and hundreds of American soldiers from Puerto Rico are sent to the Middle East for the purpose of defending liberties that are denied to those very same soldiers in their own homeland!

On this matter I am encouraged with President Barrack Obama's commitment to the people of Puerto Rico. On a letter sent to Governor Luis Fortuño on January 2, 2009 and read during the Governor's inaugural ceremony, the President reminded the people of Puerto Rico of his pledge to work with Congress to enable the question of Puerto Rico's status to be resolved during the next four years. He went on to say that he was, and I quote, "fully aware of the difficulties that Puerto Rico has faced in the past when dealing with this issue, but self-determination is a basic right to be addressed no matter how difficult". On this subject, President Obama concluded with the following commitment, and I quote: "We will work to give a voice to the people of Puerto Rico to enable them to determine their political future." The time to give a voice to Puerto Rico is now—by approving H.R. 2499.

In Puerto Rico for the first time in our history the three traditional political parties representing different solutions for the status dilemma agree on the necessity of seeking a political status that removes Puerto Rico from the territorial clause of our U.S. Constitution. This clause provides Congress with full authority "to dispose of and make all needful Rules and Regulations respecting the Territory...belonging to the United States." This authority is absolute. As the U.S. Supreme Court stated in 1879, "All territory within the jurisdiction of the United States not included in

any State must necessarily be governed by or under the authority of Congress" (*First Nat. Bank v. Yankton County,* 101 U.S. 129, 133 (1879)).

However, continuing territorial status is not a solution since it maintains the island shackled to the territorial clause. The only acceptable non-territorial, non-colonial status solutions under international law are statehood, independence and free association. I suggest H.R. 2499 be amended to state that the three options in the Second Plebiscite provided by Section 2, Paragraph (c), shall be in accordance with international law. This will dissipate doubts as to the non territorial, non colonial nature of the options.

In Puerto Rico we have held three local plebiscites in 1967, 1993 and 1998 without any prior commitment from Congress to act upon the will of the people expressed in the ballot. The result was that once the vote took place nothing happened in Congress. Thus, the people of Puerto Rico are reluctant to vote on a plebiscite without Congress agreeing to implement the results.

This bill is a good first step to decolonize the territory of Puerto Rico. But H.R. 2499 does not commit or mandate the U.S. Congress to implement the will of the democratic expression of 4 million American citizens. This bill must establish in the minds of every member of this Congress and the President that the will of our citizens in Puerto Rico must be respected and implemented. Without a commitment from Congress to implement the democratically expressed result is to deny freedom. A non-commitment will certainly communicate and transmit to our Latin American neighbors that this Nation is not willing to treat as equal citizens of Hispanic origin.

Maintaining 4 million American citizens in the territory without the empowerment of equality is to maintain a state of apartheid in the twenty first century. If our Nation wants to project trust and goodwill to our neighbors and the international community it must eliminate the anachronism of a territory with four million unequal American citizens.

I strongly believe that H.R. 2499 should be amended in Section 3, to add a new Paragraph (e), stating that the U.S. Congress shall execute the results of the Second Plebiscite and approve legislation to implement the mandate of the people.

The status issue is simply an issue of civil rights. It is an issue of recognizing equality for 4 million American citizens. Today, our Nation is in a defining moment. The way this Congress and this President resolves the political condition of 4 million American citizens residing in Puerto Rico is being watched by all free men and all freedom-loving nations to determine how committed is the United States in recognizing our right to be equal.

Last May, a handful of citizens from Puerto Rico interrupted a session of Congress to express their frustration about our political status. While we know that the vast majority of Puerto Ricans do not share the political views of this small group, the fact remains that the American citizens of Puerto Rico do want Congress to listen. Give the people of Puerto Rico the opportunity to properly express themselves by approving H.R. 2499 and you will realize that, just as our men and women in uniform have defended the American flag, our people deeply value the democratic principles that America represents.

In a letter to Henry Pierce written on April 6, 1859 President Lincoln said "those who deny freedom to others, deserve it not for themselves; and under a just God, cannot long retain it." Give the people of the territory of Puerto Rico the freedom to choose a final political solution by providing a fair and legitimate self-determination process based on non territorial, non colonial final permanent options.

I respectfully ask you to succeed where more than 50 previous Congresses have failed. I ask that you recommend to the House the approval of the Puerto Rico Democracy Act of 2009 and I respectfully request that you adopt the suggested amendments.

Thank you very much.

Ms. BORDALLO. I thank you very much, Senator, for your testimony, and I would like to now recognize The Honorable José L. Dalmau-Santiago, the Minority Leader of the Senate of Puerto Rico.

STATEMENT OF JOSÉ L. DALMAU-SANTIAGO, MINORITY LEADER, SENATE OF PUERTO RICO

Mr. DALMAU-SANTIAGO. Thank you, Madam Chairwoman and honorable members and Commissioner Pedro Pierluisi. I was in-

vited as Senate Minority Leader of the Popular Democratic Party to testify before this Committee regarding H.R. 2499. The principal language spoken in Puerto Rico is Spanish, and as such, I will present my testimony in Spanish, but you have a copy in English from my testimony.

[Testimony in Spanish.]

Thank you.

[The prepared statement of Mr. Dalmau-Santiago follows:]

Statement of The Honorable José L. Dalmau-Santiago, Minority Leader of the Popular Democratic Party, Senate of Puerto Rico

Mr. Chairman and Honorable Members of the Committee on Natural Resources:

I was invited as Senate Minority Leader of the Popular Democratic Party to testify before this Committee regarding H.R. 2499.

The principal language spoken in Puerto Rico is Spanish. Therefore, I will present my testimony in Spanish.

Before providing my comments regarding H.R. 2499, I deem necessary to address a serious concern. Puerto Rico has had a relationship with the United States for more than a century; the last 57 of which under the Commonwealth status, as recognized under the pact contained in Public Law 600. During this relationship there have been various plebiscites to consult the status preferences of the People of Puerto Rico. The results of those electoral events, have demonstrated a firm rejection of the independence and statehood options.

There have been other Congressional initiatives for a self-determination process, including the one promoted by congressman J. Bennet Johnston's in the 1980's, H.R. 856, known as the Young Bill in 1998—which was also considered by this Committee, H.R. 900 two years ago and now H.R. 2499.

At the core of a self-determination process is the will of the Members of Congress to respect and fulfill the will of the People of Puerto Rico, since it is up to the People of Puerto Rico to finally decide their status preference. Are you ready to accept the will of the People of Puerto Rico which could include modifications under a new Commonwealth model or to grant statehood or independence? That is a question you have to answer.

Now, as a firm believer in the Commonwealth status option, which has served the People of Puerto Rico well for over half a century, I hereby submit to this Committee my statement in opposition of H.R. 2499.

H.R. 2499 is the offspring of the failed H.R. 900, which was, in turn, the product of the Bush-Cheney task force on Puerto Rico. It reflects the same distorted democratic values that became prominent during the previous Administration. The Bush-Cheney task force report adopts the flawed conclusion that the U.S. Constitution somehow prohibits a relationship with Puerto Rico based on mutual consent, anchored in the sovereignty of the People of Puerto Rico and our U.S. citizenship.

H.R. 2499 promotes a sui-generis two-round election process, which is totally biased in favor of the statehood option, as it proposes a Commonwealth yes or no vote, with a run-off round between various status options which have not been the historical preference of the People of Puerto Rico. This is clearly not a democratic self-determination process but a heavy biased plebiscite from the start.

President Obama laid out the framework for resolving the Puerto Rico status question in his February 12, 2008, letter to Gov. Acevedo Vilá, copy of which is included for the record. The process, the President said, has to be "genuine and transparent", "true to the best traditions of democracy". It has to be "deliberative, open and unbiased" and must "recognize all valid options... including commonwealth, statehood, and independence." On that same spirit, the platform of the 2008 Democratic Party Convention states that "[t]he White House and Congress will work with all groups in Puerto Rico to enable the question of Puerto Rico's status to be resolved during the next four years. H.R. 2499 is not on the same track as the President or the Democratic National Committee which received the endorsement of the People of the United States A just and democratic self-determination process requires that all valid options receive equal treatment. That is what International Law requires and what is fair in a democracy.

I recommend a self-determination process which will provide the People of Puerto Rico with an alternative to reach a consensus regarding the acceptable status options. I am referring to the Constitutional Assembly method. This alternative provides for an ample dialogue and a frank discussion between proponents of the dif-

ferent status options as well as facilitates a viable consensus for the status solution in the Island.

The Constitutional Assembly is not a new or novel process for the United States or Puerto Rico. The Constitution of the United States was adopted by a Constitutional Assembly convened in Philadelphia, in 1787. The Constitution of the Commonwealth of Puerto Rico was adopted by a Constitutional Assembly convened from September 1951 to July of 1952. Both Magna Cartas are important documents that have served as model for other democratic societies. Many Puerto Ricans have given their lives to defend the principles therein contained.

The Constitutional Assembly has been also amply used as the method of choice by the different territories in their quest to petition for statehood. The Constitutional Assembly should be considered by this Committee as a viable alternative to finally resolve the status question. H.R. 2499 does not include this alternative. I totally agree with the petition from various factions in the sense that we have to express our preferences on the status issue. However, the method proposed by H.R. 2499 is incorrect, anti-democratic and unjust to the People of Puerto Rico. H.R. 2499 does not provide for a fair process.

Nevertheless, our current relationship with the United States requires modifications to facilitate our insertion in the global economy and benefit from it.

There are other issues that should be part of the status discussion. For example, the restrictions imposed by the Maritime Cabotage Laws. Puerto Rico is currently required to exclusively use U.S. merchant vessels for maritime transportation. This situation results in the imposition of a significant additional cost to the Island's cargo operations that depends almost 100 % on maritime transportation for the importation and exportation of goods. This restriction imposes on Puerto Rico a serious competitive limitation in the Island's ability to market its products internationally. The Commonwealth should have the flexibility to choose maritime providers based on competitive principles which would benefit the Island's consumers, would provide investors with an additional incentive to invest in our economy and would promote the economic development of our country.

Exclusion from the applicability of the Maritime Cabotage Laws is nothing new to Congress because the Virgin Islands, Marianas, Guam, American Samoa, Wake and Midway are currently exempted from this restriction. The proposed exclusion is an indispensable component for the development of strategic projects in our country, such as the Port of the Americas, a major transshipment with value added and domestic cargo port. Hawaii and Alaska are other Untied States jurisdictions that are exploring alternatives to become excluded from this restriction, to further the development of their economies.

For the reasons described above, we oppose H.R. 2499 and submit the Constitutional Assembly alternative as the most democratic and viable option to allow the People of Puerto Rico to express its will.

Thank you.

Annex: Letter of Barack Obama to the Hon. Aníbal Acevedo-Vilá, Governor of Puerto Rico, February 12, 2008

[The letter from Barack Obama follows:]

Barack Obama

February 12, 2008

Honorable Anibal Acevedo Vila
Governor
Commonwealth of Puerto Rico
La FOltaleza
San Juan, Puerto Rico 00901

Dear Governor Acevedo Vila:

Puerto Rico is a vitally important part of our country and Puerto Ricans have made immeasurable contributions to the United States. As President of the United States, I will pay close attention to issues that have an impact on the well-being of the people of Puerto Rico.

Puerto Rico's status must be based on the principle of self-detennination. Puerto Rico has a proud history, an extraordinary culture, its own traditions, customs and language, and a distinct identity. As President, I will work closely with the Puerto Rican govemment, its civil society, and with Congress to create a genuine and transparent process for self-determination that will be true to the best traditions of democracy. As President, I wiU actively engage Congress and the Puelto Rican people in promoting tlus deliberative, open and unbiased process, that may include a constitutional convention or a plebiscite, and my Administration will adhere to a policy of strict neutrality on Puelto Rican status matters. My Administration will recognize all valid options to resolve the question of Puerto Rico's status, including commonwealth, statehood, and independence.

I strongly believe in equality before theJaw for all Americ~mcitizens. This principle extends fully to Puerto Ricans. The American citizenship of Puerto Ricans is constitutionally guaranteed for as long as the people of Puerto Rico choose to retain it. I reject the assertion in reports submitted by a Presidential Task Force on December 22, 2005 and December 21, 2007 that sovereignty over Puerto Rico could be unilaterally transferred by the United States to a foreign country, and the U.S. citizenship of Puerto Ricans is not constitutionally guaranteed.

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I will also work closely with the government of Puerto Rico, its private sector and labor leaders to advance an aggressive agenda of job creation, economic development and new prosperity. The levels of unemployment on the Island over the last three decades are unacceptable, which is why I will propose the creation a federal-Puerto Rico joint task force to study and report not later than August 31, 2009 on specific ways to maximize the use of existing federal initiatives to generate jobs in Puerto Rico or on new federal initiatives to achieve that goal.

In addition, I will work closely with the govenunent of Puerto Rico and Congress to enhance the participation of Puerto Rico in Medicaid and all federal health care assistance programs. My Administration will actively work with the Department of Defense as well to achieve an environmentally acceptable clean-up of the former U.S. Navy lands in Vieques, Puerto Rico. We will closely monitor the health of the people of Vieques and promote appropriate remedies to health conditions caused by military activities conducted by the U.S. Navy on Vieques. I will also work to evaluate and expand the existing land use plan for the former U.S. Navy lands to prioritize improving the lives of the Island's residents and the sustainable economic development of the people ofVieques.

Sincerely,

Barack Obama

Ms. BORDALLO. I thank the Minority Leader from the Puerto Rico Senate for his testimony, and we do have the English version here for the record, and now I would like to recognize The Honorable Jenniffer González, the Speaker of the Puerto Rico House of Representatives. Madam Speaker.

STATEMENT OF JENNIFFER GONZÁLEZ-COLÓN, SPEAKER, PUERTO RICO HOUSE OF REPRESENTATIVES

Ms. GONZÁLEZ-COLÓN. Thank you, Madam Chair and all distinguished members. First of all, I would like to clarify that the Bush Task Force reports were based on legal opinions of the Clinton Justice Department, and I think that is important to the record. I am the Speaker of the Puerto Rico House of Representatives, and here on behalf of over 4 million of your fellow citizens living in Puerto Rico. We are American citizens but we cannot vote for our nation's President and do not have a voting representation in this Congress.

We have one representative who cannot vote in the full House, not even for this bill which determines our future. In the past days, we have witnessed millions of people marching and protesting in a distant land to defend the votes they cast. They are risking their lives to defend their right to vote. I am here to support H.R. 2499 because we, your fellow citizens, also have the right to choose our destiny. This bill will finally authorize our people to vote on whether we want to continue under current conditions or choose a different one.

Opponents allege that the bill is not fair and that is leans the vote against the current relationship. Of course, that is not true.

The basic question before voters whether they still consent to live in a territory, if the voters support the territory, then it is clear that the majority of Puerto Ricans truly favored the current colonial arrangement. However, if the territory is democratically rejected, it means that the true majority of Puerto Ricans no longer consents to the territorial government. If that is the case, Puerto Ricans will then choose between status options that end the territorial condition.

Opponents also allege a lack of consensus. I do not agree on that either. The language of the bill reflects our Resident Commissioner's efforts to reach a consensus and address opponent objections, well-grounded or not. For instance, I believe that the current undemocratic arrangement is the real problem, and as such, it should not be an option. Yet, this bill allows Puerto Ricans who support it a vote in order to extend it. Further, the bill does not label the current commonwealth as territorial, as some requested, nor does it make clear that under it, Puerto Rico is subject to congressional authority under the territory clause, allowing some supporters to continue the claim that claims that it is not.

Despite the both, I support this bill. I support H.R. 2499. I also reject the claim of lack of consensus because some use it to further delay a right to vote. There is consensus that a non-colonial solution is needed, but if what opponents mean by consensus is unanimity about means and ends, then that is just a way to prevent anything from happening. Despite the numerous bills that have been discussed in this Congress to this day, supporters of some sort of new territory are still debating exactly what they want to propose.

On multiple occasions, members of the House and the Senate have rejected the variations presented by those who favor an enhanced form of territorial government, because they were not viable under the Constitution. Accordingly, and after a strong lobbying effort, the process has been delayed, ironically because supporters of the current relationship cannot even reach an internal consensus on what they want. But while they claim to reach a consensus of their highly mutating territorial option, they continue to deny us our right to vote.

That should not be the case right now. As mentioned above, the current territory is on the first ballot. Despite arguments to the contrary, the bill does reflect our Resident Commissioner's efforts to address opponent objections and to reach a real consensus. I have to add that that effort, despite the fact that the opinions as to how we will solve Puerto Rico's status were very clear to the voters in the last November election, opponents of this bill ran on a platform that included the arguments brought forth today. However, supporters of this bill won most office in Puerto Rico, including Governorship, the Resident Commissioner, as well as the State House and Senate. The will of the people, of course, is very clear.

Finally, a lot has been said about the fact that in over 111 years, Congress has never given Puerto Ricans an opportunity to hold a vote between viable alternatives to solve this fundamental issue. We think the time has come for this to change. As citizens of this brave democracy, we need the government to allot us one more day without at least asking 4 million of its citizens whether we will fur-

ther consent to live under the government based on legislation without representation.

That is the real issue here, civil rights, and we demand to vote. Thank you, Madam Chair, and thank you, distinguished members of the Committee.

[The prepared statement of Ms. González-Colón follows:]

Statement of The Honorable Jenniffer A. González-Colón, Speaker, Puerto Rico House of Representatives

Mr. Chairman and Distinguished Members,

I am the Speaker of the Puerto Rico House of Representatives, here on behalf of over four million of your fellow citizens living in Puerto Rico.

We are American citizens, but we cannot vote for our nation's President and do not have a voting representation in this Congress. We have one representative who cannot vote in the full House—not even for this bill, which determines our future.

In the past days, we have witnessed millions of people marching and protesting in a distant land, to defend the votes they cast. They are risking their lives to defend their right to vote.

I am here to support H.R. 2499 because we, four million of your fellow citizens, also have the right to choose our destiny.

H.R. 2499 would finally authorize our people to have a binding vote on whether we want to maintain the current political condition, or choose a different one.

Critics argue that the bill is not fair and that it leans the vote against the current relationship. Not true.

The basic question before the voters is whether they still agree—and consent—to live in a territory.

If the voters support the current relationship, then, it is clear that the majority of Puerto Ricans truly favor the current colonial arrangement.

However, if the territory is democratically rejected, it means that the majority of Puerto Ricans no longer give their consent to the territorial government.

If that is the case, then Puerto Ricans will choose between status options that end the territorial and colonial condition.

Critics also argue that the process lacks consensus. I do not agree.

The language of the bill reflects our resident commissioner's efforts to address objections of opponents—well-grounded or not.

For instance, I believe that the current undemocratic arrangement is the problem—and it should not even be an option. Yet, note that the proposal, first of all, allows Puerto Ricans who support the present relationship a vote to keep it.

Further, note that the bill does not label the current "Commonwealth" as territorial nor does it state that under it, Puerto Rico is subject to congressional authority under the Territories Clause—allowing some supporters to continue their claims that it is not.

I also reject the claim of lack of consensus as an objection to the bill because, ultimately, some simply use it to further delay Puerto Ricans' right to vote between non-territorial and non-colonial options.

There is consensus that a non-colonial solution is needed. But, if what critics mean by "consensus" is unanimity, about means and ends, then that's just a way to prevent anything from happening.

Despite the numerous bills that have been discussed in this Congress, to this day, supporters of some sort of new territory are still debating exactly what they want to propose.

In multiple occasions, and throughout various processes in 1989, 1991, 1996, and 1998, members of the House and the Senate rejected the variations presented by those who favor an "enhanced" form of the territorial government because they were simply not viable under the Constitution. Accordingly, and after a strong lobbying effort, the processes have been delayed, ironically, because supporters of the current relationship cannot even reach an internal "consensus" on what they want.

But, while they attempt to reach a consensus in their highly mutating territorial option, they continue to deny the rest of their fellow citizens a right to vote.

That should not be the case on this occasion, because, as mentioned above, the current territory is on the first ballot.

As further evidence that this is a fair proposal, we note that it does not include—as some requested—as an alternative to the current Commonwealth the proposal that Puerto Rico be empowered to nullify federal laws, to enter into international agreements while being in an association with the U.S. that the U.S. cannot change and, further, that the U.S. be permanently required to provide always more benefits

than at present—proposals that this Committee and all other federal authorities have said are impossible.

As you can see, despite arguments to the contrary, the language of the bill genuinely reflects our resident commissioner's efforts to address opponents' objections.

I have to add that our resident commissioner has made that effort, despite the fact that differences as to how we would resolve the fundamental issue of Puerto Rico's status were clear to voters in the last election.

Opponents of the process encompassed by the bill ran on a platform that included the arguments brought forth today. They not only lost, but they lost overwhelmingly. Advocates of this process and this bill won most offices in Puerto Rico; including the governorship, the resident commissioner, as well as the State House and Senate. The will of the people is clear.

Finally, a lot has been said about the fact that in over 111 years, Puerto Ricans have never been given a real opportunity by the Congress to hold a binding vote between viable alternatives to this fundamental issue. The time has come for this to change. As citizens of the greatest democracy in history, it is our right.

As the heirs of the Revolution of 1776, this government should not allow one more day to go by without at least asking four million of its citizens whether they further consent to live under a government based on "legislation without representation."

Ms. BORDALLO. Thank you very much, Speaker Jenniffer González, for your testimony, and the Chair now recognizes The Honorable Eduardo Bhatia, Designee of the House Minority Leader. You can proceed.

STATEMENT OF EDUARDO BHATIA, DESIGNEE OF THE HOUSE MINORITY LEADER

Mr. BHATIA. Good morning, Madam Chairwoman and dear members of the Committee. My name is Eduardo Bhatia. I am a member of the State Senate in Puerto Rico. It is a great honor to be here. I was here, actually, in this very same room in the 1980s when Moe Udall was the Chairman and Ron DeLugo was among us at the time. I was here in the 1990s, and I actually testified before the Committee, when Don Young was the Chairman. I was here in 1998 testifying on this very same issue.

I am here almost 20 years later exactly in the same place discussing the same things we were discussing 20 years ago, and I am sure some folks like Senator Berríos was here when, probably say he was here 40 years ago discussing exactly the same issues. The last four years, I met with so many of you, as I was a representative of the Governor of Puerto Rico here in Washington, D.C., and many of you generally asked me the very same question, which is, what should be the position of the U.S. Congress as it regards to Puerto Rico?

I think the answer rests on two principles that truly represent the democratic aspirations of the people of Puerto Rico. First, whether one likes it or not, whether one thinks about it or not, Puerto Rico is a nation from a sociological point of view, and I welcome the Committee, the whole Committee, to come to Puerto Rico and hold hearings in Puerto Rico. I think it is important that that recognition be made before anything moves forward. Puerto Rico is a nation.

It hurts some people's ears and I don't know why. The truth of the matter is that if Puerto Rico became a state, and I think it could become a state, it would be a nation becoming a state, and that is not a decision for Puerto Ricans to make. It is a decision also for the United States to make when it makes up its composi-

tion of what states should be, but the starting point should be, Puerto Rico is a nation.

The second point that I think is very important to understand about Puerto Rico is that in 1917, without Puerto Ricans even asking for it, Puerto Ricans were given U.S. citizenship, and it has become, 100 years later, it has become a token of what Puerto Ricans do want. Puerto Ricans want to keep their U.S. citizenship. So the question that has confronted Puerto Ricans throughout the last 100 years is, what to do with the fact that you are a nation with U.S. citizenship.

How do you reconcile both concepts? Is there a way of doing it? If there is no way of doing it, then we should just, you know, shut the lights and go home and that is it, but is there a way of reconciling the fact that you are a nation with U.S. citizenship? How do you balance both issues? And that is exactly what the people of Puerto Rico are asking us to do, reconciling both things. Now, the way your predecessors in Congress did it was they created something called commonwealth, and I am the first one, and I am from the Commonwealth Party, to admit that commonwealth has many problems and commonwealth has to be improved, and throughout the years I can say that there are so many ways that we can sit down and work on the defects that we have seen and identified within commonwealth.

Now, your predecessors were bold, creative, smart, visionary and open-minded, and the idea of creating a new relationship between Puerto Rico and the United States obviously did not like those, and it is the case today, obviously it was not liked by folks who support independence or statehood. Those who support independence and those who support statehood do not like the idea that there is a middle ground, a balanced position, because obviously if you are for independence or statehood, you do not like that center.

That center is always hated. In every society, the center is hated by both the left and the right, and that is exactly what happens in Puerto Rico. So that brings us to today. The question is, and the challenge before this Committee and before the people of Puerto Rico is, can Puerto Rican nationhood be reconciled with U.S. citizenship in Puerto Rico?

And I will just end, Madam Chairwoman, with, I would say, five lessons, quickly, five lessons that we have learned over the last maybe 50 years, 40 years, 30 years. First, the recognition that Puerto Rico is a nation has to be inserted somewhere in the process. Second, yes, U.S. citizenship is very, very important for many reasons to all Puerto Ricans, regardless of what political party you belong to. Third, this bill does not work. It violates the Speaker's, Speaker Pelosi's commitments to Puerto Rico about consensus and its consensus about the process, and it doesn't have the support of a single, other than the Resident Commissioner, a single Puerto Rican Member of Congress.

I think the fact that they are not here today says millions about this bill. Also, the fact that the White House is not here today speaks volumes of the lack of support to the process that wants to be established through 2499, and I think, honestly, that the problem is, and I think it is, you know, and I love it, and I will finish with this, the problem with 2499 is when you are in the center,

when you are in the middle in any political fight, it is obviously the left and the right who want to define you.

Some people want you to push one way. Other people want to push you the other way. We who are representing commonwealth say, we want to define ourselves. Why don't you define statehood, those who support statehood, you define independence and your terms on independence. We on the commonwealth side, we will define what commonwealth is and we will work it out with a U.S. Congress, and that is exactly what we mean by a constitutional convention.

I will finalize by saying, Madam Chairwoman, that something that has not been articulated enough in this hearing is the fact that the White House is working on this issue. We have a new President who has a sensitivity to the issue of nationhood, someone who comes from an island, Hawaii, an island nation in a way, someone who can actually put together the idea that we could all build a consensus, and I would say, to finish, that let us give room to the White House.

I think before we move forward with 2499, we should give room to the White House to come up with what proposal they have. It is a new President, new administration, and I think the smart thing to do would be to stop the proceedings at some point in the near future and sort of allow the White House to come up with a former proposal on what to do with Puerto Rico. Thank you very much.

[The prepared statement of Mr. Bhatia follows:]

Statement of The Honorable Eduardo Bhatia, Senator, Commonwealth of Puerto Rico

Good afternoon. My name is Eduardo Bhatia, I am a state Senator in the Commonwealth of Puerto Rico and I appear before you today on behalf of the legislative conference of the pro-Commonwealth Popular Democratic Party.

As all of you, I am a legislator.

A legislator from Puerto Rico totally opposed to H.R. 2499.

A legislator who, as a young man, was in this very room when Congressmen Ron De Lugo and Mo Udall faced the very same issue in the 1980's. I was here in the 1990's addressing the same issues when Congressman Don Young was chairman of the Committee. I even testified before this Committee in 1998. And for the past four years I was the Representative of the Governor of Puerto Rico in Washington, DC and personally met with many of you who genuinely asked me a simple yet elaborate question: What should be the position of the United States Congress on the political relationship between Puerto Rico and the United States?

The answer rests on two principles that truly represent the democratic aspirations of the people of Puerto Rico:

First, Puerto Rico is a nation. From a sociological standpoint, it is a nation. And the people of Puerto Rico behave as a nation. I strongly encourage you to come visit us and experience it for yourselves.

Second, your predecessors in the United States Congress granted Puerto Ricans United States Citizenship in 1917. That citizenship has meant abundant and numerous rights and responsibilities for the people of Puerto Rico, who cherish and value it.

Now, the only—and I mean only—issue before you today is how to reconcile both concepts within the relationship of Puerto Rico and the United States.

Your predecessors faced and grappled that issue in the 1950's. And the answer for both the people of Puerto Rico and the U.S. Congress was not statehood. And the answer was not independence. They created something called "Commonwealth" that in essence recognized and celebrated the very fundamental nature of the Puerto Rican nation and at the same time formed an everlasting bond through the assurance of United States citizenship. The United Nations and the United States Supreme Court validated the relationship that, although imperfect in many ways, reconciled what seemed as an impossible exercise in policymaking.

Your predecessors were bold, creative, smart, visionary, and open minded in the aftermath of the Second World War. And the people liked it. To be sure, it was that mutual validation in July of 1952 by Congress and the people of the island, which prompted the International Olympic Committee during the 1952 Helsinki Olympics to raise for the first time the flag of Puerto Rico as a nation at that international sports event. It is still being raised today.

Your challenge, of course, is to answer the same question in the 21st century:

Can Puerto Rican nationhood with United States citizenship be reconciled? Yes or no? And if the answer is yes, how to do it?

Of course, those who favor statehood for Puerto Rico and the abundantly rich and resourceful statehood lobby "many of whom are here today—will try to convince you that the answer is NO. They base their conclusions exclusively on political strategy. You see, it is very simple: as long as "commonwealth" is an option, statehood will not win a plebiscite in Puerto Rico. That was the case in the 1993 plebiscite and again in 1998. The lesson is very clear: people do not want statehood because there is a sense of Puerto Rican nationhood that is threatened by that concept. And rightly so!

And if there is a lesson to be learned from Iraq, from the Basque Country in Spain, from the Québécois people in Canada, from the Irish in Northern Ireland, from the Serbians in former Yugoslavia is that nationhood means so much in the core of a society.

But the people of Puerto Rico do not want independence either. Less than 5 percent of the population favors independence because the existence and permanence of United States citizenship would be threatened.

This state of affairs is the result of over 100 years of federal policymaking... Please do not blame the Puerto Ricans! For almost 60 years the way to reconcile both aspirations and keep the right balance was the commonwealth relationship. And even today, when we are faced with the same dilemma, an enhanced form of commonwealth should not be perceived as the problem. It is the answer to the dilemma.

And therein lies the problem with H.R. 2499. In a very simplistic, yet undemocratic and shameful way tries to push statehood without any recognition of the historical aspirations of the people of Puerto Rico and the fine, yet carefully crafted, balance that Commonwealth brought about. This bill violates the commitment of Speaker Nancy Pelosi to create a consensus process. There is no consensus as you have heard over and over today.

And you may ask what is wrong with just consulting the people of Puerto Rico? The devil is in the details.... Consulting them about what? What are the terms of each option? Should it be left to anyone's imagination to come up with illusory arrangements? For example, will Puerto Rico be truly admitted as a state? What are terms of that "sovereign" option? Should it not make more sense to define them fully first in consultation with the people of Puerto Rico and then proceed to a vote when the process is mature for a vote?

It should come as no surprise then that senior Puerto Rican Members of Congress, to wit: The Chair of the Hispanic Caucus and Chairwoman of the Small Business Committee Nydia Velazquez and Congressman Luis Gutiérrez from Chicago do not support this bill.

It is very clear to me as a Puerto Rican, as a legislator and as a long time observer and participant in this progression that the people of Puerto Rico want to continue the course of action that allowed the United States and Puerto Rico to reconcile the two principles of local nationhood and U.S. citizenship.

And it can be done, but the way to do it is not H.R. 2499. It is through a process of mutual consent; of mutual negotiation; a process of creative policymaking and of recognizing and celebrating the most fundamental democratic principles and bonds that have made the relationship work for so long.

That is why I favor a more coherent process that many in Puerto Rico and here in Washington, D.C. call a constitutional convention. Just like it has been done for so many other genuine political dilemmas in the history of the United States, I favor a constitutional convention to carefully craft a future for Puerto Rico. It is the only way to inject common sense to this debate.

Members of Congress: that is exactly what President Barack Obama is trying to do. In a letter dated February 12, 2008, he stated:

> *As President, I will work closely with the Puerto Rican government, its civil society, and with Congress to create a genuine and transparent process of self-determination that will be true to the best traditions of democracy. As President, I will actively engage Congress and the Puerto Rican people in promoting this deliberative, open and unbiased process, that may include a constitutional convention or a plebiscite, and my administration will adhere*

to a policy of strict neutrality on Puerto Rico status matters. My Administration will recognize all valid options to resolve the question of Puerto Rico's status, including commonwealth, statehood, and independence.

So, today my first conclusion would be: let the White House take the lead on this issue. A new President who has the background to fully understand the depth of the nationhood argument and is sensitive to the political aspirations of an island-people should be given room to elaborate a plan for the United States in consultation with Puerto Rico. H.R. 2499 shuts the door to a new White House and essentially follows old, tainted and discredited views on what to do about Puerto Rico.

I am aware that this debate—and H.R. 2499—are polluted with the existence of two recent reports that were designed to deny any future development of the Commonwealth. The Bush Reports adopt the legal conclusion that the U.S. Constitution somehow prohibits a relationship with Puerto Rico based on mutual consent, which is anchored in the will of the people of Puerto Rico, along with U.S. citizenship. The real effect of the reports is nil as the Executive has no authority to interpret the law and numerous federal appellate and Supreme Court decisions on the matter. However, the statehood lobby intends to give this fallacious report great weight and this Congress would in fact be giving this Bush era relic legal authority were it to move forward on H.R. 2499.

And to those in this room who favor statehood and for purely political reasons insist that an enhanced commonwealth is impossible under the United States Constitution, I challenge you today to go a few blocks from here to the Georgetown Law School and spend 15 minutes with Dean Alexander Aleiknikoff who has clearly stated:

If both the Congress and the people of Puerto Rico seek to establish a new relationship that recognizes space within the American constitutional system for "autonomous" entities, it ill behooves either the executive branch or the judiciary to set such effort aside in the name of nineteenth-century conceptions of sovereignty. [1]

Moreover, constitutional Law Professor, Richard Pildes, from the New York University School of Law, while describing the Bush Reports on the status of Puerto Rico constitutional analysis as "unpersuasive and inadequate," concludes that regarding the possible future development of Commonwealth:

In my view, were the United States Congress and the people of Puerto Rico to prefer expanding the existing Commonwealth relationship, in a way that provides greater autonomy for Puerto Rico on the basis of mutual consent, it would be unfortunate, even tragic, for that option to disappear due to confusion or error about whether the Constitution permits Congress to adopt such an option. [2]

Professor Pildes stated in his testimony before the Subcommittee on Insular affairs on March 22, 2007, that:

"Congress does have the power, should it choose to use it, to enter into a mutual-consent agreement that would create and respect more autonomous form of Commonwealth status for Puerto Rico, in which Congress would pledge not to alter the relationship unilaterally." [3]

Similar conclusions where reached by Charles Cooper, former head of the Office of Legal Counsel at the U.S. Department of Justice:

"In short, there is no support for a reading of the Constitution that unnecessarily restricts the political arrangements available to the President and Congress in fashioning binding consensual solutions to the Nation's relations with the people of its territories." [4]

All of these outstanding constitutional scholars are available to clarify these notions before proceeding with this ill-conceived bill.

Finally, Mr. Chairman, as my second and last conclusion, I would urge this Committee to reject H.R. 2499 as it represents a setback for the aspirations of the people of Puerto Rico. There is a much better path and the White House is working with the leadership of Puerto Rico to craft the much needed consensus to move forward this debate. Give them a chance.

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[1] Aleinikoff, Alexander, SEMBLANCE OF SOVEREIGNTY, pages 92-93, Harvard University Press (2002)

[2] Pildes, Richard, TESTIMONY BEFORE THE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON INSULAR AFFAIRS OF THE U.S. HOUSE OF REPRESENTATIVE ON H.R. 900 AND H.R. 1230, page 1, March 22, 2007

[3] Id., pages 6-7.

[4] Cooper, Charles, THE POWER OF CONGRESS TO VEST JURIDICAL STATUS IN PUERTO RICO THAT CAN BE ALTERED ONLY BY MUTUAL CONSENT, page 7, September, 2005 (Memorandum presented to the U.S. Department of Justice on behalf of the Government of Puerto Rico).

Thank you.

Ms. BORDALLO. I thank the gentleman for his testimony and I do want to set the record straight to clarify, the White House is not here today because we called this hearing to hear from the elected leaders from Puerto Rico. So perhaps in the future we could, but we just invited the elected leaders from Puerto Rico to hear from them. At this time, the Chair recognizes the gentleman from Puerto Rico, Mr. Pierluisi.

Mr. PIERLUISI. Yes, I will try to be brief. I will start in reverse order first with Mr. Bhatia. Thank you for being here, Eduardo.

Mr. BHATIA. Thank you.

Mr. PIERLUISI. Let me just quickly react and then ask you a question that I asked before but I didn't get an answer. First of all, you mentioned that my fellow Puerto Rican members are not here present. Let me just say for the record that I hold them in the highest esteem, but you have to understand, I am the legal representative of Puerto Rico before this Congress, and this issue has to do with Puerto Rico, so I have taken the lead, as I should, and the members of this Committee are all listening, will take into account everything that is said in here, and when the time comes, the bill will continue its course and we will see what is the will of this Congress.

Now, another reaction that I have to what you are saying is this has nothing to do with left and right. This has only to do with democracy, with hearing directly from the people of Puerto Rico on the most important question that we are facing as a people, so it has nothing to do with being on the left, on the right. Insofar as President Obama is concerned, his position is already in writing, crystal clear. He supports a fair, neutral, democratic process for dealing with this issue.

I stand by H.R. 2499 as a fair process for dealing with this issue. Having said that, I am open to any amendments. Now, let me go to the question. I asked Mr. Ferrer, and I hear all this that you mention about nationhood and Puerto Rico being a nation and whether Puerto Rico can be part of the U.S. or become a state being a nation. Let us go straight to the bill. What is wrong with the option that I am giving, not me, the bill, 2499 says, in the second plebiscite, one of the options is called sovereignty in association with the United States: Puerto Rico and the United States should form a political association between sovereign nations that will not be subject to the territorial clause of the United States Constitution.

What is wrong with that? How is that inconsistent with anything you said and anything that your party said in its platform?

Mr. BHATIA. OK, let me—I think—is that, done the question?

Mr. PIERLUISI. Yes.

Mr. BHATIA. OK. Let me address the first two issues first, and I will be more than happy to address the last issue. First, the other Members of Congress represent also 4 million Puerto Ricans who live in the United States, so you are the representative of Puerto Rico, and I recognize that and I am very, I respect you for that, but I think there is another nation of Puerto Ricans who also live here, and by that, what I meant was that the Speaker of the House

wanted to have a consensus bill worked out with those Members of Congress for whom this is very dear to their heart, and I know you are the representative of Puerto Rico, but there are Members of Congress who love Puerto Rico as much as you do and who come from Puerto Rico and who represent Puerto Ricans as well, and what I am saying is, the fact that this bill is flawed comes from the fact also that those Members of Congress are not even supporting that bill, and that is the point I am trying to make.

I am trying to make the point that there are cracks all over this bill in terms of the process in which we are moving forward. Second, what I meant by left or right, in the case of Puerto Rico, it is not left or right. What I am saying is, it is always great and it always sort of puzzles me and it is great how in order for others to define you, it sort of makes them big or makes them great. The point I am making is, as part of the Commonwealth Party, and it also happens in other societies where it is not commonwealth, it is really the moderates, the centrists, it is always the extremes who want to define you, and the point I was trying to make, take away the left or right, is that it is always funny that independence supporters and statehood supporters come here to give this, you know, constitutional interpretations as though they were judges of the Supreme Court to tell us what commonwealth can and cannot do, and I encourage all of the members of the Committee, and I wish the Chairman was here today, to go down the street two blocks from here, Georgetown Law School.

The Dean of the Georgetown Law School has written a book saying it is absolutely outrageous to think that in the 21st century, the U.S. Congress doesn't have the power or the authority to enter into whatever arrangement it wants. It is absolutely outrageous. I mean, the U.S. Congress, in a way, it is so powerful that it can really break into new ground and establish a relationship that works for the people, and I think that is exactly what this Committee should be looking into, not whether it fits into Article III or Section II of the—you know, I think that 19th century reading of the Constitution is absolutely outrageous.

Finally, in terms of the definition of commonwealth, I think it is a choice of words, that is all. In your bill, for political purposes, I think it is not, you know, it is different if I wrote down, Puerto Ricans, would you like to vote to eliminate the Olympic Committee of Puerto Rico and pay taxes? If you feel you want to pay taxes and eliminate the Olympic Committee, vote here. I am describing statehood. There is nothing wrong with that, but it is just the language used.

So I do agree that we could have a, you know, nice intellectual conversation as to whether the language used for the bill, but it is put there with a specific purpose. The devil is in the details. For me to go to voters would be simpler, would be less sophisticated, would be easier, to go and tell them, look, this is enhanced commonwealth, this is statehood, and this is independence. Otherwise, I am willing to allow you to define commonwealth, now you allow me to define statehood, and I think that would be fair. Otherwise, it would be totally undemocratic.

Mr. PIERLUISI. Madam Chair, I have more questions for the other members of the panel, if you allow me. If not, I will cede my——

Ms. BORDALLO. You go ahead, if we can——

Mr. PIERLUISI. OK, I will move it along. Just for the record, the bill provides for all those born in Puerto Rico to be able to vote, regardless where they reside, and for the record as well, there are close to, probably close to 4 million people of Puerto Rican descent living in the U.S. mainland, but by the way, they are not represented or they are not in three particular congressional districts. They are all over the U.S., and we just heard earlier today from Alan Grayson, the Congressman of Central Florida, who represents quite a few of them. That is just for clarification purposes.

The Speaker of the House, could you, I noticed that you mentioned, you addressed the issue of consensus. You are so experienced in dealing with trying to reach consensus in the legislative process. Why do you believe consensus should not be an issue when dealing with Puerto Rico status?

Ms. GONZÁLEZ-COLÓN. Because it will be a moral issue. It will be a moral duty. Do we need consensus to send a soldier to Iraq? Do we need consensus to grant civil rights? Do we need consensus to grant a vote? Do we need consensus to enable democracy? Of course not, and in the past decades, we have been hearing the same arguments from the Populares and from those who don't want the people of Puerto Rico to have a real vote and a real chance to choose among real options to solve this colonial problem.

There is a quote from Lyndon Johnson that said that voting is the first duty of democracy, and we preach democracy abroad, but we must practice its duty at home, and I think that we resume what we are talking about, consensus. The real consensus here is that many of those people who don't want the people of Puerto Rico to have a real vote to decide our future want us and want this Committee to continue the delay of that purpose, and that is why we have to move forward, and that is why we support this bill and that is why we ask the Committee and the Chair and all of you that can vote for the President, we cannot vote for the President.

I know you don't have that vote, but we in Puerto Rico, we can send a lot of people to war. We can recently in the war memorial at the Capitol Building, we add some names days before from the people that went to war and never returned. Why we have to have that? Because of the lack of consensus? I really think that we don't need that in this bill, and we are only giving the opportunity to Puerto Rico to decide if we want to be as a colonial as we are or if we want to move to another option.

Mr. PIERLUISI. Very good. Thank you.

Mr. Dalmau, in reviewing your statement and listening to you, I see that you are a fierce proponent of commonwealth, and one thing that I guess nobody can deny is that the government of Puerto Rico is called the Commonwealth of Puerto Rico. The name is set in our constitution, which was approved by this Congress. Having said that, I also think that today, everybody is in agreement that Puerto Rico is a territory of the United States. Now, how is this bill unfair when it allows anybody who supports commonwealth, in other words, the territory, to vote on the first ballot and say so?

Mr. DALMAU-SANTIAGO. I think that the first part of the bill is a trap for the commonwealth, and if you represent the people of

Puerto Rico here and we represent the people of Puerto Rico in the Senate and the House in Puerto Rico, put in the bill, statehood, yes or no, and it solves the problem, because the first round to the commonwealth is a trap, because put two people, two parties in Puerto Rico against commonwealth. To solve the problem easy in these next four years, present to the people of Puerto Rico and the Congress, statehood, yes or no.

Mr. PIERLUISI. The ballot results will speak for themselves. Whatever percentage commonwealth or the territory gets will be there, and the Congress will have it. The same happens with the three recognized and viable status options. I don't believe anybody can deny that either. As a matter of international law and U.S. domestic law, the three viable, permanent options for Puerto Rico, status options, are independence, statehood and sovereignty in association with the United States. Do you disagree with that?

Mr. DALMAU-SANTIAGO. No, but the United Nations also permits the covenant between council countries, not the only definitions that you put in the bill are the correct. The United Nations has another, the four, in the United Nations resolution, has four manners.

Mr. PIERLUISI. I am not going to belabor it. I believe Mr. Berríos was eloquent about that and he is so recognized in the se carea of international law, but I am not going to belabor it. I don't agree with you. Let me ask a question of the distinguished President of the Senate of Puerto Rico.

Mr. Rivera-Schatz, I see that you would like to amend the bill. I, as I see it, I don't have any reason to believe that once we have these plebiscites, the Congress will take the results very seriously and will act upon them. Yet, I noticed that you have reservations. Can you explain the purpose of your amendment?

Mr. RIVERA-SCHATZ. I am convinced that everybody in this room wants to get the job done, our Resident Commissioner, the House of Puerto Rico, but if the language is clear, absolutely clear, nobody can have any doubts about it, and I believe it makes a better bill if we have the compromise, the commitment in clear language in this bill.

Mr. PIERLUISI. Thank you.

Ms. BORDALLO. I thank the gentleman from Puerto Rico, and I would like now to recognize the gentleman from American Samoa, The Honorable Eni Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Madam Chair. If there is one thing that I admire most of our friends and leaders from Puerto Rico, it is your absolute passion for this issue now that has been with us for how many years, as the good Senator Bhatia shared with us earlier. I had indicated earlier that you did, Puerto Rico held a plebiscite in 1993 where the results of that plebiscite was 48 percent were for commonwealth, 46 percent were for statehood, and the balance with independence and others, and what I was curious about, why wasn't the second plebiscite held with the two highest vote getters here to then make a decision between statehood and commonwealth, since independence is only, or other options were only less than 6 percent?

Can anybody answer me that question?

Mr. BHATIA. I mean, there are two answers. The first answer is I don't know, but the second answer would be the fact that what

happened in 1993, historically, and I will try to be very brief, I know your time——

Mr. FALEOMAVAEGA. And it was a fair plebiscite too.

Mr. BHATIA. It was a fair plebiscite, but it was 1992, Governor Rossello won by a landslide. It was actually the first time in the history of Puerto Rico that we had to put into effect a provision of the constitution allowing for the Popular Democratic Party, the Commonwealth Party, to come in and add more members in the House because they swept, it was a landslide victory for Governor Rossello. Now, a year later, the perception was statehood was going to win.

With so much support built around Governor Rossello, something happened. Statehood didn't win, and I think the idea was that there was no need for a second vote. So I think it was a local vote, it was done by the Puerto Rico legislature, and it was crafted in such a way—now, I think the lesson from that result is the fact that a statehood majority, a statehood party wins an election doesn't mean that statehood has a majority of the votes, and I think that is a lesson in 1993.

Mr. FALEOMAVAEGA. Other members of the panel would care to comment on that? Is your mic on?

Mr. RIVERA-SCHATZ. That opportunity, we have it right now with H.R. 2499. We have two chances. The first one, for those who support commonwealth as it is, they, Mr. Ferrer said here a few minutes ago, they want to get out the territory clause. Well, the first plebiscite gives them that opportunity, and then in the second plebiscite, they can defend the definition they got in the platform. These guys always oppose, they opposed in '93, they would oppose in '98, and also in this one, they don't want to do nothing. And you are right, we are passionate.

[Laughter.]

Ms. GONZÁLEZ-COLÓN. I want to add something.

Mr. FALEOMAVAEGA. Madam Speaker, please.

Ms. GONZÁLEZ-COLÓN. Congressman, there is an important issue about what you bring here. In the plebiscite of the 1967, the plebiscite of the 1993, the plebiscite of the 1998, never were made by Congress. That is why we need you to speak. That is why we need this H.R. 2499, because we want something to happen, and the first step to make that decision will reside in the people of Puerto Rico to choose if we want to continue in the status quo, if we want to move forward, and in the second ballot, we will have those options, real options defined by you, not by me, not by Bhatia, to let Puerto Rico have real opportunity to be heard by this Congress.

Mr. FALEOMAVAEGA. I might suggest that just beware, you may not want Congress to do this for you, and might also keep in mind that, and this is nothing in relation to whatever option or decision that the people of Puerto Rico will make, there is nothing in the Constitution that mandates the Congress to say that it will accept statehood for Puerto Rico, even thought the people of Puerto Rico say, we want statehood. So, we must keep that in mind as well.

Ms. GONZÁLEZ-COLÓN. Neither independence or commonwealth.

Mr. FALEOMAVAEGA. Well, independence, I think Congress would be more than happy to work out a relationship, if that is what the people of Puerto Rico want.

Ms. GONZÁLEZ-COLÓN. That is why we want to decide that.

Mr. FALEOMAVAEGA. Well, OK, I will accept that, but I do want to say to Senator Bhatia, in terms of your statement, we do have a very unique, as you said, under the Constitution or the Congress, we have a very unique political relationship existing between the Republic of the Marshall Islands, Federated States of Micronesia, and the Republic of Palau, with the United States. They are not U.S. citizens, but they are entitled to join the military, they can travel on U.S. passports, and they can also become U.S. citizens if they want to.

They have complete freedom to immigrate to the United States just as if they were citizens, and yet they are not. So, I just wanted to add that uniqueness about a commonwealth, and by the way, the usage of compact of free association, the term or the phrase originated from Puerto Rico. The commonwealth, as I understand the Spanish translation of commonwealth, is estado something?

Mr. RIVERA-SCHATZ. Estado libre asociado.

Mr. FALEOMAVAEGA. OK, you got it, but I wanted to share that with you that there is that in between or gray area where it is not cut and dry where the Congress uniquely can provide, like I said, it is not independence, but it is kind of independence, but yet, very unique political relationship with the United States.

Mr. RIVERA-SCHATZ. That is a problem with the Popular Party. That is a problem, but I want to make clear the record. Any who ask to become a state, it become a state, so you said that the Congress doesn't have to plan the statehood. That is true. But it is true also that everyone who asked to become a state and struggled to become a state has achieved as a state, and we are going to achieve to become the 51st state of the United States in Puerto Rico.

Mr. DALMAU-SANTIAGO. But in the last 57 years, we have maybe three or four plebiscites in Puerto Rico, three plebiscites, and we have demonstrated a firm rejection to independence and statehood. It is the people of Puerto Rico vote to get independence and statehood. I think that a project that has a process of conscience maybe, I think, that the commonwealth with modifications win to Puerto Rico. We work together to make the commonwealth better, is my concern.

Mr. FALEOMAVAEGA. And I want to say, Madam Chair, to the Minority Leader, I understood everything that you said in your testimony. I meant that in humor. I do recommend, Madam Chair, that we do go to Puerto Rico and hold more hearings on this very important issue. Thank you.

Ms. BORDALLO. Oh, I think we—I am all for that. I thank the gentleman from American Samoa. I would like to recognize the gentleman from Maryland, Mr. Sarbanes, for any questions he may have.

Mr. SARBANES. Thank you, Madam Chair. This is a critical hearing, and we have had a number of panels come forward and clearly, it is a very contentious and emotional issue. Anytime the conversation is joined on this question, you can see the well of feeling that people have for their particular point of view, that it goes back decades and decades, and so, all of that leads me to be extremely humble about how we should approach this and the design that makes

the most sense, because I think we need to have a humility when the issue within the Puerto Rican community is so hotly debated.

I want to thank the panelists that I have had the privilege to listen to for their testimony. I apologize for running back and forth, but we are doing a vote-o-Rama today.

Ms. BORDALLO. You are very fortunate. You can vote.

Mr. SARBANES. Fair enough, and I want to particularly acknowledge Eduardo Bhatia, who is a longtime friend and colleague and someone who has helped me develop a perspective, I think a pretty broad perspective on this issue, and I want to commend him for acknowledging very candidly that the commonwealth structure as it currently exists is not perfect, and I wanted to ask Eduardo actually two questions, and others are free to respond as well.

The first is on the point he made, and what would you identify as some of the ways that you think the commonwealth structure could be improved, you know, according to the process that you recommend going forward?

Mr. BHATIA. Thank you, thank you for the question. I think the main, the crux of the problem right now is to find a way, and I think that is why we have suggested, Congressman, to have a constitutional convention and conversations with the United States where the White House participates actively. There is certainly a problem when we are not validating the existence of Federal laws in Puerto Rico, and I think commonwealth as a structure, we have to find a way of, even if it is on an annual basis, even if it is on a—there must be a structure set up so that Puerto Ricans give their consent to be governed and to be part of the United States, and I think that consent is at the crux of this issue.

Otherwise, the label of colony, the label of territory, the label of continuously receiving the criticisms, you know, will be forever. So to the extent that we can craft, and I think there are law professors, constitutional law professors from throughout the nation, NAU, Georgetown Law School, the Dean of Georgetown Law School, who have actually stated that there are ways of doing it. There are ways of constructing a mechanism to give that consent without Puerto Rico having to be a state or independent nation.

I think that is sort of the heart of it and I think we could go specifically into each one of those issues.

Mr. SARBANES. The other question I had was, the term "consensus" is being used a lot, heard it in the testimony, and I gather the discussion there is over what level of support one should see before a particular option is chosen. Is that essentially what the consensus debate is about, or am I getting that wrong?

Mr. BHATIA. Well, it is really—I mean, I think anyone can talk about it, but I would say the consensus that we are trying to achieve is basically a consensus on the process. I mean, how should we proceed about asking Congress to deal with this? So it is not really a consensus on the definitions. I think it is more a consensus on what process should take place.

Mr. SARBANES. OK. Yes?

Ms. GONZÁLEZ-COLÓN. I want to answer that too. I am glad to hear that, because in the last processes, there were not consensus about the definitions they brought. Right now, they don't even have an internal consensus in their own party regarding their own defi-

nitions. That is why our point of view of what they mean is consensus is to continue to delay to the people to vote or to have a real option. So, I think the option is not a constitutional assembly. To write what constitution?

We can't even decide yet what we want. That is why we understand that the real process must be, have an easy way, an easy first ballot, we want to continue the status quo, we want to continue in the commonwealth, or we want to move to another option. What those options are, they will be defined by Congress. They will be independence, statehood, any kind of free associated state or whatever they want that can be accordingly with the U.S. Constitution, and that is the real issue here.

If you want all the people of Puerto Rico to decide which is going to be the process, we are not going to have that, and because of that, are we not willing to have the vote? Of course not.

Mr. SARBANES. I don't have any more questions. I just want to observe, Madam Chair, again, at least to my level of understanding, this is a very complex issue, so my mind remains open on the approach that ought to be taken, and I welcome the testimony that was offered today and I yield back my time. Thank you.

Ms. BORDALLO. I thank the gentleman from Maryland for his comments and as Chair of the Committee standing in for The Honorable Nick Rahall, who is the Chair of the Resources Committee, I want to thank all of the witnesses, not just from this panel but the previous panels. You are all so very passionate, and in my listening here on everybody's views on this, it reminds me so much of my home, because in Guam we still have an unsettled status question and we have been agonizing over this for many, many years just like you folks.

So it seems that as territories, we always have to work a little bit harder for everything. I have found this ever since I entered Congress, so I want to thank you all and to remind you that the hearing record will be open for 10 days, so if there are any further questions that the Committee members have, this will remain open and we can wait for your answers to the questions, and I want to thank all of the witnesses again and I want to thank members of this Committee for their long hours that they have spent in this hearing, and there being no further business, the Committee on Resources now stands adjourned.

[Whereupon, at 1:10 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

[A statement submitted for the record by J. Aloysius Hogan, Esq., Government Relations Director, English First, follows:]

Statement submitted for the record by J. Aloysius Hogan, Esq., Government Relations Director, English First

To The Committee on Natural Resources:

With all due respect, today's hearing is not designed to flesh out the numerous substantive issues associated with the prospect of Puerto Rican statehood, though that should be the charge for a legislative hearing.

The panelists are largely cosponsors and supporters of the bill.

The committee did not take the opportunity to invite the groups who have waved a cautionary flag on this issue before. English First is such a group.

As the Government Relations Director of English First, it is my responsibility to raise some of these issues again.

I say "again" because the concept of statehood for Puerto Rico is like a bad penny that keeps turning up. The issue arose during the late Nineties when I served as Counsel to this House Resources Committee, then chaired by Congressman Don Young.

The issue also arose about ten years before that and received much attention in the press and elsewhere around 1989 and 1990. The issues raised twenty years ago are valid today, and the attached issue brief from English First pertaining to that era is as fresh and pertinent today as it was then.

Let me just highlight a few notable points and raise a few questions that are addressed in more detail in the attachment:

1. Americans by huge margins favour making English the official language of the UnitedStates. This issue must be addressed when discussing Puerto Rican statehood.
2. The example of Quebec's bilingualism is not favorable.
3. A mandate of translation is astronomically expensive.
4. The United States Supreme Court has decided on multiple occasions that conditions on statehood must be determined BEFORE admittance to the union.
5. Congress could settle this matter in the same way that it resolved the question of French-speaking Louisiana. The Louisiana Constitution accepted by Congress when the state was admitted to the Union clearly stated:

   > All laws that may be passed by the [state] Legislature, and the public records of this state, and the judicial and legislative written proceedings of the same, shall be promulgated, preserved, and conducted in the language in which the Constitution of the United States is written.

6. The people of Louisiana, then and now, are free to speak whatever language they choose, but the government and courts of Louisiana are required to function in English.
7. Puerto Rico may have numerous Members of Congress were it to be admitted as a state. Just how many would it have? Might it be twice as many as represent West Virginia, the Chairman's state? How do the people of West Virginia feel about that?
8. A large percentage of Puerto Ricans receive the equivalent of food stamps.
9. The average per capita income of Puerto Ricans has been quite low, less than half that of our poorest state.
10. How much does Puerto Rico currently cost federal taxpayers each year?
11. Puerto Rico's former Governor and Resident Commissioner, Carlos Romero Barcelo, has written, in his book, Statehood is for the Poor, that "the island would take billions more out of the federal treasury than it would put in," according to Professor Antonio M. Stevens-Arroyo, writing in the January 22, 1990 issue of The Nation. Professor Stevens-Arroyo adds, "[t]his is the bottom line statehooders try not to mention when in Washington.
12. How devastating would the loss of U.S. corporate tax exemption be for Puerto Rico?
13. What percentage of Puerto Rico's revenue derives from industry versus tourism?
14. What is the unemployment rate of Puerto Rico?
15. What would the total budget affect be of admission of Puerto Rico as a state? Even U.S. Senator Kent Conrad was dubious of rosy estimates.

Thank you for the opportunity to raise these important points and questions. Satisfactorily addressing each and every one of these points is essential to moving forward with this bill. Frankly this hearing will not accomplish this task. More attention and perhaps more hearings, such as in the Committee on Ways & Means, are necessary.

[NOTE: An attachment entitled "English First Issue Brief" has been retained in the Committee's official files.]

[A statement submitted for the record by Hon. Steny H. Hoyer, a Representative in Congress from the State of Maryland, follows:]

Statement of The Honorable Steny Hoyer, a Representative in Congress from the State of Maryland

Mr. Chairman, all peoples are entitled to a form of government that provides for equal voting representation in the making and implementation of their laws. Puerto Rico's current status remains as unincorporated territory of the United States, subject to the control of Congress under Article IV of the U.S. Constitution. That status

should be revisited for the treatment and opportunities it provides to the people of Puerto Rico.

As both Chairman Rahall and former Chairman Young have acknowledged, residents of Puerto Rico, despite having a population size equal to or greater than almost half the states, have no representation in the Senate. The Puerto Rican people send only a single member to the House of Representatives who may only vote in legislative committees and in the Committee of the Whole, a change we just made last Congress. Over the past century, Congress has passed legislation governing Puerto Rico's relationship with the United States. For example, residents of Puerto Rico hold U.S. citizenship, serve in the military, and are subject to federal laws. Although they participate in the presidential nominating process, they do not vote in the general election.

This legislation, in which the Congress calls for taking the question of Puerto Rico's status to voters in at least one plebiscite, is an important step to address fundamental questions of fairness and democracy. Mr. Pierluisi has taken careful steps in this bill to ensure that the plebiscite asks questions more representative of the diversity of views on Puerto Rico's status as it seeks to determine voters' positions on those questions. Those changes have resulted in additional cosponsors for the legislation this Congress, and I commend him for his work.

In my view, the current status between the United States and Puerto Rico was forged under circumstances that belong to a different time and a different era. Today, with the direct participation of the Puerto Rican people, our relationship must mature and the status choice affirmed. In this effort, Congress has the responsibility and the duty to offer to the Puerto Rican people an honest process for self-determination that is true to our democratic principles and our Constitution. The Puerto Rico Democracy Act of 2009 offers that kind of process by calling for a direct vote of Puerto Ricans and by giving them sound alternatives. I am proud to be an original cosponsor of the Puerto Rico Democracy Act of 2009 and I look forward to working with this Committee to move it forward.

[A statement submitted for the record by Hon. Nydia M. Velázquez, a Representative in Congress from the State of New York, follows:]

Statement of The Honorable Nydia M. Velázquez, a Representative in Congress from the State of New York

I appreciate the opportunity to offer my views on this latest effort to discuss the future of Puerto Rico, *H.R. 2499, The Puerto Rico Democracy Act of 2009,* and to clarify what is truly at stake here.

If this was not such an important issue for eight million Puerto Ricans, I would say that this debate is worthy of a Shakespearean line such as, "Once more unto the breach, dear friends." One would think that since Congress has been talking about Puerto Rico since the end of the 19th century, this body would have found the proper way to finish this debate in the 21st century. Unfortunately, it seems we have not.

I could have begun my statement by stating my opposition to H.R. 2499 because of previous determinations that this approach is unfair to the people of Puerto Rico. I could have further told you that as of today, none of the three members of Puerto Rican descent with constituencies in New York City and Chicago support this bill. And, lastly, I could have reminded members that previous legislative efforts that were deemed biased or un-inclusive have never succeeded.

However, for today's hearing, these arguments may not be enough to sway well-intentioned people to think calmly about what we are debating today: Puerto Rico and its people. We are not debating a mere vote. This debate is about whether the people of Puerto Rico are ready to join us as a full partner of this Union and what sort of partner we want. It is about allowing them to decide whether or not to go on their own and what that would mean to every Puerto Rican. It is also a debate about what other options may be worthy of consideration. Whatever decision is made by them, it must be one that is made knowingly and willingly. This is essential, for any status-changing decision will not be an easy one. That decision must be taken with a clear understanding of the consequences and with the determined commitment to carry it forward.

A bill drafted without consensus will always be under suspicion by a large segment of the population in Puerto Rico and, therefore, lack legitimacy. For Congress to push forward such an initiative ignores the historic words and the lessons from Lincoln's time, "A house divided against itself cannot stand." How do we expect to

find a solution to this Puerto Rico issue if we give merit to proposals that promote and foment mistrusts and divisions?

The issue here that makes this legislation unacceptable was present in its previous incarnations in the 104th, 105th, 109th & 110th Congresses—the process. The process promoted by those bills has been perceived to be skewed in one form or another. It is now time to break this cycle. Thomas Paine once wrote, "A long habit of not thinking a thing wrong gives it a superficial appearance of being right." This bill is not right and we should begin investing Congress' time in doing what is right.

We cannot sanction this insistence in keeping a people blinded to facts, deaf to analysis and muted from expressing their opinions on what is being bargained, supposedly on their behalf. It is time to try a new approach to resolve this issue in a manner that does not allow one side to shut other positions out of the process. Lack of consensus equals lack of legitimacy.

I have advocated that a Constitutional Convention is an appropriate option, but it is not the only open process and I believe there can be other options that have not been discussed. However, any fair and transparent process must allow for hearings to be conducted in Puerto Rico and include the Puerto Rican community in the States in the self-determination process. It is my deepest conviction that a true democratic path to self-determination for the people of Puerto Rico must be forged first by Puerto Ricans; and it is up to them to decide what their options are for the future.

President Obama fully understands the difficulty of this issue and has indicated his willingness to be engaged. This President deserves to have the opportunity to take a look at this issue and formulate proposals on how to move forward. I suggest that this Committee afford the President the opportunity to act and seek the expertise of this committee as well as other stakeholders. I look forward to working with the Obama Administration and the Committee in providing the people of Puerto Rico with an approach that guarantees a true expression of their wishes. Thank you.