AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

PUERTO RICO STATUS

FIELD HEARING

BEFORE THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

H.R. 856

SAN JUAN, PUERTO RICO, APRIL 19, 1997

Serial No. 105–28

Printed for the use of the Committee on Resources

U.S. GOVERNMENT PRINTING OFFICE
43–194 CC WASHINGTON : 1997

COMMITTEE ON RESOURCES

DON YOUNG, Alaska, *Chairman*

W.J. (BILLY) TAUZIN, Louisiana
JAMES V. HANSEN, Utah
JIM SAXTON, New Jersey
ELTON GALLEGLY, California
JOHN J. DUNCAN, JR., Tennessee
JOEL HEFLEY, Colorado
JOHN T. DOOLITTLE, California
WAYNE T. GILCHREST, Maryland
KEN CALVERT, California
RICHARD W. POMBO, California
BARBARA CUBIN, Wyoming
HELEN CHENOWETH, Idaho
LINDA SMITH, Washington
GEORGE P. RADANOVICH, California
WALTER B. JONES, JR., North Carolina
WILLIAM M. (MAC) THORNBERRY, Texas
JOHN SHADEGG, Arizona
JOHN E. ENSIGN, Nevada
ROBERT F. SMITH, Oregon
CHRIS CANNON, Utah
KEVIN BRADY, Texas
JOHN PETERSON, Pennsylvania
RICK HILL, Montana
BOB SCHAFFER, Colorado
JIM GIBBONS, Nevada
MICHAEL D. CRAPO, Idaho

GEORGE MILLER, California
EDWARD J. MARKEY, Massachusetts
NICK J. RAHALL II, West Virginia
BRUCE F. VENTO, Minnesota
DALE E. KILDEE, Michigan
PETER A. DEFAZIO, Oregon
ENI F.H. FALEOMAVAEGA, American Samoa
NEIL ABERCROMBIE, Hawaii
SOLOMON P. ORTIZ, Texas
OWEN B. PICKETT, Virginia
FRANK PALLONE, JR., New Jersey
CALVIN M. DOOLEY, California
CARLOS A. ROMERO-BARCELO, Puerto Rico
MAURICE D. HINCHEY, New York
ROBERT A. UNDERWOOD, Guam
SAM FARR, California
PATRICK J. KENNEDY, Rhode Island
ADAM SMITH, Washington
WILLIAM D. DELAHUNT, Massachusetts
CHRIS JOHN, Louisiana
DONNA CHRISTIAN-GREEN, Virgin Islands
RON KIND, Wisconsin
LLOYD DOGGETT, Texas

LLOYD A. JONES, *Chief of Staff*
ELIZABETH MEGGINSON, *Chief Counsel*
CHRISTINE KENNEDY, *Chief Clerk/Administrator*
JOHN LAWRENCE, *Democratic Staff Director*
T.E. MANASE MANSUR, *Republican Professional Staff*
MARIE FABRIZIO-HOWARD, *Democratic Professional Staff*

CONTENTS

	Page
Hearing held April 19, 1997	1
Statement of Members:	
Kennedy, Hon. Patrick J., a Representative in Congress from the State of Rhode Island	4
Miller, Hon. George, a Representative in Congress from the State of California	3
Rodriguez, Hon. Charlie, Designee for the New Progressive Party, San Juan, Puerto Rico	10
Romero-Barceló, Hon. Carlos A., Resident Commissioner in Congress from the Commonwealth of Puerto Rico	6
Underwood, Hon. Robert A., a U.S. Delegate from the Territory of Guam	5
Prepared statement of	321
Young, Hon. Don, a Representative in Congress from the State of Alaska; and Chairman, Committee on Resources	1
Statement of Witnesses:	
Agostini, Juan Antonio, President, Pax Christi-Puerto Rico, San Juan, Puerto Rico	122
Arraiza, Manuel Fermin, President, Puerto Rico Bar Association, San Juan, Puerto Rico	175
Benitez, Prof. Margarita, AFELA, San Juan, Puerto Rico	117
Prepared statement of	264
Bhatia, Hon. Eduardo, Designee for the Minority Leader of the Senate-Popular Democratic Party, Senate of Puerto Rico	110
Prepared statement of	112
Cintron-Garcia, Hon. Angel M., Designee for the Speaker of the House, Puerto Rico House of Representatives, San Juan, Puerto Rico	188
Prepared statement of	190
Colon, Rafael Hernandez, former Governor of Puerto Rico, Ponce, Puerto Rico	53
Prepared statement of	55
Fonalledas, Zoraida F., Republican National Committeewoman, San Juan, Puerto Rico	194
Prepared statement of	197
Irizarry, Hon. Carlos Vizcarrondo, Popular Democratic Party, Puerto Rico House of Representatives, San Juan, Puerto Rico	144
Irizarry-Mora, Prof. Edwin, Economic Advisor, Puerto Rican Independence Party, Puerto Nuevo, Puerto Rico	116
Prepared statement of	146
Mari, Emilio A. Soler, President, Puerto Rican Democratic Action Foundation, San Juan, Puerto Rico	152
Prepared statement of	154
Martin-Garcia, Hon. Fernando, Designee for the Puerto Rican Independence Party, San Juan, Puerto Rico	28
Prepared statement of	32
McClintock-Hernandez, Kenneth, Designee for the President of the Senate, Senate of Puerto Rico, San Juan, Puerto Rico	180
Prepared statement of	182
Miranda-Marín, Hon. William, the Mayor of Caguas, Caguas, Puerto Rico	119
Additional remarks by	259
Morales-Coll, Eduardo, President, Ateneo Puertorriqueno, San Juan, Puerto Rico	160
Prepared statement of	162

Page

Statement of Witnesses—Continued
Pietri, Ivar, San Juan, Puerto Rico 221
Prepared statement of 224
Reichard, Hector, Esquire, President, Puerto Rico Chamber of Commerce, Washington, DC 237
Rodriguez-Orellana, Hon. Manuel, Designee for the Minority Leader of the Senate-Puerto Rican Independence Party, Senate of Puerto Rico, San Juan, Puerto Rico 131
Prepared statement of 134
Valle, Etienne Totti Del, Esquire, San Juan, Puerto Rico 209
Prepared statement of 213
Velasco, Ramón L., President, Association of Pro-Commonwealth Attorneys 283
Velez, Hon. Damaris Mangual, Designee for the House Minority Leader-Puerto Rican Independence Party, Puerto Rico House of Representatives, San Juan, Puerto Rico 138
Prepared statement of 140
Vila, Hon. Anibal Acevedo, President, Popular Democratic Party, San Juan, Puerto Rico 13
Prepared statement of 17

Additional material supplied:
Agostini, Juan Antonio, Spokesman, Direcive Board, prepared statement of 243
Cardona, Hector Reichard de, Chamber of Conmerce, of Puerto Rico, prepared statement of 311
Fermin, Manuel Arraiza, Presidente, Colegio de Abogados de Puerto Rico, prepared statement of 306
Gonzalez, Hon. Ferdinand Lugo, Representative, District 19, Mayagüez, Estado Libre Asociado de Puerto Rico, prepared statement of 279
Ramos, Luis Vega, President, PROELA, prepared statement of 292

PUERTO RICO STATUS

SATURDAY, APRIL 19, 1997,

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
San Juan, PR.

The Committee met, pursuant to notice, at 9:55 a.m. at the Drama Theater at the Centro De Bellas Artes Luis A. Ferre, San Juan, Puerto Rico, Hon. Don Young (Chairman of the Committee) presiding.

Mr. YOUNG. The Committee will come to order.

It is my intention to make an opening statement; and then I will recognize Mr. Miller, then Mr. Kennedy, then Mr. Underwood and, in closing, Commissioner Romero-Barceló.

STATEMENT OF THE HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA; AND CHAIRMAN, COMMITTEE ON RESOURCES

Mr. YOUNG. It is a pleasure to be in Puerto Rico to continue the work of Congress in resolving Puerto Rico's status. I believe the hearings today in San Juan and Monday in Mayaguez on the United States-Puerto Rico Political Status Act, H.R. 856, are an important part of the process leading to a response of the Puerto Rican House Concurrent Resolution 2 of January 23rd of this year, asking for a federally authorized vote on Puerto Rico's political status before the end of 1998.

As a person from Alaska, when we approached Puerto Rico yesterday I was stunned again by the shear beauty of the island's mountains, the greenness of those mountains, the white beaches and blue tropical sea, as I looked out over those beaches today and last night.

Another fact that struck me as I looked out over historic San Juan was the realization that the population of this city is twice the size of the entire State of Alaska. What an island! It is no wonder the islands of Puerto Rico have been so prized and the object of many battles during the past centuries, including the Spanish-American War in 1898.

In fact, the principal reason we are here today dates back to when the U.S. flag was being hoisted nearly 100 years ago. A legitimate question has since been raised and has yet to be answered: Should the United States flag in Puerto Rico remain as it is today, be eliminated, or replaced by a flag with an additional star? Each choice has a corresponding effect on how it shall be applied to the United States Constitution and nationality and citizenship.

While the U.S. Constitution follows the flag, Congress determines the extent of the application, and today in Puerto Rico the U.S. Constitution applies only in part. United States nationality also follows the flag and the U.S. Constitution, which in Puerto Rico today is both U.S. nationality and statutory U.S. citizenship. This is one of the fundamental questions with related issues we are attempting to resolve through these hearings.

Last month, the House Committee on Resources began the consideration of the United States-Puerto Rico Political Status Act, H.R. 856, with testimony in Washington from six Members of Congress, the Governor of Puerto Rico, the three political party presidents of Puerto Rico and the Administration. Their views are only the beginning of the record which will be added to by the statements which will be presented here today in San Juan and Monday in Mayaguez. It is not the location of the hearings where the statement is given that is important. It is the substance of the testimony that is important.

During congressional consideration last year of the United States-Puerto Rico Political Status Act, numerous thoughtful and meaningful suggestions were offered in testimony. Before the end of the 104th Congress in 1996, over 30 major and minor changes were incorporated into the bill, which was reintroduced this year as H.R. 856. I expect many of the proposals presented during these hearings will result in additional changes to the current bill, H.R. 856.

However, the bill's fundamental structure for resolving Puerto Rico's political status has broad bipartisan support in Congress. The multi-staged approach is sound and offers the best approach to address the many legal, economic and political issues that are a part of this self-determination process. A multi-staged process will ensure that each step taken is manageable and practical, both for the United States and Puerto Rico. In addition, the bill guarantees that the people of Puerto Rico will have the final say in each stage of the process. Although after these hearings the Congress will enact the law defining the terms of the process and any change in status, the people of Puerto Rico will have the final say in approving each step in the path to full self-government.

In order to obtain a broad cross-section of the views of the people of Puerto Rico regarding their political status preference and this process, a large number of witnesses have been invited to appear before this Committee. I appreciate the cooperation of each participant in complying with Congressional rules which are required in other hearings throughout the nation.

Before we begin with our panel of the distinguished witnesses and hearing opening statements representing the three political parties of Puerto Rico, followed by elected officials and other leaders, I want to share a part of a letter I received after our hearings on this bill in San Juan on March 23rd of last year from Pilar Barbosa Rosario, Official Historian of Puerto Rico. This is still in my possession. It says:

"Greetings to my friend Don Young.

"This is a personal note written, March 24th, 1996.

"As daughter of Jose Celso Barbosa and Official Historian of Puerto Rico, I try to be impartial and see other points of view. But

when you are almost 99 years of age and have done research for 45 years, from 1921 to 1966, on Barbosa's private and public life, it is quite difficult to maintain completely neutral in our historical interpretations.

"Let me congratulate all persons involved in preparing the hearing. The hearing was well organized and the people involved, Congressmen, visitors and Puerto Ricans, we all learned a lot.

"To me it was a demonstration that in spite of our colonial status Puerto Ricans have developed and adapted American democracy to our own political ideologies. They are a product of our relations with the U.S. but adapted to our Puerto Rican way of life, different from U.S. and different from other Caribbean nations and Hispanic-American countries. To us Puerto Ricans that is not surprising but to our visitors from the U.S., Hawaii or Latin America, it is something unique—it is Puerto Rican.

"So help us God that Pilar Barbosa could live three more years to see what all this results in. So help me God, it is now or never.

"Sincerely yours, Pilar Barbosa Rosario."

I was saddened to hear of our loss earlier this year with the passing of Doña Pilar. What a grand lady and fellow citizen. Her opinion regarding this process to resolve Puerto Rico's political status deserves respect and should be treasured, particularly as one who was born in the 19th century, before the United States flag was raised in Puerto Rico.

I believe her hopes for the results within 3 years will happen. Now definitely is the time for Congress to formally start the process to permit the people of Puerto Rico to vote to continue local self-government under Commonwealth, separate sovereignty or statehood. There is a serious determination in Congress to solve Puerto Rico's status problem as a top priority of national importance. I also believe that everyone who participates in these hearings on the United States-Puerto Rico Political Status Act, or any other part of the bill's self-determination process, will contribute to the final resolution of Puerto Rican status, and will in fact 1 day "see what all this results in."

The gentleman from California.

STATEMENT OF THE HON. GEORGE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MILLER. Thank you very much, Mr. Chairman. I am delighted to be here this morning for these hearings, to be in Puerto Rico; and I want to thank our colleague, Carlos Romero-Barceló, for the invitation to come to Puerto Rico to conduct these hearings and thank him and the people for their hospitality.

My statement will be very short. I think these are very important hearings; I think these are very timely hearings; and, hopefully, these hearings are such that they will allow us to draw to a conclusion the question that has remained open so very long, both here in Puerto Rico and in the United States, and that is the status, the permanent status, of Puerto Rico.

That is a decision that I have tried to maintain from the outset. It is a decision for the people of Puerto Rico. It is a decision that will then have to be accepted by the Congress of the United States;

and, therefore, we must have a very frank and a very open process to help us arrive at that decision.

I believe that after many false starts, many misrepresentations, that this process is, in fact, different. I believe that this process can, in fact, at the end provide for the status determination of Puerto Rico.

I look forward to the testimony of our witnesses. I hope they bring to these hearings a spirit of cooperation and of helping us to make the determinations. There are many considerations that we will have to make at the conclusion of these hearings so that this process can carry forth the commitment for the resolution of this issue after its conclusion, and I look forward to these hearings and the ones on Monday and look forward to hearing from the witnesses today.

Thank you very much.

Mr. YOUNG. I thank the gentleman from California.

The gentleman from Rhode Island, Mr. Kennedy?

STATEMENT OF THE HON. PATRICK J. KENNEDY, A U.S. REPRESENTATIVE FROM RHODE ISLAND

Mr. KENNEDY. Thank you, Mr. Chairman.

Thank you, Mr. Chairman, for calling these hearings and thank you for introducing the United States-Puerto Rico Status Act, H.R. 856, which I have been proud to cosponsor with you.

This legislation has inspired what Governor Rossello has called "a defining moment for Puerto Rico." For almost a century, the people of Puerto Rico have contributed to the social, economic and cultural history of the United States of America. They have fought alongside other Americans in war, and they have shared our times of domestic struggle. It is only fitting that the Congress act to extend to the people of Puerto Rico the opportunity to enjoy the full and complete measure of the rights and privileges that are commensurate with the full application of the Constitution.

As Governor Ferre has said, with citizenship comes certain rights and responsibilities. And as a strong proponent myself of adding the shining star of the Caribbean to our own flag of the United States, I want to say that I eagerly await the plebiscite that is sanctioned by this legislation.

It has been my long-standing belief that times have changed for Puerto Rico. Where Commonwealth status was a good beginning, I believe that living for today means living for statehood. The time is right for the island to take its place at the table of States and receive its share and entitled share of opportunities. If we want to talk about equality for all Puerto Ricans, we should give them a voice in the government that affects their lives.

As my good friend Carlos Romero-Barceló has said, "Our Nation cannot continue to preach democracy throughout the world while it continues to disenfranchise and deny political participation and economic equality to 3.8 million people of its own citizens."

Mr. Chairman, I want to thank you once again for conducting these hearings. I look forward to the testimony we will receive today; and, again, it is great to be back in this beautiful island of Puerto Rico.

Thank you very much.

Mr. YOUNG. I thank the gentleman.

The gentleman from Guam has a great interest in this process, too. Mr. Underwood.

STATEMENT OF THE hon. robert a. underwood, a u.s. delegate from the territory of guam

Mr. UNDERWOOD. Thank you, Mr. Chairman.

Good morning, and thank you, Mr. Chairman, and our good friend, the Resident Commissioner of Puerto Rico, Carlos Romero-Barceló, for the opportunity to be here in beautiful Puerto Rico.

Today and on Monday the Committee will hear from representatives of various points of view and from all segments of Puerto Rican society about the most fundamental issue any people can deal with—their political future. The seriousness of this issue is underscored by the attention given to the hearings here in Puerto Rico and, of course, the spirit of the people as is reflected in the highly charged demonstrations.

The process of conducting congressional hearings depends upon a sense of fairness and commitment and the leadership of those committees which conduct those hearings; and I am pleased to acknowledge the leadership of this Committee—yourself, Mr. Chairman, Don Young, and the Ranking Member, George Miller—that while they may not agree on many issues before the Nation, they certainly agree that Puerto Rico deserves a fair hearing in Puerto Rico.

This is a level of commitment which not only reflects well upon the leadership of the Committee but the importance and seriousness of the issues which we will be confronting and have been confronting on this issue.

Mr. Young's project, as it is reported here in the press, is in reality part of a larger project all of us continue to labor in. All of us are participants in the great American project, the project of perfecting democracy; and the project continues whether the issues before us are about racial injustice, ethnic division, equal opportunity, the appropriate relationship between States and the Federal Government and, as it is today, the relationship between the Federal Government and an appendage, a separate body politic to that government.

In the case before us today, that entity is Puerto Rico; and, in its existing form, the Commonwealth is described in various ways, depending upon one's vision for the future. It is a colony seeking first-class citizenship. It is a freely associated State. It is a nation awaiting deliverance.

I don't think this it is for us to decide. I think that is for the people of Puerto Rico to decide in concert with the Federal Government; and I think our responsibility as a Committee is to ensure that the process which is ultimately developed allows for fairness and, most importantly, closure.

It should be a process which does not move the people to a choice out of desperation or frustration; and it should be a process in which the options are clear and direct, at least on the ballot. I think we can leave it up to elected officials later during campaign season to mischaracterize each other's positions. It should be a proc-

ess which leads to change, if this is the desire of the Puerto Rican people.

This is why in your legislation, Mr. Chairman, the Federal Government's responsibility to act is so important in this legislation. The Federal responsibility must be consistent with the modern 21st century understanding of decolonization, and it must lead to a process which forces expeditious action.

My role in the process is unique. I represent an island which is seeking resolution of its own political status. I share more in common with the Resident Commissioner than with other Members of the House of Representatives. I represent an island which came under the U.S. flag through the treaty of Paris ending the Spanish-American war.

In the March hearing in Washington, Governor Rossello stated that Puerto Rico has been a colony longer under the U.S. flag than anyone else. Guam was invaded by U.S. Marines in June of 1898, and Puerto Rico's experience came a month later. So we win on that score.

Due to our similarities as historical appendages to the Federal politic and due to our common colonization even by Spain, which dates back 325 years for Guam, I feel a special responsibility not to evaluate the efforts of the Puerto Rican people but instead to facilitate the aspirations of the people to move toward the full decolonization of their homeland. And I believe that, under your leadership, the Committee comes to this hearing with open hearts as well as open ears.

Thank you, Mr. Chairman.

Mr. YOUNG. I thank the gentleman from Guam.

It is my great honor now to introduce someone who does not need introduction. The gentleman has led this program for many, many years, my good friend, Don Carlos. He has done well. He is not only a good member of my Committee, I think he does an excellent job in Washington for Puerto Rico.

STATEMENT OF THE HON. CARLOS A. ROMERO-BARCELÓ, RESIDENT COMMISSIONER FROM THE COMMONWEALTH OF PUERTO RICO

Mr. ROMERO-BARCELÓ. Thank you. Thank you very much, Mr. Chairman, and thank you to the other Members.

I would like to begin my remarks today by welcoming back all of the Committee members to the beautiful capital of San Juan, the oldest city in the United States. San Juan was colonized and became a city in 1521. That was quite a bit before St. Augustine in Florida. As a matter of fact, it was our first Governor, Ponce de Leon, who was the first European to start the colonization of what is now the United States of America.

I want to commend you, Mr. Chairman, for your initiative in scheduling these two hearings on H.R. 856, the United States-Puerto Rico Political Status Act, and for your commitment to achieving full self-government and ending the disenfranchisement of the 3.8 million U.S. citizens of Puerto Rico. Thanks to your leadership on this issue, we have been able to reach the point where we are today.

In addition, I want to take this opportunity to thank our Ranking Minority Member, my good friend, George Miller, for his efforts in helping to provide a process in which Puerto Ricans will have the opportunity to decide freely, without ambiguity and decisively on what the island's future relationship with the United States should be.

I want to thank my colleagues, Patrick Kennedy and Bob Underwood, for also taking time out of this congressional recess to be here with us and for giving this issue the importance they have already given to it. Their participation is very meaningful not only to me personally but I am sure to all of the people of Puerto Rico.

Last, but not least, I want to thank the 84 Members of Congress and the 12 Members of the Senate who have already cosponsored this legislation. It is clear that the U.S. Congress has finally made it a top priority to resolve the Puerto Rican status issue, and the bipartisan consensus grows every day for a federally sponsored plebiscite next year.

The Clinton administration has also joined in expressing its support for this process. During the Committee's hearing in Washington last month, the President's spokesperson, Jeffrey Farrow, stated that establishing a process that would enable the people of Puerto Rico to decide their future relationship with the United States was President Clinton's highest priority regarding this island.

In addition, he indicated that the President hoped that such a process would be under way next year, the centennial of the U.S. acquisition of the islands.

It was also mentioned that the President looked forward to our entering the new millennium having concluded the debate and implementing the will of the Puerto Rican people.

So make no mistake about it. After 100 years, the Puerto Rican colonial dilemma has finally become a national issue and one that two active branches of the Federal Government recognize has to be resolved as soon as possible.

Mr. Chairman, the hearings that this Committee will be celebrating here today and next Monday are truly historic in nature. The members of this Committee will have an opportunity to hear from over 50 witnesses representing all of the political spectrum of the island. I do not recall a hearing in any of my Committees during my tenure in Congress where we had so many witnesses to testify on one single subject.

In that regard, Mr. Chairman, these hearings are unprecedented; and you and Mr. Miller are to be praised for the fairness, the openness and inclusiveness of this process. The Committee has tried to receive the widest input from as many people and sectors as possible; and everyone who has expressed interest has been given the opportunity to participate and state his or her point of view, either by submitting a written statement or by testifying personally.

Back on March 3rd, 1997, exactly 80 years and 1 day after Puerto Ricans were granted U.S. citizenship, Chairman Young and Congressman Miller sent a letter to the presidents of the three political parties in Puerto Rico, requesting them to submit to Congress the status definition which they believe would be most appropriate for the status option they supported.

While the party presidents were assured that the specific definitions regarding their status preferences would be presented to all of the Committee members for consideration at the time of the markup, Mr. Young and Mr. Miller were clear in stating that there was no purpose in presenting the people of Puerto Rico a status definition which does not represent an option that the Congress will be willing to ratify should it be approved in a plebiscite.

If there is something to be learned from our previous locally sponsored plebiscites, it is that the only way that we will be able to finalize once and for all this frustrating debate is if the U.S. Congress clarifies what the options really are and how it is willing to implement the people's choice. Only then will the people of Puerto Rico be able to reach an informed decision on their future. No more false promises; no more wish-lists. The people of Puerto Rico need realistic and viable options, and it is our responsibility as Members of Congress to provide them with those options.

During today's hearing we will have the opportunity to hear from, among others, the three party presidents or their representatives, all of whom submitted a response to Chairman Young and Mr. Miller's request.

The new Progressive Party was in full agreement with the definition of statehood that was included in the bill and did not submit any changes.

The Independence Party proposed some minor changes to the definition that I am sure will be discussed in more detail here today.

But we should not be concerned with these two definitions, because they are clear. In the case of statehood, there are 50 more examples; and everyone knows what independence means and what it entails.

It is the definition of the so-called new Commonwealth that concerns us, because, once again, the Popular Party was given the opportunity to come up with a definition of Commonwealth that is constitutional, realistic, viable and, most of all, a definition that the U.S. Congress can accept.

Unfortunately, it is quite evident that the definition of the new Commonwealth submitted by the Popular Party does not meet the aforementioned requirements. Basic attributes of the proposed definition, such as the permanent nature of the relationship, the mutual consent language, the existence of a compact, the constitutional guarantee of U.S. citizenship, and the equality of treatment under Federal programs without income taxes are clearly unacceptable to Congress because they are either unconstitutional, unrealistic, politically unacceptable or all of the above.

First of all, the so-called Commonwealth status can never be permanent in nature, precisely because it is a colonial relationship which the U.S. cannot maintain. The president of the Popular Party, Anibal Acevedo Vila, was the first one to admit this fact in the congressional hearings that were held in Washington last March 19th.

It is clear the Congress cannot constitutionally bind itself never to alter the current or any future territorial relationship between the United States and Puerto Rico nor renounce its constitutional power under the territorial clause which states that Congress shall

have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, article 4, section 3.

As long as Puerto Rico remains an unincorporated territory, the U.S. Congress retains the authority to act unilaterally and to determine which Federal laws will apply or not in Puerto Rico.

But what strikes me as the most absurd of the statements in the definition is the claim that Puerto Rico be an autonomous body politic, sovereign over matters covered by the Constitution of Puerto Rico, while at the same time demanding that Congress guarantee forever the U.S. citizenship of persons born on the island with the same rights, privileges and immunities provided for in the U.S. Constitution.

Once again, the Popular Party talks about the rights, privileges and benefits of U.S. citizenship; but the words responsibility and obligation are nowhere to be seen in their definition.

Furthermore, the fact is that the current citizenship status of persons born in Puerto Rico exists at the discretion of Congress. Because the Constitution has been partially extended to Puerto Rico, particularly the fundamental rights of due process and equal protection, Congress obviously cannot exercise its discretion in an arbitrary and irrational way. But the suggestion that the current citizenship can be guaranteed forever and it is irrevocable by future Congresses is dangerously misleading. No such statutory status can bind a future Congress from exercising its constitutional authority and responsibility under the territorial clause.

In the U.S. constitutional system, equal political rights come with full and equal citizenship based on birth in one of the States of the Union or naturalization. Birth on an unincorporated territory like Puerto Rico does not confer a citizenship status protected by the 14th amendment of the Constitution, as indicated by the fact that the U.S. citizens in Puerto Rico do not have the same economic and political rights as citizens of the States; and Puerto Rico is subject to laws passed by the U.S. Congress in which they have no voting representation.

It is time for the pretense and the partisan mischief to end. It is time for all of us to put hypocrisy aside and be truthful about what the real choices are for Puerto Ricans. It is time to decide if we want to have full self-government and full empowerment that will allow us to search for a brighter future in equality with our fellow citizens, or we would rather live hanging on to an outdated colonial relationship of the past.

As we approach a century of U.S. sovereignty over Puerto Rico, the time has come to empower the people by giving them clear choices which they understand and which are truly decolonizing so we can reveal Puerto Rico's true desire through a lifetime act of self-determination.

Mr. Chairman and fellow members, I want to once again thank you for your interest and attention to this vitally important issue. I look forward to the testimony of our distinguished guests and to further congressional action on this subject. The 3.8 million U.S. citizens of Puerto Rico deserve no less.

Thank you, Mr. Chairman.

Mr. YOUNG. Thank you. I thank the gentleman.

We now will have the first panel, the Honorable Charlie Rodriguez, the designee for the New Progressive Party, San Juan, Puerto Rico; the Honorable Anibal Acevedo Vila, President, Popular Democratic Party, San Juan, Puerto Rico; the Honorable Fernando Martin-Garcia, designee for the Puerto Rican Independence Party, San Juan, Puerto Rico.

Please take your seats.

Gentlemen, because you are representatives of the three different parties today, I will use a little discretion and allow you more time than the 5 minutes. We will try to keep to the 5-minute rule, but with respect to your individual positions, I will be very lenient for a moment as long as you don't go on all day.

Charlie—Mr. Rodriguez, you are up first.

STATEMENT OF HON. CHARLIE RODRIGUEZ, DESIGNEE FOR THE NEW PROGRESSIVE PARTY, SAN JUAN, PUERTO RICO

Mr. RODRIGUEZ. Thank you.

Good morning, Chairman Young, Ranking Democrat George Miller, Congressman Romero-Barceló, members of the Resources Committee. On behalf of Governor Pedro Rossello and the 3.7 million U.S. citizens, welcome to Puerto Rico.

Today I come before you wearing two hats, representing the New Progressive Party of which the Governor is president, and as the president of the Puerto Rico Senate. In both capacities I support the Committee's tireless efforts over the last 3 years in the exercise of its responsibilities under the Constitution's Territorial Clause toward crafting Federal legislation that will finally offer Puerto Ricans, for the first time, the right to freely determine their political status and to resolve our century-old political relationship with the United States under a congressionally sponsored plebiscite.

We have talked long enough in Puerto Rico about our political status. We have talked for 100 years. It is time now to act and to find out how strong is the creed of equality, democratic values, and pluralism of our Nation once the voice of the people of Puerto Rico is heard in the proposed 1998 plebiscite.

I want to make three essential points:

First, that the constitutional integrity of the status options offered in the 1998 plebiscite must not be compromised. These options must reflect what is constitutionally attainable within the powers of Congress under the Territorial Clause. They must honestly describe to the people of Puerto Rico what is legally possible, not what is in consistent with the Constitution, impractical economically or politically, or subject to the vicissitudes of future negotiations. The people of Puerto Rico are closely monitoring these events, and they are expecting a clear and precise message from Congress of what may constitutionally be offered in the definitions of the three competing formulas.

For these reasons, the Committee should adopt, in their entirety, the three status option definitions as set forth in the proposed legislation. Congress must state with clarity that U.S. citizenship cannot exist in a status formula with sovereign powers.

Second, it is important that the process you have developed to provide for full self-government for the island through a self-deposition of the people of Puerto Rico in conjunction with the Federal

Government must not be compromised. It is crucial that the process be sound, all inclusive, and provides a peaceful, democratic, and internationally recognized process for all persons, parties, and interests in the island to finally resolve Puerto Rico's 500-year old march toward decolonization.

Finally, your presence here today is due in part to the initiative of the Puerto Rico Legislature's two concurrent resolutions seeking Congress's response to our island's ambiguous political status left unresolved by the 1993 plebiscite. We hope to continue to work with you to realize our objective, a 1998 plebiscite in which full self-government for Puerto Rico is initiated.

As the Governor's representative, I want to reaffirm our party's support of the definition of statehood contained in H.R. 856. We believe it fairly and accurately reflects both the benefits and obligations that Statehood entails. It should be adopted in its entirety as a stated valid option for the status plebiscite scheduled for 1998.

Puerto Ricans should be well informed of what statehood means under this definition. They should know that statehood is the only formula that guarantees our U.S. citizenship, putting us on equal footing with all other Americans. They should know that statehood is the only formula that guarantees the protection of the U.S. Constitution. They should know that statehood is the only formula that guarantees the Presidential vote and the election of two Senators and at least six Members of Congress who will shape the laws that affect our daily lives.

They should also know that statehood is the only formula that guarantees Americans citizenship to our children, grandchildren, and all future generations born in Puerto Rico. They should know that only statehood guarantees the entire application and full funding of Federal programs, which will be provided to the State of Puerto Rico on parity with the rest of the States of the Union.

They should know, too, that these benefits—citizenship, equal rights, full funding—carry with them the duty to pay Federal income tax, a duty that will ultimately be offset by a corresponding reduction in island taxes as Federal funds compensate for local outlays.

They should know that the 51st State of Puerto Rico can continue to have both Spanish and English as its official State languages, a right reserved and guaranteed to all other States under the Constitution's 10th Amendment, a right that can only be changed through a constitutional amendment made applicable to all the States, not just one or a few.

They should know the commitment of our Nation to democratic values, multiculturalism, and pluralism, all central to the American Dream.

One thing we already know is that when the Nation has required our presence in the battlefields in the First and Second World Wars, Korea, Vietnam, the Persian Gulf, Somalia, and Bosnia, we have been in the front lines, attesting to our commitment to democratic values and ideals.

I invite you to visit the memorial dedicated by the people of Puerto Rico dedicated to the hundreds of citizens, the people who made the ultimate sacrifice of their Nation. This memorial is located on the south side of our Capitol.

Puerto Ricans are so committed to our American citizenship and to our relation with our Nation that in a poll conducted by a local paper on July 23, 1990, 43.5 percent expressed that if Puerto Rico became a sovereign nation, they would move to the continental United States; 42 percent said they would remain; and 15 expressed to be undecided. The poll revealed that 60 percent of our youth would move to the United States. If the same question were polled today, the numbers would be even higher than those in 1990.

In a more recent poll, 91 percent of those interviewed stated that U.S. citizenship was very important. Surprisingly, 53 percent of independence supporters polled said they consider U.S. citizenship very important.

In sum, the statehood definition clearly and precisely declares to voters that it is the only formula that puts Puerto Rico on an equal footing with all the other States and confers on its residents the same constitutional rights and responsibilities as all other U.S. citizens enjoy.

Chairman Young, as stated in the letter signed by you and Chairmen Burton, Gallegly, and Gilman on February 9, 1996, in response to the 1993 plebiscite, I quote: There is a need for Congress to define the real options for change and the true legal and political nature of the status quo, so that the people can know what the actual choices will be in the future, end of quote.

That you have accomplished with H.R. 856. The status options as defined in the bill meet your criteria. They should stand as written, or otherwise the self-determination process will be compromised, as it was in 1993.

The process is important. The 1998 plebiscite campaign will be free of the demagoguery and rhetoric characteristic of past status votes where one party or the other impugned the legality of one or more of the options or questioned Congress's willingness to implement the results.

Rather, this campaign will be waged on the merits of the status options, what is good for Puerto Rico and Puerto Ricans, what can be done, and the implications of choosing one path over the other.

Second, the bill encompasses all status options, thereby establishing its credibility and claim to inclusiveness. Every legitimate internationally recognized status option is offered to voters of every persuasion, a democratic process that denies no one their say but one which recognizes that the majority rules.

Putting on my Senate hat, let us remember that it was a Puerto Rico legislature that requested Congress to respond to the results of our 1993 plebiscite in which none of the options, for the first time since 1952, received a majority vote among our electorate.

H.R. 856 is the final manifestation of Congress's response to our two concurrent resolutions, and, as I have stated already, it is a clear and definite framework, providing both legitimate status options capable of implementation and a self-determination process consistent with democratic norms and internationally accepted practices. H.R. 856 should be enacted as written.

With your continual assistance, Puerto Rico and the residents of this island will enter the next millennium confident in their future

as first class American citizens, confident in their future and the American Dream.

The conscience of the democratic world will be closely watching this process. The international community will finally judge the firmness of our Nation in respecting the will of the people of Puerto Rico freely expressed in 1998, a democratic process which will be a test for the democratic institutions of our Nation.

Puerto Rico stands as the final frontier of the U.S. promise of the American Dream to all who live within its national borders. After 500 years of colonialism, 100 under the U.S. flag, it is time to provide the people of Puerto Rico with full and equal access to that dream, a dream whose constitutional underpinnings we have defended abroad with valor for over 80 years.

Thank you, Mr. Chairman and members of this Committee.

[Applause.]

Mr. YOUNG. I thank the gentleman.

I will allow that to a short degree, but not too much, because we have a long witness list. I appreciate the enthusiasm.

I notice—and I will go to the next witness in a moment—I notice that you carefully said "the final frontier." If you had stated "the last frontier," I would have been mightily offended, because that is the motto of our State.

Now we have the president of the Popular Democratic Party. Mr. Vila, you are up.

STATEMENT OF THE HON. ANIBAL ACEVEDO VILA, PRESIDENT, POPULAR DEMOCRATIC PARTY, SAN JUAN, PUERTO RICO

Mr. VILA. Good morning. It is a pleasure to welcome you to the Estado Libre Asociado de Puerto Rico.

[Applause.]

Mr. YOUNG. You have just taken some of the time away, and let's be very careful of what we are doing.

You are up.

Mr. VILA. In my previous experience before you, I expressed the views of our matter regarding the tenets of political formula to which we are audience here. It is, as you know, a formula that stresses the values and aspirations of the United States, preserving at the same time our distinct national and cultural identities. This is a status that has served the people of Puerto Rico well, that has allowed the sons and daughters of this island to work toward a common ideal of progress and well-being and to avoid the clashes between otherwise unaccommodating visions.

If improved, Commonwealth can serve both our people and your people even better. This is why we have tried for many years, and continue to try now, to allow our present status to achieve its full potential. It is not surprising then that our definition of "Commonwealth"—the way in which we describe the essence of our beliefs—is neither new to our people nor alien to this Committee.

Accordingly, I do not come today to go once again over terrain that has been very well covered in the past. Today, I would like to address issues that are most significant for the process that you have commenced and that still wait to be discussed.

In this day and age, there is no right to self-determination if the process for its exercise is not adopted by consensus but by the sheer exercise of the will and power of one of the parties.

May I, in this respect, point out two glaring defects of this bill besides others which we have mentioned in the past. This bill does not recognize the sovereignty of the people of Puerto Rico to freely choose among all the alternatives preferred by the different sectors of the Puerto Rican society.

Accordingly, it does not comply with the elemental requirements concerning the exercise of the right to self-determination, the need that the process be made subject to the approval of the people concerned or, at least, adopted by consensus of the leading political groups that represent the people.

The common history shared between Puerto Rico and the Congress has had two good examples of this. When Puerto Rico exercised, without exhausting, its self-determination right in 1950, the people validated the process proposed by Congress with its vote. Later, in the 1989–91 plebiscite process, the U.S. Congress validated that process by getting the support and consensus of the three political parties on the island.

As Chairman Young clearly stated, during that process back in 1990—and I am quoting—a referendum should only be authorized by Congress if it is to be fair to all parties and the statuses that they advocate.

That same principle was reaffirmed recently with regard to this process by the President of the United States, the Honorable William Jefferson Clinton, in a letter to the president of the Popular Democratic Party on April 4, 1997, where he states: I have made it clear that the Federal Government should offer the people of Puerto Rico serious and fair options that are responsive to their diverse aspirations for their islands.

If, notwithstanding the fact that the procedure for the establishment of Commonwealth required the approval by the people, that process is not satisfactory to some of you, what could be said about this process that until now has been established unilaterally? Why not follow now the same consultation that governed the constitutional reforms in the 1950's? Why should this bill seek to impose a given procedure, tilting the table to favor a formula that has never commanded a majority in this society?

Or is it that half a century after we initiated the self-determination process, statehood followers have finally come to realize that the table needs tilting in order to prevent another defeat for statehood? Is it that you are now willing to follow them in such a monumental hoax?

This is not a question of naked power to do something, as debates concerning this bill have pitifully assumed. This is a question of honest statesmanship and solemn respect or the principles of democracy and government by consent.

Before this bill goes further, you might as well tell, loud and clear, whether you are willing to honor the procedural principles of self-determination that have governed the proposals for changes in our relations or whether you pretend to impose the rules unilaterally.

We must assume that the joint letter from Congressmen Young and Miller of March 3, 1997, giving the three political parties an opportunity to present a new definition for each formula, and this second round of hearings before the Committee is a new approach of openness, to have a referendum fair to all parties and the statuses they advocate, and to revise the provisions, findings, and assumptions of this bill which have, until now, made impossible any meaningful participation for us.

On March 19, I submitted the definition of the new Commonwealth to this Committee. It describes the minimum content of our aspirations. It is substantially similar to the "Commonwealth" definition included in the Committee report of H.R. 4765, a bill approved unanimously by the full House of Representatives on October 10, 1990.

The definition of the new "Commonwealth," as well as the definition of "statehood" and "independence" included in the report to H.R. 4756 and approved by this Committee and the whole House, were the result of intense discussions and study, after which the definitions presented by the three parties were modified before being adopted by the House.

The report on H.R. 4765 stated specifically that inclusion of the definition—and I quote—constitute a good faith commitment to consider those matters contained in the conceptual descriptions of the status that receives majority support in the referendum in responding to the expression of will by the Puerto Rican people.

The record said—and I am still quoting—these descriptions cannot be fairly termed wish lists . . . this section would pledge that the Committees will seriously and fully review and respond to the proposals.

In short, there was no absolutely no legal impediment to the adoption and enforcement of the Commonwealth option there, and there is none now. The only thing needed is your political will and your commitment to fair play.

What should be under discussion now before Congress is what best serves the interests of all parties to the present process and how to give meaningful content to Puerto Rico's right to self-determination without artificially raised or dubious legalisms to obscure the nature of the policy decisions required.

These are not times to be narrow minded. We must build on our past and look to the future. Europe is currently creating a whole new and dynamic relationship which includes a common market, common citizenship, and most likely common currency, and he United States has to look to the future with an attitude that will encourage, not impede, this type of arrangement.

The development of the new Commonwealth is consistent with these modern tendencies of national reaffirmation and political and economic interdevelopment among the peoples of the world. The majority of Puerto Ricans believe in autonomy and self-government with U.S. citizenship as a bond with the United States. The current status of Puerto Rico needs development, not demolition. Thus——

[Applause.]

So far, I have expressed myself in English in an effort to facilitate your understanding of our positions and underscore the claim of inclusion that my party has been stressing since my first appear-

ance last month. Now, I want to express myself from the heart, and because my heart thinks, feels, and dreams in Spanish, it can only speak in Spanish.

Puerto Rico, Puerto Rico es un pueblo orgulloso de su identidad, de su cultura, de su idioma. Algunos pequeños incidentes dramatizan nuestro sentido de identidad propia. Recuerdo como si fuera hoy, la ilusión y la an- y luego la angustia cuando apenas tenía dieciséis años, de las Olimpiadas de Montreal por momentos, nuestro equipo de baloncesto parecía que iba a triunfar sobre el de Estados Unidos, para después terminar derrotado. Recuerdo... Y se me aprieta el corazón... Una noche aquí en San Juan, en los juegos Panamericanos de 1979, cuando un Puertorriqueño, nadando en el uniforme de los Estados Unidos, ganó una medalla de oro para los Estados Unidos. Esa atleta sacó de su uniforme una pequeña bandera Puertorriqueña en señal clara que para él, aquella medalla también era nuestra. Y recuerdo ... [Applause] Y recuerdo ... [Applause] Y recuerdo como todo un estadio ... Miles de personas, nos pusimos de pie para entonar nuestro himno, La Borinqueña, en un reclamo de que aquella medalla era nuestra.

En mis treinta y cinco años, he visto y vivido orgullo y compromiso de este pueblo, con mantener su relación con los Estados Unidos y especialmente, su ciudadanía Americana. Recuerdo claramente... [Applause] Recuerdo claramente a nuestros soldados, cumpliendo con su obligación, partiendo orgullosamente a defender los principios y derechos de los Estados Unidos, con la bandera Americana adherida a su uniforme militar y la bandera Puertorriqueña en sus manos. Esa es la realidad del Puertorriqueño de entrar al nuevo milenio. Esa es la realidad que solo puede armonizar el Estado Libre Asociado. Esa es la realidad ... [Applause] Esa es la realidad. .. Que este proyecto pretende no reconocer, pero aún, peor aún... Pretende destruir. Ha quedado demostrado que este proyecto al tratar de destruir el ELA, tendría el efecto de obligar a los Puertorriqueños a escoger entre dos (2) soledades. La soledad de perder su identidad, lenguaje y cultura a cambio de preservar su ciudadanía... O la soledad de perder su ciudadanía a cambio de preservar su identidad. El Estado Libre Asociado ... [Applause] El Estado Libre Asociado nos ha liberado de esta soledad, al permitirnos armonizar ambos tesoros. Hace treinta años, el Premio Nóbel de Literatura García Márquez escribió, "Las estirpes condenadas a cien años de soledad... No tenían una segunda oportunidad sobre la tierra." Señores Congresistas, no somos una estirpe, somos un pueblo. Señores Congresistas, no condenen a Puerto Rico a "cien años de soledad." Tenemos derecho a una segunda oportunidad y la estamos exigiendo. A nombre de mi pueblo, que es y sigue siendo mayoritariamente estadolibrista, me reafirmo en nuestro derecho, a entrar al nuevo milenio en harmonía con ustedes... Y con nuestro inquebrantable espíritu y esencia Puertorriqueño. Que el Señor los ilumine. Thank you.

[Applause.]

[The prepared statement of Mr. Vila follows:]

Statement of Aníbal Acevedo-Vilá
President
Popular Democratic Party
Commonwealth of Puerto Rico

P.O. Box 9065788
San Juan, Puerto Rico 00906-5788
Tel. (787) 721-2000

Before the Committee on Resources
U.S. House of Representatives

on

H.R. 856
The United States-Puerto Rico Political Status Act

April 19, 1997

In my previous appearance before you, I expressed the views of our party regarding the tenets of the political formula to which we adhere. It is, as you know, a formula that stresses the values and aspirations that we share with the United States preserving, at the same time, our distinct national and cultural identities. This is the status that has served the People of Puerto Rico well; that has allowed the sons and daughters of this Island to work towards a common ideal of progress and well being and to avoid clashes between otherwise unaccommodating visions.

If improved, Commonwealth can serve both our People and your People even better. This is why we have tried for many years and continue to try now to allow our present status to achieve its full potential. It is not surprising, then, that our definition of Commonwealth--the way in which we describe the essence of our beliefs--is neither new to our People nor alien to this Committee.

Accordingly, I do not come today to go once again over a terrain that has been very well covered in the past. Today I would like to address issues that are most significant for the process that you have commenced and that still wait to be discussed.

In this day and age, there is no right to self-determination if the process for its exercise is not adopted by consensus but by the sheer exercise of the will and power of one of the parties.

May I, in this respect, point out two glaring defects of this bill, besides others which I have mentioned in the past. This bill does not recognize the sovereignty of the people of Puerto Rico to freely choose among all the alternatives preferred by the different sectors of the Puerto Rican society. Accordingly, it does not comply with the elemental requirements concerning the exercise of the right to self-determination; the need that the process be made subject to the approval of the people concerned or, at least, adopted by consensus of the leading political groups that represents the people.

The common history shared between Puerto Rico and the Congress has had two good examples of this.

When Puerto Rico exercised, without exhausting, its self-determination right in 1950, the People validated the process proposed by the Congress with its vote. Later, in the 1989-91 plebiscite process, the U.S. Congress validated the process by getting the support and consensus of the three political parties on the Island. As Chairman Young clearly stated during that process back in 1990 "a referendum [bill for Puerto Rico] should only be authorized by the Congress if it is to be fair to all parties and the statuses that they advocate". That same principle was reaffirmed recently with regard to this process by the President of the U.S., Hon. William Jefferson Clinton, in a letter to the President of the PDP of April 4, 1997, where he states:

"I have made it clear that the federal government should offer the People of Puerto Rico serious and fair options that are responsive to their diverse aspirations for their islands,..." (Appendix A)

If, notwithstanding the fact that the procedure for the establishment of Commonwealth required the approval by the people, that process is not satisfactory to some of you, what could be said about this process that until now has been established unilaterally? Why not follow now the same consultation that governed the constitutional reforms of the 1950's? Why should this bill seek to impose a given procedure, tilting the table to favor a formula that has never commanded a majority in this society? Or is it that half a century after we initiated the self determination process statehood followers have finally come to realize that the table needs tilting in order to prevent another defeat for statehood? Is it that you are now willing to follow them in such a monumental hoax.

This is not a question of naked power to do something, as debates concerning this bill have pitifully assumed. It is a question of honest statesmanship and solemn respect for the principles of democracy and government by consent.

Before this bill goes any further, you might as well tell, loud and clear, whether you are willing to honor the procedural principles of self-determination that have governed the proposals for changes in our relations, or whether you pretend to impose the rules unilaterally.

We must assume that the joint letter from Congressmen Young and Miller of March 3, 1997, giving the three political parties the opportunity to present a new definition for each formula, and this second round of hearings before the Committee is a new approach of openness, to have a referendum "fair to all parties and the statuses they advocate" and to revise the provisions, findings and assumptions of this bill which have until now made impossible any meaningful participation for us.

On March 19, I submitted the definition of the New Commonwealth to this Committee. (Appendix B). It describes the minimum content of our aspirations. It is substantially similar to the Commonwealth definition included in the Committee Report of H.R. 4765, a bill approved unanimously by the full House of Representatives on October 10, 1990.

The definition of the New Commonwealth, as well as the definition of Statehood and Independence included in the report to H.R. 4765 and approved by this Committee and the whole House, were the result of intense discussions and study after which the definitions presented by the three parties were modified before being adopted by the House.

The report on H.R. 4765 states specifically that the inclusion of the definition "constitute a good faith commitment to consider those matters contained in the conceptual description of the status that receives majority support in the referendum in responding to that expression of will by the Puerto Rican people...These descriptions cannot be fairly termed wishlists...this section would pledge that the committees will seriously and fully review and respond to the proposals". (For a cronology of the process that concluded with the approval of H.R. 4765, see Appendix C).

In short, there was absolutely no legal impediment to the adoption and enforcement of the Commonwealth option then and there is none now. The only thing needed is your political will, and your commitment to fair play.

What should be under discussion now before Congress is what best serves the interest of all parties to the present process, and how to give meaningful content to Puerto Rico's right to self-determination, without artificially raised or dubious legalisms to obscure the nature of the policy decisions required. (For a discussion of some of the policies and legal issues with regard to Puerto Rico, See Appendix D: "A Note on the Confussion Between Legalism and Policy").

These are not times to be narrow-minded. We must build on our past and look to the future. Europe is currently creating a whole new and dynamic relationship which includes a common market, common citizenship and most likely common currency and the United States has to look into the future with an attitude that will encourage not impede this type of arrangements. The development of the New Commonwealth is consistent with these modern tendencies of national reaffirmation and political and economic interdevelopment among the peoples of the world.

The majority of Puerto Ricans believe in autonomy and self-government with U.S. citizenship as a bond with the United States. The current status of Puerto Rico needs development, not demolishment. Thus, I claim and demand from each one of you to allow the People of Puerto Rico the opportunity to support the development of Commonwealth so as to further contribute to our mutual national interests into the new millenium. The least you can do in a process like the one established in this bill, that is not legally binding or self-executing, is to allow my people to democratically express their support for Commonwealth.

Thank you.

APPENDIX A

THE WHITE HOUSE

WASHINGTON

April 4, 1997

The Honorable José E. Aponte
Mayor of Carolina
c/o The Popular Democratic Party
of Puerto Rico
Post Office Box 9065788
San Juan, Puerto Rico 00906-5799

Dear José:

Thank you for sending me copies of the Popular Democratic Party General Council's recent resolutions regarding Puerto Rico's future political status.

As you know, I have placed a high priority on establishing a process that would enable this fundamental issue to be resolved finally. To achieve this, I am fully committed to working with the Commonwealth's elected leaders, the Congress, and all others concerned, and I hope that the necessary procedures will be underway by next year.

I have made it clear that the federal government should offer the people of Puerto Rico serious and fair options that are responsive to their diverse aspirations for their islands, so that the option authorized by a majority of votes can be implemented. I will continue to keep the views of supporters of the Commonwealth arrangement in mind as we carry out this process.

Sincerely,

Bill Clinton

APPENDIX B

THE NEW COMMONWEALTH DEFINITION

(A) The new Commonwealth of Puerto Rico would be joined in a union with the United States that would be permanent and the relationship could only be altered by mutual consent. Under a compact, the Commonwealth would be an autonomous body politic with its own character and culture, not incorporated into the United States, and sovereign over matters covered by the Constitution of Puerto Rico, consistent with the Constitution of the United States.

(B) The United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the Fifth Amendment of the Constitution of the United States and equal to that of citizens born in the several states. The individual rights, privileges and immunities provided for by the Constitution of the United States would apply to residents of Puerto Rico. Residents of Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of the several States contingent on equitable contributions from Puerto Rico as provided by law.

(C) To enable Puerto Rico to arrive at full self-government over matters necessary to its economic, social, and cultural development under its constitution, a Special Constitutional Convention would submit proposals for the entry of Puerto Rico into international agreements and the exemption of Puerto Rico from specific Federal laws or provisions thereof. The President and the Congress, as appropriate, would consider whether such proposals would be consistent with the vital national interests of the United States in the transition plan provided for in Section 4 of this Act. The Commonwealth would assume any expenses related to increased responsibilities resulting from these proposals.

APPENDIX C

H.R. 4765 - 1990 PROCESS SUMMARY

1. May 9, 1990 - H.R. 4765 was introduced in the House of Representatives by Congressman Ron de Lugo with a bipartisan support. The bill didn't have detailed definitions, but presented three formulas of status: New Commonwealth, Statehood and Independence.

2. June 28, 1990 - The Presidents of the three main political parties of Puerto Rico (Popular Democratic Party, New Progressive Party, Independence Party) presented and explained their status definitions.

3. Intense discussions, negotiations and congressional hearings about the contents of the three status formula definitions and procedures takes place.

4. The representatives of the Popular Democratic Party meet with Democratic majority leaders, Republican minority leaders and representatives of former President Bush, and as a result modifications were made on the formula definition. The Statehood and Independence definitions, also, suffered modifications as a result of negotiation activities.

5. September 18, 1990 - Chairman Ron de Lugo presents amendments in the nature of a substitutive for H.R. 4765. Congressmen Young supported the amendments and later send to the House Interior and Insular Affairs Committee. Amendments stated that Congress was committed to negotiate the implementation of the chosen formula based on the principles in each definition as contained in the report.

6. September 19, 1990 - The House Interior and Insular Affairs Committee approves H.R. 4765 by a 37-1 vote.

7. October 2, 1990 - The House Rules Committee unanimously recommends H.R. 4765 for House floor consideration. The report recommending status definitions stated that "the inclusion of these matters in this report would constitute a good faith commitment to consider those matters contained in the conceptual description of the status that receives majority support in the referendum in responding to that expression of will by the Puerto Rican people. The enactment of this legislation would impose moral obligations on the Executive Branch as well as the Congress in this regard...".

8. October 4, 1990 - A "Dear Colleague" letter asking for floor support to H.R. 4765 was signed by 29 congressmen, including Don Young.

9. October 5, 1990 - President Bush sends a letter to Ron de Lugo urging House approval of H.R. 4765 and compromised himself to sign the legislation.

10. October 10, 1990 - The House of Representatives approves HR 4765, "The Puerto Rican Self-determination Act" unanimously.

11. Senate didn't consider the bill.

APPENDIX D

A NOTE ON THE CONFUSION BETWEEN LEGALISMS AND POLICY

The analysis of status issues has unfortunately been marred through the years by unending and barren discussion of legal conundrums. What are essentially policy issues have been clouded by dated legalisms and charades.

The history of the relationship between the United States and Puerto Rico is rich in examples of this distracting trait. Right at the outset it was claimed that, different to other countries, the United States had no power under the Constitution to acquire territories for the purpose of governing them as colonies. Although there was good authority for that position. Congress treated the matter, which was debated for years, as a policy issue and voted for the establishment of an empire. In the Insular Cases, the Supreme Court of the United States finally settled the issue. Torruella, Juan R., The Supreme Court of the United States and Puerto Rico: The Doctrine of Separate and Unequal, Río Piedras, University of Puerto Rico Press, 1985. Respectable authors have for a long time now questioned whether that policy decision was right, as democracy and colonialism do not really mix, and state that the United States should get out of the business of governing others. See: Walter Lippman, Introduction to Roosevelt, Theodore Jr., Colonial Policies of the United States, New York, Doubleday, Doran, 1937. This is, again, purely a policy issue, but sixty years have elapsed since Lippman's indictment and almost forty since the United Nations called for the swift and unconditional end to colonialism in the world [see Resolution 1514 (XV)] and still there are advisers to Congress who claim that Congress should hold on for dear life to its plenary powers over the territories, decolonizing alternatives open to others, such as binding compacts, allegedly not being legally available to the United States.

Puerto Rican politicians have also fallen prey to this malady. Since the start of the twentieth century, many alleged that the Treaty of Paris, wherein Spain ceded Puerto Rico to the United States, was null ab initio. The argument used was that, by granting Puerto Rico full autonomy in 1897, Spain had renounced its sovereignty over Puerto Rico and that therefore it was powerless to cede the island to the United States or any other power. For an analysis of the argument, see: López Baralt, J., "Is the Paris Treaty Null Ab Initio as to the Cession of Puerto Rico?", 7 Rev. Jur. UPR 75 (1937).

Another curious example was the claim by statehood followers, in spite of a clear record to the contrary, that Puerto Rico had become an incorporated territory by reason of the grant of citizenship to Puerto Ricans in 1917. The debate was not quieted until the Supreme Court of the United States dismissed the argument in Balzac v. People of Porto Rico, 258 US 298 (1922).

The contention that Congress is powerless to enter into a binding compact with the people of a territory in order to grant it a full measure of self-government, is another of the most egregious instances of trying to push a policy issue behind a legal screen. The claim has a long history. The Northwest Ordinance of 1787 provided, as respects the part relating to the bill of rights,that "It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in said territory, and forever remain unalterable, unless by common consent..." 1 Stat. at L. 51 f. (a). It was considered by many at the time that such a commitment lacked validity, Channing, History of the United States, vol. 3, p. 549, but Congress, both under the Articles of Confederation and the Constitution, rightly treated the question as a policy issue.

It is indeed preposterous that now, more than two hundred years later, the issue is still being raised and that Congress is still told by some that it cannot, no matter what the national interest may dictate, enter into a valid compact of permanent union with the people of Puerto Rico on the basis of a common citizenship or any other basis under Commonwealth status. The holders of such a view pay no heed to Law 600 of 1950 (75 Stat. at L. 245), which describes the relationship between Puerto Rico and the United States as being "in the nature of a compact", to Law 447 of 1952 (66 Stat. at L. 327), which refers to Law 600 as "adopted as a compact"; nor to the solemn representation made by the government of the United States to the United Nations in 1953 to the effect that Puerto Rico and the United States entered in 1952 into a compact unalterable except by common consent (see Mr. Acevedo Vilá's statement before this Committee on March 19, 1997). The proponents of the position that Puerto Rico is still a territory of the United States pay no attention either to the holdings of the highest federal courts to the effect that Puerto Rico's status is unique; that its present relationship to the United States has no parallel in history; that the Commonwealth of Puerto Rico is an autonomous entity, sovereign over matters not covered by the United States Constitution; and that Puerto Rico has accordingly ceased to be a territory of the United States (see the above statement by Mr. Acevedo Vilá, and its appendixes, for the relevant citations).

Those who cling to the position that Puerto Rico is a territory of the United States subject to the plenary power of Congress demean both the government of the United States and the people of Puerto Rico. They demean the government of the United

States by considering it capable of playing such a monumental hoax on world opinion and demean the people of Puerto Rico also by considering them capable of having voted, in the referendum held for the approval or rejection of Law 600, in favor of anybody having plenary power over them.

Attackers of Commonwealth status point to sundry opinions of the United States Department of Justice to the effect that Congress is powerless under the Constitution to enter into a valid compact with the people of a territory. For the contrary position see the following opinions of the Department of Justice itself: the one issued on February 16, 1960 and publicly expressed before a House Committee in the hearings related to the Fernós-Murray bill (see: Hearings before a Special Subcommittee on Territorial and Insular Affairs, House of Representatives, Eighty-Sixth Congress, First Session, H.R. 9234, Serial 14, Washington, 1960, p. 810); the opinion issued on April 2, 1962 to the group appointed by joint action of President Kennedy and Governor Muñoz Marín, whose work led to the Aspinall bill of 1963 (see: Trías Monge, J., Historia Constitucional de Puerto Rico, Río Piedras, Editorial de la Universidad de Puerto Rico, vol. 4, 1983, pp. 183-84); and the memorandum of May 12, 1975 sent to the White House when a new compact of permanent union was being considered. President Ford's Library, Norman E. Ross Files, Ad Hoc Committee, folders 2-3. There are many other important studies holding that there are no constitutional hurdles to Commonwealth status. See the 1966 Report of the United States-Puerto Rico Commission, set up by joint action of the President of the United States and the Governor of Puerto Rico pursuant to act of Congress.

To hold otherwise is actually to state that the United States is less of a nation than others. Other nations have entered into binding compacts with formerly dependent territories and some stipulate that the citizens of such territories shall continue to be citizens of the former administering nation. See, for example, the compact between the Cook Islands and New Zealand. Larmont, Peter, "Cook Islands", in UNESCO Supported Series on Social Sciences in the South Pacific, University of the South Pacific, 1985, pp. 255 ff. Not to go any further, Puerto Rico itself had such a compact with Spain, while at the same time enjoying full Spanish citizenship. The Autonomic Charter of 1897 clearly stated that it could only be amended at the petition of the Puerto Rican Parliament. It is, of course, clear that the United States is empowered, like other administering nations, to divest itself totally or of such part of its sovereignty over any of its dependent territories or associated entities as the national interest may require. The United States Constitution is not such a strangely constricting document that it allows only three decolonizing formulas, admission to the Union as a State, independence, or free association with the United States, but without a shared citizenship. It is most difficult to envision any perceptive court accepting the bizarre argument that the United

States Constitution limits the sharing of American citizenship, besides the members of the Union, to dependent peoples only, thus condemning the nation to remain as one of the few colonial powers in the world should such dependent peoples desire to hold on to their American citizenship. Many fanciful legal interpretations have been pressed on Congress through its long and distinguished history, but this appears to be among the most astounding, if not the most bizarre.

In all, the most that can be said on the constitutional possibility of entering into a binding compact as described and related issues is that there are conflicting views on the subject. This emphasizes the fact that what Congress faces in discussing Commonwealth status and other status formulas are plain policy issues and not abtruse legal questions. What should be under discussion before Congress now is what best serves the interest of all parties to the present process, how to give meaningful content to Puerto Rico's right to self-determination, without permitting legalisms to obscure the nature of the policy decisions required.

Mr. YOUNG. Fernando, you are next.

STATEMENT OF THE HON. FERNANDO MARTIN-GARCIA, DESIGNEE FOR THE PUERTO RICAN INDEPENDENCE PARTY, SAN JUAN, PUERTO RICO

Mr. MARTIN-GARCIA. Members of Committee, I will be developing my testimony for the benefit of the people in Puerto Rico, and for your benefit I have provided you with a translation.

Mr. YOUNG. We have read that, Fernando. Thank you.

Mr. MARTIN-GARCIA. Señores miembros del Comité: Comparezco ante ustedes en representación de Rubén Darío Martínez, Presidente del Partido Independista Puertorriqueño del cual soy Vice-presidente. El Senador Berríos se encuentra hoy fuera de este edificio, donde el Partido Independentista ha convocado una manifestación de respaldo a la independencia de Puerto Rico... Y de rechazo a cualquier posible decisión por parte del Gobierno de los Estados Unidos de reubicar en Puerto Rico, al Comando Sur del Ejécito de los Estados Unidos. Las manifestaciones también rechaza los planes de la Marina de instalar en Puerto Rico el sistema de radar conocido como "Sobre el Horizonte."

Constituye una contradicción, que mientras se plantea el diseño de un vehículo legislativo que aspira a descolonizar a Puerto Rico, las fuerzas armadas de Estados Unidos pretendan reforzar y ampliar su presencia en Puerto Rico. Hemos expresado ya esta propuesta a la Casa Blanca y nos proponemos hacerlo de manera formal próximamente.

Debo señalar además que hablemos de elevar nuestra denuncia ante la comunidad internacional y en particular, ante el Comité de Descolonización de Naciones Unidas.

El 31 de marzo, el Partido Independista envió al Comité la definición de la fórmula de independencia que proponemos sea incluido en el proyecto de la Cámara 856. Aunque la independencia es una condición política claramente definida en el Derecho Internacional, hemos elaborado una propuesta que describe dicha condición de forma sencilla y específica. En ella se precisa en primer lugar, el ámbito pleno de soberanía del que quedaría investido un Puerto Rico independiente tanto en sus asuntos internos como externos. Se afirma además, lo que en otras circunstancias históricas sería innecesario, que los Puertorriqueños tendrán su propia ciudadanía, es decir, la ciudadanía de la República de Puerto Rico.

Se También lo relativo a los derechos individuales adquiridos en el ámbito económico, como lo serían las pensiones del Gobierno Federal o bajo el Seguro Social y la Ley de Veteranos, pues aunque la continuidad de esos pagos no podría ser cuestionada y no mencionarlo específicamente pudiera generar incertidumbre entre los sectores más vulnerables de nuestra sociedad.

Por último, la propuesta incluye algunos de los temas fundamentales, que inevitablemente habrían de ser incluidos en un futuro Tratado de Amistad y Cooperación entre ambas naciones. Estos incluyen la transición económica de la dependencia actual a la interdependencia equilibrada, el tránsito de bienes y personas entre Estados Unidos y Puerto Rico, y nuestra insistencia en el derecho de Puerto Rico a su eventual desmilitarización.

Debo expresarme ahora con respecto a las definiciones de las demás fórmulas que al presente se incluyen en el proyecto de ley, particularmente al status quo territorial, es decir el ELA actual, y la alternativa de la estadidad. Al desenmascarar la realidad colonial y territorial del Estado Libre Asociado, el Comité le da la razón a las renuncias que el independentismo Puertorriqueño ha venido haciendo consistentemente... Desde 1950 en todos los foros. Tiene además razón el Comité, al partir de la premisa de que del Derecho Constitucional Norteamericano, cualquier status que no sea la estadidad o la soberanía propia, ya sea ésta en la independencia o en la libre asociación, tiene forzosamente que ser uno de carácter territorial, colonial y temporero. Merece por ello, también reconocimiento que el proyecto subraye la precariedad de la actual condición territorial, al requerir que en el caso de que no las resultara en el apoyo mayoritario, el pueblo Puertorriqueño deberá volver a ser consultado a mediano plazo hasta que logre superar por voluntad propia, el status colonial.

La propuesta del nuevo ELA que tiene ustedes ahora ante su consideración, en nada modifica el carácter colonial del viejo ELA. Aún si el Congreso aceptara el intento de cuadrar el círculo constitucional que una vez más ha propuesto el liderato del partido popular, permanecería Puerto Rico sujeto a la aplicación unilateral de la legislación que los Estados Unidos creyera necesaria, y permanecería en nuestra Constitución y nuestras leyes, subordinadas a la Constitución de los Estados Unidos y a sus tribunales.

Estos vicios nada más bastarían para condenar la definición del nuevo ELA al mismo safacón colonial de su predecesor. [Applause] De la misma manera... De la misma manera que el Comité ha hablado con claridad y franqueza sobre el ELA actual, debe hacerlo también con respecto a este último y desesperado esfuerzo, de poner al día el fraude que en 1950 se perpetró contra nuestro pueblo. Con respecto a la estadidad [Applause] ... Con respecto a la estadidad, por otro lado, estamos convencidos de que el enfoque del proyecto está profundamente equivocado. El realismo y el propósito de enmienda que el proyecto muestra en la aceptación del carácter colonial y territorial del ELA, no están presentes en la conceptualización de la alternativa estadista.

Con respecto a la estadidad, el proyecto encubre los criterios anticipables con que el Congreso evaluaría una petición de estadidad, que pudiera darse en un plebiscito de Puerto Rico, como resultado del miedo y la dependencia generada por el colonialismo. La raíz fundamental del problema, una que el proyecto peligrosamente ignora, es que Puerto Rico es una nación distinta a los Estados Unidos. Nunca en su historia [Applause] ... Nunca en su historia se ha enfrentado los Estados Unidos a una petición de estadidad por parte de una nación diferente o por motivos tan perestres desesperados como los que llevarían a muchos Puertorriqueños a votar por ella.

Constituye un profundo error de juicio el creer que el problema político principal de la nación Puertorriqueña es la limitación de su franquicia electoral en lo que respecta al voto por el Presidente y el Congreso de los Estados Unidos. Eso es igual a pensar que el problema Palestino encontraría solución con la extensión de la

franquicia electoral de Israel a los Palestinos de Gaza o de la margen occidental. Es no entender el por que la franquicia electoral Británica no fue suficiente para impedir la culminación de la independencia de Irlanda y la persistencia hoy día de esa misma lucha en Irlanda del Norte. O por que cada vez más que Quebecuas aspiran a su propia soberanía, a pesar de tener igualdad de derechos políticos con los demás ciudadanos del Canadá. Los Puertorriqueños no somos una minoría dispersa, desarticulada, o asimilada... Dentro de los Estados Unidos. Somos una nacionalidad Latinoamericana, hispano-parlante, que se ha formado a través de quinientos años, orgullosa de su identidad, y que tiene como asiento nacional un territorio Caribeño geográficamente definido donde su cultura nacional es indisputadamente dominante, en todas las manifestaciones de su vida colectiva. En este sentido tan crítico y tan transcendental, Puerto Rico no es Tejas o Alaska, o ni siquiera Hawai, donde los nativos de extracción Hawaiana, para la fecha de la estadidad en 1959, apenas constituían una pequeña minoría desplazada en su propia tierra, dominada por los anglos y homogenizada cultural y lingüísticamente a los Estados Unidos desde hacía mucho tiempo.

¿Qué peso tiene para este Congreso, en lo que a la estadidad se refiere, que la inmensa mayoría del pueblo Puertorriqueño no está dispuesto a negociar nuestra identidad de pueblo y el prevenirlo de nuestro idioma vernáculo?

¿Qué peso tiene para este Congreso, que tanto el independentismo Puertorriqueño como el derecho internacional, insisten en la independencia como un derecho inalienable e irrenunciable de los pueblos, y que por lo tanto, nuestra lucha por la independencia continuaría como lucha por la secesión si Puerto Rico fuera un estado?

¿Qué peso tiene para este Congreso, el que aún bajo las premisas mμs ilusorias de cualquier estadista, nunca habrá en Puerto Rico en el futuro predecible, nada que se aproxime a un consenso sustancial con respecto a la estadidad?

¿Qué peso tiene para este Congreso el que la motivación fundamental de una gran parte de los estadistas, no sea el afán de integrarse y asimilarse constructivamente a los Estados Unidos y a su cultura sino a la inseguridad económica y la dependencia que ha generado el colonialismo?

El Congreso debe buscar la forma de anticipar su juicio sobre estos temas cruciales o correr el riesgo de que la expresión electoral a favor de la estadidad sea una artificial y basada en premisas erróneas. En todo caso, tarde o temprano el Congreso tendría que enfrentar estos problemas.

Lo anterior no debe usarse como argumento para que no se apruebe un proyecto de plebiscito. Ello sería condenar a Puerto Rico al colonialismo por inacción. Sino un argumento para que el voto sea uno genuinamente informado a base de consideraciones que son previsibles y que son conocidas.

Y a claro al sector estadista desde ahora, cuales son los términos y condiciones referentes a las preguntas que he formulado y que este Congreso considera serían indispensables para que la estadidad pudiera ser una posibilidad real. No hacerlo solamente

pospondrá el problema para un momento futuro, en el cual su manejo será más difícil y costoso para todas las partes.

Por último, quiero exhortar a los miembros de este Comité a que ejerzan sus mejores oficios para que el Presidente Clinton resuelva un asunto que tiene bajo su consideración en este momento y cuya adecuada resolución constituiría un gesto de buena fe que avalaría el compromiso del Gobierno de los Estados Unidos con la libre determinación. Se trata de la excarcelación de quince independentistas Puertorriqueños . . . [Applause] Que cumplen condenas de cárceles. . . De cárceles. . . Cárceles Federales por casos vinculados a la lucha por la independencia. La duración de las sentencias es absolutamente desproporcionada a los delitos por los cuales fueron convictos, y no cabe lugar a dudas de que consideraciones políticas dictaminaron la excesiva severidad de las sentencias. Les solicito que le expresen al Presidente que por razones tanto humanitarias como políticas, debe acceder a la conmutación de estas sentencias, asunto sobre el cual existe amplio apoyo en Puerto Rico, más allá de líneas partidistas.

Muchas gracias [Applause].

[The prepared statement of Mr. Martin-Garcia follows:]

STATEMENT BEFORE THE NATURAL RESOURCES COMMITTEE U.S. HOUSE OF REPRESENTATIVES REGARDING H.R. 856

FERNANDO MARTÍN GARCÍA, VICE-PRESIDENT
PUERTO RICAN INDEPENDENCE PARTE

APRIL 19, 1997

Members of the Committee:

I appear today on behalf of Rubén Berríos-Martínez, President of the Puerto Rican Independence Party of which I am Vice-President. Senator Berríos is right now outside this building where the Independence Party is holding a demonstration to protest against a possible decision by the United States Government to transfer to Puerto Rico the Army Headquarters of the US Southern Command. Today's demonstration is also a protest against the US Navy's plans to install an "over the horizon" radar system in Puerto Rico.

It is a contradiction to reinforce and expand the United States military presence in Puerto Rico while an attempt is being made at the same time to promote a legislative process conducive to self determination.

We have already expressed this protest to the White House and shortly will be doing so formally.

I must also point out that we will bring this issue up before the International Community and, in particular, before the United Nations Decolonization Committee.

On March 31 the PIP sent to the Resources Committee our proposed independence definition suggested for inclusion in H.R. 856. Although the status of Independence is a political condition clearly defined by International Law we have drafted a proposal which

describes our status alternative in simple and specific terms. It describes, first of all, the full range of sovereign powers with which an independent Puerto Rico would be vested, both in its internal and external affairs. It also affirms -what under other historical circumstances would be unnecessary- that Puerto Ricans will have their own citizenship, that is, the citizenship of the Republic of Puerto Rico. In addition, the definition makes clear that vested individual rights of an economic nature such as federal pensions, social security payments, and veterans' benefits will continue to be honored. Although such entitlements could not be disputed, not to mention these matters specifically could generate uncertainty among the most vulnerable sectors of our society.

Lastly, the proposal includes some of the fundamental subjects which will inevitably have to be addressed in a future Treaty of Friendship and Cooperation between both nations. These include the economic transition from the actual condition of dependence to one of balanced interdependence, the transit of people and goods between the United States and Puerto Rico, and our insistence on the right of Puerto Rico to its eventual demilitarization.

I will now address the definitions of the other status formulas included in the bill particularly the territorial status quo -that is, the present Commonwealth -as well as the statehood alternative.

By unmasking the colonial and territorial reality of Commonwealth status the Committee has recognized the truth of the accusations which the independence movement has been consistently making in all forums since 1950. The committee is also correct in its analysis that under U.S. Constitution any status that is not statehood or separate sovereignty (in either independence or free association) must necessarily be territorial, colonial, and temporary in

character. It also deserves recognition that the bill underscores the frailty and inferiority of the actual territorial status by requiring that in the event Commonwealth should obtain majority support, the People of Puerto Rico shall be consulted again in a number of years until they express their will to overcome colonial status.

The proposal for a "New Commonwealth" which you have before your consideration does not alter in any way the fundamental colonial character of the present status. Even if Congress were willing to accept the attempt to square the constitutional circle proposed once more by the PDP leadership, Puerto Rico would continue to be subject to the unilateral application of federal law as deemed necessary by the United States. Our Constitution and our laws would also continue to be subordinated to the Constitution of the United States and its federal courts. These deficiencies alone would suffice to condemn the definition of the "New Commonwealth" to the same "colonial waste basket" as its predecessor. In the same way this Committee has spoken with frankness and clarity about the present Commonwealth it should also do so with respect to this last and desperate colonial attempt to update the political fraud that was perpetrated agasinst the Puerto Rican people in 1950.

With respect to statehood, on the other hand, we are convinced that the bill's approach is profoundly wrong. The sense of realism and willingness to make amends that is evident with regard to the bill's acceptance of the colonial and territorial character of Commonwealth is not present in its conceptualization of the statehood alternative. As to statehood, the bill remains silent as to the criteria with which Congress would evaluate a potential statehood petition which might emerge in a plebiscite as a result of the fear and dependence generated by one hundred years of colonialism.

The fundamental root of the problem -which the bill dangerously ignores- is that Puerto Rico is a nation different from the United States. Never before in its history has the United States been confronted with a statehood petition by a different nation, and moreover for such desperate and pedestrian motives as would induce many Puerto Ricans to vote for statehood.It would be a major mistake to conclude that the principal political problem of the Puerto Rican nation is the disenfranchisement of its voters in the federal political process. This would be equivalent to believing that the solution to the Palestinian problem lies in extending the Israeli electoral franchise to the Palestinians in Gaza and the West Bank. This would be not to understand why the British electoral franchise was not sufficient to prevent the culmination of Ireland's independence, and the persistence of that same struggle in Northern Ireland today; or why ever more people in Quebec aspire to achieving their own sovereignty in spite of having enjoyed equal political rights with the rest of Canada's citizens.

Puerto Ricans are not a dispersed, disjointed or assimilated minority group in the United States. We are a Latin American, Spanish-speaking nation, formed through 500 years of history, proud of its distinct identity, and having as its point of convergence a geographically defined Caribbean territory where its national culture is indisputably dominant in all manifestations of its collective life. In this critical and transcendental sense Puerto Rico is not Texas or Alaska, or even Hawaii, where the native population at the time of statehood in 1959 barely constituted a small and displaced minority in its own territory, dominated by Anglos and other migrant groups which had become assimilated culturally and linguistically into the United States.

What weight does this Congress give to the fact -as far as statehood is concerned- that

the inmense majority of the Puerto Rican People is not willing to renounce its national identity and the predominance of our spanish language?

What weight does this Congress give to the fact that the Puerto Rican independentistas, as well as International Law, insist that Independence is an inalienable right of the People of Puerto Rico and that our struggle would thus continue as a struggle for secession if Puerto Rico were to become a state of the Union?

What weight does this Congress give to the fact that in the forseeable future, nothing remotely approaching a substantial consensus in favor of statehood could ever be reached in Puerto Rico although a simple majority might be possible at a given moment?

What weight does this Congress give to the fact that the fundamental motive of many statehood supporters is not the desire to assimilate constructively into the United States and its culture but is instead one of dependence and economic insecurity generated by colonialism?

Congress must find a way of anticipating its judgement about these crucial questions, or else run the risk that an electoral expression in favor of statehood be an artificial one based on false premises. In any case, sooner or later Congress will have to face these problems.

The above should not be construed as an argument for not approving a plebiscite bill -that would only condemn Puerto Rico to colonialism by inaction- but as an argument in favor of a bill that will aim at a genuinely informed vote based on considerations which are known and forseeable. Congress must make clear to the statehood sector, what are its terms and conditions with respect to the previously formulated questions which this Congress considers indispensable in order for statehood to be a real possibility. Not to do so will only postpone the problem for a future occasion when it will be more difficult and costly to handle by all parties concerned.

Finally, I would like to urge the members of this Committee to excercise their good offices so that President Clinton will quickly and favorably decide a matter now under review in the White House and the resolution of which would constitute an important gesture of good will reflecting the committment of the US government towards self-determination. I refer to the release from federal prision of 15 Puerto Rican "independentistas" who are serving sentences for cases related to the struggle for Puerto Rico's Independence.

The length of their prison sentences is absolutely disproportionate to the offenses for which they were convicted and there can be no doubt that political considerations dictated the severity of those sentences.

I therefore request that you express to the President, that both for humanitarian and political reasons, he should agree to the request that these sentences should be conmuted. For such a decision there is widespread support in Puerto Rico beyond ideological lines. Thank you.

PONENCIA ANTE LA COMISION DE RECURSOS NATURALES DE LA CAMARA DE REPRESENTANTES DE LOS ESTADOS UNIDOS
VISTAS PUBLICAS EN TORNO AL H.R. 856
LIC. FERNANDO MARTÍN, VICEPRESIDENTE
PARTIDO INDEPENDENTISTA PUERTORRIQUEÑO,

19 de abril de 1997

Señores miembros del Comité:

Comparezco ante ustedes en representación de Rubén Berríos Martínez, Presidente del Partido Independentista Puertorriqueño del cual soy Vice-presidente. El Senador Berríos se encuentra hoy fuera de este edificio donde el Partido Independentista ha convocado una manifestación de respaldo a la independencia de Puerto Rico y de rechazo a cualquier posible decisión por parte del gobierno de los Estados Unidos de reubicar en Puerto Rico al Comando Sur del Ejército de los Estados Unidos. La manifestación es también un rechazo a los planes de la Marina de instalar en Puerto Rico el sistema de radares conocido como "sobre el horizonte".

Constituye una contradicción que mientras se plantea el diseño de un vehículo legislativo que aspira a descolonizar a Puerto Rico las fuerzas armadas de Estados Unidos pretendan reforzar y ampliar su presencia en Puerto Rico.

Hemos expresado ya esta protesta a la Casa Blanca y nos proponemos hacerlo de manera formal próximamente.

Debo señalar además que habremos de elevar nuestra denuncia ante la comunidad internacional y en particular ante el Comité de Descolonización de Naciones Unidas.

El 31 de marzo el PIP envió al Comité la definición de la fórmula de Independencia que proponemos sea incluida en el Proyecto de la Cámara 856. Aunque la Independencia es una

condición política claramente definida en el derecho internacional hemos elaborado una propuesta que describe dicha condición de forma sencilla y específica. En ella se precisa, en primer lugar, el ámbito pleno de soberanía del que quedaría investido un Puerto Rico independiente tanto en sus asuntos internos como externos. Se afirma además -lo que en otras circunstancias históricas sería innecesario- que los puertorriqueños tendrán su propia ciudadanía, es decir, la ciudadanía de la República de Puerto Rico. Se aclara también lo relativo a los derechos individuales adquiridos en el ámbito económico como lo serían las pensiones del gobierno federal o bajo el seguro social y la ley de veteranos, pues aunque la continuidad de esos pagos no podría ser cuestionada no mencionarlo específicamente pudiera generar incertidumbre entre los sectores más vulnerables en nuestra sociedad.

Por útlimo la propuesta incluye algunos de los temas fundamentales -que inevitablemente habrían de ser incluidos en un futuro Tratado de Amistad y Cooperación entre ambas naciones. Estos incluyen la transición económica de la dependencia actual a la interdependencia equilibrada, el tránsito de bienes y de personas entre Estados Unidos y Puerto Rico, y nuestra insistencia en el derecho de Puerto Rico a su eventual desmilitarización.

Debo expresarme ahora con respecto a las definiciones de las demás fórmulas que al presente se incluyen en el proyecto de ley, particularmente el status quo territorial, es decir el ELA actual, y la alternativa de estadidad.

Al desenmascarar la realidad colonial y territorial del Estado Libre Asociado el Comité le dá la razón a las denuncias que el independentismo puertorriqueño ha venido haciendo consistentemente desde 1950 en todos los foros. Tiene además razón el Comité al partir de la premisa de que en el derecho constitucional norteamericano cualquier status que no sea la

estadidad o la soberanía propia (ya sea en la independencia o en la libre asociación) tiene forzosamente que ser uno de caracter territorial, colonial y temporero. Merece por ello también reconocimiento que el proyecto subraye la precariedad de la actual condición territorial al requerir que en caso de que el ELA resultara tener apoyo mayoritario, el pueblo puertorriqueño deberá volver a ser consultado a mediano plazo hasta que logre superar, por voluntad propia, el status colonial.

La propuesta del "Nuevo ELA" que tienen ustedes ahora ante su consideración en nada modifica el carácter colonial del viejo ELA. Aun si el Congreso aceptara el intento de cuadrar el círculo constitucional que una vez más ha propuesto el liderato del PPD, permanecería Puerto Rico sujeto a la aplicación unilateral de la legislación que los Estados Unidos creyere necesaria, y permanecerían nuestra Constitución y nuestras leyes subordinadas a la Constitución de los Estados Unidos y a sus tribunales. Estos vicios nada más bastarían para condenar la definición del "Nuevo ELA" al mismo zafacón colonial que su predecesor. De la misma manera que el Comité ha hablado con claridad y franqueza sobre el ELA actual debe hacerlo también con respecto a este último y desesperado esfuerzo de poner al día el fraude que en 1950 se perpetró contra nuestro pueblo.

Con respecto a la estadidad, por otro lado, estamos convencidos que el enfoque del proyecto está profundamente equivocado. El realismo y el propósito de enmienda que el proyecto muestra en la aceptación del carácter colonial y territorial del ELA no están presentes en la conceptualización de la alternativa estadista. Con respecto a la estadidad el proyecto encubre los criterios anticipables con que el Congreso evaluaría una petición de estadidad que pudiera darse en un plebiscito en Puerto Rico como resultado del miedo y la dependencia

generadas por el colonialismo.

La raíz fundamental del problema -una que el proyecto peligrosamente ignora- es que Puerto Rico es una nación distinta a los Estados Unidos. Nunca en su historia se ha enfrentado los Estados Unidos a una petición de estadidad por parte de una nación diferente o por motivos tan pedestres y desesperados como los que llevarían a muchos puertorriqueños a votar por la estadidad.

Constituye con profundo error de juicio el creer que el principal problema político de la nación puertorriqueña es la limitación de su franquicia electoral en lo que respecta al voto por el Presidente y el Congreso de los Estados Unidos. Eso es igual a pensar que el problema palestino encontraría solución con la extensión de la franquicia electoral de Israel a los palestinos de Gaza y de la Margen Occidental. Es no entender el porqué la franquicia electoral británica no fue suficiente para impedir la culminación de la independencia de Irlanda y la persistencia hoy día de esa misma lucha en Irlanda del Norte; o porqué cada vez más Quebecois aspiran a su propia soberanía a pesar de tener igualdad de derechos políticos con los demás ciudadanos del Canadá.

Los puertorriqueños no somos una minoría dispersa desarticulada o asimilada dentro de los Estados Unidos. Somos una nacionalidad latinoamericana hispanoparlante que se ha formado a través de 500 años, orgullosa de su identidad y que tiene como asiento nacional un territorio caribeño geográficamente definido donde su cultura nacional es indisputadamente dominante en todas las manifestaciones de su vida colectiva. En este sentido tan crítico y trascendental Puerto Rico no es Tejas o Alaska y ni siquiera Hawaii donde los nativos de extracción hawaiana, para la fecha de la estadidad en 1959, a penas constituían una pequeña minoría desplazada en su

propia tierra, dominada por los anglos y homogenizada cultural y linguísticamente a los Estados Unidos desde hacía mucho tiempo.

¿Qué peso tiene para este Congreso, en lo que a la estadidad se refiere, que la inmensa mayoría del pueblo puertorriqueño no está dispuesto a negociar nuestra identidad de pueblo y el predominio de nuestro idioma vernáculo?

¿Qué peso tiene para este Congreso que tanto el independentismo puertorriqueño como el derecho internacional insisten en la independencia como un derecho inalienable e irrenunciable de los pueblos y que por tanto nuestra lucha por la independencia continuaría como lucha por la secesión si Puerto Rico fuera estado de la unión?

¿Qué peso tiene para este Congreso el que aun bajo las premisas más ilusorias de cualquier estadista nunca habrá en Puerto Rico, en el futuro previsible, nada que se acerque a un consenso sustancial con respecto a la estadidad?

¿Qué peso tiene para este Congreso el que la motivación fundamental de una gran parte de los estadistas no sea el afán de integrase y asimilarse constructivamente a los Estados Unidos y su cultura sino la inseguridad económica y la dependencia que ha generado el colonialismo?

El Congreso debe buscar la forma de anticipar su juicio sobre estos temas cruciales o correr el riesgo de que la expresión electoral a favor de la estadidad sea una artificial y basada en premisas erróneas. En todo caso, tarde o temprano el Congreso tendría que enfrentar estos problemas.

Lo anterior no debe usarse como argumento para que no se apruebe un proyecto de plebiscito -ello sería condenar a Puerto Rico al colonialismo por inacción- sino como argumento

para que el voto sea uno genuinamente informado a base de consideraciones que son previsibles y conocidas. Debe hacerse claro al sector estadista, desde ahora, cuales son los términos y condiciones referentes a las preguntas que he formulado y que este Congreso considera serían indispensables para que la estadidad pudiera ser una posibilidad real. No hacerlo solamente pospondrá el problema para un momento futuro en el cual su manejo será más difícil y costoso para todas las partes.

Por último quiero exhortar a los miembros de este Comité a que ejerzan sus mejores oficios para que el Presidente Clinton resuelva un asunto que tiene bajo su consideración en este momento y cuya adecuada resolución constituiría un gesto de buena fe que avalaría el compromiso del gobierno de los Estados Unidos con la libre determinación. Se trata de la excarcelación de quince independentistas puertorriqueños que cumplen condenas en cárceles federales por casos vinculados a la lucha por la independencia.

La duración de las sentencias es absolutamente desproporcionada a los delitos por los cuales fueron convictos y no cabe lugar a dudas de que consideraciones políticas -dictaminaron la excesiva severidad de dichas sentencias.

Les solicito que le expresen al Presidente, que por razones tanto humanitarias como políticas, debe acceder a la conmutación de estas sentencias, asunto sobre el cual existe amplio apoyo en Puerto Rico más allá de líneas políticas. Muchas gracias.

Mr. YOUNG. I want to thank all three honorable gentlemen for their testimony. And, Mr. Miller, I hope you were listening to some of the gentlemen's testimony instead of some radio station. Are you ready?

Mr. MILLER. Yes.

Mr. YOUNG. Mr. Miller.

Mr. MILLER. Thank you very much.

When I joined Congressman Young in sending a letter to the leaders of the three parties, it was with the belief that this debate within Puerto Rico has a long and important and quietly colorful history and part of the culture of Puerto Rico. And I want to tell the three of you that you adequately confirm my belief on that matter. I think it makes it all the more important in terms of our deliberations.

If I might, I want to maybe raise a couple of points, and please feel free, all of you, to respond.

First, I think it is important that we think of this process as dealing with the future. I think it is very important that we understand that, that whatever actions the people of Puerto Rico take and the Congress of the United States takes, it will be about dealing with the future and not the past. That is part of the reason, again, that I sent the letter along with Congressman Young.

There is no question that throughout this process one of the parties will continue to characterize the other in the give and take of the political dialog and in the testimony that we have already received and will continue to receive.

I will say, however, that when I look at the definitions that were submitted for a new Commonwealth for our consideration when we get to the process of writing the legislation, my reading of it is that there is not much there that there is not some precedent for in previous actions within the Congress of the United States with our treatment of our own citizens or of our various relationships with territories under the control of the United States.

So I do not find it a terribly foreign concept. It is very similar to what this Committee reported in 1990, and it does arrive at a suggestion for the relationship in the future. Whether or not it can be represented as providing full citizenship or not, I am not convinced that it does that.

But it does recognize that, as we have established certainly in the past, there are certainly levels of citizenship and there are levels of citizenship that cannot be arbitrarily denied once granted under the Fifth Amendment. That does not just go to people born in the United States, those constitutional rights go with the responsibility of the Government not to be arbitrary and to be rational in its decisions.

Those would be my comments on that, and you are free to comment on that.

Obviously, the definitions of "statehood" are various and speak for and, in fact, probably do provide for the full body of benefits of being a citizen of the United States and all of the responsibilities, and go to the question that our colleague has argued so very often in the Committees that I share with him, about how do we continue to justify treating citizens of the United States differently be-

cause of this status and how long can we continue to do that? I think that is clearly drawn into issue.

Mr. Martin, with respect to the basic, fundamental, ideological difference of those two positions and yours, again, very, very well articulated, if I understand you, you would suggest that statehood would not cleanse the stain of colonialism, that this is a relationship that eventually would erupt, would tear into the basic fabric of Puerto Rico.

Mr. MARTIN-GARCIA. Congressman, what I believe very firmly is that the right of self-determination of the Puerto Rican people, Puerto Rico cannot self-determine itself out of the right to self-determination. That is the right that assists us as a people, and certainly this generation cannot take it away from the next.

From my point of view, from the point of view of the independence movement, the right to struggle for our national independence would not in any way be hampered or impeded by the possibility of statehood.

I think it would be a grave mistake on the part of the United States to enter into such an unstable relationship when there is no consensus in Puerto Rico about it, there never will be, and when most people in Puerto Rico, who in my judgment are statehooders, and I know a lot of them are basically for reasons that have to do with insecurity, for reasons that have to do with fear, and very little of the kinds of things that have made people in the past join the union.

This would be the first time in history where a different nation would be knocking at the doors of the United States, and it would mean, I think, a terrible precedent for the United States and one that it would have to think very clearly about.

The questions that I raised in my statement as to whether Congress is willing to face a petition of statehood for Puerto Rico, taking into account those matters, is one that I think raises matters that have to be made at some point explicit by the Congress; explicit, if through no other way, by some kind of sense of the Congress resolution, maybe using the kind of congressional policy statement that you have been using to build with respect to the language issue.

Certainly Congress must transmit to the people of Puerto Rico whether these issues are important issues. Is it important for the Congress for the people of Puerto Rico to somehow show a vocation and a willingness to assimilate into the mainstream of the United States? Not as a constitutional requirement, I am not talking about that, but as a political requirement, whether at some point the United States would be willing to accept a State in which a substantial minority of people are definitely opposed to statehood—not merely cold toward the idea, but most definitely opposed to this notion.

I do not know what is going to be done with the pro-independence followers in the statehood. Maybe they will put us in a reservation of some sort.

Mr. MILLER. I would appreciate it if the audience, to some extent, could listen to the chair, because now your applause is now coming out of my time.

Mr. YOUNG. Your time is up, by the way.

We will, if it is necessary, have a second round if you would like, if you could make it short.

Mr. MILLER. If they could just comment, if you do not mind.

Mr. YOUNG. Yes, if you would like to, but make it short, because then we have to go to the next one.

Mr. VILA. Well, I really appreciate your comments, and the fact that our party even represented a definition of a "New Commonwealth" is a direct consequence of the joint letter both of you sent to us that, as I say in my testimony, we see as an openness and a new approach that will allow us to participate.

In terms of looking to the future, that is one of the problems we have with this bill, because it wants to make a judgment that we cannot agree on the past. If we are going to look to the future, let us look to the future.

And the definition of a "New Commonwealth" that we presented is precisely—if someone has any doubts about what happened back in 1950 and 1952, let us do it the right way now. As you say, everything we have proposed, there is some experience in the United States with our proposition.

I just want to make one comment with regard to citizenship. As I see it, basically what you are meaning is that because we are not a State, U.S. citizens residing in Puerto Rico perhaps do not vote for a President and a Congressman, but it has nothing to do directly with citizenship. That is a problem of residence, if a U.S. citizen living outside the United States is not entitled to vote because he is not a resident of one of the 50 States.

We have heard a lot that we are second class citizens. In Royer v. Bailey, a case before the Supreme Court in 1971, the Supreme Court said, "Neither we are persuaded that a condition subsequent from this area impressed one with second class citizenship."

That cliche is too handy and too easy and, like most cliches, can be misleading. And perhaps that is one of the problems we have been having all this time; it is misleading.

Mr. RODRIQUEZ. I agree with you, Congressman, the statehood definition is a very clear definition. It is not a wishing list. This is something we know occurs with those who become full-fledged American citizens. How can we not see in as a civil rights issue?

It was the other week in Birmingham, Alabama, that I went to the Institute of Civil Rights and I saw there U.S. citizens fighting to have equal rights, the same rights that we are denied because we live in Puerto Rico, the same rights we are denied because we cannot vote for the President, who can send us to fly anyplace around the globe to fight for democracy and for this Nation.

The fact that I really get my heart squeezed when I see a Puerto Rican mother who cannot receive equal health benefits because she is not living in one of the 50 States, although she is an American citizen, it also breaks my heart when I see that this lady could have probably had her son killed in action in any of the battlefields, defending this Nation, but she is not entitled to the same rights as other mothers who also gave their children for this Nation in one of the 50 States.

I also have my heart squeezed when I see that our children cannot receive the same education as other U.S. citizens who live in the 50 States are entitled to receive.

I also get my heart squeezed when I see that Puerto Ricans cannot have the same benefits as any other U.S. citizen who lives in the 50 States.

And I really regret to see Puerto Ricans leaving our island to go up to the mainland just to receive those benefits. Almost 3 million Puerto Ricans live on the mainland, and the reason they have left is because they are denied the same rights that other U.S. citizens have if they live in the 50 States.

So our position is very clear of what we want for Puerto Rico. We want equality. It is a civil rights issue.

Mr. YOUNG. I will remind everybody in the audience, I know you are having a good time, you are doing what you want to do, and I have been very lenient, but I am going to call this meeting over at 3 o'clock. And that means that many of your fellow men cannot testify before this Committee, because every time you do what you have just done, you take the time away from the members of the Committee that would like to ask questions to solve a problem and from the witnesses, very frankly, that want to testify. Is that understood?

Mr. Kennedy.

Mr. KENNEDY. I would like to find out, under the definition of "New Commonwealth," exactly how the issue of sovereignty would play out. Would the United States retain national sovereignty, or would Puerto Rico have its own separate sovereignty?

Mr. VILA. The concept of sovereignty has changed a lot during the last 200 years. At one time the sovereign was the key, and for many years it was even under the concept of sovereignty that many acts of tyranny were done around the world.

Today, who is sovereign is the people. And the first thing that this Committee has to recognize is that if we enter into this relationship we call the New Commonwealth, it is a decision of the people of Puerto Rico; it is a sovereign decision of the people of Puerto Rico.

Once we enter into this arrangement, the definition clearly states that Puerto Rico will be sovereign over all matters contained in our Constitution. So to me it is clear. It is a two-step: First, that the decision, whether we stay in this relationship, whether we change it, it is a decision that belongs to the people of Puerto Rico. That is sovereignty.

Mr. KENNEDY. So where would the United States retain any sovereignty if the people were to remain United States citizens? Over those citizens? How would that work?

Mr. VILA. The United States will have the powers that the people of Puerto Rico have delegated to the United States within this arrangement. That is nothing new for the United States, neither for the entire world.

The fact that you can make a compact with what was in the past called a territory is not only done by the United States, it is around the world.

When the United States came to Puerto Rico in 1898, we had a special arrangement with Spain. We were Spaniard citizens. We had autonomy. The special charter could only be amended if the people of Puerto Rico will accept it—in a sense, basically the same concept we want right now to clarify.

Some people, I have heard, are telling the world that the United States is less of a nation than Spain back in 1898. And, to me, that is unbelievable.

Mr. KENNEDY. Well, this is a good debate, because this debate has been going on in our own United States history as to what the role of the Constitution of the United States is. And from what I hear you saying, you are saying you will be subject to your own Puerto Rican Constitution and the United States Constitution will not apply to the people of Puerto Rico.

Mr. VILA. No, we have not said that. I have not said that.

Mr. KENNEDY. So you are saying that if the Constitution of the United States says, the 14th Amendment, we want equal protection for all, and we have had instances in our own country's history where different locales have rejected—they have said we want States rights or, as you well know, there is an argument that we fought over, and Senator Rodriguez was speaking about it, civil rights, and the notion that the United States Constitution, which guarantees that people are treated equally no matter where they live in the United States, that is fundamental to United States citizenship.

If you want to be a citizen, you have to know that with that you have to live in a country that respects equal opportunity for all. And if the people of Puerto Rico are not treated the same——

[Applause.]

I know the idea here is that if a person of United States citizenship was not being treated under our Constitution with respect and dignity for their rights, I would want to make sure that the United States Constitution was enforced to make sure that their rights were protected.

Now, how would that be done if the United States does not have any sovereignty, if you will, when it comes to——

[Wild applause as someone enters.]

I would like to now ask Mr. Martin-Garcia——

Mr. VILA. So that was not a question? I thought it was a question.

Mr. KENNEDY. Please, your answer.

Mr. VILA. I did not know if you were making another argument for statehood.

Mr. KENNEDY. What is your answer?

Mr. VILA. The definition clearly states that a United States citizen, persons born in Puerto Rico, will be guaranteed and secure as provided by the 5th Amendment of the Constitution of the United States and equal to that of citizens born in the several States.

With regard to sovereignty, as I said, it says that Puerto Rico will be sovereign over matters covered by the Constitution of Puerto Rico, which is exactly what the Supreme Court of the United States has said many times. So I do not see what is your concern.

Mr. KENNEDY. Well, that was the——

Mr. VILA. I can understand that you might be in favor of statehood, but that is not no reason——

[Applause.]

Mr. YOUNG. The gentleman's time has expired, and again I want to remind, every time this occurs, it is just that much less time.

The gentleman from Guam.

Mr. UNDERWOOD. Thank you, Mr. Chairman.

And I congratulate all three of you for excellent statements.

I could not help but notice that as we got progressively over to the right, we got more and more Spanish, and only Fernando was able to inspire applause from people who were wearing both blue shirts and red shirts. So maybe you are on the crest of a tide there.

Mr. MARTIN-GARCIA. A sign of things to come.

Mr. UNDERWOOD. It strikes me that the last time we were here and we were discussing the issue, the question always seemed to me that here everything becomes an indicator of your political status choice. Everything, from the selection of a color of a necktie to everything else, apparently seems to be connected in some way or another of a political status option. And in that discussion, the last time we were here, I was concerned that it did not look like people wanted to move toward a common process. And if we do not have a common process, this kind of discussion will inevitably continue forever.

I think we are moving beyond that, and I think, through the leadership of the Committee, we have moved beyond that and we are now at a point where we are trying to figure out what is an appropriate definition.

Now, all of us are involved in politics, and I think it is clear that a legal definition is different from a philosophy; bedrock principle is different from a campaign commitment or from a political party program. And in the process of making these definitions, it seems to me that sometimes, obviously, the statehood definition is a little bit more forthright, although I think, obviously, it is written in a way that makes it stand as the most favored option.

But coming back to that issue, it seems that everyone is trying to now deal with the definitional issue as a way to not merely define what option is being advertised but as a way to campaign for it and at the same time articulate a program of action.

I am wondering what your comments individually might be to that point, that is there a way that we can arrive at a legal definition which is shorn of aspirations? because the question that is before the people is, what do you aspire to? and to try to give as much as possible a legal definition to that.

And maybe we can start with you, Charlie.

Mr. RODRIQUEZ. Congressman, the fact that our definition, as you say, may be looked as a most favored option, it is because it is the most favored option if you are a U.S. citizen and you want U.S. citizenship. If you want that, you want to have equal rights. If you want that, you want to have the same benefits.

Now, you cannot come here and say, or anyone could come here and say, listen, we want to have a relationship with the United States whereas we retain the U.S. citizenship. Oh, but we are going to determine what are those things that the Federal Government that represents that national U.S. citizenship can impose in Puerto Rico. Where is the sovereignty on Puerto Rico?

What we want to do, basically, is give us a chance to vote. If those Puerto Ricans who really believe in their U.S. citizenship, the only way they can really guarantee that is by voting for statehood. If that looks the most favored, let it be. Let it be, because there

is no right to tell a U.S. citizen that he cannot aspire to be equal as any other U.S. citizen right now on the mainland.

Every plebiscite has been in Puerto Rico, the last one back in 1993.

The problem we have with this bill as written right now is the Commonwealth, as we see it and believe in it, is not on the ballot. The reason we presented this definition is not only because we believe in that definition. It is also because it was approved by the full House back in 1990 by this Committee, and then it will make it easier for you guys to work with us if there is a commitment to put in a definition in which we can participate.

So what we are making is a claim of fairness. Believe me, the people of Puerto Rico still believe in commonwealth. They just want the opportunity to express themselves again.

Mr. MARTIN-GARCIA. Well, Mr. Underwood, undoubtedly the alternatives are different not only in terms of content but also their nature. For example, to use the most glaring example, independence is viewed internationally and universally as a right. Nobody would dispute that, if that were the wish of the people of Puerto Rico, the United States would be obligated to grant independence.

In the case of statehood, for example, independently of its merits, it is obviously viewed that statehood is a political decision that the Congress will have to make if it gets a petition; and that in entertaining that petition it can use whatever criteria is politically feasible for the Congress. It may want statehood or may not want statehood for good reasons or bad ones. It is not a right. It is a petition to be made.

For example, in that sense, it is important that the definitions of the alternatives somehow make clear that they represent decisions of a different nature. For example, I think it would be really dangerous to imply by inaction or silence that somehow statehood is a right and that if people in Puerto Rico vote for it, 50 plus 1, it is there for the having.

On the other hand, for example, in the case of independence, although from a strictly legal point of view it is a very straightforward definition, it means the wholesale transfer of any sovereignty the U.S. has over Puerto Rico it is passed over to the people of Puerto Rico. It is a very simple proposition.

Why is it more complex in our proposal? Because independence requires a disengagement process, and that disengagement process has to be fleshed out in some way so it doesn't appear to people as if Puerto Rico is sort of jumping off the eighth floor without a parachute.

So if the ballot is going to be meaningful and the offer is going to be made in good faith, it has to have something in addition to the purely legal question so that it remains or becomes a politically feasible and reasonable alternative that somehow shows good faith.

In the case of the Popularist definition, that involves all sorts of constitutional and political complexities. The issue of sovereignty may seem a purely academic one, but I think it is absolutely the most fundamental question that this bill is facing; and at some point the Popularists are going to have to make a tough decision, which I fear they haven't made yet, of what their priorities are.

If their priority is sovereignty for Puerto Rico, they are going to have to be willing to enter into a relationship of free association which, after all, the bill does offer. For them, if the question of citizenship is the priority one, well, then, perhaps they will have to conform themselves to continue to being a territory another 100 years.

Mr. YOUNG. My time has expired.

The Resident Commissioner, Mr. Romero-Barceló.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

I think that line that Mr. Martin was developing and talking about, the citizenship of the people of Puerto Rico, Mr. Acevedo, what is more important for you and the party you represent—citizenship or sovereignty?

Mr. VILA. For the party that I represent, we believe in a relationship that recognizes the dignity of the people of Puerto Rico and a relationship where we can have our U.S. citizenship and, at the same time, our identity.

Mr. ROMERO-BARCELÓ. If Congress were to tell you, you cannot have both things, you can only have one——

Mr. VILA. I would say that is a very narrow-minded view; and there will be an assumption, maybe, just to put into this bill all the elements to tilt the process in favor of statehood.

Mr. ROMERO-BARCELÓ. Your party got a letter signed by Chairman Young. It was signed by Chairman Gallegly of the subcommittee. It was also signed by Mr. Gilman, the Chairman then of the Committee on International Affairs, and by Dan Burton, the Chairman of the Subcommittee of the Western Hemisphere, which indicated in that letter that you couldn't have your sovereignty with your citizenship.

If this Committee were to decide in the markup that you could not have your citizenship with your sovereignty, now what would you say? Would you just not have anything, or would you make a choice? We are asking, if you were told you could not have both things, what would you do?

If you don't want to answer, that is all right. I cannot force you to answer. But I think the people of Puerto Rico deserve an answer. They should know what it is. And the people of the Congress, the people in Congress and in the United States also should have an answer, because they also have to make a decision.

Mr. VILA. In the Corletto v. Persona case from the United States back in 1974, the U.S. Supreme Court said Puerto Rico is to be deemed sovereign over matters not ruled by the United States Constitution.

Mr. ROMERO-BARCELÓ. That is case law. That is what the court says. I am asking, what do you say? What do you say if you were given a choice and told you could not have your cake and eat it, too?

Mr. VILA. No, I am telling you that a special relationship of autonomy based on the will of the people to enter into this relationship with U.S. citizenship was part of the initial concept when the U.S. citizenship was granted to the people of Puerto Rico. It is possible to have it, and we want it.

Back in 1912, when President Taft——

Mr. ROMERO-BARCELÓ. If you don't want to answer, that is OK.

Let me ask you another question. Here you say, in the new commonwealth, you are saying that Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of several States, contingent on equitable contributions from Puerto Rico as provided by law.

I want to ask you, honestly, sincerely, how do you think that the people in the State of Alaska, the people in the State of California, where Congressman George Miller is from, the people in the State of Rhode Island, where Congressman Patrick Kennedy is from, the people in Florida, the people in New York, the people in Pennsylvania, in Kansas, would feel about having to pay Federal income taxes so that Puerto Rico could have SSI, so it could have earned income tax credit, so it can have Medicaid and have full participation in Fed programs? But then you say, don't put your hands in our pockets; just give us the money.

Doesn't that demean us as a people? Doesn't that put us in a reflection with our hands out? All we want from U.S. citizenship is the money? We don't want anything else? Is that what you want to say?

Mr. VILA. Mr. Commissioner, you read the definition, yes, and it says contingent on equitable contributions from Puerto Rico. This is a special deal that went through the Finance Committee back in 1990, and it came out of the Finance Committee in the Senate back in 1990 with a way of how to give this to the people of Puerto Rico and equitable contributions from the government of Puerto Rico to the U.S. Treasury.

The last time I heard someone here in Puerto Rico asking the people of Puerto Rico for a change of status based on how much money we will get from the Federal Government was back in 1993 when the Pro-State Party was telling the people of Puerto Rico how much money we will get from the U.S. Government.

Mr. ROMERO-BARCELÓ. So was the Popular Party.

Mr. VILA. If you want, we can show——

Mr. YOUNG. Gentlemen, gentlemen, the time has expired.

I am going to make a suggestion, because we have now had these three people——

All right, in all due respect, I can suggest to everybody in this audience and all sides of the aisle, you don't really make much of an impression on the deliberations on this problem. I understand what you are doing, but keep in mind we are here trying to hear from each side of the aisle and the middle and to try to make the right decision. Because we are going to make decisions. It is that simple.

I am going to suggest to each one of the gentlemen, I do admire your testimony. I am very, very interested in what has been said. But I want everybody to understand it is the Congress, the Congress—whether it is me or someone else—who will make the decisions, along with the Puerto Rican people. But we are going forward with this process.

Gentlemen, I thank you. You are excused.

Mr. MILLER. Mr. Chairman, if we could submit a couple of questions to you in writing. I have some concerns about the time line in the legislation, about how we might condense those. I would like to submit those to you for response.

Mr. YOUNG. For the gentleman, every witness that appears before us today, if there is a followup question, we expect a response from them.

You are excused. Thank you.

As I said in the beginning of the hearing, the first three witnesses were extended a great courtesy and extension of time, including the audience. These gentleman and ladies will be, in fact, limited to 5 minutes.

I am going to ask the Resident Commissioner now, Mr. Romero-Barceló, to chair the second panel; and I will have one of the other members chair the third panel and the fourth panel. This is a bipartisan effort to try to get some input from each one of them. I will be in and out of the meetings.

Mr. ROMERO-BARCELÓ. [Presiding.] Thank you. I would appreciate your cooperation so that we can listen to the witnesses. We would like to conclude with everybody on the list having time to testify.

We will now call the second panel. We will have the former Governor, Rafael Hernandez Colon; Eduardo Bhatia; the Mayor of Caguas, William Miranda-Marín; Carlos Vizcarrondo Irizarry; Margarita Benitez; and Juan Antonio Agostini.

The first witness will be the former Governor, Rafael Hernandez Colon.

STATEMENT OF RAFAEL HERNANDEZ COLON, FORMER GOVERNOR OF PUERTO RICO, PONCE, PUERTO RICO

Mr. COLON. Honorable Chairman, members, you come—100 years after the military occupation of Puerto Rico—in order to offer us full self-government. In order to achieve this objective, we do not start from zero. In 1952, we created our Constitution wherein it was stated and Congress approved as a compact that:

The Commonwealth of Puerto Rico is hereby constituted. Its 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.

We consider as determining factors in our life our citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyments of its rights and privileges.

These are the words of compact between the people of Puerto Rico and the Congress, a compact the Congress proposed to rid the United States of the shame of colonialism before the international community, recognizing that governments derive their just powers from the consent of the governed.

The commonwealth option framed by this bill would violate this compact by placing Puerto Rico under the absolute powers of Congress as it was before 1952. The definition presented to the Committee by the Popular Party would straighten the course of history.

We can hardly believe that this bill sustains the proposition that Congress can strip away American citizenship from the Puerto Rican people. We can hardly believe that it ignores all judicial precedent upholding the compact between the U.S. and Puerto Rico. We can scarcely believe that it sides with the charges of colo-

nialism in Puerto Rico annually leveled at the U.N. against the United States by Fidel Castro.

When, on July 4th, 1776, the 13 colonies proclaimed their independence from the British king, the men assembled in Philadelphia, stated unto the world that they held these truths to be self-evident:

That all men are created equal.

That they are endowed by their creator with certain inalienable rights, amongst which are life, liberty and the pursuit of happiness.

We Puerto Ricans subscribe to these beliefs. We also believe that we have been created equal, no less and no more than you who visit us. And we believe that we are also endowed by our creator with the same inalienable rights to life and to exercise our liberty in whatever way we deem appropriate in order to pursue our happiness.

Deciding the political institutions under which a people will live is the supreme act of liberty. In this choice rests our opportunities to mold a future for our integral development, economic, social, culture, political and spiritual.

But the bill's preconceptions as to commonwealth leave little room for democracy. It is framed in concrete from prejudiced legal opinions presented as unbreakable limits to policy.

With regards to our political freedom, the opinions are equivalent to the arguments invoked by Justice Taney to deny Dred Scott's personal freedom the protection of the Federal judicial power.

The time for colonial paternalism is long past. If the Puerto Rican people wish to freely join the Union, so be it. But do not impose this choice upon us by stonewalling your judgment with one-sided legal memoranda against a new commonwealth.

The only real possibilities of achieving full self-government lie in statehood or in full autonomy as a new commonwealth.

The choice between sending Senators and Congressmen to Washington or broadening our autonomy to govern ourselves through our elected representatives here in San Juan is for us to make. You, of course, have the right to say no. If you do not want us as a state, it is a political, not a legal decision. The same with the broader autonomy we seek.

Gentleman, do not patronize us with a process that stifles our liberty and your creativity.

Including all the desired options is up to your political will. Give all the people a chance to participate in this plebescite, and let's get on with it.

Mr. ROMERO-BARCELÓ. Thank you.

[The prepared statement of Mr. Colon follows:]

REMARKS BY THE HON. RAFAEL HERNANDEZ COLON
GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO
(1973-1976, 1985-1992)
AT THE CONGRESSIONAL HEARINGS REGARDING
THE "U.S.-P.R. POLITICAL STATUS ACT"

APRIL 19, 1997
CENTRO DE BELLAS ARTES
SAN JUAN, PUERTO RICO

Honorable Chairman and Members of the Committee:

You come –a hundred years after the military occupation of Puerto Rico– to offer us full self-government.

In order to achieve this objective, we do not start from zero.

In 1952 we created our Constitution wherein we stated, and Congress approved, as a compact [1] that:

"The Commonwealth of Puerto Rico is hereby constituted. Its 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.

We consider as determining factors in our life our citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyment of its rights and privileges".

These are the words of compact between the people of Puerto Rico and the Congress. A compact the Congress proposed to rid the United States of the shame of colonialism before the international community recognizing that governments derive their just powers from the consent of the governed.

The Commonwealth option framed by this bill would violate this compact by placing Puerto Rico under the absolute powers of Congress as it was before 1952. The definition presented to the Committee by the Popular Party would straighten the course of history.

We can hardly believe that this bill sustains the proposition that Congress can strip away American citizenship from the Puerto Rican

[1] P. Law 447, 82d Congress 1952, Joint Resolution

people [2]. We can hardly believe that it ignores all judicial precedent upholding the compact between the U. S. and Puerto Rico [3]. We can scarcely believe that it sides with the charges of colonialism in Puerto Rico annually leveled at the U. N. against the United States by Fidel Castro [4].

When on July 4, 1776 the 13 colonies proclaimed their Independence from the British King, the men assembled in Philadelphia, stated unto the world that they held these truths to be self evident:

That all men are created equal.

That they are endowed by their creator with certain inalienable rights amongst which are life, liberty, and the pursuit of happiness.

We Puerto Ricans subscribe to these beliefs. We also believe that we have been created equal, no less and no more than you who visit us. And we believe that we are also endowed by our creator with the same inalienable rights to life and to exercise our liberty in whatever way we deem appropriate in order to pursue our happiness.

Deciding the political institutions under which a people will live is the supreme act of liberty. In this choice rest our opportunities to mould a future for our integral development, economic, social, cultural, political and spiritual.

But, the bill's pre-conceptions as to Commonwealth leave little room for democracy. It is framed in concrete from prejudiced legal opinions presented as unbreakable limits to policy.

---

[2] The provisions on citizenship of this bill are the same as those in HR 3024. See: Rept. 104-712 House of Representatives, 104th Cong. 2d. Sess. on HR 3024, p. 14.

[3] See EXHIBIT I for a comprehensive discussion of the cases on the Commonwealth by José Trías Monge, former Chief Justice of the Supreme Court of Puerto Rico.

[4] For an example amongst many of these attacks over 30 years, see: EXHIBIT II.

With regards to our political freedom, these opinions are the equivalent to the arguments invoked by Justice Taney to deny Dred Scott's personal freedom the protection of the federal judicial power.

The time for colonial paternalism is long past. If the Puerto Rican people wish to freely join the Union, so be it. But, do not impose this choice upon us by stonewalling your judgment with one sided legal memoranda against a new commonwealth.

The only real possibilities of achieving full self-government lie in statehood or in full autonomy as a new commonwealth.

The choice between sending Senators and Congressmen to Washington, or broadening our autonomy to govern ourselves through our elected representatives here in San Juan, is for us to make. You, of course, have the right to say no. If you do not want us as a state, it is a political, not a legal decision. The same with the broader autonomy we seek.

Gentlemen:

Do not patronize us with a process that stifles our liberty and your creativity.

Including all the desired options is up to your political will. Give all the people a chance to participate in this plebiscite, and lets get on with it.

* * *

EXHIBIT I

EL ESTADO LIBRE ASOCIADO ANTE LOS TRIBUNALES, 1952-1994

JOSÉ TRÍAS MONGE*

I. INTRODUCCIÓN

En los volúmenes publicados de la *Historia Constitucional de Puerto Rico* he comentado las sentencias principales anteriores al 1952, relativas al tema del estatus de Puerto Rico.[1] En este artículo se considerán las decisiones más importantes posteriores a la creación del Estado Libre Asociado. Varias de ellas aclaran aspectos de este género de relación con Estados Unidos. Otras interrogantes centrales sobre esta forma de estatus aún no han recibido contestación. Los repetidos esfuerzos de clarificar legislativamente y mejorar lo realizado de 1950 a 1952, de enmendar la Ley de Relaciones Federales e intentar diseñar un nuevo o verdadero pacto, revelan precisamente que para establecer a cabalidad los contornos del Estado Libre Asociado y para impartirle mayor amplitud no es a los tribunales a donde hay que acudir, dado el reducido marco en que se desenvuelven. Lo expresado por los tribunales es imprescindible, sin embargo, para entender los procesos constitucionales de las últimas décadas y, en parte, de la situación presente.

II. LOS AÑOS CINCUENTA

En el curso de estos primeros años se discutieron en diversas cortes, particularmente las federales, asuntos que ayudaron a definir algunas características del Estado Libre Asociado. Las manifestaciones vertidas en algunas sentencias repercutirían en las décadas siguientes. Las controversias giraron mayormente sobre los principios que rigen la aplicabilidad en Puerto Rico de las leyes federales; la naturaleza del nuevo estatus y si su establecimiento significa que Puerto Rico ha cesado de ser un territorio de Estados Unidos; la continuada aplicación o no de la cláusula territorial de la Constitución de Estados Unidos al Estado Libre Asociado; si su Constitución era en efecto una ley federal o análoga a ella; y sobre el órgano de interpretación definitiva de esa Constitución.

La actitud del Departamento de Justicia de Puerto Rico para esos pri-

---

* Ex-Juez Presidente del Tribunal Supremo de Puerto Rico y Presidente de la Academia Puertorriqueña de Jurisprudencia y Legislación.

[1] *Véanse* 1 JOSÉ TRÍAS MONGE, HISTORIA CONSTITUCIONAL DE P.R., caps. XII, XIII (1978); 2 JOSÉ TRÍAS MONGE, HISTORIA CONSTITUCIONAL DE P.R., caps. XIX, XXII y XXVIII (1981).

meros años, posición largamente discutida con el Gobernador Muñoz Marín y compartida por él, era de calculada cautela en el planteamiento ante los tribunales de asuntos relativos al estatus. Se era penosamente consciente de que el récord legislativo de la Ley de Bases[2] no constituía un modelo de claridad, que contenía algunas expresiones favorables, pero también otras ambiguas y aun adversas a aspectos de la teoría de lo que se había intentado lograr. De ahí que el Departamento de Justicia intentase por un tiempo seleccionar con cuidado, hasta donde alcanzaba su poder, los litigios que suscitaban cuestiones constitucionales referentes al Estado Libre Asociado. Se deseaba fortalecer la criatura en sus años tiernos mediante actos no judiciales antes de proceder a planteamientos de mayor envergadura ante esos foros. Esto explica, por ejemplo, el interés del gobierno de Puerto Rico en iniciar de inmediato la ventilación del caso de Puerto Rico ante las Naciones Unidas, su participación intensa en la Comisión del Caribe y la Conferencia de las Indias Occidentales, el apoyo al programa del Punto Cuarto del Presidente Truman y otras actividades encaminadas a establecer usos constitucionales que ayudasen a destacar la singularidad del caso de Puerto Rico y diferenciarlo de los patrones territoriales comunes. Sobre los pleitos en que el Estado no era litigante no hubo control, como es natural, aunque en algunos de que se tuvo noticia se solicitó intervención. En general puede decirse que los tribunales federales demostraron un alto grado de entendimiento de la naturaleza del nuevo estatus y su potencial, en contraste con las posiciones usualmente negativas y aun hostiles desplegadas por los departamentos ejecutivos federales y el Congreso.

Para el mayor entendimiento de estos casos y otros sucesos de la época, examinemos el concepto del Estado Libre Asociado que albergaban Luis Muñoz Marín y varios de sus colaboradores más estrechos. Dentro de ese marco es que se elaboraron los planteamientos efectuados por el gobierno de Puerto Rico en los pleitos en que le tocó participar.

Puerto Rico había alcanzado, se sostenía, un nuevo tipo de relación con Estados Unidos. La autoridad de su gobierno emanaba, en primer término del Congreso, pero tras la creación del Estado Libre Asociado esa autoridad provenía de la voluntad soberana del pueblo de Puerto Rico.[3] Puerto Rico era soberano sobre todo asunto sujeto a su jurisdicción bajo la Constitución del Estado Libre Asociado y había en consecuencia cesado de ser un mero territorio o posesión de Estados Unidos. Puerto Rico no pertenecía a Estados Unidos, sino que estaba libremente asociado a él. Si

---

[2] *Véase* 3 JOSÉ TRÍAS MONGE HISTORIA CONSTITUCIONAL DE P.R., cap. XXX (1982).

[3] A este concepto es que obedece la redacción de la Sección 1 del Artículo I de la Constitución del Estado Libre Asociado de P.R. Esta fue la teoría defendida con éxito por la delegación puertorriqueña ante las Naciones Unidas, contra la posición inicial del Departamento de Estado de Estados Unidos. *Véase* 4 JOSÉ TRÍAS MONGE HISTORIA CONSTITUCIONAL DE P.R., cap. XXXIX (1983).

bien no se habían cambiado los *términos* de su relación con Estados Unidos, ya que permanecían intocadas las disposiciones básicas al efecto de las antiguas leyes orgánicas, sí se había alterado la *base* de esa relación. La fuente de sus vínculos con Estados Unidos era el consentimiento del pueblo de Puerto Rico y no el Tratado de París o la cláusula territorial de la Constitución de los Estados Unidos o el antiguo llamado derecho de las naciones más civilizadas, en el argot del siglo diecinueve, a adquirir y gobernar colonias. Las facultades de gobierno propio del Estado Libre Asociado no eran menores que las de un estado de la Unión, de hecho eran mayores en varios aspectos y distintas, pero no inferiores, en algunos otros. Dada la soberanía interna del pueblo de Puerto Rico y el consiguiente ámbito de sus facultades de gobierno propio, el Congreso había perdido todo poder de legislar interna o municipalmente para Puerto Rico. Las leyes de Estados Unidos se aplicaban por tanto a Puerto Rico únicamente al grado en que se pudiesen aplicar constitucionalmente a los estados federados. El Congreso carecía también de toda facultad para enmendar o derogar las leyes del Estado Libre Asociado, aunque la legislación federal, hasta el punto en que fuese válida respecto a un estado, podía desplazar, bajo la cláusula de la supremacía de las leyes, la legislación local. De igual modo, el Congreso no poseía poder alguno para alterar la Constitución de Puerto Rico. La Constitución de Puerto Rico no era una ley federal, una ley orgánica más al estilo de la Ley Fóraker y la Ley Jones. La Constitución de Estados Unidos, ya que Puerto Rico nunca había sido parte de Estados Unidos en el sentido doméstico,[4] se aplicaba únicamente en sus disposiciones fundamentales y en forma compatible con el nuevo estatus. Finalmente, dado que las relaciones entre Estados Unidos y Puerto Rico se fundaban en el consentimiento mutuo, las mismas eran inalterables, excepto por voluntad de las partes. La Ley de Bases, la Ley de Relaciones Federales y otras disposiciones contentivas de tales relaciones constituían un pacto solemne entre el pueblo de Puerto Rico y el gobierno de Estados Unidos, irreformable excepto por el mutuo asentimiento.

Gran parte del credo expuesto se aceptaría por los tribunales, pero parte sería negada, puesta en entredicho o dejada sin resolver. Las primeras decisiones se dieron en los años 1953 y 1954. En *Mora v. Torres*[5] se interpuso un auto de interdicto para impedir que el Secretario de Agricultura de Puerto Rico pusiese en vigor una orden que fijaba el precio máximo para la venta de arroz. Se alegaba por el demandante que la orden violaba el debido proceso de ley. La Corte de Distrito para el Distrito de Puerto Rico, dentro del reducido ámbito de esa controversia jurídica, creyó necesario proceder a examinar abarcadoramente el proceso de crea-

---

[4] *Véase* 1 TRÍAS MONGE, *supra* nota 1, al cap. XII (explicando la base jurídica para esta afirmación, al discutir los casos insulares y la doctrina de incorporación).

[5] 113 F. Supp. 309 (D.P.R. 1953).

ción del Estado Libre Asociado y precisar su significado, virtiendo expresiones que en su mayoría carecieron de fuerza suficiente por su naturaleza de dicta. Este fue el primer caso, sin embargo, en que se discutió la continuada aplicación a Puerto Rico de la cláusula de debido procedimiento de ley contenida en la Enmienda Quinta a la Constitución de Estados Unidos, así como la cuestión de si la creación del Estado Libre Asociado representaba cambio alguno en su estatus. Respecto a la Enmienda Quinta, el problema consistía en que los requisitos del debido proceso de ley se aplican a los estados por vía de la Enmienda Decimocuarta, mientras que al gobierno federal y sus agencias, así como a los territorios y posesiones, se extienden en virtud de la Enmienda Quinta. Sobre el particular expresó la corte, por voz del Juez Benjamín Ortiz:[6]

> The question now presented before this Court is whether the Fifth Amendment is still applicable to Puerto Rico, in view of the new relationship established between the United States and Puerto Rico under Public Law 600, the Federal Relations Act incorporated therein and the Constitution of the Commonwealth of Puerto Rico. I believe that the previous basis of applicability of the Fifth Amendment has disappeared and has been legally eliminated. The government is no longer an agency of the United States nor does it exercise any longer its powers by way of delegation of the Federal Government. It is not now a dependency, possession nor territory of the United States.[7]

El razonamiento del tribunal respecto a la aplicación de la cláusula del debido proceso de ley fue que la Enmienda Decimocuarta no aplicaba, ya que Puerto Rico no se había convertido en un estado federado, pero que las disposiciones de la Quinta continuaban vigentes sobre una base distinta: el consentimiento del pueblo de Puerto Rico. Sobre el particular dijo la corte:

> Hence, the Fifth Amendment of the Constitution of the United States is no longer applicable on the basis that Puerto Rico is a possession, dependency or territory subject to the plenary power of Congress. But it continues to be applicable to Puerto Rico as part of the compact referred to. All throughout the history of the legislation in discussion, reference is made to the "applicable provisions of the Constitution of the United States." When Law 600 and the Constitution of Puerto Rico were approved, the Fifth

---

[6] En aquella época, cuando se ausentaba el único juez federal con que entonces contaba la corte, se designaba a un Juez del Tribunal Supremo de Puerto Rico para actuar temporeramente en su lugar. Esta práctica terminó en 1961 por acción del Congreso tomada a solicitud del gobierno de Puerto Rico. *Véase* 4 JOSÉ TRÍAS MONGE *supra* nota 3, al cap. XLIII (41)(describiendo lo ocurrido).

[7] 113 F. Supp. *a la pag.* 313

> Amendment was considered by the Courts as being applicable to Puerto Rico. That judicial construction was incorporated impliedly into the terms of the compact, with the result that the constitutional guaranty as to due process of law continues to be enjoyed by American citizens in Puerto Rico, and can be protected by this Court as agreed by the people of Puerto Rico . . . .[8]

Al resolver el tribunal que no había mediado una violación al debido proceso de ley, el demandante apeló a la Corte de Apelaciones para el Primer Circuito, lo que llevó a la decisión de *Mora v. Mejías*.[9] En *Mora* el tribunal rehusó decidir bajo qué cláusula es que se aplica a Puerto Rico la garantía federal del debido proceso de ley. Estas fueron sus palabras, las que se han repetido sustancialmente desde entonces:

> No doubt under the Organic Act of 1917 . . . the insular government was subject to the due process clause of the Fifth Amendment. Under the terms of the "compact" offered to the people of Puerto Rico by Pub. L. 600 . . . and by the Joint Resolution of Congress approving the Constitution adopted by the people of Puerto Rico . . . the government of the newly created Commonwealth of Puerto Rico is subject to "the applicable provisions of the Constitution of the United States." That must mean that the people of Puerto Rico, who remain United States citizens, are entitled to invoke against the Commonwealth of Puerto Rico the protection of the fundamental guaranty of due process of law, as provided by the federal Constitution. For our present purposes it is unnecessary to determine whether it is the due process clause of the Fifth Amendment or that of the Fourteenth which is now applicable; the important point is that there cannot exist under the American flag any governmental authority untrammeled by the requirements of due process of law as guaranteed by the Constitution of the United States . . . .[10]

Adviértase que el tribunal no quiso precisar la fuente para la aplicación de la garantía federal concernida, pero que sí rehusó sostener que la cláusula federal continuaba en vigor conforme la teoría que justificaba su vigencia bajo las disposiciones de las antiguas cartas orgánicas. Nótese, además, el reconocimiento por la corte de la posibilidad de que los requisitos del debido proceso de ley se apliquen a Puerto Rico por vía de la Enmienda Decimocuarta, a pesar de que dicha enmienda nunca se ha consi-

---

[8] *Id.* a la pág. 319.
[9] 206 F.2d 377 (1st Cir. 1953).
[10] *Id.* a la pág. 382.

derado aplicable a entidad alguna que no sea un estado.[11] Años más tarde, en el caso de *Davis v. Trigo Bros. Packing Corp.*[12] se argumentaría sin éxito ante el tribunal, para evitar el impacto de nociones de debido proceso de ley sustantivo sobre un país como Puerto Rico, con circunstancias económicas y sociales tan diferentes, que tales conceptos son inaplicables a Puerto Rico bajo cláusula alguna de la Constitución de Estados Unidos. En la opinión disidente en parte del juez Rehnquist en *Examining Board v. Flores de Otero*,[13] se apuntaría en 1976 a esa posibilidad. Este último caso se discute más adelante.

En *Mora v. Mejías* se virtieron otras expresiones de importancia para casos futuros. El primer anticipo sobre la nueva condición del Tribunal Supremo de Puerto Rico como intérprete máximo de la Constitución de Puerto Rico ocurrió en este caso, al señalar la corte que "the Constitution of the Commonwealth of Puerto Rico contains a due process clause, which will be authoritatively interpreted and applied by the Supreme Court of Puerto Rico as a matter of local law."[14] Antes del establecimiento del Estado Libre Asociado de Puerto Rico, la interpretación final de las leyes orgánicas del Congreso que regían el gobierno civil en Puerto Rico era asunto de la exclusiva competencia del Tribunal Supremo de Estados Unidos, a diferencia de los estados, cuyas constituciones se interpretan autorizadamente tan sólo por sus propios tribunales de última instancia. En *Mora* también es que se sugiere inicialmente que la ley federal que prohíbe que se impida la ejecución de un estatuto estatal sobre bases constitucionales federales, excepto por una corte de tres jueces, aplica a Puerto Rico después del establecimiento del Estado Libre Asociado.[15] Ya que la ley aludía únicamente a los "estados", Magruder señaló, observación a modo de *dictum* que afectaría muchos casos posteriores, que

> [t]he word "State" may in the context of a particular act of Congress have a broader connotation than a state in the federal Union. . . . [I]t may be that the Commonwealth of Puerto Rico . . . organized as a body politic by the people of Puerto Rico under their own constitution, pursuant to the terms of the compact offered to them in Pub. L. 600, and by them accepted, is a State within the meaning of 28 U.S.C. § 2281 . . . 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 accep-

---

[11] Ngiraingas v. Sánchez, 495 U.S. 182, 190 (1990).

[12] 266 F.2d 174 (1st. Cir. 1959).

[13] 426 U.S. 572 (1976).

[14] 206 F.2d a la pág. 382.

[15] La ley en cuestión se encuentra en 28 U.S.C. § 2281. Dicha ley se refiere únicamente a "estados", razón por la cual no se aplicaba a Puerto Rico antes del Estado Libre Asociado, como tampoco se aplicó a Hawaii mientras fue un territorio incorporado de Estados Unidos. Stainback v. Mo Hock Ke Lok Po, 336 U.S. 368 (1949).

ted meaning of the word.[16]

El Tribunal explicó así su conclusión a tal efecto, en palabras que mucho más tarde repetiría el Tribunal Supremo de Estados Unidos y que se considerarían indicativas de que Puerto Rico había alcanzado un grado de soberanía comparable al de los estados. A esos efectos el Tribunal expresó:

> It [el Tribunal Supremo de Estados Unidos en el caso de *Stainback*] said that the reason for the enactment of the three-judge court provision "was a congressional purpose to avoid unnecessary interference with the laws of a sovereign state. In our dual system of government, the position of the state as sovereign over matters not ruled by the Constitution requires a deference to state legislative action beyond that required for the laws of a territory." A territory is subject to congressional regulation . . . . If the constitution of the Commonwealth of Puerto Rico is really a "constitution" —as the Congress says it is, 66 Stat. 327,— and not just another Organic Act approved and enacted by the Congress, then the question is whether the Commonwealth of Puerto Rico is to be deemed "sovereign over matters not ruled by the Constitution" of the United States and thus a "State" within the policy of 28 U.S.C. § 2281 . . . .[17]

Al regresar el caso al tribunal de instancia, bajo el mismo nombre de *Mora v. Mejías*,[18] la corte de distrito, por voz del juez Clemente Ruiz Nazario, se declaró sin jurisdicción por exigir la petición de interdicto de los demandantes la constitución de un tribunal de tres jueces, conforme lo implicado por el Tribunal de Apelaciones. Resolvió formalmente el Tribunal que "Puerto Rico is, under the terms of the compact, sovereign over matters not ruled by the Constitution of the United States."[19] Los casos *Mora* son, en este respecto, la fuente de decisiones posteriores del Tribunal Supremo de Estados Unidos, en las que reiteró que el Estado Libre Asociado de Puerto Rico, contrario al Puerto Rico de tiempos de las cartas orgánicas, es soberano sobre asuntos no regidos por la Constitución de Estados Unidos.

Al año siguiente, en 1954, comenzaron a ventilarse otros casos relativos al problema de la aplicabilidad de las leyes federales a Puerto Rico. *Cosentino v. ILA*[20] fue uno de los primeros. El juez Snyder, también actuando temporeramente como juez federal, hizo expresiones tentativas so-

---

[16] 206 F.2d a las págs. 386-87 (citas omitidas).
[17] *Id.* a la pág. 387 (citas omitidas).
[18] 115 F. Supp. 610 (D.P.R. 1953).
[19] *Id.* a la pág. 612.
[20] 126 F. Supp. 420 (D.P.R. 1954).

bre la inaplicabilidad a Puerto Rico de leyes que no fueran válidamente aplicables a los estados y sobre el hecho que "Puerto Rico is no longer a Territory in the sense that the term is used in the Constitution and the cases".[21] El caso en sí resolvió que la Ley Taft-Hartley continuaba aplicándose a industrias de Puerto Rico envueltas en el comercio interestadual. La Ley Smith, referente a intentos de derrocamiento del gobierno de Estados Unidos y aprobada con anterioridad al establecimiento del Estado Libre Asociado de Puerto Rico, al igual que la Taft-Hartley, también fue declarada vigente poco después en el caso de *Carrión v. González*,[22] por aplicarse a Puerto Rico en igual forma que en un estado federado.

En *Pueblo v. Figueroa*,[23] el Tribunal Supremo de Puerto Rico, en una de sus pocas decisiones sobre asuntos relativos al estatus, se enfrentó a la contención de que la Constitución de Puerto Rico era en efecto una ley más de Estados Unidos que había incorporado el derecho a juicio por jurado en su forma federal. El Tribunal resolvió que tal derecho es parte de la Constitución de Puerto Rico, la cual no es una ley federal, sino una constitución cuyo significado se interpreta finalmente por el Tribunal Supremo de Puerto Rico. Según el estado de derecho en aquella época, en que las decisiones del Tribunal Supremo de Puerto Rico podían apelarse a la Corte de Apelaciones para el Primer Circuito, el caso se consideró en alzada por dicho foro. Por voz del juez Magruder, la corte resolvió la cuestión en palabras sencillas:

> The answer to appellant's contention is that the constitution of the Commonwealth is not just another Act of the Congress. We find no reason to impute to the Congress the perpretation of such a monumental hoax.[24]

La alegación de que las leyes de Estados Unidos, anteriores al establecimiento del Estado Libre Asociado y aplicadas a Puerto Rico en forma igual que a los estados federados, dejaron de extenderse a la Isla, siguió formulándose sin éxito en otros casos por algún tiempo después.[25] En *Hilton Hotels and Unión de Trabajadores*[26] se intentó plantear la alegación a la inversa: que una ley federal, la Taft-Hartley, continuaba aplicándose internamente a Puerto Rico, en circunstancias que harían su aplicación constitucionalmente imposible en el caso de un estado federado. La Junta

---

[21] *Id.* a la pág. 422.

[22] 125 F. Supp. 819 (D.P.R. 1954) (Snyder).

[23] 77 D.P.R. 188 (1954).

[24] Figueroa v. People of Puerto Rico, 232 F.2d 615, 620 (1st Cir. 1956).

[25] *Véanse* Mitchell v. Rubio, 139 F. Supp. 379 (D.P.R. 1956); United States v. Mejías Rodríguez, 131 F. Supp. 957 (D.P.R. 1955); Arbona v. Kenton, 126 F. Supp. 366 (D.N.Y. 1954); United States v. Long, 118 F. Supp. 857 (D.P.R. 1954).

[26] 2 D.J.R.T. de P.R. 888 (1955).

de Relaciones del Trabajo de Puerto Rico, por voz del oficial examinador Ramón Acevedo Oliveras, concluyó:

> [W]e cannot accept the Employer's conclusion, which rests upon the erroneous assumption that Puerto Rico is still a Territory of the United States and that, therefore, Federal legislation is still applicable to purely local affairs in Puerto Rico.
>
> With the creation of the Commonwealth, Puerto Rico ceased to be a Territory within the meaning of that term in the Constitution of the United States and its judicial interpretation.[27]
>
> . . . .
>
> Under their new *status* the people of Puerto Rico obtained recognition of a full measure of self-government in local affairs and became an autonomous body politic associated with the United States of America by means of a compact. Although the legislative history of Public Law 600 contains some ambiguous and at times conflicting statements on the scope of the statute, an examination of the process of the creation of the Commonwealth and the international recognition accorded to it leaves no shadow of doubt upon the correctness of the foregoing assertion.[28]
>
> . . . .
>
> Self-government in internal affairs of Puerto Rico being one of the essential elements of the compact, the Congress no longer can enact legislation on internal affairs of Puerto Rico. The Congress, therefore, does not have plenary jurisdiction over Puerto Rico. For this reason the laws of the United States shall have force and effect in Puerto Rico only in cases where their application is compatible with the principle of internal sovereignty recognized in the compact.
>
> The application of the Taft-Hartley Act to purely internal or local matters in our Commonwealth is in open conflict with the full measure of self-government recognized for Puerto Rico by virtue of its new *status*.[29]

El tribunal de distrito federal se enfrentó al problema de la pretendida

---

[27] *Id.* a la pág. 893.
[28] *Id.* a la pág. 896.
[29] *Id.* a la pág. 907.

continuada aplicación municipal de las leyes federales a Puerto Rico en el caso de *United States v. Figueroa Ríos*.[30] La posición del fiscal federal,[31] dictada por el Departamento de Justicia en Washington y directamente contraria a lo expresado por el gobierno de Estados Unidos ante las Naciones Unidas al discutirse el caso de Puerto Rico en 1953,[32] era que Puerto Rico Rico continuaba siendo un territorio de Estados Unidos, sujeto a la cláusula territorial de la Constitución de Estados Unidos y al poder plenario del Congreso, incluso para legislar internamente para Puerto Rico en modo no permisible constitucionalmente en el caso de los estados federados.

Al acusado en *Figueroa Ríos* se le acusaba de transportación interna de armas en Puerto Rico. La legislación federal de armas castigaba su transportación entre los estados o "within any Territory or possession or the District of Columbia". La corte ordenó el archivo de la acusación por entender que la frase citada había cesado de incluir a Puerto Rico después del establecimiento del Estado Libre Asociado. El tribunal explicó así su conclusión:

> At present, such local transactions or conduct are to be dealt with by the Commonwealth under its own Constitution and internal laws, and it would be frustrative of the very purpose and intention of Congress in establishing the new status to now hold that said statute may accomplish by indirection the very thing that Congress expressly wanted to leave in the hands of the Commonwealth's government.
>
> Moreover, Sec. 9 of the Federal Relations Act . . . on which the government places so much stress, has acquired such a vitality after the establishment of the Commonwealth that it may be safely accorded, as regards the applicability to the Commonwealth of the statutory laws of the United States, a function which is substantially similar to the function of the Interstate Commerce Clause of the Constitution, as regards the relations between the Federal Government and the governments of the different states of the Union.[33]

El tribunal aclaró, por último, que no estaba pasando juicio sobre si el Congreso había renunciado o podía renunciar a sus poderes respecto a Puerto Rico bajo la cláusula territorial o sobre si Puerto Rico seguía constituyendo un "territorio" bajo los términos de dicha cláusula.

---

[30] 140 F. Supp. 376 (D.P.R. 1956).

[31] En aquel momento la posición de fiscal federal la ocupaba Rubén Rodríguez Antongiorgi.

[32] *Véase* 4 JOSÉ TRÍAS MONGE, *supra* nota 3, al cap. XXXIX (6)(c)(ii).

[33] 140 F. Supp. a la pág. 381 (citas omitidas).

En *Guerrido v. Steamship M.V. Corona*[34] se planteó la cuestión de si el derecho de almirantazgo de los Estados Unidos se aplicaba a Puerto Rico después del establecimiento del Estado Libre Asociado en casos de daños de un obrero contra su patrono, en vez de la legislación puertorriqueña de compensación a obreros por accidentes del trabajo. La corte federal de distrito resolvió que continuaban en vigor en este género de litigios las disposiciones de la antigua ley orgánica, incorporadas a la Ley de Relaciones Federales, que le dan jurisdicción a Puerto Rico sobre sus aguas. El Tribunal señaló, no obstante, que la legislación puertorriqueña no puede suplantar una regla general de almirantazgo extendida expresamente a Puerto Rico para aplicarse de forma igual que a los estados.[35]

Si bien el tribunal no discutió el asunto, *Guerrido* ilustra la validez de establecer relaciones entre Estados Unidos y Puerto Rico distintas a las que privan entre el gobierno federal y los estados. De igual modo, la clave para determinar si una ley federal es inaplicable a Puerto Rico bajo la seccion 9 de la Ley de Relaciones Federales no reside en precisar si a Puerto Rico se le está tratando en modo diferente que a los estados. Los criterios determinantes de la aplicación de una ley federal son más bien dos: Primero, si las disposiciones de la ley podrían aplicarse válidamente a los estados en tal forma; y segundo, si tales disposiciones no están reñidas con las condiciones prevalecientes en este país. El problema principal de la época con la aplicación de las leyes federales en Puerto Rico no era tanto, sin embargo, el método correcto de interpretar la sección 9 de la Ley de Relaciones Federales,[36] sino el consentimiento genérico y ciego que se le había dado a toda legislación federal que al Congreso se le antojase aprobar para los estados, sin participación real de Puerto Rico en el proceso de su aprobación y aunque Puerto Rico considerase poco sabia su aplicación a este país. Esta situación, que es una de las lacras del Estado Libre Asociado en su forma presente, fue uno de los factores de más importancia en provocar los repetidos y fallidos intentos de reforma de las relaciones entre Puerto Rico y Estados Unidos.

La diferencia entre los tribunales con o sin experiencia sobre asuntos concernientes al estatus de Puerto Rico era considerable para aquella época y las siguientes, lo que ayudó a crear el curioso mosaico que forma la jurisprudencia sobre el tema. *Detrés v. Lions Building Corporation*[37] es

---

[34] 234 F.2d 349 (1st Cir. 1956); 134 F. Supp. 459 (D.P.R. 1955).

[35] *Guerrido* alteró la situación de derecho vigente desde Lastra v. New York & Porto-Rico Steamship Company, 2 F.2d 812 (1st Cir. 1924). En *Lastra* se había resuelto que el derecho de almirantazgo de Estados Unidos era totalmente inaplicable a las aguas de Puerto Rico.

[36] La sección 9 de la Ley de Relaciones Federales dispone que "[l]as leyes estatutarias de los Estados Unidos que no sean localmente inaplicables, salvo lo que en contrario se dispusiere en la presente, tendrán el mismo efecto y validez en Puerto Rico que en los Estados Unidos . . . ."

[37] 234 F.2d 596 (7th Cir. 1956).

ejemplo clásico del análisis deficiente de una faceta importante del problema de la aplicabilidad de las leyes federales a Puerto Rico. El Séptimo Circuito se enfrentó en dicho caso a la extraña alegación que, tras el establecimiento del Estado Libre Asociado, las cortes federales habían perdido jurisdicción sobre litigios fundados en la diversidad de ciudadanía de las partes. El estatuto extendía la jurisdicción federal a pleitos entre ciudadanos de los estados y definía el término "estado" para incluir los territorios y al Distrito de Columbia. El tribunal resolvió que el estatuto continuaba aplicándose a Puerto Rico pero, sin arte para justificar su decisión, la cual era enteramente correcta, expresó:

> It is true that the new constitution vested in the people of Puerto Rico broader legislative power than they had theretofore enjoyed but it seems clear that the change was not sufficient to make it necessary to hold that Puerto Rico was no longer a territory within the meaning of that word as used in Section 1332 of the Code.[38]
>
> . . . .
>
> The above expressions [refiriéndose al récord legislativo de la Ley 600 o Ley de Bases] all indicate that the persons interested in and responsible for the Act did not think that Puerto Rico was thereby being changed from a territory to some other political entity.[39]

Le tocó al Primer Circuito corregir tal interpretación y sentar las bases para la justificación de aplicar las leyes federales a Puerto Rico en circunstancias análogas. La oportunidad se presentó en *Moreno Ríos v. United States*.[40] Se trataba, en dicho caso, de determinar si la *Narcotics Import and Export Act* se aplicaba a Puerto Rico en igual forma que a los estados. El tribunal resolvió sencillamente lo siguiente, que era todo lo que tenía que resolverse en *Detrés*, sin entrar en disquisiciones innecesarias allí:

> Under the terms of the "compact" to which the people of Puerto Rico have manifested assent, there remains in the Puerto Rican Federal Relations Act the important provision: "The statutory laws of the United States not locally inapplicable . . . shall have the same force and effect in Puerto Rico as in the United States . . . ." Since the terms of the Narcotic Drugs Import and Export Act would affect Puerto Rico in the same manner as they do the

---

[38] *Id.* a la pág. 599.
[39] *Id.* a la pág. 600.
[40] 256 F.2d 68 (1st Cir. 1958) (Magruder).

> States of the Union, and since the problem dealt with is a general one, certainly not "locally inapplicable" to Puerto Rico, it is clear that Congress has the power to apply the Act to Puerto Rico . . . .[41]

Moreno Ríos suplió la base teórica correcta para el problema presentado en *Detrés* y varios otros casos, incluso uno que otro ante el Tribunal Supremo de Estados Unidos. En otras palabras, como se ha indicado antes, para resolver que determinada legislación continuaba aplicándose en Puerto Rico bastaba con examinar si se aplicaba en igualdad de condiciones que a los estados y si no estaba reñida con las circunstancias locales, sin tener que elucubrar sobre si Puerto Rico continuaba o no siendo un territorio de Estados Unidos bajo la cláusula territorial de la Constitución federal. La dificultad de varias cortes en precisar las bases de la aplicación de las leyes federales en Puerto Rico y su torpe manejo de las referencias a la cláusula territorial avivó, como es de suponer, el continuo y creciente debate en Puerto Rico sobre los cambios jurídicos, si algunos, provocados por el establecimiento del Estado Libre Asociado.

En *Darío Sánchez v. United States*,[42] el Tribunal de Circuito utilizó el razonamiento de Moreno Ríos para sostener la aplicación a Puerto Rico de la *Narcotic Drugs Import and Export Act* y la *Marihuana Tax Act*. En este caso, además del consentimiento genérico representado por la sección 9 de la Ley de Relaciones Federales, había habido otros actos indicativos de la anuencia de Puerto Rico a tal aplicación.

Dada la fertilidad de nuestra imaginación, no faltó el argumento, planteado también a raíz de la aprobación de la Ley Jones,[43] que el establecimiento del Estado Libre Asociado significó la adopción en Puerto Rico del requisito de la Enmienda Sexta relativo a la unanimidad de los veredictos. La contención fue rechazada en *Fournier v. González*.[44]

III. Los Años Sesenta

En *Fonseca v. Prann*,[45] el Tribunal de Circuito regresó al tema de la aplicación a Puerto Rico del derecho marítimo federal. Los demandantes instaron pleito de daños, bajo la Ley Jones federal, contra su patrono. El Tribunal desestimó la demanda por razón de que el único remedio era el provisto por la legislación local de compensación a obreros por accidentes del trabajo. Expresó el Tribunal:

---

[41] *Id.* a la pág. 71.
[42] 256 F.2d 73 (1st Cir. 1958) (Magruder).
[43] *Véase* Balzac v. People of Puerto Rico, 258 U.S. 298 (1922).
[44] 269 F.2d 26 (1st Cir. 1959).
[45] 282 F.2d 153 (1st Cir. 1960) (Woodbury).

> It is certainly true that neither the Jones Act nor the general maritime law of unseaworthiness are inherently inapplicable in Puerto Rico. But, on the other hand, there is nothing in the Jones Act specifically making its provisions applicable in the territorial waters of Puerto Rico and we are not aware that Congress has ever taken action to make the general maritime law of unseaworthiness apply in those waters. Instead in *Lastra* and *Guerrido* this court held and we agree that Congress in the valid exercise of powers conferred upon it by the Constitution gave the Legislature of Puerto Rico power to enact legislation inconsistent with the Jones Act and the general maritime law, and that the Legislature of Puerto Rico had exercised its power in the Workmen's Accident Compensation Act. Of course if Congress sees fit it may supplant the local legislation as it applies to local navigable waters by making the Jones Act and the general maritime law of unseaworthiness specifically applicable in Puerto Rican waters, but it is not our function to do so.
>
> We recognize that this holding creates an area of lack of uniformity in the maritime law. But it is clearly recognized in the Jensen case . . . that absolute uniformity in things maritime is not a constitutional requirement nor is it even essential to the proper harmony of the maritime law in its interstate and international relations.[46]

Fonseca revela cómo aun la corte federal de apelaciones más enterada de asuntos relativos al estatus de Puerto Rico tenía dificultades ocasionales con aspectos de la materia, especialmente cuando, como en este caso, Magruder no era parte del panel. Adviértase a tal efecto, la curiosa preocupación de la corte con la falta de uniformidad creada por su decisión y la tomada anteriormente en *Guerrido*. El Tribunal, en parte anterior de su opinión, también experimentó problemas con la justificación de esa "anomalía", no hallando mejor fuente para justificarla que el poder del Congreso bajo la cláusula territorial. La singularidad del caso de Puerto Rico era difícil de entender para algunos jueces de la época.

En *Waterman Steamship Corporation v. Rodríguez*[47] la Corte de Apelaciones advirtió que la regla de *Guerrido* y *Fonseca* se aplica únicamente a casos de daños en aguas de Puerto Rico interpuestos por el obrero contra su patrono. Señaló el tribunal:

> As we demonstrated in the *Guerrido* case, the general maritime law of unseaworthiness had become applicable in Puerto Rican

---

[46] *Id.* a las págs. 156-57 (citas omitidas).

[47] 290 F.2d 175 (1st Cir. 1961) (Maris).

> waters without express enactment by Congress, subject to being supplanted in whole or in part by Puerto Rican legislation. And since Congress has not made the law of unseaworthiness expressly applicable, to the exclusion of the Workmen's Accident Compensation Act, to seamen injured in Puerto Rican waters suing their employers we held in the *Fonseca* case that the Compensation Act did have the effect of supplanting in such cases the maritime law of unseaworthiness which is otherwise in force in Puerto Rican waters . . . . The right of a seaman or longshoreman, such as the present plaintiff, to base a suit against another than his employer upon the maritime law of unseaworthiness was not involved in that case and our discussion had no relation to it.[48]

Durante esta década la jurisprudencia sobre temas de almirantazgo fue abundante.[49]

También surgieron en estos años diversos casos sobre la aplicación de la legislación federal contra monopolios. En *Cooperativa de Seguros Múltiples v. San Juan*[50] se discutió la aplicación a Puerto Rico de la Ley Sherman. Antes del establecimiento del Estado Libre Asociado, la sección 3, referente a los territorios y su comercio interno, era la aplicable. La cuestión a resolver en el pleito era si después de 1952 las secciones pertinentes eran la 1 y 2, que cubrían únicamente a los estados y el comercio interestatal. El Tribunal resolvió que "the Sherman Act is applicable in Puerto Rico to the same extent and in the same manner as if Puerto Rico were a state."[51] En *Liquilux Gas Services v. Tropical Gas Company*,[52] se decidió a su vez que la ley Robinson-Patman había cesado de aplicarse al comercio puramente interno de Puerto Rico, por razón de lo dispuesto en la sección 9 de la Ley de Relaciones Federales.[53]

En *Americana of Puerto Rico, Inc. v. Kaplus & Sons*,[54] el Tercer Circuito se enfrentó a un planteamiento novel. En el 1956 se enmendó el

---

[48] *Id.* a las págs. 179-80.

[49] *Véanse, e.g.*, Alcoa Steamship Company, Inc. v. Vélez, 376 F.2d 521 (1st Cir. 1967); Musick v. Puerto Rico Telephone Co. 357 F.2d 603 (1st Cir. 1966); López Correa v. Marine Navigation Co., 289 F. Supp. 993 (D.P.R. 1968).

[50] 289 F. Supp. 983 (D.P.R. 1968) (Cancio). A igual conclusión se había llegado en David Cabrera, Inc. v. Unión de Choferes, 256 F. Supp. 839 (D.P.R. 1966).

[51] *Id.* a la pág. 987.

[52] 303 F. Supp. 414 (D.P.R. 1969) (Cancio).

[53] *Id.* a la pág. 420, nn.3-4. (incluyendo una útil relación de los litigios resueltos hasta entonces por las cortes federales, que sumaban a más de dos docenas, sobre la aplicabilidad de leyes federales a Puerto Rico). *Véase además* R.C.A. v. Gobierno de la Capital, 91 D.P.R. 416 (1964) (Santana Becerra). Para extractos de los casos más importantes, antes y después del establecimiento del Estado Libre Asociado, *véase* la colección documental DOCUMENTS ON THE CONSTITUTIONAL RELATIONSHIP OF PUERTO RICO AND THE UNITED STATES. P.R. FEDERAL RELATIONS ADMINISTRATION (1988).

[54] 368 F.2d 431 (3rd Cir. 1966).

estatuto referente a la jurisdicción por diversidad de ciudadanía para incluir a los residentes del Estado Libre Asociado expresamente, en vez de por simple inclusión en el término "territorio". Se cuestionó en el caso la autoridad del Congreso para efectuar el cambio. A pesar de referencias al hecho de que Puerto Rico gozaba de un estatus diferente al de un territorio incorporado, la limitada familiaridad del Tribunal con el caso puertorriqueño no le permitió ir más allá de la conclusión que Puerto Rico seguía constituyendo un territorio dentro del significado de la cláusula territorial y que dicha cláusula era la fuente del poder para la enmienda de 1956. Al Tribunal no se le ocurrió utilizar las decisiones del Primer Circuito sobre la sección 9 de la Ley de Relaciones Federales y señalar simplemente que la legislación se estaba extendiendo a Puerto Rico, conforme a su propio consentimiento, sobre la base de su aplicación con igual fuerza a los estados. He aquí algunas de las expresiones, mayormente desafortunadas, del Tribunal:

> There can be no doubt that as a matter of political and legal theory, and practical effect, Puerto Rico enjoys a very different status from that of a totally organized but unincorporated territory, as it formerly was. The government of the Commonwealth derives its powers not alone from the consent of Congress, but also from the consent of the people of Puerto Rico . . . . The legislative history of . . . Public Law 600 offers strong support for the plaintiff's position that Puerto Rico, insofar as the issues at bar are concerned, may be deemed to have a status analogous to that of a territory . . . .[55]

> [T]he term "Territories" has been considered susceptible of interpretation —that is, it does not have a fixed and technical meaning that must be accorded to it in all circumstances . . . . We believe . . . that Puerto Rico is a "Territory" within the purview of Article IV, section 3.[56]

En *United States v. Valentine*[57] el Tribunal de distrito federal rechazó un ataque constitucional a la disposición de la Ley de Relaciones Federales que exige que los procedimientos en dicho foro se conduzcan en el idioma inglés, disposición que las administraciones autonomistas del gobierno de Puerto Rico han tratado de alterar repetidas veces, así como, al menos en un caso, se quiso cambiar también por una administración estadista en los años ochenta.[58] El Tribunal señaló, recalcando que el inglés es el idioma nacional de Estados Unidos:

---

[55] *Id.* a la pág. 435.

[56] *Id.* a la pág. 436.

[57] 288 F. Supp. 957 (D.P.R. 1968).

[58] *Véase* H.R. 780, 98th Cong., 1st Sess. (1983) (presentándolo Baltasar Corrada del Río).

> It does not follow, however, that because proceedings in local courts are conducted in Spanish, proceedings in this court must also be conducted in that language. This court is not a local court of Puerto Rico . . . . [T]he very reasoning which led the Supreme Court of Puerto Rico to conclude that proceedings in the Commonwealth courts need be conducted only in Spanish applies in reverse to justify conducting proceedings in this court in English. Just as Spanish is "the language of the Puerto Rican people," . . . the United States has from the time of its independence been an English-speaking nation. Although the American population has included occasional enclaves of foreign speaking peoples, there has never been a tradition of official bilingualism . . . . The past history of the United States discloses no more than occasional minor and temporary accomodations to the language preferences of foreign speaking peoples where they comprised a substantial segment of the original population of newly acquired areas . . . .[59]
>
> Indeed, it is difficult to conceive how this court could remain a viable part of the federal judicial system if proceedings here were conducted in Spanish . . . .[60]

United States v. Valentine también resolvió que la legislación federal sobre el reclutamiento para las fuerzas armadas aplica a Puerto Rico, asunto sobre el cual también versó *United States v. Feliciano Grafals*.[61] Este último caso contiene también, al igual que *Mora v. Torres*,[62] expresiones gratuitas sobre la validez y obligatoriedad del pacto entre Puerto Rico y Estados Unidos.[63]

IV. Los Años Setenta

Para esta época llegan al Tribunal Supremo de Estados Unidos algunos casos sobre cuestiones referentes al estatus. Uno de los primeros casos fue *Fornaris v. Ridge Tool Co.*[64] El Tribunal de Apelaciones había declarado inconstitucional en esta causa la legislación puertorriqueña para la protección de los distribuidores de productos. El Tribunal Supremo revocó sobre la base de que el Tribunal Supremo de Puerto Rico aún no había

---

[59] 288 F. Supp. a la pág. 963 (citas omitidas).

[60] *Id.* a la pág. 964.

[61] 309 F. Supp. 1292 (D.P.R. 1970) (Cancio).

[62] 113 F. Supp. 309 (D.P.R. 1953) (Ortíz).

[63] *Véase* Leibowitz, *The Applicability of Federal Law to the Commonwealth of Puerto Rico*, 56 Geo. L. J. 219 (1967) (revisando algunos planteamientos sobre la aplicabilidad de las leyes federales a Puerto Rico durante los primeros quince años después del establecimiento del Estado Libre Asociado).

[64] 400 U.S. 41 (1970) (Per Curiam).

interpretado el estatuto, por lo que el Tribunal de Apelaciones debió haberse abstenido de resolver la cuestión hasta que ello ocurriese.[65] El Tribunal señaló:

> The relations of the federal courts to Puerto Rico have often raised delicate problems. It is a Spanish-speaking Commonwealth with a set of laws still impregnated with the Spanish tradition. Federal courts, reversing Puerto Rican courts, were inclined to construe Puerto Rican laws in the Anglo-Saxon tradition which often left little room for the overtones of Spanish culture . . . .[66]
>
> The question presented here is akin to that question, for we deal with a rather vague Puerto Rican law that the Supreme Court of Puerto Rico has not authoritatively construed . . . .[67]

Fornaris también envolvió la interpretación del estatuto federal que permite la apelación al Tribunal Supremo de decisiones de las Cortes de Apelaciones que declaren que la ley de un "estado" es inconstitucional. La corte resolvió, en endoso cuestionable de una desigualdad injustificada, que Puerto Rico no es un "estado" para tales propósitos. El tribunal indicó:

> Whether the omission was by accident or by design, our practice of strict construction of statutes authorizing appeals dictates that we do not give an expansive interpretation to the word "State." We see no merit in the argument that we have already done so in our Rule 61 defining "state court" to include the Puerto Rican Supreme Court and "law and statutes of a state" to include "the laws and statutes of the Commonwealth of Puerto Rico." That rule was adopted only to implement 28 U.S.C. § 1258 dealing with review by appeal or certiorari of final judgments of the Supreme Court of Puerto Rico.[68]

En *Calero Toledo v. Pearson Yacht Leasing Co.*[69] el Tribunal Supremo entró a considerar la cuestión de si Puerto Rico era un "estado" para fines de la legislación federal que requiere la organización de una corte de tres jueces para resolver casos en que se intente impedir la ejecución de un estatuto estatal. El tribunal respaldó la opinión de Magruder sobre

---

[65] *Véase* Warner Lambert Co. v. Tribunal Superior, 101 D.P.R. 378 (1973) (decidiendo que la aplicación retroactiva de la ley, en un caso donde ocurrió lo arriba planteado, es inconstitucional).

[66] 400 U.S. a la pág. 42.

[67] *Id.* a la pág. 43.

[68] *Id.* a la pág. 42, n.1.

[69] 416 U.S. 663 (1974) (Brennan).

este particular en *Mora v. Mejías*,[70] discutido en la sección anterior. El Tribunal señaló:

> Similar reasoning [el tribunal se refiere al caso de *Stainback*, que declaró inaplicable el estatuto al entonces territorio de Hawaii, por carecer de los necesarios elementos de soberanía] —that the purpose of insulating a sovereign State's laws from interference by a single judge would not be furthered by broadly interpreting the word "State"— led the Court of Appeals for the First Circuit some 55 years ago to hold § 266 inapplicable to the laws of the Territory of Puerto Rico.[71]
>
> . . . .
>
> By 1950, however, pressures for greater autonomy led to congressional enactment of Pub. L. 600 . . . 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 . . . ."[72]
>
> . . . .
>
> These significant changes in Puerto Rico's governmental structure formed the backdrop to Judge Magruder's observations in *Mora v. Mejías* . . . .[73]
>
> . . . .
>
> Lower federal courts since 1953 have adopted this analysis and concluded that Puerto Rico is to be deemed "sovereign over matters not ruled by the Constitution" and thus a State within the policy of the Three-Judge Court Act . . . .[74]
>
> . . . .

---

[70] 206 F.2d 377 (1st Cir. 1953).

[71] 416 U.S. a la pág. 671 (citando Benedicto v. West India & Panama Tel. Co., 256 F. 417 (1919)).

[72] *Id.* a la pág. 671 (citas omitidas).

[73] *Id.* a la pág. 672 (citas omitidas).

[74] *Id.* a la pág. 673 (citas omitidas).

> While still of the view that § 2281 is not "a measure of broad social policy to be construed with great liberality" . . . we believe that the established federal judicial practice of treating enactments of the Commonwealth of Puerto Rico as "State statute[s]" for purposes of the Three-Judge Court Act, serves, and does not expand, the purposes of § 2281. We therefore hold that a three-judge court was properly convened under that statute . . . .[75]

En *Calero Toledo* la corte también endosó decisiones anteriores en que se sostuvo la continuada aplicabilidad a Puerto Rico de los requisitos del debido procedimiento de ley, pero sin considerar necesario indicar si la fuente era la quinta o la decimocuarta enmienda a la constitución de Estados Unidos.

Examining Board v. Flores de Otero[76] fue otro caso importante de esta época. El Tribunal Supremo de Estados Unidos resolvió en él que aplica a Puerto Rico la ley federal que prohíbe discrímenes "under color of any State law". Tras señalar que el estatuto era de aplicación antes de la creación del Estado Libre Asociado, expresó el tribunal:

> The question then arises whether Congress, by entering into the compact, intended to repeal by implication the jurisdiction of the Federal District Court of Puerto Rico to enforce 48 U.S.C. § 1983. We think not. As was observed in *Calero Toledo v. Pearson Yacht Leasing Co.* . . . 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 . . . .[77]
>
> We readily concede that Puerto Rico occupies a relationship to the United States that has no parallel in our history, but we think that it does not follow that Congress intended to relinquish federal enforcement of § 1983 by restricting the jurisdiction of the Federal District Court in Puerto Rico . . . . Whether Puerto Rico is now considered a Territory or a State, for purposes of the specific question before us, makes little difference because each is included within § 1983 . . . .[78]

El Tribunal Supremo también reiteró en *Flores de Otero* la posición expresada en *Calero Toledo* sobre la aplicación del debido proceso de ley. Al efecto se expresó:

---

[75] *Id.* a la pág. 675.
[76] 426 U.S. 572 (1976) (Blackmun).
[77] *Id.* a la pág. 594 (citas omitidas).
[78] *Id.* a la pág. 597 (citas omitidas).

> It is clear now, however, that the protections accorded by either the Due Process Clause of the Fifth Amendment or the Due Process and Equal Protection Clauses of the Fourteenth Amendment apply to residents of Puerto Rico . . . .[79]
>
> The Court, however, thus far has declined to say whether it is the Fifth Amendment or the Fourteenth which provides the protection . . . . Once again, we need not resolve that precise question . . . .[80]

Sobre este particular disintió el juez Rehnquist, quien observó:

> I would have thought that the only restrictions upon the elected Legislature of Puerto Rico were those embodied in the Constitution enacted as a condition of assuming that state or directly imposed by Congress by statute.
>
> In short, I am not nearly as certain as the Court appears to be that either the Fifth Amendment or the Fourteenth Amendment must govern the acts of the Legislature of Puerto Rico. It seems to me it is quite possible that neither provision operates as a direct limitation upon the authority of that elected body . . . .[81]

En *Califano v. Torres*[82] el Tribunal Supremo de Estados Unidos resolvió que un residente de Connecticut que trasladó su residencia a Puerto Rico no tenía derecho a seguir percibiendo los beneficios que recibía bajo el programa de ayuda a envejecientes e impedidos (*Supplemental Social Security Income (SSI)*). El pleito no se decidió sobre la base de problema alguno de estatus, ya que el tribunal entendió que el residente de un estado no puede mudar su residencia a otro y reclamar allí los beneficios que le otorgaba el estado anterior. El tribunal, no obstante, señaló que el Congreso tiene el poder de tratar a Puerto Rico en forma diferente a los estados y que los programas federales no tienen que extenderse forzosamente a Puerto Rico, dada su relación sin paralelo con Estados Unidos. Además del "unique tax status of Puerto Rico", la corte mencionó como posibles bases para la exclusión de los residentes de Puerto Rico del *SSI* el costo de aplicar el programa a Puerto Rico y su posible efecto disruptor sobre su economía.

Torres v. Puerto Rico[83] fue otro de los casos importantes resueltos por

---

[79] *Id.* a la pág. 600.

[80] *Id.* a las págs. 601 (citas omitidas).

[81] *Id.* a la pág. 608.

[82] 435 U.S. 1 (D.P.R. 1978). Las implicaciones de *Califano* se discuten mas adelante el presente trabajo.

[83] 442 U.S. 465 (1979) (Burger). El caso se inició en las cortes del Estado Libre Asociado

el Tribunal Supremo de Estados Unidos para estos años. El asunto a decidir era la constitucionalidad de un estatuto insular que permitía el registro sin justa causa del equipaje de personas que viajaban a Puerto Rico desde Estados Unidos. Aunque por camino tortuoso y equivocado, el tribunal llegó a la conclusión correcta respecto a la continuada aplicación a Puerto Rico de la Enmienda Cuarta de la Constitución de Estados Unidos. Expresó el Tribunal:

> Congress may make constitutional provisions applicable to territories in which they would not otherwise be controlling . . . . Congress generally has left to this Court the question of what constitutional guarantees apply to Puerto Rico . . . .
>
> Both Congress' implicit determinations in this respect and long experience establish that the Fourth Amendment's restrictions on searches and seizures may be applied to Puerto Rico without danger to national interests or risk of unfairness. From 1917 until 1952, Congress by statute afforded equivalent personal rights to the residents of Puerto Rico . . . . When Congress authorized the people of Puerto Rico to adopt a constitution, its only express substantive requirements were that the document should provide for a republican form of government and "include a bill of rights" . . . . A constitution containing the language of the Fourth Amendment . . . was adopted by the people of Puerto Rico and approved by Congress . . . .[84]
>
> We conclude that the constitutional requirements of the Fourth Amendment apply to the Commonwealth. As in *Examining Board v. Flores de Otero* . . . we have no occasion to determine whether the Fourth Amendment applies to Puerto Rico directly or by operation of the Fourteenth Amendment.[85]

En su opinión mayoritaria, Burger pudo llegar al mismo resultado en forma más sencilla y coherente. Bastaba con resolver que los derechos garantizados bajo la Enmienda Cuarta habían sido considerados tradicionalmente como derechos fundamentales bajo la doctrina de los Casos Insulares y que dicha Enmienda era una de las "disposiciones aplicables" de la constitución federal, no inconsistente con la nueva condición política de Puerto Rico, a la que éste había consentido al establecerse el Estado Li-

---

de Puerto Rico. *Véase* Pueblo v. Torres Lozada, 106 D.P.R. 588 (1977) (decidiendo de forma dividida del Tribunal Supremo). En opinión del Juez Irizarry Yunqué, suscrita por los jueces Dávila, Torres Rigual y Trías Monge, se resolvió que la legislación violaba tanto la Constitución federal como la insular, pero por constar el Tribunal para esa fecha de ocho jueces, no se obtuvo la mayoría necesaria para invalidar la ley.

[84] *Id.* a la pág. 470 (citas omitidas).

[85] *Id.* a la pág. 471 (citas omitidas).

bre Asociado. A igual conclusión se llegaba por vía de la Enmienda Decimocuarta, según se explica en la sección final de este ensayo. Burger no halló o esquivó sin explicación estos otros caminos.

En su opinión concurrente, Brennan tampoco dio con la razón, limitándose a afirmar que el apelado había aceptado la aplicación a Puerto Rico de la referida enmienda y añadiendo, conforme el familiar razonamiento de Black:

> Whatever the validity of the old cases such as *Downes v. Bidwell* . . . in the particular historical context in which they were decided, those cases are clearly not authority for questioning the application of the Fourth Amendment —or any other provision of the Bill of Rights— to the Commonwealth of Puerto Rico in the 1970's . . . .[86]

La Corte de Apelaciones para el Primer Circuito también resolvió algunos casos de interés en esta década. *Caribtow Corp. v. Occupational Safety & Health Review Commission*[87] es uno de ellos. La contención en este litigio era que la *Occupational and Safety and Health Act* de 1970 no podía aplicarse a Puerto Rico, a pesar de su clara intención al efecto y al hecho de que se extendía a Puerto Rico en forma igual que a los estados, por razón que Puerto Rico no había consentido a su aplicación. Expresó el tribunal:

> Section 9 of the Puerto Rican Federal Relations Act provides unquestionably that federal legislation requires no prior consent of Puerto Rico. Nothing in the language or in the legislative history can realistically support any other conclusion . . . . The fact that the Commonwealth now possesses its own Constitution, and is governed with the consent of its inhabitants, does not establish that it is now so independent of the federal government that it may ignore or nullify national legislation and exert powers in this regard that are denied to the states, each of which also possesses a constitution and a republican form of government. What is determinative here is that the Occupational Safety and Health Act is fully consistent with the "compact."[88]

En el curso de su curiosa opinión la corte consideró oportuno aclarar lo siguiente, a la altura de 1974 y a pesar de su decisión en *Moreno Ríos*,[89] respecto al poder del Congreso de legislar municipalmente para Puerto Rico:

---

[86] *Id.* a la pág. 475 (citas omitidas).
[87] 493 F.2d 1064 (1st Cir. 1974) (Coffin).
[88] *Id.* a la pág. 1066.
[89] 252 F.2d 63 (1958).

> The question whether, under the "compact" [siempre entre comillas en la opinión], the Congress has power to enact legislation dealing with purely local Puerto Rican matters where it could not do so as a state is not in issue here, since the application of the Occupational Safety and Health Act in this case was consistent with application to the Act to a state.[90]

Respecto a la fuente del poder para extender la referida ley a Puerto Rico la corte manifestó, sin referencia a la sección 9:

> Although this court said in *Buscaglia v. Ballester*, 162 F.2d 805, *cert. denied*, 332 U.S. 816 (1947) that the Interstate Commerce Clause does not apply to Puerto Rico, we have no occasion here to reconsider that opinion in the light of intervening events. Under either that clause, or the Territorial Clause . . . it is clear that Congress has the power to apply the Occupational Safety and Health Act to Puerto Rico.[91]

En *García v. Friesecke*,[92] por último, la Corte de Apelaciones regresó al tema de la inaplicabilidad de la *Longshoremen's and Harbor Workers Compensation Act* y reiteró la regla de *Guerrido* y otras decisiones antes examinadas. Ante al argumento que la mencionada ley federal debía aplicarse, por referirse a los territorios, explicó el tribunal:

> Analysis is not as simplistic as plaintiffs would have it. The term "territory" does not have a fixed and technical meaning accorded to it in all circumstances, and thus Puerto Rico may be found to be included within one act whose coverage extends to territories of the United States and excluded from another . . . .[93]

La corte federal de distrito resolvió también algunos casos de interés, especialmente *United States v. Pérez*.[94] El asunto que debía decidirse era si legislación federal contraria a la Constitución de Puerto Rico tiene primacía sobre ésta. La ley federal envuelta, la *Omnibus Crime Control Act*, la cual se había hecho aplicable expresamente a Puerto Rico, permitía la interceptación de las comunicaciones telefónicas, la cual está prohibida por la sección 10 del artículo II de la Constitución de Puerto Rico. La corte resolvió, en los términos siguientes, que las leyes federales tienen

---

[90] *Id.* a la pág. 1068, n.10.

[91] *Id.* a la pág. 1068, n.11 (citas omitidas). *Véase* Trailer Marine Transport Corp. v. Rivera Vázquez, 977 F.2d 1 (1st Cir. 1922) (discutiendo a la aplicabilidad a Puerto Rico de la cláusula de comercio).

[92] 597 F.2d 284 (1st Cir. 1979).

[93] *Id.* a la pág. 293 (citando Americana of Puerto Rico, Inc. v. Kaplus, 368 F.2d 431 (3d Cir. 1966), *cert. denied*, 386 U.S. 943 (1967).

[94] 465 F. Supp. 1284 (D.P.R. 1979) (Toledo).

rango superior a la Constitución de Puerto Rico:

> [T]he Congressional intent behind approving this Constitution, was that the same would operate to organize a *local* government, and that its adoption would in no way alter the applicability of United States laws and Federal jurisdiction in Puerto Rico . . . .[95]
>
> Secondly, even when Congress approved the Constitution of the Commonwealth of Puerto Rico "in the nature of a compact" . . . it was simultaneously provided that the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States.
>
> It is from the last Section partially quoted above, that the courts have consistently held that the Congress of the United States has the power in matters "not locally inapplicable" to extend its provisions to the Commonwealth of Puerto Rico. See, e.g., *Moreno Ríos* . . . .[96]
>
> From the above, it follows that Article II, Section 10 of the Constitution of the Commonwealth of Puerto Rico is the supreme law in Puerto Rico and in the courts of Puerto Rico. However, said provision cannot provide conditions on which Congress will effectuate its policies as to matters well within its province . . . .[97]

V. Los Años Ochenta y Siguientes

En 1980 el Tribunal Supremo de Estados Unidos decidió a *Harris v. Rosario*,[98] uno de los casos más discutidos y menos entendidos en la polémica sobre el estatus. La controversia planteada versaba sobre la facultad constitucional del Congreso para concederle a Puerto Rico menos ayuda que la otorgada a los estados para familias con niños dependientes. En decisión sumaria, citando a *Califano v. Torres*, el tribunal expresó simplemente al rechazar el argumento de inconstitucionalidad:

> Congress, which is empowered under the Territory Clause of the Constitution . . . to "make all needful Rules and Regulations respecting the Territory . . . belonging to the United States," may

---

[95] *Id.* a la pág. 1285 (citas omitidas). *Véase* United States v. Quiñones, 758 F.2d 40 (1st Cir. 1985).

[96] 465 F. Supp. a la pág. 1285 (citas omitidas).

[97] *Id.* a la pág. 1286.

[98] 446 U.S. 651 (1980) (Per Curiam).

> treat Puerto Rico differently from States so long as there is a rational basis for its actions. In *Califano v. Torres* . . . .[99]

Desde entonces, tanto opositores del Estado Libre Asociado como algunos de sus favorecedores, citan a *Harris* como prueba irrefutable de que Puerto Rico está sujeto al poder plenario del Congreso bajo la cláusula territorial, por lo que Puerto Rico continúa siendo una colonia de Estados Unidos. Varios aspectos de las relaciones entre Estados Unidos y Puerto Rico tienen todavía indudable carácter colonial, pero es por otras razones discutidas en otros de mis escritos. Adviértase que la cláusula territorial puede y debe examinarse desde dos vertientes distintas: como fuente del poder del Congreso para adoptar determinada medida que afecte a entidades vinculadas de algún modo a Estados Unidos, independientemente del grado de gobierno propio o soberanía que hayan alcanzado, y como indicio del estatus de tales entidades y la facultad del Congreso de legislar para ellas prácticamente a su antojo. La cita de la cláusula territorial como base para la aprobación de tal o cual ley para Puerto Rico en circunstancias como la de *Harris*, en que el Congreso puede limitar constitucionalmente la naturaleza de un programa de ayudas para el caso de los estados, tratados conjuntamente, no significa necesariamente que el Congreso continúa poseyendo la facultad de legislar plenariamente para Puerto Rico. Lo que quiere decir es que el Congreso puede legislar de modo *diferente* para Puerto Rico. Después de todo, en el historial del Estado Libre Asociado nunca se ha reclamado que Puerto Rico tiene derecho a ser considerado como un estado para fines de ese género de programas. Lo que se ha sostenido, por el contrario, es la naturaleza singular de ese estatus y la posibilidad de trato distinto aun en los programas de beneficio directo a los ciudadanos por el hecho de que los residentes de Puerto Rico están exentos del pago de contribuciones sobre ingresos. La corte en *Harris* no supo asentar su decisión sobre bases más finas y utilizó un lenguaje imprudentemente amplio. El tribunal no tenía ante sí el problema de si el Congreso conserva o no su poder plenario sobre Puerto Rico. Su insuficiente familiaridad con los refinamientos del debate sobre el estatus provocó a todas luces la utilización de lenguaje y razonamientos teñidos de descuido.

En *First Federal Savings and Loan Association of Puerto Rico v. Ruiz de Jesús*,[100] el asunto a resolver era si continuaba aplicándose a Puerto Rico un estatuto que clasificaba como asunto federal aquellos que envolviesen una corporación organizada bajo las leyes de Estados Unidos y tratasen de transacciones bancarias en una "dependencia o posesión insular de los Estados Unidos". El tribunal resolvió que sí, expresando:

---

[99] *Id.* en las págs. 651-52 (citas omitidas).
[100] 644 F.2d 910 (1st Cir. 1981).

> Puerto Rico's territorial status ended, of course, in 1952. Thereafter it has been a Commonwealth with a particular status as framed in the Puerto Rican Federal Relations Act . . . . However, nothing in this legislation expressly or by necessary implication removed Puerto Rico from the reach of section 632. While Puerto Rico's new status rendered the words "dependency or insular possession" somewhat obsolete as to it, the language was nonetheless still sufficient, given the historical context, to encompass the reorganized Commonwealth . . . .[101]

Este es otro de los muchos casos que ilustran la necesidad de separar el problema de lo que es el pueblo de Puerto Rico en términos políticos de la simple referencia en una ley federal a "estados" o "territorios", asunto que no cesa de crear confusión, atizada por la forma inexperta en que muchos tribunales analizan la cuestión.

Poco después se escribió una de las opiniones más lúcidas sobre el tema de la aplicabilidad de una ley federal a Puerto Rico. En *Córdova v. Chase Manhattan Bank*,[102] una de las cuestiones que debía decidirse era si Puerto Rico continuaba sujeto a las disposiciones de la sección 3 de la Ley Sherman contra los monopolios, en vez de la sección 1. Como se recordará, esta última se aplica a acuerdos "in restraint of trade or commerce among the several States," mientras que la primera se extiende a contratos "in restraint of trade or commerce in any territory of the United States". El tribunal planteó de la manera siguiente la interrogante central del caso:

> The first, and most important, question that this case presents is whether section 3 of the Sherman Act applies to Puerto Rico. If so, no effect on interstate commerce need be shown, for section 3 governs restraints of trade within "any territory." The Supreme Court, in 1937, specifically held that section 3 applied to Puerto Rico. But, in 1951 Congress passed the Puerto Rican Federal Relations Act (citas omitidas) pursuant to which Puerto Rico adopted its own Constitution. Does the coming into effect of the FRA and this Constitution mean that certain federal acts, such as the Sherman Act, which apply within territories but not within states, can no longer be given greater effect as applied to Puerto Rico than as applied to states of the Union?[103]

En *Caribtow*, discutido antes, la corte había dejado sin resolver, a pesar de su decisión anterior en *Moreno Ríos*, la cuestión de si el Congreso po-

---

[101] *Id.* a la pág. 911 (citas omitidas).
[102] 649 F.2d 36 (1st Cir. 1981) (Breyer).
[103] *Id.* a la pág. 38 (citas omitidas).

see el poder, después del establecimiento del Estado Libre Asociado, para legislar municipalmente para Puerto Rico, en forma no permisible en el caso de los estados.[104] En *Córdova*, el tribunal se enfrentó directamente a este planteamiento. Señaló la corte, por voz del Juez Breyer:

> The FRA and the Puerto Rico Constitution were intended to work a significant change in the relation between Puerto Rico and the rest of the United States . . . . In the Supreme Court's view, the effect of these acts [el juez ponente se refiere a las leyes Foraker y Jones, las que había descrito antes] was to give Puerto Rico a legislative autonomy similar to that of the states in local matters . . . . Yet, Congress retained major elements of sovereignty. In cases of conflict, Congressional statute, not Puerto Rico law, would apply no matter how local the subject; and Congress insisted that acts of Puerto Rico legislature be reported to it, retaining the power to disapprove them. Those federal acts applying to territories by and large applied to Puerto Rico. Thus, prior to 1950, Puerto Rico's legal status was closer to that of a "territory" than of a "state."[105]
>
> The FRA was intended to end this subordinate status . . . .
>
> The theme that consistently runs throughout the legislative history of Puerto Rico's attainment of Commonwealth status is that Commonwealth represents the fulfillment of a process of increasing self-government over local affairs by the people of Puerto Rico . . . .[106]
>
> In sum, 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 . . . . As the Supreme Court has written, "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 a State of the Union . . . ."[107]

El tribunal concluyó señalando dos bases adicionales para su decisión. Al efecto indicó que la Ley de Relaciones Federales derogó toda ley inconsistente con sus términos y que podría argumentarse que el artículo 3 de la Ley Sherman estaba reñido con dicha ley. En segundo lugar men-

---

[104] 493 F.2d a la pág. 1068, n.10.
[105] 649 F.2d a la pág. 39 (citas omitidas).
[106] *Id.* a la pág. 40.
[107] *Id.* a la pág. 41 (citas omitidas).

cionó que también podría plantearse que el referido artículo había cesado de ser localmente aplicable. Comentó el tribunal:

> Given our holding, we do not believe it necessary to explore these theories in detail, or to choose among them, for the same functional considerations underlie the application of these latter two theories as underlie the first, namely, a significant change in the degree of autonomy exercised by Puerto Rico over local affairs and the lack of any strong reason why the Sherman Act should apply to purely local matters in Puerto Rico but not to the states.[108]

En el curso de los años ochenta el Tribunal Supremo de Estados Unidos resolvió varios otros casos relacionados con Puerto Rico. Algunos no envuelven asuntos referentes al estatus, otros tocan el tema incidentalmente y otros reiteran principios ya establecidos o evaden planteamientos al respecto. En *Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel., Barez*[109] Puerto Rico reclamó que se había discriminado contra trabajadores puertorriqueños al favorecer a obreros extranjeros en violación de determinadas leyes federales. La cuestión a resolver era si Puerto Rico poseía legitimación activa para instar la causa. Desde comienzos de siglo la doctrina establecida era que una acción *parens patriae* de este género tenía que basarse en un interés cuasisoberano. El tribunal simplemente decidió, sin entrar en consideraciones de estatus, que "Puerto Rico does have *parens patriae* standing to pursue the interests of its residents in the Commonwealth's full and equal participation in the federal employment service scheme . . . ."[110]

En *Rodriguez v. Popular Democratic Party*,[111] la cuestión a resolver era si la Asamblea Legislativa de Puerto Rico gozaba de poder para autorizar a un partido político a cubrir una vacante temporera en dicho cuerpo o si la Constitución de Estados Unidos exigía que se utilizase el procedimiento de elección. La corte resolvió que "[n]o provision of the Federal Constitution expressly mandates the procedures that a state or the Commonwealth of Puerto Rico must follow in filling vacancies in its own legislature"[112] y rehusó establecer distinción alguna entre Puerto Rico y los estados a tal respecto. El tribunal expresó:

> [It is] clear that the voting rights of Puerto Rico citizens are constitutionally protected to the same extent as those of all other citi-

---

[108] *Id.* a la pág. 44.
[109] 458 U.S. 592 (1982).
[110] *Id.* a la pág. 609.
[111] 457 U.S. 1 (1982) (Burguer). Poco después de argumentar este caso a favor de Puerto Rico falleció Abe Fortas.
[112] *Id.* a la pág. 8.

zens of the United States.

> At the same time, Puerto Rico, like a state, is an autonomous political entity, "sovereign over matters not ruled by the Constitution." . . . . The methods by which the people of Puerto Rico and their representatives have chosen to structure the Commonwealth's electoral system are entitled to substantial deference. Moreover, we should accord weight to the Puerto Rico Supreme Court's assessment of the justification and need for particular provisions to fill vacancies caused by the death, resignation, or removal of a member of the legislature . . . .[113]

En *Posadas de Puerto Rico Assoc. v. Tourism Co.*[114] se impugnó por alegada violación a la Enmienda Primera una ley de Puerto Rico que restringía el anuncio de casinos de juego. El tribunal reiteró el principio de que Puerto Rico es soberano sobre asuntos no gobernados por la Constitución de Estados Unidos y sostuvo la constitucionalidad de la legislación. Añadió la corte:

> A rigid rule of deference to interpretations of Puerto Rico law by Puerto Rico courts is particularly appropriate given the unique cultural and legal history of Puerto Rico. . . . ("This Court has stated many times the deference due to the understanding of the local courts upon matters of purely local concern . . . . This is especially true in dealing with the decisions of a Court inheriting and brought up in a different system from that which prevails here.")[115]

La repetición en este contexto, ya establecido el Estado Libre Asociado, de la antigua frase de Holmes es sumamente curiosa. La frase se produjo en tiempos en que el Tribunal Supremo de Estados Unidos poseía la facultad de interpretar finalmente las leyes de Puerto Rico y en que tal poder comenzaba a sujetarse, por autolimitación del tribunal, a la doctrina del error manifiesto. Después de 1952, sin embargo, si es que algo significó el proceso de establecer la nueva entidad política, se supone que el Tribunal Supremo de Estados Unidos carece en absoluto de poder, como sucede en el caso de la legislación estatal, para interpretar en forma definitiva las leyes de Puerto Rico. El Tribunal Supremo de Puerto Rico es supuestamente el intérprete final, al igual que las cortes de última instancia de los estados, de las leyes dentro de la jurisdicción en que opera. ¿Qué quiso decir el Tribunal Supremo de Estados Unidos en *Posadas* al hablar, al uso colonial antiguo, de simple "deferencia" a la interpretación

---

[113] *Id.* (citas omitidas).

[114] 478 U.S. 328 (1986) (Rehnquist).

[115] *Id.* a la pág. 339 n.6 (citas omitidas).

por las cortes de Puerto Rico de las leyes locales? A la luz de tantas otras de sus decisiones respecto al Puerto Rico de los años siguientes a 1952, como hemos visto, nada indica que el Tribunal Supremo de Estados Unidos quisiese hacer constar que es a él que le corresponde todavía determinar el significado de una ley puertorriqueña. Tal parece más bien que se está ante otro ejemplo de empleo descuidado de palabras y principios de otra época.

Puerto Rico v. Branstad[116] trató sobre la aplicabilidad a Puerto Rico de la cláusula de extradición de la Constitución de Estados Unidos[117] o de la ley federal de extradición.[118] Tras un altercado con una pareja, un empleado federal la agredió y luego mató a la esposa encinta pasando su automóvil dos o tres veces sobre el cuerpo postrado. Acusado de asesinato en primer grado y de tentativa de asesinato contra el esposo, el reo huyó a Iowa, donde se entregó a las autoridades y fue puesto en libertad mediante la prestación de una fianza de $20,000. En 1981 el Gobernador de Puerto Rico solicitó su extradición y el Gobernador de Iowa se negó por entender que la acusación no era "realista". Una corte federal de Iowa, a la que había acudido el Gobernador de Puerto Rico, denegó la solicitud de extradición sobre la base de *Commonwealth of Ky. v. Dennison, Governor*[119] y la corte de apelaciones confirmó. En *Commonwealth of Ky. v. Dennison, Governor*, que trataba de la extradición de un esclavo, el tribunal había resuelto que la cláusula de extradición ordena la entrega de fugitivos, previa solicitud adecuada, pero que las cortes federales carecen de autoridad para compeler el descargo por un estado de tal deber ministerial. Tras derogar a *Kentucky*, el tribunal se enfrentó al argumento que, aunque *Kentucky* hubiese perdido vigencia, la clásula de extradición no se aplicaba a Puerto Rico por no ser éste un estado. Si bien este planteamiento era novel, la Ley de Extradición, a distinción de la cláusula, se había aplicado siempre a Puerto Rico antes del establecimiento del Estado Libre Asociado. El tribunal señaló:

> Respondents further contend that even if the holding of *Kentucky v. Dennison* cannot withstand contemporary scrutiny, petitioner would not profit because Puerto Rico is not a State, and has no right to demand rendition of fugitives under the Extradi-

---

[116] 483 U.S. 219 (1987) (Marshall).

[117] "A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime." CONST. DE E.E.U.U., Art. IV., § 2, cl. 2.

[118] 18 U.S.C.A. § 3182. Esta Ley de Extradición de 1793, requiere la entrega por la autoridad ejecutiva de cualquier estado o territorio de cualquier fugitivo de la justicia acusado de traición, delito grave o cualquier otro crimen, a solicitud de la autoridad ejecutiva de otro estado o territorio.

[119] 24 How. 66 (1861).

> tion Clause. It is true that the words of the Clause apply only to "States," and we have never held that the Commonwealth of Puerto Rico is entitled to all the benefits conferred upon the States under the Constitution. We need not decide today what applicability the Extradition Clause may have to the Commonwealth of Puerto Rico, however, for the Extradition Act clearly applies. The Act requires the rendition of fugitives at the request of a demanding "Territory", as well as State. It was decided long ago that Puerto Rico, as Territory of the United States, could invoke the Act to reclaim fugitives from its justice . . . . The subsequent change to Commonwealth status . . . did not remove from the Government of the Commonwealth any power to demand extradition which it had possessed as a Territory, for the intention of that legislation was "to accord to Puerto Rico the degree of autonomy and independence normally associated with States of the Union."[120]

El último caso resuelto en los años ochenta por el Tribunal Supremo de los Estados Unidos fue *P.R. Consumer Affairs Dep't. v. Isla Petroleum*[121] y es parte de la larga serie en que se asimila la situación puertorriqueña a la de un estado en ciertos respectos. La cuestión a resolver era el desplazamiento o no por la legislación federal sobre la distribución y precio de los productos del petróleo de la reglamentación puertorriqueña sobre el asunto. El tribunal resolvió:

> Although Puerto Rico has a unique status in our federal system . . . the parties have assumed, and we agree, that the test for federal pre-emption of the law of Puerto Rico at issue here is the same as the test under the Supremacy Clause . . . . Our Supremacy Clause cases typically involve analysis of the scope of preemptive intent underlying statutory provisions that impose federal regulation . . . .[122]

A la luz del análisis familiar en el caso de los estados, el tribunal decidió que no medió desplazamiento de la legislación local.

Las disposiciones de las antiguas leyes orgánicas retenidas en la Ley de Relaciones Federales fueron objeto a veces de interpretación restrictiva, especialmente en aras de promover una integración económica mayor. En *Com. of Puerto Rico v. Blumenthal*[123] Puerto Rico y las Islas Vírgenes solicitaron la devolución de una contribución de cuatro centavos por galón impuesta sobre la venta inicial de gasolina en los Estados Unidos por

---

[120] 483 U.S. a las págs. 229-30 (citas omitidas).
[121] 485 U.S. 495 (1988).
[122] *Id.* a las págs. 499-500 (citas omitidas).
[123] 642 F.2d 622 (2d Cir. 1980).

un productor o importador. Ambas islas apoyaron su solicitud sobre las disposiciones de sus cartas orgánicas relativas a la devolución a sus tesoros de las contribuciones de rentas internas impuestas en Estados Unidos sobre artículos producidos en las islas y transportados a Estados Unidos. Tras un recuento del historial legislativo de las leyes Foraker y Jones, el tribunal concluyó que la devolución no procedía. Expresó la corte:

> The District Court [para el Distrito de Columbia] argued that Congress, recognizing Puerto Rico's precarious economic situation, intended the cover over provision to be broad. The court cited language in the legislative history of the Jones Act wherein the Senate Committe on Pacific Islands and Porto Rico ascribed a broad charitable purpose to the cover over provision and noted that the provision should be "all inclusive." . . . .
>
> The United States argues from the same language that Congress intended the cover over provision to apply to all equalization taxes, but to no other taxes. We find the United States argument the more convincing . . . .[124]
>
> [T]he Jones Act cover over provision cannot be viewed in a vacuum. The thrust of the Jones Act was not simply charity toward Puerto Rico; the Act was intended primarily to integrate Puerto Rico in the United States federation to give its citizens the benefits of United States citizenship.[125]

En *United States v. Quiñones*,[126] la Corte de Apelaciones para el Primer Circuito se enfrentó al problema discutido por la corte federal de distrito de Puerto Rico en *United States v. Pérez*[127] respecto al choque entre una ley federal y la Constitución de Puerto Rico. La Corte de Apelaciones resolvió, al igual que la Corte de Distrito en *Pérez*, que la interceptación telefónica es permisible bajo la legislación federal, a pesar de prohibírsele por la Constitución de Puerto Rico. Al efecto se dijo:

> Thus, in 1952, Puerto Rico ceased being a territory of the United States subject to the plenary powers of Congress as provided in the Federal Constitution. The authority exercised by 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 Rican Constitution unilaterally, and the government of Puerto Rico is no longer a federal government agency exercising delegated power. See *Mora*

---

[124] *Id.* a las págs. 629-30 (citas omitidas).
[125] *Id.* a la pág. 633.
[126] 758 F.2d 40 (1st Cir. 1985).
[127] 465 F. Supp. 1284 (D.P.R. 1979).

v. Mejías, 206 F.2d 377, 386-388 (1st Cir.1953).[128]

En esta forma *Quiñones* reiteró lo expresado con gran fuerza también en *Córdova & Simonpietri Ins. v. Chase Manhattan Bank*.[129] Más adelante dijo el tribunal:

> Under its Commonwealth status, "Puerto Rico, like a state, is an autonomous political entity, sovereign over matters not ruled not ruled by the Constitution." While the creation of the Commonwealth granted Puerto Rico authority over its own local affairs, Congress maintains similar powers over Puerto Rico as it possesses over the federal states. *See Hodgson*, 371 F. Supp. at 60-61. The congressional intent behind the approval of the Puerto Rico Constitution was that the Constitution would operate to organize a local government and its adoption would in no way alter the applicability of United States laws and federal jurisdiction in Puerto Rico . . . . When Congress approved the Constitution of Puerto Rico it was simultaneously enacted: "The statutory laws of the Unitd States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States . . . ."[130]

En un caso civil, *Camacho v. Autoridad de Teléfonos de Puerto Rico*,[131] se llegó a la misma conclusión que en Quiñones.

Años más tarde continuó la tendencia a asimilar a Puerto Rico a la condición de estado, con determinadas excepciones. En *Trailer Marine Transport Corp. v. Rivera Vázquez*,[132] la corte se enfrentó nuevamente al problema de la aplicabilidad o no de la cláusula de comercio a Puerto Rico.[133] Tras repasar diversos momentos del desarrollo constitucional de Puerto Rico, apuntar que en muchos respectos se parece a un estado, pero en otros no, siéndole posible al Congreso tratar a Puerto Rico en forma diferente, siempre que exista base racional para ello, citando a *Harris v. Rosario*, la corte concluyó:

> Against this background, we conclude that Puerto Rico is subject to the constraints of the dormant Commerce Clause doctrine in

---

[128] 758 F.2d a la pág. 42.

[129] 649 F.2d 36, 39-40 (1st Cir. 1981). Se discutió este caso antes en este capitulo.

[130] 758 F.2d a la pág. 43 (citas omitidas).

[131] 868 F.2d 482 (1st Cir. 1989).

[132] 977 F.2d 1 (1st Cir. 1992).

[133] En Buscaglia v. Ballester, 162 F.2d 805 (1st Cir. 1947), la Corte de Apelaciones había resuelto que la cláusula de comercio no se aplicaba a Puerto Rico, revocando la decisión del Tribunal Supremo de Puerto Rico en Ballester Hnos. v. Tribunal de Contribuciones, 66 D.P.R. 560 (1946).

the same fashion as the states . . . .[134]

> The central rationale of this dormant Commerce Clause doctrine, as the Supreme Court has explained, is the dominant purpose of the Commerce Clause to foster economic integration and prevent local interference with the flow of the nation's commerce . . . . This rationale applies with equal force to official actions of Puerto Rico. Full economic integration is as important to Puerto Rico as to any state of the Union. In a different context, the Supreme Court has flatly rejected the notion that Puerto Rico may erect an "intermediate boundary" separating it from the rest of the country. . . . There is no reason to believe that Congress intended to authorize Puerto Rico to restrict or discriminate against cross-border trade and ample reason to believe otherwise . . . .[135]

En *United States v. López Andino*,[136] se inició una serie que habría de provocar una mortal disputa entre circuitos. La cuestión a resolver era si Puerto Rico goza de soberanía comparable a la que disfrutan los estados para fines de la cláusula contra la doble exposición de la Constitución de los Estados Unidos. En *López Andino* el Tribunal de Apelaciones para el Primer Circuito resolvió la cuestión en la afirmativa, aunque respecto a los territorios la doctrina es clara al efecto que, por ser criaturas del gobierno federal, la cláusula impide que se enjuice a una persona por el mismo delito en una corte federal y otra territorial.[137] Expresó el Tribunal:

> It is well settled that when states enact and enforce their own criminal laws, they are acting pursuant to their own sovereign power, not that of the national government . . . . Puerto Rico's status is not that of a state in the federal union, but, its criminal laws, like those of a state, emanate from a different source than the federal laws.
>
> Although the legal relationship between Puerto Rico and the United States is far from clear and fraught with controversy, it is established that Puerto Rico is to be treated as a state for purposes of the double jeopardy clause . . . . The purpose of the Federal Relations Act "was to accord Puerto Rico the degree of auto-

---

[134] 977 F.2d a la pág. 7.

[135] *Id.* a la pág. 8 (citas omitidas).

[136] 831 F.2d 1164 (1st Cir. 1987), *cert. denied*, 486 U.S. 1034 (1988). La posición de la corte en este caso se había anticipado en United States v. Benmuhar, 658 F.2d 14, 18 (1st Cir. 1981), *cert. denied*, 457 U.S. 1117 (1982).

[137] Grafton v. United States, 206 U.S. 333 (1907).

> nomy and independence normally associated with States of the Union." . . . . "Puerto Rico, like a state, is an autonomous political entity . . . ."[138]

El juez Torruella disintió vigorosamente de la decisión de la mayoría, atacando también a *Mora v. Mejías* y otras decisiones del Tribunal en materia de estatus. Expresó el juez:

> The majority, unnecessarily to my view, has decided that no double jeopardy exists in this case because Puerto Rico is a "dual sovereign" with the United States for double jeopardy purposes. Such a conclusion is incorrect because Puerto Rico is constitutionally a territory, thus lacking separate sovereignty which would allow consecutive Puerto Rico/federal prosecutions for what otherwise would be the same offenses . . . .
>
> Not the least of the majority's errors stem from the fact that it overlooks that the Puerto Rican Federal Relations Act . . . is merely an act of Congress. It is not a treaty, and certainly not a part of the Constitution. Thus, under well-established constitutional precedent, as an act of Congress it does not bind future Congresses . . . . ("To be sure, Congress is generally free to change its mind; in amending legislation Congress is not bound by the intent of an earlier body. But it is bound by the Constitution.") Like any other act of Congress it may be repealed, modified or amended at the unilateral will of future Congresses. Thus, as will be further discussed *post, the ultimate source of power in Puerto Rico.* Even after the enactment of P.L. 600, is Congress, a situation that deprives Puerto Rico of the rudiments of sovereignty basic to the application of the "dual sovereignty" rule.[139]

Más adelante, el juez Torruella acudió al historial de la Ley 600, señalando que, a su juicio, no había evidencia de efectuar cambio alguno en el estatus territorial de Puerto Rico. Sostuvo el juez disidente, además, que *Mora v. Mejías* quedó sin efecto por las decisiones del Tribunal Supremo en *Califano v. Torres* y *Harris v. Rosario*, discutidos antes en este capítulo. Torruella descartó también las expresiones en *Quiñones* como simple *dicta*.

Seis años más tarde, el Tribunal de Apelaciones para el Undécimo Circuito llegó una conclusión contraria a la de la mayoría en *López Andino*.[140] Señaló el tribunal:

---

[138] 831 F.2d a la pág. 1168 (citas omitidas).
[139] *Id.* a las págs. 1172-73 (citas omitidas).
[140] United States v. Sánchez, 992 F.2d 1143, 1151 (11th Cir. 1993), *cert. denied* 114 S.Ct.

> The First Circuit has concluded that passage of the Federal Relations Act and creation of a Puerto Rican constitution so altered the relationship between Puerto Rico and the Congress that Puerto Rico became sovereign for purposes of the dual sovereignty doctrine. In *United States v. López Andino* . . . the First Circuit relied on Supreme Court dicta stating that "Puerto Rico, like a state, is an autonomous political entity."
>
> We disagree with the conclusion of the First Circuit that Congress' decision to permit self-governance in Puerto Rico makes Puerto Rico a separate sovereign for double jeopardy purposes. We are substantially in accord with Judge Torruella's concurrence in *López Andino* . . . .[141]

La corte expresó más adelante que el caso de Puerto Rico es muy distinto al de las tribus indias, ya que éstas gozan de la soberanía necesaria para la aplicación de la doctrina de la soberanía dual,[142] a distinción de Puerto Rico, que sigue siendo un simple territorio de los Estados Unidos. Indicó el tribunal:

> The development of the Commonwealth of Puerto Rico has not given its judicial tribunals a source of punitive authority which is independent of the United States Congress and derived from an 'inherent sovereignty' of the sort supporting the Supreme Court's decisions involving the states . . . and Native American tribes . . . . Congress may unilaterally repeal the Puerto Rican Constitution or the Puerto Rican Federal Relations Act and replace them with any rules and regulations of its choice . . . .[143]

VI. Observaciones

El examen de la jurisprudencia sobre el estatus revela tendencias de orden muy variado. Aunque hay decisiones aisladas que adoptan las posiciones más extremas sobre el significado de lo ocurrido al crearse el Estado Libre Asociado, las de mayor peso se mantienen dentro de una banda central de relativo ancho que les niega entera razón tanto a los argumentos más ambiciosos de los estadistas y los independentistas como a los de los estadolibristas, aunque acoge elementos importantes, enumerados luego, de la tesis de estos últimos. Los favorecedores de la independencia y de la estadidad sostienen que el proceso constitucional de 1950-

---

1051 (1994), *modified* 3 F.3d 366 (11th Cir. 1994).

[141] *Id.* a la pág. 1151 (citas omitidas).

[142] *Véase* United States v. Wheeler, 435 U.S. 313 (1978).

[143] United States v. Sánchez, 992 F.2d a las págs. 1152-53 (citas omitidas).

52 no alteró en nada el estatus del país como territorio no incorporado, posición no avalada generalmente por los tribunales más entendidos. Los partidarios del estadolibrismo, como vimos al comienzo de este artículo, estiman que el Estado Libre Asociado se funda en un pacto libremente acordado entre Estados Unidos y Puerto Rico, irrevocable excepto por el mutuo consentimiento de las partes, que abarca la Ley 600 y la Ley de Relaciones Federales y que ha alterado el antiguo vínculo entre las partes al grado que Puerto Rico ha cesado de ser una dependencia de Estados Unidos, sujeta a la cláusula territorial. La totalidad de ese credo no se ha establecido. Las cortes más autorizadas no se han expresado sobre el contenido e irrevocabilidad del alegado pacto, término que algunas de ellas esquivan, pero que otras emplean sin reservas. Algo de gran significación ha sucedido, se nos indica, pero sin precisar por entero sus contornos. Ese algo sostiene la tesis estadolibrista sobre la ocurrencia de un cambio, pero a veces los tribunales les niegan respaldo o ponen en duda o, por lo común, rehúsan pronunciarse sobre algunos de sus aspectos vitales.

En general, las decisiones revelan consenso sobre diversas facetas del estatus presente, pero contradicción, ambivalencia o simple mutismo en lo que toca a otras, especialmente cuando se trata de cortes con poca experiencia en el tema o conocida falta de rigor en el análisis de ciertos problemas claves. Es notable, no obstante, la diferencia entre la concepción del Estado Libre Asociado adoptada por los tribunales y la albergada por las otras ramas del gobierno. En el curso de los muchos intentos que ha habido para superar defectos del Estado Libre Asociado, el Congreso ha observado generalmente una actitud altamente restrictiva y conservadora. Fuera de altisonantes y vacías generalizaciones sobre la libre determinación, al Congreso le ha aterrado usualmente toda propuesta que entrañe disminución significativa de sus antiguos poderes imperiales sobre sus dependencias. Todo intento de mejorar las condiciones del Estado Libre Asociado se ha estrellado contra su inenarrable incompresión e inercia. El papel de la rama ejecutiva no ha sido más airoso. Pasado el momento en que las circunstancias la llevaron a proclamar solemnemente ante las Naciones Unidas la existencia de una asociación libre entre Puerto Rico y Estados Unidos, fundada en la plenitud del gobierno propio y en un pacto irrevocable que la encarnaba, los departamentos ejecutivos norteamericanos, en impresionante ataque amnésico, han suscrito generalmente la tesis que el estatus no ha cambiado y, para mayor agravio, que no necesita alterarse. Los presidentes de Estados Unidos, o suscriben rutinariamente el principio de la libre determinación o cometen el desatino de intervenir en el debate, con absoluto desinterés sobre lo que el pueblo de Puerto Rico desee. La rama judicial posee un récord de mayor sensibilidad, dentro del estrecho marco de sus atribuciones, a los reclamos de la descolonización. En este sentido, valga aclarar, los tribunales han navegado usualmente con considerable destreza y equilibrio en el proceloso mar del debate puertorriqueño sobre el estatus, esquivando tanto la vocinglería de

quienes alegan que nada ha ocurrido, como el griterío de quienes proclaman que al nacer el Estado Libre Asociado desapareció todo vestigio colonial en las relaciones entre Puerto Rico y Estados Unidos.

Parte de las dificultades experimentadas por los tribunales provienen de la propia ambigüedad del proceso constitucional que llevó a la creación del Estado Libre Asociado. Del otro lado, vistos los límites del poder judicial, no es propio esperar que sea éste quien resuelva la totalidad de las interrogantes, tantas de ellas políticas, que ese proceso plantea o quien adelante significativamente la tarea del perfeccionamiento del referido estatus. En este respecto ha habido encomiable prudencia en evitar una dependencia excesiva en el litigio como llave para forzar puertas que sólo al poder político le corresponde abrir. Examinemos en mayor detalle las conclusiones que pueden derivarse del tratamiento por los tribunales del asunto del estatus en las últimas cuatro décadas.

Veamos en primer término la lista de principios que le han merecido endoso al grueso de los tribunales más entendidos en esta materia. Luego consideremos los desenfoques y silencios principales en el tratamiento de varios temas centrales del estatus.

Aunque ha habido casos aislados que cuestionan o chocan con lo que a continuación se expresa, es alto el número de proposiciones donde, en vista de la calidad y prestigio de los foros concernidos, puede afirmarse que existe relativo consenso sobre ellas. Enumeremos las principales.

1. Puerto Rico es "soberano sobre asuntos no gobernados por la Constitución de Estados Unidos."[144] Tal expresión no es aplicable a los territorios de los Estados Unidos, incorporados o no. Más adelante discutiremos lo relativo a la aplicación de la Constitución de Estados Unidos a Puerto Rico. El Comité de Energía del Senado tuvo curiosamente grandes dificultades con esta frase en el intento de 1989-90 de celebrar un plebiscito con el compromiso del Congreso de aceptar sus resultados, sin que fuese posible convencer a su presidente, el senador Johnston, de la procedencia de utilizar dicha terminología en la definición del Estado Libre Asociado. En asuntos relativos a sus territorios y dependencias el Congreso ha desplegado tradicional inatención a lo que sobre el alcance de sus poderes expresen las otras ramas del gobierno. El Congreso insiste en utilizar su propia vara de medir.

2. La relación entre Estados Unidos y Puerto Rico no tiene paralelo en la historia norteamericana.[145] Esta es otra de las diversas frases del Tri-

---

[144] Posadas de Puerto Rico Assoc. v. Tourism Co., 478 U.S. 328 (1986); Alfred L. Snapp & Son, Inc. v. Puerto Rico, 458 U.S. 592 (1982); Rodríguez v. Popular Democratic Party, 457 U.S. 1 (1982); Calero Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663 (1974); Mora v. Mejías, 206 F.2d 377 (1st Cir. 1953).

[145] Examining Board v. Flores de Otero, 426 U.S. 572 (1976).

bunal Supremo de Estados Unidos y de la Corte de Apelaciones de Boston donde se niega implícitamente que Puerto Rico continúe siendo un territorio de Estados Unidos.

3. El propósito de crear el Estado Libre Asociado fue "concederle el grado de autonomía e independencia normalmente asociado con los estados."[146] Esta definición no corresponde por entero con la tesis autonomista que impulsó la fundación del Estado Libre Asociado, la cual propugnaba la singularidad del nuevo estatus y buscaba un grado de gobierno propio no necesariamente limitado al que caracteriza a los estados.

4. "Puerto Rico, al igual que un estado, es una entidad política autónoma."[147] Esta frase, aunque suscrita por el Tribunal Supremo de Estados Unidos, tampoco sería aceptable para el senador Johnston pocos años más tarde. Para él y varios otros congresistas "autonomía" es sinónimo de independencia.

5. "En resumen, el estatus de Puerto Rico ha cambiado de mero territorio al estatus singular de Estado Libre Asociado."[148] Esta decisión es una de la que más enfatiza la singularidad del Estado Libre Asociado.

6. "[L]a Constitución del Estado Libre Asociado no es meramente una ley más del Congreso. No hay razón para imputarle al Congreso la perpetración de fraude tan monumental."[149] El Congreso no puede enmendar la Constitución de Puerto Rico unilateralmente, pero ella está sujeta a la cláusula de supremacía de la Constitución de Estados Unidos.

7. El Estado Libre Asociado de Puerto Rico está sujeto a las disposiciones aplicables de la Constitución de Estados Unidos.[150] Más adelante se discute en detalle este fascinante tema.

8. El Congreso "puede tratar a Puerto Rico en forma diferente a los estados siempre que exista una base racional para sus acciones."[151] Esta frase, emitida en el contexto del derecho del Congreso a negarles paridad a Puerto Rico y sus residentes en la repartición de fondos de ayuda, también será objeto de análisis ulterior. *Harris v Rosario* en especial ha servido indebidamente de base para negar muchas de las proposiciones anteriores, por entenderse como una reafirmación del poder plenario del Congreso sobre Puerto Rico.

---

[146] *Id.*

[147] Rodríguez v. Popular Democratic Party, 457 U.S. 1 (1982).

[148] Córdova & Simonpietri Ins. v. Chase Manhattan Bank, 649 F.2d 36, 41 (1st Cir. 1981).

[149] Figueroa v. People of Puerto Rico, 232 F.2d 615, 620 (1st Cir. 1956).

[150] Flores de Otero v. Examining Board, 426 U.S. 572 (1976); Calero Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663 (1974).

[151] Califano v. Torres, 435 U.S. 1 (1978); Harris v. Rosario, 446 U.S. 651 (1980).

9. Las leyes federales se aplican a Puerto Rico de forma igual que a los estados, excepto en cuanto sean localmente inaplicables o cuando el Congreso desee no extenderlas a la isla. El Congreso no puede legislar municipalmente para Puerto Rico, esto es, en forma que exceda sus poderes constitucionales respecto a los estados.[152]

10. Las leyes federales tienen rango superior a la Constitución de Puerto Rico.[153] También discutiremos este concepto más adelante.

11. "La autoridad ejercida por el gobierno federal emana desde entonces [la fundación del ELA] del propio pacto," pero el Congreso mantiene sobre Puerto Rico poder similar al que posee respecto a los estados.[154]

12. A partir de la Ley Jones se percibe una tendencia a integrar más a Puerto Rico, al menos económicamente, a Estados Unidos, a tratarlo en muchos respectos en igual forma que a los estados, excepto en la distribución de ayudas.[155] Estos casos son corolarios de lo expresado en *Flores de Otero* sobre el propósito del Estado Libre Asociado.

Si bien la mayor parte de lo anterior es indicativo de que ha habido un cambio de considerable importancia en la relación entre Puerto Rico y Estados Unidos aún restan serias interrogantes. La naturaleza, el alcance y aun la existencia de un verdadero pacto, enmendable tan sólo por el consentimiento mutuo, no se han precisado. El Congreso se comporta ciertamente como si no se hubiese acordado convenio de género alguno, ya que ha enmendado diversas disposiciones de la Ley de Relaciones Federales sin parar mientes en la anuencia o rechazo de Puerto Rico a su acción.[156] La base para la aplicación a Puerto Rico de determinadas cláusulas de la Constitución de Estados Unidos no está clara. Tampoco hay precisión sobre la posesión o no por el Congreso de poder plenario sobre Puerto Rico bajo la cláusula territorial. La forma en que las leyes federales aplican a Puerto Rico tampoco se ha aclarado.

La indisposición a determinar cuál de las cláusulas relativas al debido procedimiento de ley aplica a Puerto Rico revela la renuencia del Tribunal Supremo a penetrar a fondo en las aguas hondas del estatus de Puerto Rico, en contraste con la actitud del Tribunal en tiempos de los Casos Insulares. Como hemos visto, el Tribunal simplemente afirma que una de

---

[152] Córdova & Simonpietri Ins. v. Chase Manhattan Bank, 649 F.2d 36 (1st Cir. 1981); Moreno Ríos v. United States, 256 F.2d 68 (1st Cir. 1958).

[153] United States v. Quiñones, 758 F.2d 40 (1st Cir. 1985).

[154] *Id.* a la pág. 42.

[155] Trailer Marine Transport v. Rivera Vázquez, 977 F.2d 1 (1st Cir. 1992); Puerto Rico v. Blumenthal, 642 F.2d 622 (2d Cir. 1980).

[156] *Véase* David M. Helfeld, *How Much of the Federal Constitution is Likely to be Held Applicable to the Commonwealth of Puerto Rico?*, 39 REV. JUR. U.P.R. 169 (1970). El ejemplo principal ha sido hasta ahora la negativa del Congreso a devolverle a Puerto Rico los arbitrios del ron en exceso de $10.50.

las dos cláusulas se aplica, la quinta o la catorce, sin entrar en más explicaciones. A primera vista, la posición del Tribunal aparenta ser prudente. Si expresa que continúa aplicándose la quinta enmienda parecería estar diciendo que la Constitución de Estados Unidos sigue extendiéndose a Puerto Rico tan sólo indirectamente por vía de limitación a los poderes del Congreso, no habiendo Puerto Rico dejado de ser criatura de éste. A menos que se revoquen los Casos Insulares, ninguna cláusula de la Constitución puede aplicarse directamente a Puerto Rico, ya que éste no es parte de Estados Unidos en el sentido doméstico y el Congreso está libre para legislar respecto a los territorios no incorporados, excepto en cuanto la Constitución limite sus facultades. Del otro lado, la decimocuarta enmienda se aplica exclusivamente a los estados. ¿Cómo justificar su aplicación a Puerto Rico?

La disyuntiva que a todas luces causa el silencio de la Ley de Bases sobre este extremo no tiene verdaderamente carácter de tal. El asunto es fundamentalmente sencillo y no hay razón para soslayar el problema. El disfrute por los puertorriqueños de la ciudadanía americana no constituye base adecuada de por sí, como alegan algunos, para explicar el fundamento de la extensión a Puerto Rico de determinada cláusula del debido proceso de ley o de otras disposiciones de la Constitución de Estados Unidos. La extensión a los puertorriqueños de la ciudadanía americana no provocó la conversión de Puerto Rico en territorio incorporado. Tal fue la *ratio decidendi* en *Balzac v. Porto Rico*[157] y no hay razón para pensar que la Ley de Bases tuvo la intención de incorporar a Puerto Rico a los Estados Unidos. Tampoco puede decirse que la Constitución americana se aplica por vía de limitación a los poderes del Congreso respecto a Puerto Rico, ya que éste dejó claramente de ser criatura de aquél. Si algo significó la fundación del Estado Libre Asociado fue la creación de una entidad distinta a la existente bajo las antiguas cartas orgánicas. Sus contornos no son muy precisos, pero las decisiones del Tribunal Supremo y la Corte de Apelaciones de Estados Unidos no dejan duda sobre la naturaleza *diferente* del nuevo cuerpo político. La aplicación de algunas disposiciones de la Constitución de Estados Unidos a Puerto Rico se explica mejor por otro concepto: el pueblo de Puerto Rico simplemente *consintió* a ello. Una de las condiciones impuestas por la Ley 600 o Ley de Bases fue que la Constitución de Puerto Rico se ajustase a sus términos y a "las disposiciones aplicables . . . de la Constitución de los Estados Unidos".[158] El consentimiento del pueblo de Puerto Rico, expresado a través del referéndum aprobatorio de la Ley 600, es claramente la base actual para la aplicación a él de ciertas disposiciones de la Constitución de los Estados Unidos.[159]

---

[157] 258 U.S. 298 (1922).

[158] Ley Pública 600, § 3 (1952).

[159] *Véanse* Mora v. Mejías, 206 F.2d 377 (1st. Cir. 1953) (anticipando parcialmente esta

Lo anterior no basta, sin embargo, para explicar cuál es el criterio determinativo de la extensión a Puerto Rico de tal o cual disposición de la Constitución de los Estados Unidos. ¿A la aplicación de qué disposiciones fue que se consintió? Esa es una de las lagunas de la Ley de Relaciones Federales que en algún momento habrá que llenar. Mientras ello ocurre, si ocurre, los tribunales tienen que suplir una explicación. Antes, en tiempo de los Casos Insulares, se hablaba de la aplicación de las disposiciones "fundamentales", pero la cuestión a resolver entonces era qué cláusulas de la Constitución operaban como limitación a los poderes plenarios del Congreso al legislar para la nueva categoría de territorios a los que la Constitución no alcanzaba. Es obvio que hay que hallar una nueva explicación. Hay varias posibles. Podría decirse que continúan en vigor las mismas disposiciones que antes se consideraban fundamentales, pero que su aplicación se funda ahora en el consentimiento de las partes; o podría teorizarse, como parece hacerse en algunos casos, que la ciudadanía americana ha pasado a ser la clave del acertijo, por estimarse impropio que unos ciudadanos americanos gocen de ciertos derechos y privilegios y otros no; o podría sostenerse que las disposiciones constitucionales a las que se consintió son simplemente aquéllas necesarias a la naturaleza de la relación entre Puerto Rico y Estados Unidos establecida en virtud de la Ley de Bases. Esta última teoría es la que más parece ajustarse a las realidades y dinámica de esa relación, a la par que abarca lo que las otras explicaciones tienen que ofrecer, y permite una explicación más sencilla de la extensión a Puerto Rico de ciertas disposiciones de la Constitución de Estados Unidos. ¿Cómo se justifica, por ejemplo, la aplicación a Puerto Rico de la cláusula de comercio? Hay dificultad para hacerlo bajo la antigua teoría de las disposiciones fundamentales, pues anteriormente no se entendía que dicha cláusula era aplicable de por sí. Tampoco es de ayuda en ese caso la teoría de la ciudadanía americana, pues difícilmente puede decirse que la compartición de la ciudadanía exige la aceptación de la cláusula. La tercera teoría es la que explica con naturalidad la extensión de esta parte de la Constitución federal a Puerto Rico. Entre Puerto Rico y Estados Unidos existe un mercado común y una unión aduanera; es propio que se garantice en la situación presente la libertad de comercio bajo un sistema unitario para tales propósitos.

La teoría de la aceptación por el pueblo de Puerto Rico al fundarse el Estado Libre Asociado de la aplicación de las cláusulas necesarias y convenientes a su asociación con Estados Unidos brinda también una solución sencilla al rompecabezas de cuál es la cláusula de debido procedimiento de ley que rige en Puerto Rico. Se aplica, por consentimiento de las partes, la enmienda decimocuarta. Es más entendible decir que es ésta

---

teoría) y Mora v. Torres, 113 F. Supp. 309 (D.D.P. 1953), donde se anticipa parcialmente esta teoría.

en vez de la quinta pues en gran medida la intención de la Ley de Bases fue colocar a Puerto Rico en situación comparable a los estados en lo que toca los derechos ciudadanos. La enmienda decimocuarta tiene además la ventaja de explicar la extensión a Puerto Rico de otros derechos consagrados en la Carta de Derechos de la Constitución de los Estados Unidos, ya que es el vehículo consagrado para la aplicación a los estados de derechos enumerados en las primeras diez enmiendas. Al negarse innecesariamente los tribunales a precisar cuál de las dos cláusulas de debido procedimiento de ley es la que rige en Puerto Rico, se están de hecho negando el método más adecuado para esclarecer la base de la aplicación a Puerto Rico de las disposiciones de la Carta de Derechos que no choquen con su tradición jurídica y otros intereses. Al hablar los casos de la aplicación de la enmienda cuarta, por ejemplo, no se expresa la razón para su vigencia en Puerto Rico. De abandonarse la renuencia injustificada a escoger entre la quinta y la decimocuarta enmienda la charada se resuelve con facilidad.

La teoría del consentimiento a la aplicación de las disposiciones constitucionales compatibles con el nuevo estatus permite también una visión diferente y más precisa del proceso de extender determinada cláusula de la Constitución de Estados Unidos a Puerto Rico. Hasta ahora tan sólo se concibe que las diversas disposiciones de esa Constitución constituyen bloques macizos e indivisibles. ¿Por qué? ¿Por qué no pensar que, al menos para fines de su aplicación a una comunidad con perfil cultural diferente, que no es parte de los Estados Unidos en el sentido doméstico, puede concebirse que esas disposiciones no son unitarias, sino compuestas, que poseen un núcleo y una periferia o un cuerpo y un aura, y que lo que se extiende es sólo la parte compatible con la naturaleza de la relación entre los pueblos concernidos? Tomemos el caso del debido proceso de ley. ¿Es propio que nociones de debido proceso de ley sustantivo desarrolladas en el contexto de una comunidad altamente industrializada se apliquen a otra con características sociales y económicas muy diferentes? Pienso que tal género de preocupación es lo que llevó a Rehnquist a hablar de que a Puerto Rico quizás no aplique ninguna de las cláusulas del debido proceso de ley. La teoría de la divisibilidad del debido proceso de ley ocupa un lugar intermedio entre la de Rehnquist y la convencional.

El concepto de la indivisibilidad es el que inspira decisiones tan perturbadoras como algunas de las concernientes a la aplicación de la cláusula de supremacía a Puerto Rico. La extensión de tal cláusula a Puerto Rico no significa necesariamente que las leyes de Estados Unidos tengan que pesar más en todo caso que las disposiciones de la propia Constitución de Puerto Rico. Si se pensase en vez que debe poder invocarse tan sólo esa supremacía cuando sea indispensable a la existencia misma de la asociación y cuando hacerlo no genere choque con la zona de gobierno propio regida por la Constitución de Puerto Rico, no se daría el deprimente espectáculo de que pueda interceptarse la comunicación telefónica en Puerto Rico por mandato supuestamente superior del Congreso de Esta-

dos Unidos. En *Figueroa v. People of Puerto Rico*[160] se habló del fraude monumental que representaría considerar que la Constitución de Puerto Rico es una ley del Congreso. ¿Y cómo se debe catalogar la disposición a sostener que esa Constitución es *inferior* a una ley del Congreso, que sus partes pueden ceder ante un simple mandato legislativo federal? Lo que sucede en el fondo es que la niebla en que se desenvolvió el proceso constitucional que produjo el Estado Libre Asociado no ha permitido captar con mayor nitidez el carácter singular que se le quiso impartir a la relación entre Puerto Rico y Estados Unidos. Los tribunales a veces vislumbran algo o mucho de esa particularidad, pero raras veces perciben que la gran diferencia entre la condición de Puerto Rico y la de los estados puede y debe traducirse en diferencias en la aplicación a aquél de la Constitución y las leyes de Estados Unidos. En los esfuerzos de tantos años para acordar un convenio más claro entre Estados Unidos y Puerto Rico el obstáculo mayor ha sido precisamente la dificultad de entender que los poderes de gobierno propio de Puerto Rico pueden ser distintos y en ciertos casos mayores que los que disfrutan los estados. Los moldes constitucionales tradicionales han dificultado históricamente la comprensión por Estados Unidos de las aspiraciones del autonomismo puertorriqueño.

Esa dificultad tradicional se percibe igualmente en expresiones tales como las que ocurren en *Puerto Rico v. Blumenthal*[161] y *Trailer Marine Transport v. Rivera Vázquez*[162] al efecto que a partir de la Ley Jones se observa una tendencia a integrar más a Puerto Rico a Estados Unidos. La expresión puede usarse como simple observación descriptiva, pero es incorrecta su utilización, como ocurrió en las referidas sentencias, para justificar la asimilación de Puerto Rico a la condición de los estados en situaciones en que la singularidad en el trato es al menos igualmente posible y quizás más indicada. Si algo revela la historia del estatus desde la aprobación de la propia Ley Foraker, es la tendencia a tratar a Puerto Rico en forma singular: no se le incorpora a Estados Unidos en el sentido doméstico, teniendo el Tribunal Supremo que crear una nueva clase de territorio para designar los nuevos dominios; se le devuelven los arbitrios y los derechos de aduana que se cobren; se le exime eventualmente de las contribuciones sobre ingresos; se exceptúa su café de la unión aduanera; se le reconoce a Puerto Rico mayor control sobre sus aguas; no se le extiende la Constitución ni la ciudadanía de Estados Unidos; se expresa que las leyes de Estados Unidos no se extenderán a Puerto Rico en caso de considerárseles localmente inaplicables. La concesión de la ciudadanía americana no fue parte de una política integracionista deliberada, aunque hubo mucho intento de desalentar la fuerte corriente nacionalista de la época, sino

---

[160] 232 F.2d 615 (1st Cir. 1956).
[161] 642 F.2d 622 (2nd Cir. 1980).
[162] 977 F.2d 1 (1st Cir. 1992).

parte principal más bien de un movimiento hacia el reconocimiento de mayores derechos, así como lo fueron la concesión de un Senado y eventualmente de un Gobernador electivos y la aceptación del derecho del pueblo de Puerto Rico a formular su propia Constitución. No debe confundirse el efecto asimilador de ciertas medidas con su intención. El sentido creciente de dependencia del pueblo de Puerto Rico en las dádivas que le otorga el gobierno de Estados Unidos es producto de la generosidad de éste y de la debilidad de aquél y no consecuencia de un plan siniestro por parte de Estados Unidos de integrar a Puerto Rico solapadamente en su unión de estados.

La aplicabilidad o no de la cláusula territorial es otro de los temas tratados frecuentemente con superficialidad. En *Harris v. Rosario*[163] el Tribunal Supremo de Estados Unidos se creyó precisado a acudir a la cláusula territorial como único modo aparente de justificar la facultad del Congreso para incluir o no a Puerto Rico en determinado programa de ayuda. El uso de la cláusula territorial para estos fines es, sin embargo, innecesario. Basta con señalar que nada en el historial del establecimiento del Estado Libre Asociado revela compromiso alguno del Congreso de tratar a Puerto Rico como un estado para propósitos de los programas de ayuda que decida establecer. Según el Tribunal ha dicho en otras ocasiones, Puerto Rico ocupa una posición singular *vis à vis* Estados Unidos. Así como el Congreso puede eximir a los residentes de Puerto Rico del pago de contribuciones, también puede disponer una participación distinta, si alguna, en los programas de ayuda. La analogía del estado es adecuada para ciertos fines, pero para otros no. La analogía es particularmente apta para describir la extensión de la casi totalidad de la Carta de Derechos, así como el proceso de dotar a Puerto Rico de poderes de gobierno propio —siempre que se advierta que Puerto Rico, dada su singularidad, puede poseer facultades mayores o diferentes a las de un estado— pero falla si le quiere utilizar para decidir si Puerto Rico tiene derecho a participar en igualdad de condiciones en programas de ayuda a cuyo financiamiento no aporta. La expresión en *Harris* al efecto que el Congreso puede tratar a Puerto Rico en forma diferente que a los estados siempre que exista una base racional para sus acciones no tenía que fundamentarse en la cláusula territorial. Bastaba con señalar que, en lo que toca a los programas de ayuda, el Congreso tenía discreción antes del establecimiento del Estado Libre Asociado para disponer lo que tuviese a bien respecto a la participación de Puerto Rico y que la fundación de éste no entrañó cambio alguno en dicho aspecto de las relaciones entre las partes.

La teoría del consentimento provee aquí también una base más adecuada para explicar la relación resultante entre las partes. El pueblo de

---

[163] 446 U.S. 651 (1980).

Puerto Rico consintió al continuado ejercicio por Estados Unidos de determinados poderes sobre él y a la aplicación consiguiente de ciertas cláusulas de la Constitución de Estados Unidos, pero entre esas cláusulas es impropio incluir la cláusula territorial, al menos en cuanto ello conlleve la retención por el Congreso de poder plenario sobre Puerto Rico, ya que se le estaría negando todo sentido al cambio constitucional que con tanta solemnidad se estaba intentando realizar. ¿Qué significó todo el impresionante aparato de un referéndum dispuesto por el Congreso para precisar si el pueblo de Puerto Rico aceptaba o no la Ley de Bases y otro para determinar si el pueblo aprobaba o no la Constitución redactada por delegados electos por él y sancionada por el Congreso? ¿Fue simple truco, espejismo o fraude monumental la concesión de determinados poderes de gobierno propio al pueblo de Puerto Rico, poderes que el Congreso puede dentro de esa hipótesis anular a su antojo? Parte del problema de analizar serenamente la aplicabilidad o no de la cláusula territorial a Puerto Rico consiste en la politización del asunto. Los independentistas y los estadistas generalmente consideran indispensable a la causa de combatir al Estado Libre Asociado el sostener que todo fue farsa, que en realidad no hubo cambio alguno en la relación entre Puerto Rico y Estados Unidos, que el Congreso retuvo poderes plenarios sobre Puerto Rico, que aunque el Congreso quisiese desprenderse de esas facultades no podría hacerlo constitucionalmente y que en consecuencia Puerto Rico continúa siendo una colonia. Los estadolibristas por su lado usualmente sostienen como artículo de fe que la cláusula territorial cesó en absoluto de ser fuente de poder alguno del Congreso respecto a Puerto Rico y que la relación entre Puerto Rico y Estados Unidos perdió por tanto todo carácter colonial. Ni unos ni otros tienen entera razón. Es posible sostener que la relación actual entre Estados Unidos y Puerto Rico se funda en el consentimiento de las partes sin que ello signifique que el Estado Libre Asociado en su forma presente haya perdido todo rasgo colonial. Puerto Rico aún sigue siendo colonia de Estados Unidos por razón, entre otras, de que el consentimiento que prestó fue de índole excesivamente genérica. No se gana la condición de pueblo autónomo con consentir simplemente a que el Congreso legisle para Puerto Rico del modo que guste, siempre que sea en igual forma que pueda legislar para los estados, o a que el Presidente actúe respecto a Puerto Rico como le plazca, sin necesidad de consultarle, o a que tribunales en cuya integración Puerto Rico no ha participado tengan la última palabra sobre asuntos concernientes a las relaciones entre las partes. Según se ha señalado correctamente por los líderes del independentismo, esto equivale a fin de cuentas a la colonia por consentimiento.

Del otro lado, el Estado Libre Asociado no tiene que jugarse la vida a que la cláusula territorial haya dejado de jugar papel alguno en la justificación de legislación federal relativa a Puerto Rico. El poder del Congreso para legislar respecto a un territorio anexado puede fundarse en distintas

fuentes: el poder inherente a gobernar territorio adquirido por descubrimento, convenio o conquista,[164] la cláusula territorial o el consentimiento del pueblo concernido. Si algún tribunal de Estados Unidos se considera obligado, quizás por fuerza de costumbre o poca familiaridad con las otras fuentes, a valerse de la cláusula territorial para justificar determinada ley federal, ello no significa necesariamente que el Congreso posee poder plenario sobre la comunidad concernida. La cláusula territorial tiene también carácter divisible. El Congreso puede desprenderse de sus poderes plenarios bajo la cláusula y a la vez emplearla como fuente para la justificación de su poder *restante*. En otras palabras, la utilización de la cláusula territorial como justificación para el ejercicio de determinado poder, como en *Harris*, no quiere decir que el Congreso continúe ejerciendo poderes bajo ella de que se haya desprendido. El uso por el Tribunal Supremo de Estados Unidos de lenguaje descuidado sobre la cláusula territorial, como ocurrió en *Harris*, no quiere decir que el Tribunal esté contradiciendo o dejando sin efecto sus expresiones en otros casos sobre la relación singular actualmente existente entre Puerto Rico y Estados Unidos y la soberanía de aquél sobre la zona de gobierno propio que se le ha reconocido.

Aunque es improbable que ello suceda por ahora, no puede descartarse la posibilidad que en algún momento los tribunales resuelvan que no puede discriminarse económicamente entre los ciudadanos de Estados Unidos residentes en los estados y los ciudadanos residentes en otras áreas nacionales o asociadas a la nación norteamericana, aunque tradicionalmente se ha estimado que tal determinación envuelve consideraciones políticas cuya evaluación les corresponde a las otras ramas del gobierno. Contrario a lo que se estima generalmente en Puerto Rico, tal paso no favorecería necesariamente a la estadidad, aunque su logro haya sido antigua aspiración estadista. Un Estado Libre Asociado cuyos habitantes disfruten de derechos económicos iguales a los de otros ciudadanos es concebible, aunque el fomento en el puertorriqueño de un sentido de dependencia aún mayor que el existente en la actualidad debe ser objeto de honda preocupación.

Por último, cabe descartar también el gastado y superficial concepto que un Congreso no puede atar las manos de otro. ¿Por qué? ¿Puede el Congreso deshacer la concesión de independencia a Filipinas? Si el Congreso puede desprenderse de la totalidad de su soberanía sobre un pueblo determinado, ¿qué recóndito principio de derecho le impide abjurar de

---

[164] En Downes v. Bidwell, 182 U.S. 244, 300 (1901) (White, concurriendo), se dijo:

> It may not be doubted that by the general principles of the law of nations every government which is sovereign within its sphere of action possesses as an inherent attribute the power to acquire territory by discovery, by agreement or treaty, and by conquest.

parte de ella? La dificultad de reconocer la potestad del Congreso para celebrar pactos con pueblos antiguamente dependientes es más emocional que jurídica. Se teme por estadoístas e independentistas que la aceptación de la existencia de tal poder legitime el Estado Libre Asociado, aunque el reconocimento de la facultad del Congreso a acordar pactos no significa necesariamente que se haya realizado uno con Puerto Rico o, de haberse convenido, cuál es su contenido exacto. Tal reconocimiento es de carácter neutro. Se le puede admitir sin que conlleve menoscabo alguno de los valores de la independencia o la estadidad frente al Estado Libre Asociado. Los puertorriqueños padecemos del defecto de inclinarnos a juridicizar los problemas con el fin de cerrarles caminos a las soluciones que no nos agraden. Hilvanamos las teorías más insólitas para moldear la realidad a nuestro gusto o al menos ocultar su cara oscura. Recordemos algunos ejemplos históricos de nuestra fecunda inventiva: la contención que el Tratado de París era nulo *ab initio*, por lo cual Estados Unidos carecía de poder para despojar a Puerto Rico sin su consentimiento de los poderes de gobierno propio adquiridos bajo la Carta Autonómica; la alegación que la naturalización en 1917 de los puertorriqueños hizo imposible favorecer la independencia sin cometer el delito de traición; la teoría que ese mismo acto de extenderles la ciudadanía americana a los puertorriqueños convirtió a Puerto Rico en territorio incorporado de Estados Unidos; y, dentro de esa misma curiosa corriente, el reclamo que la asociación a Estados Unidos por medio de un pacto irrevocable excepto por mutuo consentimiento es jurídicamente imposible. ¿Será mucho pedir que algún día podamos ser independentistas, estadoístas o autonomistas sin sentirnos precisados a vejar, disminuir o declarar jurídicamente irrealizables las convicciones de otros? O aún más lejos quizás en nuestro camino, ¿hasta cuándo tendrá que vivir este pueblo bajo la tortura de este agotador y denigrante debate sobre el estatus, que le dificulta el camino, le desfigura el Derecho y aun le trastueca la manera de pensar?

EXHIBIT II

Press Release

Department of Public Information · Press Section · New York

Special Committee on
decolonization
1345th Meeting (PM)

GA/COL/2661
16 August 1988

ORIGINAL: FRENCH

DECOLONIZATION COMMITTEE REAFFIRMS PUERTO RICAN PEOPLE'S RIGHT TO SELF-DETERMINATION

Concludes Work of Session

The Special Committee on decolonization this afternoon concluded the work of its 1988 session with the adoption of a resolution reaffirming the inalienable right of the people of Puerto Rico to self-determination and independence.

The resolution, sponsored by Cuba, was adopted following a show-of-hands vote of 9 in favour to 2 against, with 11 abstentions. The Committee thereby reaffirmed the Puerto Rican people's right to self-determination and independence, in conformity with the General Assembly's 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples, and decided to keep the question of Puerto Rico under continuing review.

The representatives of Chile, Norway, Venezuela and Côte d'Ivoire gave explanations of vote before the vote. Statements were made by the representatives of Cuba, Afghanistan, Czechoslovakia, Syria, Soviet Union, Panama, Nicaragua, Peru, Zimbabwe and observers from the South West Africa People's Organization (SWAPO) and African National Congress of South Africa (ANC).

The Committee also approved the report of its Working Group (document A/AC.109/L.1679), which recommends that the Committee consider accepting invitations to meet away from Headquarters in 1989, subject to the availability of the requisite conference services and facilities.

In addition, the Working Group recommended that at its next session, the Committee continue consideration of the question of the list of Territories to which the Declaration on decolonization is applicable, subject to any directives which the General Assembly might give at its forthcoming session.

Tesfaye Tadesse (Ethiopia), Chairman of the Committee, made a closing statement.

(more)

For information media – not an official record

Statements

OSCAR OKAMAS-OLIVA (Cuba) deplored the persistence of the United States' colonial occupation of Puerto Rico. That Territory was going through a socio-economic crisis which the administering Power was attempting to offset through economic subsidies. Obviously the colonial government did not have the power to respond appropriately to the problems affecting the life of the Puerto Ricans. The national and cultural identity of the Puerto Rican people, and their membership in the Latin American nation, were threatened with extinction. Rumour had it that the colonial government would endeavour to reach an accord among all the political forces, but that was simply an attempt to distract the Committee.

Puerto Rico's independence and self-determination, he continued, demanded unlimited and systematic support from the international community, with no dilatory ploys or manoeuvres. To date, the Puerto Ricans had not really been able to express themselves freely. The changing situation brought about by negotiations in Namibia, Western Sahara and other colonial Territories was cause for great hope; Puerto Rico could not remain the sole anachronistic model of the colonial past. He called on the United States to give Puerto Rico its independence.

If politics were the art of the possible, why would Washington refuse to transfer powers to Puerto Rico, following authentic negotiations and a popular consultation? he asked. If it were true that it was up to the Puerto Rican people to decide its final status, the Committee could not shirk its obligations to contribute to the implementation of the Declaration by every available means.

MOHAMMAD WASIL MEHNAT (Afghanistan) denounced the continued plunder of the Territory's natural and human resources. Clearly, the United States was profiting from the situation to consolidate its control over all areas of Puerto Rican life.

The United States was using Puerto Rico as a strategic base for Central America and the Caribbean; he went on. Puerto Rico's colonial status was a threat to international peace and security.

The Puerto Rican problem was one of decolonization to which the Declaration on decolonization was fully applicable, he said. He called on the Committee and the General Assembly to help the Puerto Rican people exercise their right to self-determination and independence. The United States should authorize the Committee to make a visiting mission to the Territory to evaluate the situation. The General Assembly should consider the question of Puerto Rico.

TATIANA BROSNAKOVA (Czechoslovakia) said the question of Puerto Rico was being considered by the Committee in conformity with the Declaration. The so-called agreement of 1953 could not be interpreted as the free expression of the Puerto Rican people, since it was not based on the equality of the parties. Denouncing the use of the Territory by the United States,

(more)

Mr. ROMERO-BARCELÓ. Senator Bhatia?

STATEMENT OF THE HONORABLE EDUARDO BHATIA, DESIGNEE FOR THE MINORITY LEADER OF THE SENATE-POPULAR DEMOCRATIC PARTY, SENATE OF PUERTO RICO

Mr. BHATIA. Good morning. Before I start my remarks, I would like to make two brief comments.

First, the Mayor of San Juan, who could not be here today with us, asked me personally to come over to warmly welcome you to Puerto Rico and especially to the city of San Juan. So welcome on behalf of the Mayor of San Juan.

Second, I would have preferred to have Mr. Young hear the Governor's statement and Mr. Young here today. We are dealing with Mr. Young's bill. I would have much rather preferred Mr. Young to be here.

Let me start my remarks by stating in clear terms that my only concern in this process is the well-being of the people of Puerto Rico. I care more about Don Juan Alejandro and Dona Lucia Chevres, who live in Barrio Guadiana in Naranjito; about Virginia Santos and her four children from Cidra; about Mrs. Paulita Colon from Bayamon; and about so many others like them than about attempting to conform the collective lives of Puerto Ricans to the selfish thoughts and insecurities of an ideological nature.

Theirs is a life of constant improvement and success under commonwealth status. I have little respect for empty legalisms and terms which mean nothing to real people who must struggle daily to make ends meet.

At this juncture, it is fundamental to ask the most basic question which, for some unknown reason, this Committee has somehow eluded over the last 2 years. That is, under which political status, under which political relationship with the United States is Puerto Rico better positioned to compete and succeed in the emerging world of the 21st century?

The flexibility and dynamism of commonwealth status has given Puerto Rico the tools to achieve dramatic economic and social progress. Our association with the United States has given us the ability and access to the largest market in the world. Our fiscal autonomy has allowed us to attract industry to the island through low, effective tax rates.

The results have been truly staggering. Puerto Rico has set an example of how a small, poor, agrarian and densely populated island with limited exploitable natural resources can emerge as a bustling and industrious society. Once considered a stricken land, the poorest of the poor countries in the hemisphere, Puerto Rico today enjoys the highest standard of living in Latin America.

Our exports have boomed from $235 million in 1950 to $22.9 billion in 1996. In terms of imports, Puerto Rico purchases over $12 billion annually from the United States, ranking among the top 10 world customers. Perhaps most impressive of all, in a region plagued by political instability, all of these changes have occurred in Puerto Rico without social unrest and under a strong democratic regime.

The productive economic vitality enjoyed by Puerto Rico under commonwealth is impossible under statehood. Statehood requires

the imposition of Federal income taxes, individual and corporate, which would destroy Puerto Rico's continued economic prosperity.

Manufacturing presently accounts for 44.5 percent of Puerto Rico's GNP, and it is critically contingent upon the fiscal autonomy that Puerto Rico would lose under statehood. Close to 300,000 direct and indirect jobs are attributable to Puerto Rico's fiscal autonomy. This is one-third of Puerto Rico's total labor force.

Every single study conducted on this issue has established that the elimination of Puerto Rico's fiscal autonomy would entail massive capital flight and job loss.

Statehood would destroy the most productive sectors of our economy, precipitating us into an economic catastrophe of unimaginable proportions, shattering the social solidarity and threatening the stability of our prosperous society. This spiraling decline would destroy our self-sufficiency, demanding ever increasing Federal outlays and creating a state of true and inescapable dependency.

Thus, to put the economic consequences of statehood into perspective, if Puerto Rico chose to lower tax rates to U.S. level as it would under statehood, the government would have to lay off about 90,000 public employees, or two out of five government employees. The question would immediately emerge, how many public schoolteachers would have to be laid off to pay for statehood? How many police officers?

In conclusion, Mr. Chairman, we in Puerto Rico have come a long way to liberate our people from the chains of poverty and misery. We are now successfully competing with the great economic powers, with skilled workers and attractive incentives that generate jobs. Let us join efforts and energies in building a better Puerto Rico, a prosperous society and a land of true freedom, where our children will be anxious to seize the opportunities that await for them. Let us put people's needs first.

Mr. BHATIA. Let us use this opportunity not to destroy the estado libre asociado, but to strengthen it; not to divide our people, but to unite them; not to stop progress, but to accelerate it.

The Estado Libre Asociado is eager and ready to face the challenges of the 21st century. We are on the move. Don't derail us with this bill.

Thank you.

[The prepared statement of Mr. Bhatia follows:]

Statement of

Eduardo A. Bhatia

Senator

Commonwealth of Puerto Rico
P.O. Box 360643
San Juan, Puerto Rico 00936-0643
Tel. (787) 724-2030

Before the Committee on Resources
U.S. House of Representatives

H.R. 856
The United States-Puerto Rico Political Status Act

San Juan, Puerto Rico
April 19, 1997

Good morning, buenos días, Mr. Chairman and members of the Committee. I am Eduardo Bhatia-Gautier, a Popular Democratic Party member of the Senate of the Commonwealth of Puerto Rico. It is my pleasure to appear before you to discuss ways in which we can enhance and strengthen the quality of life of the people of Puerto Rico, and further the economic development of the Island within the context of today's increasingly interdependent and interrelated world economy.

Let me start my remarks by stating in no unclear terms that my only concern in this process is the well being of the people of Puerto Rico. In fact, I care more about Don Juan Alejandro and Doña Lucía Chevres, who live in Barrio Guadiana in Naranjito, about Virginia Santos and her four children, from Cidra, about Mrs. Paulita Colón from Bayamón, and about so many others like them, than about attempting to conform the collective lives of Puerto Ricans to the wishes and aspirations of people who do not even live in Puerto Rico. Theirs is a life of constant improvement and success under commonwealth status. I have little respect for empty legalistic forms and terms which mean nothing to real people who must struggle daily to make ends meet.

Thus, I am here this morning convinced that at the end of the day it is more important to have a job and a robust economy, to have economic independence and a productive society, than to live day by day, in economic turmoil, with no hope for future generations. I truly believe that any status for the future of Puerto Rico must be crafted solely upon the premise that our quality of life must be improved. Any

other consideration would constitute a betrayal of our collective duties and loyalties to our peoples as elected officials in a democracy.

Mr. Chairman, the international economy of the 21st century will be more competitive and diversified. Great new challenges and opportunities are emerging for all the communities of the world, including Puerto Rico. Unfortunately, we are not taking advantage of these new opportunities, which require a unified will and a real commitment to progress. Instead, we are being asked, against our wishes, to participate in a Congressionally mandated plebiscite process, as stated in H.R. 856, which fundamentally pushes Puerto Rico away from the advantages of this new world order.

At this juncture, it is fundamental to ask the most basic question which, for some unknown reason, this committee has somehow eluded over the last two years. That is, under which political relationship with the United States is Puerto Rico better positioned to compete and succeed in the emerging world of the 21st century? Is statehood, indeed, a feasible alternative?

The flexibility and dynamism of commonwealth status has given Puerto Rico the tools to achieve dramatic economic and social progress. Our association to the United States has given us stability and access to the largest market in the world. Our fiscal autonomy has permitted us to attract industry to the island through low effective tax rates. This was the pillar of Operation Bootstrap, our investment promotion strategy during the 1950's, and continues to be central to our economic development today. In fact, even under the current pro-statehood administration in Puerto Rico, the economic tools that are available only under commonwealth are the backbone of Puerto Rico's productive sector.

The results have been truly staggering. Puerto Rico has set an example of how a small, poor, agrarian, and densely populated island, with limited exploitable natural resources can emerge as a bustling and industrious society. Once considered a "stricken land", the poorest of the poor countries in the hemisphere, Puerto Rico today enjoys the highest standard of living in Latin America. Even though Puerto Rico's present income per capita of $7,500 is less than 1/3 of the U.S. average and about 1/2 that of Mississippi, the poorest state, it nonetheless is twenty-two times greater than in 1950, when it was only $342. Our exports have boomed from $235 million in 1950 to $22,900 million in 1996. In terms of imports, Puerto Rico purchases over $12 billion annually from the United States, ranking among the top 10 world customers. In 1990, --the most recent year for which I have data-- our purchases were greater than the combined purchases of Brazil, Argentina, Chile, Colombia and Peru. Puerto Rico has a population of 3.6 million people, while those five South American countries have a total population of 260 million people. Perhaps most impressive of all - in a region plagued by

political instability, all of these changes have occurred without social unrest and under a strong democratic regime.

The *productive* economic vitality enjoyed by Puerto Rico under Commonwealth is impossible under statehood. Statehood requires the imposition of federal income taxes, individual and corporate, which would destroy Puerto Rico's continued economic prosperity. Manufacturing presently accounts for 44.5% of Puerto Rico's GNP, and is critically *contingent* upon the fiscal autonomy that Puerto Rico would loose under statehood. Close to 300,000 direct and indirect jobs are *attributable* to Puerto Rico's fiscal autonomy. This is one third of Puerto Rico's total labor force! Every single study conducted on this issue has established that the elimination of Puerto Rico's fiscal autonomy would entail massive capital flight and job loss. Statehood would destroy the most productive sectors of our economy, precipitating us into an economic catastrophe of unimaginable proportions, shattering the social solidarity and threatening the stability of our prosperous society. This spiral of decline would destroy our self-sufficiency, demanding ever increasing federal outlays and creating a state of true and inescapable dependency.

The federal government's own studies of the cost of statehood to the U.S. Treasury and Puerto Rico confirm this conclusion. In the most recent study to date, the Congressional Budget Office estimated in April of 1990 that statehood would cost the U.S. government over $9 billion in additional federal spending in the first four years, much of it to compensate for the loss of jobs in the productive sector. The study also concluded that under statehood, Puerto Rico would suffer a permanent drop in GNP of 10-15% by the year 2000, accompanied by a loss of 50-100,000 private sector jobs.

Another serious study on this subject was conducted by KPMG Peat Marwick Policy Economics Group in February 1990, and had two major findings:

- First, that statehood would cripple Puerto Rico's ability to attract and retain manufacturing investment, as it would require the elimination of Puerto Rico's fiscal autonomy and the imposition of full federal taxation in the island, thus destroying the backbone of Puerto Rico's productive sector. According to the study, statehood would result in the massive relocation of U.S. and foreign owned manufacturing operations to other low-tax jurisdictions in the Caribbean, Europe, or the Pacific rim, with dramatic negative effects on both employment and wages in Puerto Rico. Considering the direct and first order indirect effects, the study finds that statehood would cause a loss of between 80,000 and 145,000 jobs, and between $1.4 and $2.6 billion in wages. This magnitude of job loss would climb the unemployment rate from the current 12.5 percent to upwards of 30 percent.

• Second, that under statehood, federal income taxes would be layered on an already high level of Puerto Rican taxes, without any reduction in the need for services from the government of Puerto Rico. The marginal tax rate for Puerto Rico residents in the $24-35,000 income bracket would jump from the then present 20.2 percent to 34.3 percent under statehood, with the combination of Puerto Rico and federal taxes. The average marginal tax rate would have increased from 25.8 percent to 40.4 percent.

Thus, to put the economic consequences of statehood in perspective, if Puerto Rico chose to lower tax rates to U.S. levels as it would have to under statehood, the government would have to lay-off about 90,000 public employees, or two out of five government employees. This would further exacerbate the job loss problem, raising the rate of unemployment to more than 35 percent. The question would remain, how many public school teachers would have to be laid off to pay for statehood? How many police officers? Does this make any sense to any of you?

The world is gearing today to face the challenges of a new millenium, and so should Puerto Rico. In a recent fact finding mission to the Island, I had the privilege of exchanging views with Senators Murkowski, Akaka and Kyle, from the Senate Energy Committee. Their concern, as should be this Committee's, was how to best craft a policy for Puerto Rico in light of the emerging challenges of the 21st century and the end of welfare as it long existed. Under the new rules, the creation of jobs at the state level is fundamental. We can all agree on that. Therefore, the analysis on any congressional action should start, as in the Senate, by considering the future needs of Puerto Ricans first. And let there be no doubt, our fiscal autonomy and the strength of our people under commonwealth status are the key to progress for Puerto Rico.

In conclusion, we in Puerto Rico have come a long way to liberate our people from the chains of poverty and misery. We are now succesfully competing with the great economic powers, with skilled workers and attractive incentives that generate jobs. We are in the move. Let us join efforts and energies in building a better Puerto Rico, a prosperous society and a land of true freedom, where our children will be anxious to seize the opportunities that await for them. Let us put people's needs first. Let us use this opportunity not to destroy commonwealth, but to strengthen it; not to divide our people, but to unite them; not to stop progress, but to accelerate it. Only then would we be true to our logical mission as public servants who care for the common good of the people of Puerto Rico. Thank you.

# # #

Mr. ROMERO-BARCELÓ. The Chairman asked that you try to limit yourself to 5 minutes. I have allowed both the proponents to try to limit themselves. The lights: The yellow means it is approaching the 5 minutes.

STATEMENT OF THE HONORABLE CARLOS VIZCARRONDO IRIZARRY, POPULAR DEMOCRATIC PARTY, PUERTO RICO HOUSE OF REPRESENTATIVES, SAN JUAN, PUERTO RICO

Mr. IRIZARRY. Bueno... Bueno... Buenas tardes, señor Presidente, distinguidos miembros del Comité... [English voice] Que tenga unas buenas tardes el señor Presidente y distinguidos miembros de este Comité. Habré de dirigirme en el idioma vernáculo de mi nación Puertorriqueña que es el Español. [Applause] Comparezco ante ustedes en mi carácter de representante electo del pueblo de Puerto Rico bajo la insignia del Partido Popular Democrático y como Puertorriqueño orgulloso de su herencia y de su cultura, de su... De su personalidad del pueblo Caribeño y Latinoamericano que mira a su socio en esta comunidad de valores que representa la asociación entre Puerto Rico y los Estados Unidos al mismo nivel, aspirando a ensanchar y enriquecer esta relación. La base de cualquier relación es respeto mutuo.

Comparezco aquí a reivindicar el derecho de mi nación Puertorriqueña a ser respetada como supremo árbitro de su destino final. El proyecto que estamos considerando en el día de hoy se aleja de lo que ha sido la realidad de la relación, de afecto y respeto, que ha existido durante los pasados noventa y nueve años entre Puerto Rico y los Estados Unidos. El insulto y la degradación no puede ser base para un diálogo de pueblo a pueblo. Para asegurar la defensa de sus mutuos intereses por lo cual concordaban plenamente, con la posición expresada por el representante de la administración Clinton ante este. El pasado 19 de marzo, ha señalado que el proyecto contiene interpretaciones y representaciones del pasado constitucional que en nada ayudan al desarrollo de la presente condición política de Estado Libre Asociado hacia una mayor autonomía u otra forma de relación entre nuestros pueblos. Puerto Rico está orgulloso del paso afirmativo que dio en la afirmación del pleno gobierno propio. Entre 1950 y 52 una relación de asociación digna, con los Estados Unidos, mediante el Estado Libre Asociado. Relación que su gobierno, el gobierno de Estados Unidos, presentó al mundo como una relación que terminaba, no que reafirmaba, como señala este proyecto, la condición colonial de Puerto Rico. Nuestro país necesita y merece la verdad. La de ustedes y la nuestra. Si ustedes entienden que Puerto Rico es una colonia, un me- un mero territorio de los Estados Unidos, sepan señores Congresistas que este pueblo no aceptó ser colonia en 1952 ni lo acepta ahora. Este pueblo construyó una relación digna, libre de mancha colonial, al consentir la creación del Estado Libre Asociado. Si las premisas es para ustedes han cambiado, para nosotros no.

Como bien señaló don Luis Muñoz Marín, ante un intento similar a este en el 1962, si Puerto Rico es una colonia de los Estados Unidos, debe dejar de serlo inmediatamente por el buen nombre de los Estados Unidos y el honor y la dignidad del pueblo de Puerto Rico. [Applause] Para aclarar cualquier duda que pueda existir, por

fundada o infundada que sea esta, el Partido Popular Democrático ha presentado la definición de Nuevo Estado Libre Asociado ante esta comisión, enraizada en los principios que aspiramos concretizar desde 1952. Autonomía con soberanía, consagrada en una asociación que garantice a la comunidad de intereses entre Estados Unidos y Puerto Rico en las áreas de la moneda, la defensa, la ciudadanía y el mercado. Esa definición, producto del diálogo y del consenso, del autonomismo Puertorriqueño, recoge los puntos mínimos aceptables para nuestra colectividad, basado en documentos adoptados por nuestro partido como la Declaración de la Juventud del Partido Popular Democrático del 15 de marzo de 1997 y la resolución del Consejo del General del Partido Popular Democrático del 17 de noviembre de 1990. Pero no solo es el Estado Libre Asociado que merece que se le diga la verdad.

Cientos de miles de buenos Puertorriqueños que han creído de buena fe en la eminencia de una estadidad que representa una lluvia de millones de dólares en fondos Federales con garantías plenas de nuestra nacionalidad, cultura e idioma, también merecen que se diga la verdad. Queremos saber si eso es posible.

¿Cuál es el costo que ustedes están dispuestos a pagar para admitir a la unión como estado? A una comunidad de 3.5 millones de ciudadanos norteamericanos cuyo idioma es el Español y que de acuerdo al Censo de los Estados Unidos del 1990, el ochenta y tres por ciento de sus habitantes ni habla, ni entiende, ni escribe el idioma Inglés. Donde más del sesenta por ciento de las familias vivirían en la dádiva Federal.

¿Están ustedes dispuestos a retirar de nuestro país las bases militares que actualmente existen en Puerto Rico como exige la definición de independencia?

Si este proyecto se aprueba tal y como está, cientos de miles de Puertorriqueños que atesoran su ciudadanía americana tendrían que votar por un espejismo, por una fórmula que no es posible, como es la estadidad o cortar totalmente los lazos de asociación entre Puerto Rico y los Estados Unidos, como sería la independencia.

Señores Congresistas, llegó la hora de hablar con la verdad. Ay, ¿qué ustedes quieren? [Applause] Nos llegó la hora a ustedes y a nosotros. La hora de la mutua determinación. Puerto Rico y los autonomistas Puertorriqueños estamos preparados. Muchas gracias. [Applause].

Mr. ROMERO-BARCELÓ. That is precisely what the Committee and the Congress intend to do, to tell the truth, but apparently you don't want to listen.

Ms. Benitez.

STATEMENT OF PROFESSOR MARGARITA BENITEZ, AFELA, SAN JUAN, PUERTO RICO

Ms. BENITEZ. Represento a AFELA, una agrupación independiente de mujeres de filiación autonomista. Hemos analizado este proyecto como historiadoras, abogadas, científicas sociales, educadoras y servidoras públicas que somos. Documentamos sus imprecisiones, omisiones y exclusiones que se extienden desde la sección inicial de hallazgos hasta la sección final

que dispone de fondos que por ley corresponden al Gobierno de Puerto Rico.

El trabajo de la AFELA está a la disposición de ustedes y del pueblo de Puerto Rico. Mintervención es el primer resquicio que se abre en estas vistas para representantes de la sociedad civil, si bien se abre bajo condiciones francamente onerosas. Las mujeres de la AFELA venimos a decir que como mujeres y puertorriqueñas conocemos de sobra la exclusión. Por eso repudiamos que este proyecto excluya a sectores vitales de nuestra sociedad y distorsione la trayectoria histórica, jurídica, cultural y lingüística de la nación puertorriqueña. Este proyecto pretende excluir la fórmula de status preferida por los puertorriqueños por más de cuatro décadas. La omitió totalmente en su versión original y sigue estando ausente de su versión actual. No hay un solo creyente en el Estado Libre Asociado, no hay un solo votante de los que hemos ganado todos los plebiscitos celebrados aquí desde 1952 que reconozca al ELA en los términos del Proyecto Young.

El Estado Libre Asociado es una fórmula descolonizadora, así reconocida desde el momento de su formulación por los máximos representantes de los poderes estadounidenses. Es la única fórmula descolonizadora alcanzada con éxito en la historia de Puerto Rico. Es además, como revolución pacífica, la más dramática de todas las luchas llevadas a cabo por nuestro pueblo. Ha hecho posible la democratización política, el desarrollo económico y la afirmación cultural de los puertorriqueños, ingredientes esenciales de todo proceso auténtico de descolonización. Porque la descolonización es un proceso, no una condición. Quien niegue el proceso descolonizador puesto en marcha por el Estado Libre Asociado en Puerto Rico desconoce o falsea nuestra historia y nuestra realidad.

La determinación de los puertorriqueños [Applause] ... expresada reiteradamente en las urnas, ha sido continuar la trayectoria innovadora iniciada en los años cincuenta. Seguir haciendo historia y dando ejemplo al mundo de las formas posibles de colaboración y convivencia entre una nación grande y una nación pequeña. Pero el Proyecto Young pasa por alto esta historia que honra no sólo a Puerto Rico, sino a Estados Unidos. Por eso es que su supuesta gestión descolonizadora es en verdad un acto colonial y retrógrado: porque no reconoce la libre determinación de los puertorriqueños manifiesta en sus tres plebiscitos ni tampoco los logros alcanzados por nuestros dos países desde 1952.

Excluido también de este proyecto está el reconocimiento del español, nuestra lengua vernácula, como la lengua propia de los puertorriqueños. Pretender que inglés y español se han hablado a la par en Puerto Rico es desconocer o falsear nuestra historia y realidad lingüística. Reclamar ... [Applause] que el inglés es talismán de todos los poderes, como hace este proyecto, que lo convierte en lengua del gobierno estatal, los tribunales y el sistema educativo bajo la estadidad, sería hacer de la gran mayoría de los puertorriqueños una minoría en su propia tierra. Recuerde esta comisión congresional la resistencia del pueblo de Puerto Rico durante la primera mitad de este siglo ante tal pretensión.

Con motivo de las vistas congresionales celebradas aquí en marzo de 1990, un nutrido grupo de líderes puertorriqueños publicó una carta abierta titulada, "Spanish is Not Negotiable," donde se afirma

que para el pueblo puertorriqueño el idioma español no es negociable, bajo ninguna circunstancia ni fórmula de status. Entre los firmantes de esa declaración está el actual Gobernador de Puerto Rico y la National Committee Woman del Partido Republicano de Puerto Rico. [Applause].

Es necesario ... reconocer que hace tiempo ya que la nación puertorriqueña rebasó sus fronteras isleñas. Un millón de puertorriqueños emigró a los Estados Unidos entre 1945 y 1965. En veinte años, una tercera parte de nuestra población. Una de las migraciones más grandes en la historia de la humanidad. Este movimiento migratorio entre Puerto Rico y Estados Unidos es constante, circular y multitudinario. Actualmente hay 3.5 millones de Puertorriqueños en la isla de Puerto Rico y 2.7 en los Estados Unidos, identificados como tales por ellos mismos en——

Mr. ROMERO-BARCELÓ. Ms. Benítez, do you have much more to go?

Ms. BENÍTEZ. No.

Todo el mundo sabe, que identificarse como puertorriqueño en Estados Unidos es exponerse a maltrato y prejuicio. Hay que vivir allá para saber lo que es ser minoría en Estados Unidos. AFELA sostiene que no se puede excluir de un plebiscito puertorriqueño a quienes afirman su puertorriqueñidad, no cuando les conviene, sino cuando les cuesta. A quienes ya han vivido la estadidad en carne propia, con todas sus ventajas y con sus desventajas y optan por afirmarse como puertorriqueños. Los acuerdos y logros principales de nuestro pueblo sólo han sido posibles cuando ha habido consenso.

Mr. ROMERO-BARCELÓ. Mrs. Benitez, I'm sorry. Time for the rest. Would you finish up?

Ms. BENITEZ. OK. [Applause—noise] AFELA les invita a que tengan presente que el consenso no se impone, se alcanza. Hay que convencer a los puertorriqueños de la validez y justicia de este plebiscito. Esto aún no ha ocurrido pero puede ocurrir. Por eso exhortamos a esta Comisió a modificar sus actuales actitudes autoritarias, a comprometerse a respetar y cumplir la libre determinación de los puertorriqueños y a propiciar la búsqueda de acuerdos, tanto procesales como de principios, entre los verdaderos protagonistas de esta historia, que somos nosotros, las puertorriqueñas y los puertorriqueños de las dos orillas de una nación llamada Puerto Rico, estrechamente vinculada a ustedes, más con su indisoluble y propia identidad. Muchas gracias. [Applause]

Mr. ROMERO-BARCELÓ. We do not have time for you to read your full statement. I expect that you have submitted a full statement for the record, have you not?

STATEMENT OF THE HONORABLE WILLIAM MIRANDA-MARÍN, THE MAYOR OF CAGUAS, CAGUAS, PUERTO RICO

Mr. MIRANDA-MARÍN. Good afternoon, Mr. Chairman and members of this Committee. I submitted my remarks in English. Now I will be reading them in Spanish.

Soy William Miranda Marín. Comparezco a esta vista con relación al Proyecto H.R. 856 en calidad de Presidente de la

Comisión de Estatus del Partido Popular Democrático y como Alcalde de Caguas, la quinta ciudad de mi país. [Applause].

Comparezco además como puertorriqueño que ama y venera a su patria y a su nacionalidad, y que a la vez—y sin que exista conflicto alguno entre lo uno y lo otro—defiende y vive profundamente orgulloso de su ciudadanía americana. Como buen puertorriqueño que soy, he dedicado la mayor parte de mi vida al servicio público, alcanzando cargos importantes en el gobierno de mi país y mi ciudad. Como buen ciudadano americano que soy dediqué treinta y cuatro años a las fuerzas armadas de Estados Unidos, ostentando el cargo de suprema responsabilidad en la Guardia Nacional, el de Ayudante General y retirándome con el rango de General de División. Como buen puertorriqueño y buen ciudadano Americano que soy, quisiera poder decirles hoy que confío plenamente en que esta Comisión habrá de subsanar la enorme injusticia que se cometería con este proyecto, de autoría del Presidente de la Comisión. De ese proyecto, que tal y como está redactado, constituye una bofetada en el rostro de todos los puertorriqueños y que merece el repudio de cada uno de los hijos de Borinquen que nos preciamos de tener amor propio y orgullo patrio. Quisiera poder decirles, señor Presidente y miembros de la Comisión, que confío plenamente en ustedes, pero si les dijera esto les estaría mintiendo. Creo que la Comisión probablemente aprobará el proyecto con alguna que otra enmienda cosmética. Creo que los puertorriqueños que tenemos amor propio y orgullo patrio, nos veremos obligados a recurrir a otros foros en el Congreso y la Rama Ejecutiva Federal, quizás aún a los tribunales, en defensa de nuestra dignidad y de nuestra patria. [Applause].

El Proyecto Young tal y como est redactado, desposa.

A Puerto Rico de su esencia autonómica, en flagrante desafío a la voluntad democrática de los puertorriqueños que creamos el Estado Libre Asociado entre 1950 y 1952 y lo refrendamos en los plebiscitos de 1967 y 1993. Privaría a los puertorriqueños del derecho de votar por la condición política que han favorecido en tres ocasiones. Ofrecería al pueblo todas las opciones de estatus posibles, excepto la opción que favorecemos los puertorriqueños. El Estado Libre Asociado no es ni territorio ni colonia, Señor Presidente y miembros de la Comisión. El Estado Libre Asociado es soberanía, autonomía, con unión permanente y ciudadanía americana. Ciudadanía ... [Applause] Ciudadanía ... [Voices in the background] Ciudadanía que nos hemos ganado con mucha sangre, sudor y lágrimas.

Más que irónico, resulta doloroso el hecho de que sea precisamente este año, al cumplirse los cien años de la Carta Autonómica, cuando los extremistas ineólogicos obtener puertorriqueños y su aliado en el Congreso, pretenden arrebatarnos lo que Baldirioty y otros patriotas lograron hacer una nación mucho menos democrática de la que ustedes dicen representar.

¿Por qué se empeñan ustedes, Señor Presidente y miembros de la Comisión, en tratar de destruir al Estado Libre Asociado? ¿Es que no comprenden, que política y económicamente el Estado Libre Asociado es el estatus más beneficioso para Puerto Rico y los Estados Unidos? ¿Es que no conocen cómo Puerto Rico ha logrado un crecimiento económico extraordinario en los últimos cuarenta y

cinco años, gracias principalmente a la autonomía fiscal que desaparecería bajo la estadidad?

Si se privara a Puerto Rico de este instrumento vital de crecimiento y además se le impusiera la carga de la tributación Federal, se estaría condenando al desempleo y a la miseria a centenares de miles de puertorriqueños, obligando a muchos de ellos a emigrar a Estados Unidos en busca de mejores oportunidades económicas. También muchos puertorriqueños que hoy forman parte del sector productivo del país, y que representan una tercera parte de la población, se mancharían ante el peso de una nueva carga contributiva sin que mejorase significativamente la calidad de vida. Como resultado de esto veríamos convertido en realidad el título de un libro escrito por un miembro de esta Comisión, que alegaba que la estadidad sería para los pobres. Lo que ocurriría es que bajo la estadidad la pobreza arroparía a todos los puertorriqueños Sufriríamos un incremento en la dependencia en las ayudas públicas.

Mr. ROMERO-BARCELÓ. Mr. Miranda, do you have much more to go?

Mr. MIRANDA-MARÍN. One minute, 1 minute.

[Applause.]

Con la correspondiente. Erosion de la autoestima de los que viven de su trabajo sin necesidad de depender de prebendas.

De darse este escenario tan tétrico, tendríamos que decirle, Señor Presidente y miembros de la Comisión, a aquellos que alegan que Puerto Rico gozaría de más soberanía baso la estadidad, que ellos tienen la razón, pero sólo en una cosa. ¡Seríamos el estado soberano del mantengo.!

El Partido Popular... Democrático está presto a participar en una consulta plebiscitaria justa, cuya ley habilitadora esté fundamentada en el consenso amplio. En una consulta en que el Congreso se comprometa de antemano y de buena fe en implantar la alternativa ganadora. En manos de usted está, Señor Presidente y miembros de la Comisión, la opción de brindarnos a todos los puertorriqueños, la oportunidad de participar en un proceso serio y con perspectivas reales de resolver los problemas del estatus. Esto se puede lograr rechazando las premisas fundamentales de esta medida con relación al Estado Libre Asociado y adoptando la definición de este status que hemos sometido. En manos de ustedes, y de otros en el Congreso y de la Bama Esecutiva Federal está esta opción, como también la de privarle de su franquicia electoral, de un plũmazo, a más de un millón de puertorriqueños.

Como buen puertorriqueño y buen ciudadano americano que soy, ruego a Dios que nunca se llegue a esa encrucijada. Como buen puertorriqueño y buen ciudadano americano que soy, los exhorto, Señor Presidente y miembros de la Comisión a ser justos y respetuosos con Puerto Rico. Los exhorto a abandonar esta intentona por imponernos la estadidad. ¡No nos hagan perder nuestra fe en la democracia Americana! Muchas gracias.

Mr. ROMERO-BARCELÓ. Mr. Agostini.

STATEMENT OF JUAN ANTONIO AGOSTINI, PRESIDENT, PAX CHRISTI-PUERTO RICO, SAN JUAN, PUERTO RICO

Mr. AGOSTINI. Buenos días... Mi nombre es Juan Antonio Agostini. Vengo en representación del Movimiento Pax Cristi y su sección de Puerto Rico, que es un movimiento Católico por la paz a nivel internacional.

Distinguidos visitantes, bienvenidos a nuestro país. Que la paz ... [Applause] basada en la justicia, sea el resultado final de este proceso de diálogo que hoy nos reúne y nos enfrenta. La Iglesia San José data del año 1537. Es la más antigua de Puerto Rico. Hoy, al trabajar por la autodeterminación para nuestro país, mirémosla como un símbolo del impacto que sobre la vida de nuestra gente ha tenido la intervención de Estados Unidos en nuestra tierra. Hasta 1898, esta histórica capilla había sido testigo de cómo se había plasmado durante siglos una nacionalidad distinta, consciente y orgullosa de sí misma, la nacionalidad puertorriqueña. Pero el 12 de mayo de aquel año, esa misma iglesia fue también testigo de cómo once barcos de guerra del Escuadrón del Atlántico Norte de Estados Unidos bombardearon por más de tres horas nuestra ciudad de San Juan. Más de 1,300 cañonazos erráticos, ocasionaron pocas muertes pero causaron daño considerable a bastantes edificaciones. Una de ellas, fue la Iglesia San José, alcanzada y penetrada por balas de mortero, que abrieron un enorme boquete en su fachada. Poco después, el 25 de julio, nos invadieron por Guánica. No fue un plebiscito, ni un referéndum, ni una ley de Congreso, ni un pacto bilateral, ni un malentendido. Bombardeo e invasión fueron el primer impacto de la intervención de Estados Unidos en nuestra tierra. Hoy, al repensar este siglo, queda claro que la razón principal de Estados Unidos para su intervención y permanencia aquí ha sido el militarismo. Hasta cambios que se anunciaron como pasos de desarrollo político, independientemente de cualquier beneficio que trajeran en el momento, se dieron en función de los intereses militares norteamericanos. Dos ejemplos: En 1917, con la ciudadanía Americana, también nos llegó el reclutamiento militar y el envío de nuestros jóvenes a la Primera Guerra Mundial y por supuesto, a las demás guerras. En 1952, se proclama el Estado Libre Asociado como el fin del colonialismo que hoy seguimos discutiendo aquí. Y amparado en eso, Estados Unidos pide a las Naciones Unidos que saquen a Puerto Rico de la lista de territorios coloniales y los eximan a ellos de rendir informes sobre su administración del territorio. Si recordamos que para esos mismos años, Estados Unidos realizaba una gigantesca expansión militar en Puerto Rico, caemos en cuenta de que lo principal no era descolonizar, que no se hizo, sino evitar, que sí se evitó, dar informes a la ONU, que llegaran a manos de la Unión Soviética y de China, sus contrapartes en la Guerra Fría. Pero no es sólo el militarismo. Toda la vida puertorriqueña está impactada con la presencia e influencia del poderío norteamericano, con el Congreso Congreso Congreso, Casa Blanca, Justicia, el Pentágono y sus respectivas ramificaciones reteniendo sin nuestra participación ni consentimiento, la suprema autoridad sobre el comercio, industria, banca, asuntos laborales, transportación, comunicaciones, la forma de relacionarnos con otros países y otros aspectos de nuestra vida de pueblo. Esto no es justo.

La historia tiene prisa. Es hora de que los Estados Unidos asuman la responsabilidad histórica que contrajeron cuando nos invadieron, nos militarizaron, nos dividieron hasta el tuétano (como vemos hoy aquí) y trastornaron nuestra visión de nosotros mismos. Pero la solución no está en imponernos un plebiscito más sin darle al país las herramientas de soberanía y de consenso para entender mejor sus opciones y ejercer más libremente su derecho.

Cualquier futura consulta de status, debe estar precedida por un proceso de diálogo abierto, entre los poderes oficiales de Estados Unidos y los sectores de opinión en Puerto Rico, incluyendo pero no limitándose a los partidos políticos. Y hay que señalar claramente, desde ya.

Mr. ROMERO-BARCELÓ. The testimonies that were given here, this panel, are to be translated into English, all of them, and put forth before the Nation, the United States, in all of the 50 States.

It would seem that, to me, the people residing in those United States would ask, why do they really want U.S. citizenship, in Puerto Rico? They underline, in between the lines, it seems it is a rejection to the United States. And yet you also claim you want U.S. citizenship.

How can you explain that to the people that elect the Congressmen and the Senators? How can you explain that, to anyone: How do you expect the U.S. to accept Puerto Rico and give Puerto Rico U.S. citizenship when the underlying statements of those under the so-called New Commonwealth are rejecting the United States in the way they speak?

The way you have spoken here, in this panel, it comes across like a dislike for the United States, like you want to be separate, a different nation, a different nationality. Why then do you want the citizenship of the United States? Explain it.

Sr. Agostini, ¿ya—pasaron cinco minutos?

Mr. AGOSTINI. Yo no terminado. Y ha habido tiempo para la gritería. [Applause.] Yo le digo que habré de terminar en breve.

Mr. ROMERO-BARCELÓ. Can you finish it up——

Mr. AGOSTINI. [continuing] y hay que señalar claramente desde ya, que en un asunto tan fundamental como determinar nuestro destino de pueblo, sean solamente los que se juegan su vida, su hacienda y sus sueños con este terruño y con ningún otro quienes participen y decidan lo que somos y lo que seremos. Somos todavía una familia dividida e indecisa sobre nuestro destino. Pero si en algo estamos todos los puertorriqueños profundamente de acuerdo, es en que somos un país, somos un pueblo. Y nos une la firme e inderrotable voluntad de sobrevivir y de jamás entregar o diluir nuestra propia identidad. Quiera Dios que este proceso nos sirva para encontrarnos a nosotros mismos y para cultivar una nueva y sana relación de amistad permanente con Estados Unidos, al igual que con otros pueblos. Con la ayuda de Dios, lo lograremos. Muchas gracias.

[Applause.]

Honorable compatriota—[Applause] Honorable compatriota [Applause] Don Carlos Romero, quiero pedirle algo en ánimo de que nuestro pueblo que está viendo estas vistas—seguramente más de un millón de personas nos está viendo. De ese millón de personas, la inmensa mayoría de ellos no ha entendido lo que usted ha dicho.

[Applause] Al congresista Young yo no le puedopedir aquí que hable español pero a usted sí. Yo le pediría a usted que hable español que nuestro pueblo entienda. (Applause)

Mr. ROMERO-BARCELÓ. Con muchísimo gusto.

Mr. AGOSTINI. Será en beneficio de todos.

Mr. ROMERO-BARCELÓ. Con muchísimo gusto, con mucho gusto. [Applause continues]. Yo quiero... Le pregunto... Le pregunto al panel que cómo les podemos explicar si lo que han dicho en Español aquí ... se tradujera para toda la nación, para todos los ciudadanos de los cincuenta estados allá ... si en la forma de la entrepalabra se siente en las expresiones de este panel, un gran rechazo, un rechazo a la nación de los Estados Unidos, porque quieren una nación separada. [Response from the public] (Por qué entonces, cómo se les puede explicar ante ese rechazo que hay, como que no les gusta lo que es lo Americano, por qué quieren la ciudadanía americana. (Cómo les vamos a poder decir a los ciudadanos de allá, de los estados de la unión [Response from the public] La unión [inaudible] ... ¿quién... Quién me da la palabra? Los que le van a hablar ... ¿cómo se les va a decir a los ciudadanos que eligen... Cómo se les va a decir a los ciudadanos que eligen a los congresistas y a los senadores, que se va a darle seria consideración a una relación con unos que están pidiendo la ciudadanía americana pero al mismo tiempo rechazan ser americanos? Y que quieren igualdad en los beneficios, pero no quieren pagar contribuciones sobre ingresos. Yo no estoy en [inaudible] [Response from the public] ¿Cómo se le explica allá a los que votan por los congresistas de los?

Mr. AGOSTINI. Señor Comisionado, si nos permite, estamos interesados en contestar.

Mr. ROMERO-BARCELÓ. Vamos a escuchar, vamos a [inaudible] [Response from the public continues].

Mr. VIZCARRONDO. Tiene que [inaudible] ...

Mr. ROMERO-BARCELÓ. Vamos a escuchar ...

Mr. VIZCARRONDO. Sí, primero muchas gracias señor Comisionado para... Porque haya considerado y respondido a una petición del compañero Agostini de que se dirigiera en español porque es importante ... para el futuro del pueblo de Puerto Rico que está mirando estas vistas, que nos entendamos. Yo creo que eso es el propósito. En esa dirección, es bien importante para que podamos entender nos, que los hermanos puertorriqueños de todos los partidos nos permita entendernos. Yo le respondo con el mayor de los respetos, que su preocupación parte de una premisa prejuzgada, o sea, parte de la premisa de que nosotros los puertorriqueños no estamos ostentando una relación de asociación entre Puerto Rico y los Estados Unidos, digna desde 1952 y que no somos ciudadanos norteamericanos. Es que sí lo somos. O sea, no estamos viniendo aquí en esta mañana, a plantear una cosa que es nueva y que usted escucha por primera vez. Desde 1952, hemos vivido eso bajo el Estado Libre Asociado y en 1953, los representantes de la nación Norteamericana fueron a decirle al mundo que esa relación que se había establecido en 1952, era una relación digna. Faltaba el ejercicio de la soberanía que esto solo para decidirse por todo, y que debía ser reconocida internacionalmente, de manera que el hecho de que estemos

reafirmando nuestra condición de ser ciudada-ciudadanos puertorriqueños, orgullosos de nuestra cultura, de nuestro idioma vernáculo Español. Eso en medida alguna, implica que nosotro- que nosotros estamos rechazando la ciudadanía Norteamericana que nosotros hemos tenido desde 1917 por un acto unilateral del Gobierno de Estados Unidos, pero que esto el pueblo de Puerto Rico tuvo la oportunidad de rechazar y sin embargo, lo puso como una parte fundamental de su constitución. Finales, cuando la derogó en 1952. [Applause] Se me acabó el... Se me acabó el tiempo en esta ronda, pero para el récord déjeme aclarar que cuando fueron a las Naciones Unidas, los Estados Unidos le mintió a las Naciones Unidas y al mundo entero, en confabulación con el Gobierno de Puerto Rico. [Response from the public]. Señor Comisionado..., señor Comisionado ...

Mr. VIZCARRONDO. Señor Comisionado.

Mr. BHATIA. [English] Mr. Chairman, Mr. Young.

Mr. ROMERO-BARCELÓ. Mr. Young, now, please.

Mr. YOUNG. In this profession, we are to be honorable. That is two things that we have to keep in mind. And I run a much different Committee in Congress than you may run in your legislative body. I made my decision that I would let each member chair a panel. I was here to hear your testimony. Never impinge my motives.

One of the things I think you have to keep in mind that concerns me a great deal is, if the Puerto Ricans are deciding which status they would take, be it an independent Nation or be it Commonwealth, or be it a State, I think it has to be defined what each one can and cannot do, the good and the bad.

Now, I am from what was a native territory, and we became the 49th State. We do pass our economic laws. We do offer tax-free investment. We do not have an income tax. We do this because we are a State and we have that authority.

What I am trying to stress here: Do not convey a message of what one side can or cannot do.

What concerns me the most and the reason I got interested in this 5 years ago is, we see coming down the pike this year, this month in Congress, eliminating your—because you have been extended through the will of Congress certain tax ability, no taxes, tax incentives, contracting, that is being taken away from.

Question, if the Congress has the ability to take that away from you and you don't have the ability under Commonwealth to impose incentives, which you have to go through the Congress to do so, how are you going to benefit the people of Puerto Rico?

The people in the audience may not realize, I am trying to find out answers, listening to this program. I just want to find out how——

Mr. BHATIA. If I may, Congressman.

First, Mr. Chairman, you have raised three different points, and I would like to address each one of them.

Mr. YOUNG. Within my timeframe.

Mr. BHATIA. Yes, very briefly.

First, we have been discussing in Puerto Rico something called the Young bill, which you yourself wrote, or someone on your Committee, but you are the author of the bill. And it just strikes us that

whenever someone from the Commonwealth side is speaking, in Washington or here, you are not here to preside. And what we are saying is, we are not here to address—with all due respect to the other members, we would like to have a frank and honest discussion with you. You are the author of the bill.

Mr. YOUNG. And we are having that discussion. And by the way, when you are testifying, we cannot discuss it. It makes no difference who is sitting in the chair. I have made this promise, and I am working with my people, and I am going to continue to do that.

Mr. ROMERO-BARCELÓ. Vamos a tener—vamos a demostrar—una demostración de como se comporta el pueblo de Puerto Rico. Vamos—estos es unas vistas congresionales—quizás hay congresistas que han venido aquí a——

Mr. YOUNG. My time is running out. Let him finish with the question.

Mr. BHATIA. My point is, you don't pay income tax in Alaska for a very good reason, because of your natural resource.

Mr. YOUNG. We did not have a natural resource at that time.

Mr. BHATIA. You have natural gas, something we don't have in Puerto Rico.

Mr. YOUNG. But if the Congress is taking away your tax benefits today, and which they are going to do in the Ways and Means Committee, how can you provide the economic base which you have had in the past? You are losing that.

Mr. BHATIA. Again, with all due respect, I don't think you understand the tax structure of Puerto Rico. Congress cannot take away the tax incentives of Puerto Rico. The local tax incentives cannot be taken away, the local tax incentives in Puerto Rico.

What Congress can do, and did with its support of the administration in Puerto Rico, was take away an incentive called 936, which was not a Puerto Rican incentive, it was a U.S. incentive which deals with the money repatriated back to the U.S.

We in Puerto Rico, as a result of our autonomy, we rule in terms of our taxes in Puerto Rico. We give tax credits to all corporations in Puerto Rico that we wish. It has nothing to do with the U.S. Congress. In fact, I invite you or any Member of Congress who wants to change the law in terms of local—local—authority over tax matters to go ahead and do it. The next day, we will file a suit in court.

Mr. YOUNG. And what Puerto Rico and Alaska have in common is a lot of lawyers.

Mr. BHATIA. That is right.

Mr. ROMERO-BARCELÓ. Mr. Miller.

Mr. MILLER. Thank you, Mr. Chairman.

I am not sure this forum is turning out to be the best way for us to transmit information back and forth, and so I, too, would like to submit questions in writing.

But I would also say that, again, I have a very strong belief that the three principal parties, if you will, and the people who support those parties have a very strong right to define that relationship which they support with respect to the United States. The question will then be whether or not the Congress will go along with that or not go along with that in terms of approving the plebiscite and

then later the responses to that plebiscite. But that is in the natural of the give and take.

I think it is very important that as we start this process, that the Congress not be like the butcher who has his thumb on the scale, here, to get the results that we want.

I think what it ought to be is that this is a long, historical, political debate within Puerto Rico, and it ought to manifest itself on the ballot if the plebiscite is to be real. And then, there is an old saying, be careful what you wish for, because you may get it. And then the Congress will decide, and the Congress may, in fact, not go along.

I think we all know that this is a situation where we feel more optimistic than ever that the Congress would agree to sanctioning a plebiscite and, in its name, offering that opportunity to Puerto Rico. But it is not a done deal in terms of the final results.

We can argue forever about these definitions, but eventually, we, as members of the Committee, and later the House and the Senate, will make the final determinations because it will be about whether we are able to secure the votes to move the plebiscite forward or not.

But at the outset, I believe the definition that you, the various parties, agree to, you put them in the bill and you see where that takes you.

But that does not—that is not a suggestion that the Congress will not work its will, whether they stay in the bill or not, because I think clearly the Congress will have some concerns that have been expressed here today with some of the provisions in the various definitions. But again, at least the process started out with the people who are, you know, the parties of interest getting to define the basis on which they want to proceed. I think that is the most important thing that can be done here.

I have some questions I am concerned about. Again, I have spoken to some of you before. I am very concerned about this process being stretched out for such a long period of time that the Congress—and I am more worried about the Congress than I am about the people of Puerto Rico, but the Congress loses its commitment. We could go through a series of elections, new reapportionment in the Congress that could change the dynamics, and I am worried, if the period of that is too long, nothing will come of this.

But again, I would like to articulate that in writing and ask for your various responses about that.

I am also concerned about the participation. Mr. Serrano has raised concerns about the participation of people residing in the United States and—but I will put those forth in a written statement.

Thank you, Mr. Chairman, for the time.

Mr. COLON. Congressman, we are fully supportive of your positions, all of them, that you have stated here.

Mr. ROMERO-BARCELÓ. Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman.

My feeling is that what is happening now in the current Commonwealth status is unfair, the status quo is unfair to the people of Puerto Rico, because the President can call them up to fight in our wars and yet they can't choose to have—they cannot choose who

they want as their commander in chief. They have—we in the Congress and on this Committee decide whether you are going to have a referendum or not to decide your own future, and not you. And I don't think that is fair. And that is the nature of the territorial clause that Puerto Rico currently is governed under, and that is the reason why this Committee is set up the way it is.

What seems to be taking place here is the misunderstanding of what happened in the past.

Mr. ROMERO-BARCELÓ. Excuse me. Voy a pedirle que por favor se—aquellos tres jóvenes que están allá, que por favor mantendejen de estar chistando entre ustedes y—vamos a escuchar, que todo el mundo también quiere escuchar lo que tiene que decir el Congresista Kennedy y escuchar lo que van a decir los paneles.

[Applause.]

Mr. KENNEDY. So the question is, how do we get out from underneath? You might be U.S. citizens in some respects, but you are severely limited in the full definition of what a United States citizen is, and that is what needs to be changed. That is why I believe that you ought to have the full rights and privileges of United States citizenship.

But in the history of this relationship between Puerto Rico and the United States, it has gotten confused, because what happened in 1917 was, you were given full United States citizenship, but in 1922 the Supreme Court defined that as limited only to the fundamental protections. OK, but it not applying to commerce and trade, and that is why you have that kind of unique status. But it was never changed by the Congress, so you were limited according to that Supreme Court decision.

And in 1953, which is what we keep hearing reference to, that was never—whatever was decided, the Congress never changed the position of Puerto Rico under the territorial clause, and I know that is where the rub is.

The rub is in 1953, because it was understood by the people of Puerto Rico that the colonialism had ended, that the situation was that it was gone. But it wasn't until 1960 that the definition of "anticolonialism" was put forth by the United Nations. And guess what, the estado libre asociado was not defined under the United Nations as ending colonialism. They had three definitions.

I really, honestly want—I really feel—I really, really feel for the dilemma that you are in. The debate that is taking place right now, I really feel for it. The United Nations has given—this is the United Nations, this isn't the United States, this is the United Nations—has defined the end of colonialism in three ways, and those three ways that are defined by the United Nations are contained in this bill.

Now, that is why I am not—you know, Chairman Young didn't make this up; no one made this up. This is what the United Nations said is the way in which you end colonialism. Now, if that is the way United Nations defined it, then you need to take your case to the United Nations to say, wait a second, there is something else called estado libre asociado. But until the United Nations recognizes estado libre asociado, it is not an end to colonialism.

Now, if you could tell me what the difference is, please, please, give me some feedback, because I really want to do what is right

for Puerto Rico. This is what the United Nations said is the way to end colonialism.

Mr. ROMERO-BARCELÓ. Los aplausos—lo que hacen es eliminar, reducir el tiempo y no nos permite a los Congresistas, escuchar lo que digan los panelistas o darles el tiempo aún suficiente a los panelistas para que puedan también hablar mμs extensamente sobre el asunto que se le ha preguntado. Vamos a pedir su cooperación para que se pueda aprovechar ese—el tiempo.

Mr. COLON. Congressman, the relationship between Puerto Rico and the United States was submitted to the U.N. in 1953. It was approved by the U.N. at that time under Resolution 748. There was a list of factors that the U.N. applied to the Puerto Rican case at that time.

Basically, the changes since 1960 have not been that many, and from 1960 on, we have had a motion by Cuba, an annual motion by Cuba, to declare the relationship between Puerto Rico and the United States a colonial relationship, and to this date Resolution 748 stands.

That is, in spite of the fact that the decolonization Committee has heard the case of Puerto Rico throughout the years, it has never gotten the General Assembly to reverse Resolution 748 recognizing that the relationship we have with the United States is a noncolonial relationship. So that is the law at the present moment.

However, I would like to say in that resolution there is a very important paragraph, which is the last paragraph, which said that the U.N. expected that this relationship could evolve and changes could be made in the future. And the supporters of Commonwealth believe that the compact, although it is valid, needs changing and needs adapting to the current times.

So this is why we propose a new Commonwealth, in order to solve the problems that you see. But we try to solve them within the context of autonomy, which is gaining power for Puerto Rico, empowering Puerto Rico to deal with its problems itself, through its own democratic processes here, while it maintains the link through citizenship with the United States.

In that sense, I would like to say that we do not shrink from our responsibilities as to citizenship. When we speak about Puerto Ricans going to war, we don't speak of statehooders as going to war, we speak about all Puerto Ricans who are American citizens. And so what we are trying to do is work out a relationship that will be adjusted to the current times and which will allow us to maintain our citizenship and at the same time to govern ourselves under a broader autonomy here in Puerto Rico in ways consistent with our culture and our particular nationality. That is it.

Mr. ROMERO-BARCELÓ. Mr. Underwood.

Mr. KENNEDY. I just want to say, for that to be worked out, it has to be a bilateral, liberal relationship, understand. But under the current relationship, it is a unilateral relationship, because the mechanism in the United States Constitution through which we deal with unincorporated territories is the Territorial Clause, and that wasn't changed in 1953 after the United Nations didn't take on the language that you said.

If you go back and look at the Congressional Record, as much as there may have been an understanding that the United States bar-

gained and said, OK, we will have an equal relationship here, no one could misunderstand what was really happening in the Congress at that time, because in the Congress at that time everyone understood Puerto Rico as a territory. And now, I don't agree with that notion, but that is the way it was legally decided at the time.

Mr. ROMERO-BARCELÓ. We have to go to the next panel member. I will give you time. Mr. Underwood can give you time.

Mr. UNDERWOOD. Let me contextualize my question; and we will give you an opportunity to respond to the general issue, which is—I assume the general issue is, does the territorial clause apply to Puerto Rico?

And my question, which, obviously, has implications for me—but, as I understand it, we normally talk about colonies and then we talk about the process of decolonization, and in the United Nations prescription that process of decolonization calls for either full integration, which is statehood, and free association and outright independence.

Now the discussion has always focused, when I hear statements from representatives of the political party that you represent, Governor, that Puerto Rico is in a noncolonial status. We think of it as bipolar opposites. We are either a slave or we are free. We are either a colony or we are in a state of freedom. But it seems like we are in a midpoint here, something that we call noncolonial.

Is it your understanding—and just be as clear as you can. Is it your understanding that the territorial clause applies to Puerto Rico? And, as a followup to that, the president of your party in the earlier panel listed out a series of things as part of the definition for the PDP's contribution to the ballot, and he listed them as aspirations. Is it your impression or is it your understanding that the application of the territorial clause is not elastic enough to accommodate the aspirations of the political plan that is implicit in that definition?

Mr. COLON. I think the Committee is allowing itself to get into a legalistic, semantic trap under this whole discussion regarding the territorial clause.

I believe that the matter of governing Puerto Rico goes beyond the territorial clause, and it relates to the inherent powers of the United States to govern a territory which it acquired through military occupation, through the invasion of Puerto Rico in 1989.

It is a power, which if it were not in that clause, it would attain to the Federal Government anyway; and it has been recognized as an inherent power of government by the Supreme Court of the United States. It is a power that the United States would have to exercise in order to comply with international treaties, such as the treaty of the United Nations, where the United States committed itself to govern Puerto Rico in a way as to bring it to full self-government.

What I am basically saying is that the relationship between the United States and Puerto Rico stems from a power that is much broader than the restrictive meaning of the territorial power and the absolute powers of Congress to deal with territories under that particular clause. And under these broader powers a satisfactory democratic arrangement can be worked out for the benefit of both Puerto Rico and the United States.

Mr. UNDERWOOD. Now, in terms of the specific plan listed as a definition of commonwealth, or as a position, aspirations—actually, the term used was aspirations—then you are saying that you agree with the assumption that is given here inside the legislation that the territorial clause is not elastic enough to accommodate that plan.

Mr. COLON. I am saying that the Congress has the power to accommodate that plan; and if we want to go to the territorial clause and apply it in a restrictive way, you might come to the conclusion that it is not elastic enough. But what I am saying is get out from under the territorial clause.

Mr. UNDERWOOD. I understand that point.

One last point. I just wanted to confirm your answers to Mr. Miller's earlier question. You agree with the notion that you are free to describe commonwealth in the ballot and understand that Congress could work its will in terms of that definition.

In other words, in the long haul, in the political processes of Congress, that definition and the aspirations that are part of that definition may not come to pass.

Mr. COLON. Basically, we are saying that we have put forward a definition which meets all of our aspirations. Now we realize that we are engaged in a political process and that at some point the Congress might not agree with us fully on everything that is in that definition. Now what we say is, if that comes about, it will be because of a political decision of the Congress, not because of legal constraints to the Congress, that impede the Congress from coming to this agreement that we want.

Mr. UNDERWOOD. Thank you.

Mr. ROMERO-BARCELÓ. Thank you very much.

Now we have the next panel.

Mr. UNDERWOOD. [Presiding.] I would like to call the next panel up, please.

The Honorable Manuel Rodriguez-Orellana, the Honorable Damaris Mangual Velez, Professor Edwin Irizarry-Mora, Mr. Emilio A. Soler Mari, Mr. Eduardo Morales-Coll, and Mr. Manuel Fermin Arraiza.

Due to the limitations on time and because we want to make sure that everybody gets their opportunity not only to express themselves but a full opportunity for members of the Committee to address important questions, we will try to adhere to the 5-minute rule as much as possible.

Mr. UNDERWOOD. I will begin with the Honorable Manuel Rodriguez-Orellana.

STATEMENT OF THE HONORABLE MANUEL RODRIGUEZ-ORELLANA, DESIGNEE FOR THE MINORITY LEADER OF THE SENATE-PUERTO RICAN INDEPENDENCE PARTY, SENATE OF PUERTO RICO, SAN JUAN, PUERTO RICO

Mr. RODRIGUEZ-ORELLANA. Señor Presidente y señores miembros de esta Comisión, ustedes tienen una versión al Inglés del texto de mi ponencia eh... Para el beneficio de mis compatriotas, lo voy a leer en Español.

Soy Manuel Rodríguez Orellana y comparezco ante ustedes en representación del Senador Rubén Berríos Martínez, quien señaló

el mes pasado, unas áreas en que el proyecto que está bajo vuestra consideración debería modificarse para hacerlo más justo y más balanceado.

Mi objetivo en esta intervención será elaborar la posición del Partido Independentista Puertorriqueño traída por el Senador Berríos en torno a la reducción del plazo de tiempo para la implantación de las diversas opciones que se consideran.

El proyecto como está, dispone que los Puertorriqueños esperemos diez o quince años para implantar la independencia o la estadidad, después de un voto mayoritario. En aras de una supuesta simetría, cuya función es meramente decorativa, se pretende tratar a la independencia y a la estadidad como si fueran iguales, cuando no lo son. Propongo por tanto que los puertorriqueños, no tengamos que esperar más que lo demasiado que ya hemos esperado para la disfrutar de la independencia, para la que de conformidad con el derecho internacional tenemos un derecho inalienable. Tan pronto nuestro pueblo reclame su derecho a la independencia, no debe colocársele obstáculo alguno al libre ejercicio de su libertad nacional y tras la consulta que este proyecto propone para el próximo año, se debe implantar a través de una asamblea constituyente, la proclamación de nuestra soberanía antes de las próximas elecciones generales del año 2000. La transición económica, desde luego, debe ocurrir entonces bajo la independencia. Puerto Rico ya ha padecido noventa y nueve años de colonialismo estadounidense.

Por fin, un organismo oficial del Congreso de Estados Unidos, ustedes en esta Comisión, admitieron hace un año lo que el Partido Independentista Puertorriqueño ha venido diciendo por los últimos cuarenta y cinco, que nuestra condición es colonial y que Estados Unidos no ha cumplido con su obligación de descolonizar ni bajo el derecho internacional ni bajo el derecho doméstico constitucional de los Estados Unidos.

Pero todavía hay otros, hay otros sobre todo aquí en Puerto Rico, que pretenden justificar nuestro status territorial bajo la Constitución de Estados Unidos alegando consentimiento, ¡Como si la esclavitud por consentimiento dejara de ser esclavitud! La condición colonial de Puerto Rico no deja de ser coloniaje y la obligación de descolonizar subsiste aún con el consentimiento.

Pero yo quiero apartarme un momento del texto para hacer un comentario aquí. Y es que no veo—y no tiene ningún sentido, y desvirtúa por completo el objetivo de esta legislación—que la misma insista en incluir un Estado Libre Asociado colonial y territorial como el que tenemos, como opción en el propuesto plebiscito, aunque sea por un tiempo limitado, aunque sea con plebiscitos periódicos. La afirmación del coloniaje lo que hace es que mantiene el coloniaje. El problema no puede ser la solución.

Por otro lado, el caso de la estadidad es diferente al de la independencia. La independencia de Puerto Rico es como señalé anteriormente, un derecho inalienable. Pero la estadidad no. Por eso ustedes en el Congreso pueden imponer las condiciones que ustedes estimen pertinentes en el caso de la estadidad, a base de las expectativas que ustedes tengan. Ustedes deben decir cómo debe ser Puerto Rico como estado, en qué idioma o en qué idiomas, cuánto deben aportar, y cómo va a contribuir esto a la paz social

de los Estados Unidos. Por lo tanto, aunque parezcan duros o antipáticos para algunos los términos y condiciones de transición o implantación de la estadidad que ustedes impongan, estos deben reflejar claramente sus expectativas.

Hace siete años, el Senador Moynihan explicó clara y diáfanamente las suyas, en el contexto de los proyectos que se presentaban entonces. Dijo, y cito en inglés: "In the end, the great issues involved here are civic, not economic. Do the people of Puerto Rico wish to become Americans? For that is what statehood ineluctably implies. That is what statehood brings."

Evidentemente, la aceptación o rechazo de una posible petición de estadidad no tendría ni que esperar ser presentada. Pero para que no se fomenten falsas ilusiones ni se juegue con las aspiraciones de la inmensa mayoría de los puertorriqueños, que todos quieren seguir siendo puertorriqueños, la contestación si algún día se plantea la pregunta, debe ser rápida y debe ser lo menos dolorosa posible.

Por eso, cualquier rechazo congresional, en cualquier etapa, a cualquier propuesta de transición o de implantación de la estadidad, debe considerarse inmediatamente como una denegatoria, porque si después de un siglo todavía ustedes o nosotros tenemos alguna duda de si una nación latinoamericana, caribeña, que habla español y quiere retener su identidad e integridad cultural cabe dentro de la unión americana como estado o no, no debemos seguir perdiendo el tiempo. No debemos seguir alargando la incertidumbre. Vamos a pasar ahora a cosas mejores, a un futuro mejor y no más colonia.

Estoy, desde luego, en la mejor disposición de trabajar con ustedes de inmediato para buscar el lenguaje legislativo apropiado que refleje los objetivos que he mencionado en esta ponencia. Muchas gracias.

Mr. UNDERWOOD. Thank you, Mr. Rodriguez.

[The prepared statement of Mr. Rodriguez-Orellana follows:]

NDENTISTA PUERTORRIQUEÑO

PONENCIA DE

MANUEL RODRIGUEZ ORELLANA

SECRE O DE RELACIONES CON NORTEAMERICA

PAR' INDEPENDENTISTA PUERTORRIQUEÑO

(en represen ón del Senador Rubén Berríos Martínez)

COMISION DE RECURSOS

CAMARA DE REPRESENTANTES DE ESTADOS UNIDOS

San Juan, Puerto Rico

19 de abril de 1997

PUERTO RICO 00920-9990

963 AVENIDA ROOSEVELT • PUERTO NUEVO,

Señor Presidente y señores miembros de esta Comisión:

Mi nombre es Manuel Rodríguez Orellana, y soy Secretario de Relaciones con Norteamérica del Partido Independentista Puertorriqueño. Comparezco en mi calidad de asesor en legislación y asuntos federales del Senador Rubén Berríos Martínez quien, a nombre del Partido Independentista Puertorriqueño, señaló el mes pasado unas áreas en las que el proyecto debería modificarse para hacerlo más justo y balanceado.

Mi objetivo en esta intervención será elaborar la posición del Partido Independentista Puertorriqueño traída por el Senador Berríos el pasado 19 de marzo en torno a la reducción del plazo de tiempo para la implantación de las diversas opciones.

El proyecto como está dispone que los puertorriqueños esperemos 10 ó 15 años para implantar la Independencia o la estadidad después de un voto mayoritario. En aras de una supuesta simetría cuya función es meramente decorativa se pretende tratar a la Independencia y la estadidad como si fueran iguales, cuando no lo son.

Propongo, por tanto, que los puertorriqueños no tengamos que esperar más que lo demasiado que ya hemos esperado para disfrutar la Independencia, a la que, de conformidad con el derecho internacional, tenemos un derecho inalienable. Tan pronto nuestro pueblo reclame su derecho a la Independencia, no debe colocársele obstáculo alguno al libre ejercicio de su libertad nacional. Y tras la consulta que este proyecto propone para el año próximo, se debe implantar a través de una Asamblea Constituyente la proclamación de

nuestra soberanía antes de las próximas elecciones generales pautadas para el año 2000. La transición económica debe ocurrir, entonces, bajo la Independencia.

Puerto Rico ha padecido ya 99 años de colonialismo estadounidense. Por fin un organismo oficial del Congreso de Estados Unidos -esta Comisión de Recursos- admitió hace un año que nuestra condición es colonial, y que Estados Unidos no ha cumplido con su obligación de descolonizar, ni bajo el derecho doméstico, ni bajo el derecho internacional.

Pero todavía hay otros -sobre todo aquí en Puerto Rico- que pretenden justificar nuestro status territorial bajo la Constitución de Estados Unidos alegando "consentimiento". ¡Como si la esclavitud consentida no deshumanizara! El coloniaje por consentimiento no deja de ser coloniaje; y la obligación de descolonizar por ende subsiste.

Por otro lado, el caso de la estadidad es diferente al de la Independencia. La Independencia de Puerto Rico es, como he señalado, un derecho inalienable; pero la estadidad, no. Por eso pueden ustedes en el Congreso imponer las condiciones que estimen pertinentes en el caso de la estadidad. A base de las expectativas que ustedes tengan, dirán ustedes cómo debe ser Puerto Rico como estado -en qué idioma o idiomas tienen ustedes la expectativa de que sus ciudadanos puedan comunicarse, y qué, cuánto y cómo debe ese estado aportar al bienestar común y la paz social de su país.

Por lo tanto, aunque parezcan duros o antipáticos para algunos, los términos y condiciones de transición o implantación de

la estadidad que ustedes impongan deben reflejar claramente sus expectativas.

Por ejemplo, la posición del senador Daniel P. Moynihan es diáfana. Hace 7 años, cuando presentó para el récord el artículo publicado en el Washington Post por el senador Berríos -"Puerto Rico: ¿Lituania al revés?- en el contexto de los proyectos sobre status que estaban bajo consideración, el senador Moynihan dijo:

> In the end, the great issues involved here are civic, not economic. Do the people of Puerto Rico wish to become Americans? For that is what statehood ineluctably implies. That is what statehood brings.

Evidentemente, la aceptación o rechazo de una posible petición de estadidad no tendría ni que esperar a ser presentada. Pero para que no se fomenten falsas ilusiones ni se juegue con las aspiraciones de la inmensa mayoría de los puertorriqueños, que quieren seguir siendo puertorriqueños, la contestación, si algún día se plantea la pregunta, debe ser rápida. Por eso, cualquier rechazo congresional, en cualquier etapa, a cualquier propuesta, de transición o implantación de estadidad, debe considerarse como una denegatoria de la petición de estadidad. Porque si después de un siglo, todavía ustedes o nosotros tenemos dudas sobre si una nación latinoamericana y caribeña que habla español y quiere retener su integridad cultural, debe o no ser estado de la Unión, ni ustedes ni nosotros debemos seguir alargando la incertidumbre.

Pasemos por lo tanto a un futuro mejor.

Estamos, desde luego, en la mejor disposición de trabajar de inmediato con los asesores técnicos de la Comisión de Recursos en la redacción legislativa para los objetivos aquí propuestos.

Mr. UNDERWOOD. Madam Damaris.

STATEMENT OF THE HONORABLE DAMARIS MANGUAL VELEZ, DESIGNEE FOR THE HOUSE MINORITY LEADER-PUERTO RICAN INDEPENDENCE PARTY, PUERTO RICO HOUSE OF REPRESENTATIVES, SAN JUAN, PUERTO RICO

Ms. MANGUAL VELEZ. Buenas tardes señores miembros de esta Comisión. Comparece ante ustedes Damaris/Mangual Vélez, Comisionada Electoral del Partido Independentista Puertorriqueño. En la tarde de hoy discutiré el tema de quiénes deben votar en el plebiscito y los mecanismos electorales que son necesarios para instrumentar la ley que se apruebe. Solo los Puertorriqueños tenemos el derecho a decidir el destino político de nuestro país. Es evidente que solo los nacionales pueden votar para ejercer ese derecho a la autodeterminación.

El pueblo que participe en el plebiscito tiene que ser un pueblo diferente al pueblo que participa en las elecciones cada cuatro años porque es una elección diferente. Es parte de la autodeterminación de un pueblo. Y si participan los que no son de ese pueblo, entonces no es autodeterminación.

Entre los nacionales de Puerto Rico se cuentan los nacidos en Puerto Rico y aquellos cuyos padres hayan nacido en Puerto Rico, aunque residan fuera de Puerto Rico, pero manifiesten su deseo de regresar.

En la ley del plebiscito que se apruebe, la nacionalidad debe ser el requisito esencial para votar. El Congreso puede establecer estos parámetros a tenor con la responsabilidad que le impone la cláusula territorial para reglamentar y disponer del territorio.

En cuanto a los puertorriqueños que residen en el exterior, algunos alegan que desde el punto de vista administrativo, es imposible formalizar dicho voto. Sin embargo, los electores fácilmente pueden llenar una solicitud de participación en las oficinas de correos y devolverlas a la Comisión Estatal de Elecciones, donde sería cualificada con la correspondiente prueba de nacimiento del elector solicitante. Luego, la propia Comisión le enviaría directamente al elector la papeleta de votación.

En el caso de los nacionales residentes en otros países, las embajadas y los consulados de los Estados Unidos servirían para el trámite de rigor.

Es importante que ustedes entiendan que este mecanismo que propongo no es nuevo. La Comisión Estatal de Elecciones de Puerto Rico tiene experiencia en pequeña escala con este tipo de votación que denominamos voto ausente. Además, la celebración de este evento electoral es el mejor momento para implantar el sistema mecanizado de votación y escrutinio en nuestra isla. La Comisión Estatal de Elecciones tiene la capacidad y experiencia necesaria para administrar este proceso.

Finalmente, este proceso plebiscitario requiere que las fórmulas de status estén en igualdad de condiciones en cuanto al financiamiento para la promoción del voto y la educación del elector. Es una buena oportunidad para ensayar las reformas de campaña, de las cuales ustedes hablan [Another U/I voice] En su país. Debe asignarse una cantidad suficiente de fondos para cada fórmula y una vez sus proponentes se acojan al esquema de

financiamiento provisto, no podrán aceptar aportaciones privadas, lo que incluye la prohibición de los comités de acción política.

Estoy a su disposición para trabajar con su equipo de técnicos electorales y cualquier legislación que se tenga a bien aprobar.

Muchas gracias.

Mr. UNDERWOOD. Thank you.

[The prepared statement of Ms. Mangual Velez follows:]

PARTIDO INDEPENDENTISTA PUERTORRIQUEÑO

PONENCIA DE
DAMARIS B. MANGUAL VELEZ
COMISIONADA ELECTORAL
PARTIDO INDEPENDENTISTA PUERTORRIQUEÑO
(En representación del Representante Víctor García San Inocencio)

COMISION DE RECURSOS
CAMARA DE REPRESENTANTES DE ESTADOS UNIDOS
19 de abril de 1997

PUERTO RICO 00920-9990

963 AVENIDA ROOSEVELT • PUERTO NUEVO.

Señores miembros de esta Comisión:

Comparece ante ustedes Damaris B. Mangual Vélez, Comisionada Electoral del Partido Independentista Puertorriqueño.

En la mañana de hoy discutiré el tema de quiénes deben votar en el plebiscito y los mecanismos electorales que son necesarios para instrumentar la ley que se apruebe.

Solo los puertorriqueños tenemos el derecho a decidir el destino político de nuestro país. Es evidente que solo los nacionales pueden votar para ejercer ese derecho a la autodeterminación. El pueblo que participe en el plebiscito tiene que ser diferente al pueblo que participa en las elecciones cada 4 años porque es una elección diferente- es parte de la autodeterminación de un pueblo y si participan los que no son ese pueblo, entonces no es autodeterminación.

Entre los nacionales de Puerto Rico se cuentan **los nacidos en Puerto Rico y aquéllos cuyos padres hayan nacido en Puerto Rico,** aunque residan fuera de Puerto Rico y **manifiesten su deseo de regresar**. También deben votar como excepción, **los no nacidos en Puerto Rico, pero que hayan residido aquí durante un prolongado período de tiempo, y manifiesten por escrito su intención de permanecer en la Isla.**

En la ley del plebiscito que se apruebe, la nacionalidad debe ser el requisito esencial para votar. El Congreso puede establecer estos parámetros a tenor con la responsabilidad que le impone la Cláusula Territorial para reglamentar y disponer del territorio.

En cuanto a los puertorriqueños que residen en el exterior, algunos alegan que desde el punto de vista administrativo es imposible formalizar dicho voto. Sin embargo, los electores fácilmente pueden llenar una solicitud de participación en las oficinas de correos y devolverla a la Comisión Estatal de Elecciones donde sería cualificada con la correspondiente prueba de nacimiento del elector solicitante. Luego la propia Comisión le enviaría directamente al elector la papeleta de votación. En el caso de los nacionales residentes en otros países, las embajadas y consulados de los Estados Unidos servirían para el trámite de rigor.

Es importante que ustedes entiendan que este mecanismo que propongo no es nuevo. La Comisión tiene experiencia en pequeña escala con este tipo de votación que denominamos Voto Ausente. Además, la celebración de este evento electoral es el mejor momento para implantar el sistema mecanizado de votación y escrutinio en nuestra Isla. La Comisión Estatal de Elecciones tiene la capacidad y experiencia necesarias para administrar este proceso.

Finalmente, este proceso plebiscitario requiere que las fórmulas de status estén en igualdad de condiciones en cuanto al financiamiento para la promoción del voto y la educación del elector. Es una buena oportunidad para ensayar las reformas de campaña electoral de las cuales ustedes hablan para su país. Debe asignarse una cantidad suficiente de fondos para cada fórmula, y una vez sus proponentes se acojan al esquema de financiamiento provisto no podrán aceptar aportaciones privadas, lo que incluye la prohibición de los Comités de Acción Política.

Estoy a su disposición para trabajar con su equipo de técnicos electorales y legislativos en el lenguaje que recoja estos y cualesquiera requisitos que hagan de éste un proceso justo y balanceado.

Mr. UNDERWOOD. And now Professor Edwin Irizarry-Mora.

STATEMENT OF PROFESSOR EDWIN IRIZARRY-MORA, ECONOMIC ADVISOR, PUERTO RICAN INDEPENDENCE PARTY, PUERTO NUEVO, PUERTO RICO

Mr. EDWIN IRIZARRY-MORA. Buenas tardes. Buenas tardes señor Presidente y miembros de la Comisión de Recursos. Se dirige ante ustedes Edwin Irizarry-Mora, Asesor Económico del Partido Independentista puertorriqueño y Profesor de Economía de la Universidad de Puerto Rico.

Durante los pasados cuarenta y cinco años, desde que se fundó el Estado Libre Asociado, Puerto Rico ha ido acentuando su dependencia económica con respecto a los Estados Unidos. La dependencia se manifiesta en el sostenimiento de una estructura de producción industrial amparada en las leyes contributivas Norteamericanas, sus relaciones de comercio exterior casi exclusivas con los Estados Unidos.

Las consecuencias socioeconómicas de la dependencia son aún mas profundas. Según datos oficiales, sobre el cincuenta por ciento de las familias de Puerto Rico dependen de manera directa de algún tipo de programa de beneficencia subsidiado por el Gobierno Federal. A este hecho contundente, se añade un problema cada vez más crítico de desempleo, que al considerar la baja tasa de participación laboral, se proyecta a niveles reales entre treinta y treinta y cinco por ciento de la fuerza obrera. Frente a esta realidad, se ha desarrollado en Puerto Rico un gigantesco sector de economía subteránea, buena parte del mismo basado en el trasiego de drogas y en el crimen organizado.

Para completar el cuadro anterior, no debemos perder de perspectiva que Puerto Rico tiene un ingreso per capita equivalente a una tercera parte del ingreso de los Estados Unidos y a menos de la mitad del ingreso per capita del estado más pobre de la unión Norteamericana.

Ciertamente el modelo económico del Estado Libre Asociado amparado en la dependencia da señales de un agotamiento irreversible. La eliminación de la Sección 936 representa sin duda, el punto culminante en la historia del desarrollo dependiente de Puerto Rico. Como resultado de este escenario, invertir en Puerto Rico no representa ventajas económicas lo suficientemente grandes como para impulsar un aumento en la acumulación de capital y por ende, en la producción.

La situación de crisis económica del Estado Libre Asociado es el marco de referencia obligado para proyectar lo que significaría la transición hacia la estadidad. Dicho en términos muy concretos, la estadidad para Puerto Rico representaría la multiplicación de la dependencia.

El Congreso y el Tesoro reconocen, que lo que se embolsa entre el Gobierno Federal a Puerto Rico, bajo las condiciones socioeconómicas de [uninteligible] Aumentarían sustancialmente tan pronto [uninteligible] La estadidad. Evidentemente, el aumento de gastos Federales en Puerto Rico contrastaría irreconciala-irreconciliablemente con el objetivo trazado por el Congreso, de nivelar el presupuesto Federal para los primeros años de la próxima década.

De otra parte, la capacidad de aportación de los sectores que en Puerto Rico podrían contribuir con el pago de impuestos Federales, irónicamente frenaría cualquier posibilidad de iniciar un proceso de crecimiento local en un estado puertorriqueño entre comillas, ya que la ventaja competitiva del estado sería nula con respecto a otras jurisdicciones en el hemisferio. En otras palabras, la estadidad, en vez de promover el crecimiento económico y de contribuir a solucionar los problemas fiscales de los Estados Unidos, provocaría un aumento en el déficit presupuestal y Federal y abriría el camino para perpetuar la condición de dependencia. Por esa razón, sostengo que la estadidad no representa una opción viable para los Estados Unidos en el caso de Puerto Rico.

De otro lado, los acontecimientos de las pasadas dos décadas demuestran que la independencia ha sido el camino que han tomado los países con economías similares a la de Puerto Rico. Las ventajas de la independencia en nuestro caso, en nuestro caso son obvias. Amplia experiencia en la producción manufacturera, la existencia de una infraestructura muy superior a la de la mayoría de los países vecinos, dominio y conocimiento tecnológico representado por la fuerza obrera y una clase profesional de primer orden y un sistema educativo con características similares a los de países industriales entre otras variables estratégicas.

La independencia permitiría establecer un sistema contributivo de gastos públicos que responda a las realidades de nuestro pueblo. Un sistema monetario amparado, un sistema monetario adaptado a las condiciones de Puerto Rico y tratados comerciales de fomento en el intercambio con todos los países y que nos permitan jugar un papel protagónico en la economía global.

Con relación a este último aspecto, bajo el Estado Libre Asociado o la estadidad, Puerto Rico no puede establecer relaciones comerciales libremente con los países del Caribe y con la comunidad Latinoamericana inmediata, al igual que por supuesto, con los Estados Unidos, Canadá y la Comunidad Europea. La independencia representa la única opción de status que abriroí-, abriría las puertas para un intercambio comercial libre de todo tipo de ataduras.

Más aún, la forma más efectiva de atraer capital externo es a través de tratados contributivos y de acuerdos comerciales que solo son posibles bajo la independencia. El aumento de la producción se logrará además a través del fomento de nuestro capital en diversas áreas de nuestra economía. Estos elementos, como darán una mayor autosuficiencia y se convertirán en efecto, en la vía para romper con la dependencia para el beneficio mutuo de Puerto Rico y de los Estados Unidos.

Muchas gracias.

Mr. UNDERWOOD. Thank you very much.

[The prepared statement of Mr. Irizarry-Mora follows:]

DR. EDWIN IRIZARRY-MORA

ASESOR ECONÓMICO

PARTIDO INDEPENDENTISTA PUERTORRIQUEÑO

PONENCIA ANTE COMISION DE RECURSOS NATURALES
CAMARA DE REPRESENTANTES DE LOS ESTADOS UNIDOS
19 de abril de 1997
Vistas Públicas en torno al H. R. 856
por Dr. Edwin Irizarry-Mora
Asesor Económico del Partido Independentista Puertorriqueño
Profesor de Economía, Universidad de Puerto Rico

Buenas tardes, Señor Presidente y miembros de la Comisión de Recursos Naturales.

Durante los pasados cuarenta y cinco años, desde que se fundó el ELA, Puerto Rico ha ido acentuando su dependencia económica con respecto a los Estados Unidos. La dependencia se manifiesta en el sostenimiento de una estructura de producción industrial amparada en las leyes contributivas norteamericanas y en relaciones de comercio exterior casi exclusivas con los Estados Unidos.

Las consecuencias socioeconómicas de la dependencia son aún más profundas. Según datos oficiales, sobre el 50% de las familias en Puerto Rico dependen de manera directa de algún tipo de programa de beneficencia subsidiado por el gobierno federal. A este hecho contundente se añade un problema cada vez más crítico de desempleo que, al considerar la baja tasa de participación laboral, se proyecta a niveles reales de entre 30 y 35% de la fuerza obrera. Frente a esta realidad se ha desarrollado en Puerto Rico un gigantesco sector de economía subterránea, buena parte del mismo basado en el trasiego de drogas y en el crimen organizado.

Para completar el cuadro anterior, no debemos perder de perspectiva que Puerto Rico tiene un Ingreso Per Cápita equivalente a una tercera parte del Ingreso de los Estados Unidos y a menos de la mitad del Ingreso del estado más pobre de la unión norteamericana. Ciertamente, el modelo económico del ELA –amparado en la dependencia—da señales de un agotamiento irreversible. La eliminación de la Sección 936 representa sin duda el punto culminante en la historia del desarrollo dependiente de Puerto Rico. Como resultado de este escenario, invertir en Puerto Rico no representa ventajas económicas lo suficientemente grandes como para impulsar un aumento en la acumulación de capital y, por ende, en la producción.

La situación de crisis económica del ELA es el marco de referencia obligado para proyectar lo que significaría la transición hacia la estadidad. Dicho en términos muy concretos, la estadidad para Puerto Rico representaría la multiplicación de la dependencia. El Congreso y el Tesoro reconocen que los desembolsos del gobierno federal a Puerto Rico bajo las condiciones socioeconómicas descritas aumentarían sustancialmente tan pronto advenga la estadidad. Evidentemente, el aumento de gastos federales en Puerto Rico contrastaría irreconciliablemente con el objetivo trazado por el Congreso de nivelar el presupuesto federal para los primeros años de la próxima década.

De otra parte, la capacidad de aportación de los sectores que en Puerto Rico podrían contribuir con el pago de impuestos federales, irónicamente frenaría cualquier posibilidad de iniciar un proceso de crecimiento local en un "estado puertorriqueño", ya que la ventaja competitiva del "estado" sería nula con respecto a otras jurisdicciones en el Hemisferio. En otras palabras, la estadidad, en vez de promover el crecimiento económico y de contribuir a solucionar los problemas fiscales de los Estados Unidos, provocaría un aumento en el déficit presupuestario federal y abriría el camino para perpetuar la condición de dependencia. Por esa razón sostengo que la estadidad no representa una opción viable para los Estados Unidos en el caso de Puerto Rico.

De otro lado, los acontecimientos de las pasadas dos décadas demuestran que la independencia ha sido el camino que han tomado los países con economías similares a las de Puerto Rico. Las ventajas de la independencia en nuestro caso son obvias: amplia experiencia en producción manufacturera; la existencia de una infraestructura muy superior a la de la mayoría de los países vecinos; dominio del conocimiento tecnológico representado por una fuerza obrera y una clase profesional de primer orden; y un sistema educativo con características similares a los de países industriales, entre otras variables estratégicas.

La independencia permitiría establecer un sistema contributivo y de gasto público que responda a las realidades de nuestro pueblo; un sistema monetario adaptado a las condiciones de Puerto Rico y tratados comerciales que fomenten el intercambio con todos los países y que nos permitan jugar un papel protagónico en el la economía global. Con relación a este último aspecto, bajo el ELA o la estadidad Puerto Rico no puede

establecer relaciones comerciales libremente con los países del Caribe y con la comunidad latinoamericana inmediata al igual que, por supuesto, con los Estados Unidos, Canadá y la Comunidad Europea. La independencia representa la única opción de status que abriría las puertas para un intercambio comercial libre de todo tipo de ataduras.

Más aún, la forma más efectiva de atraer capital externo es a través de tratados contributivos y de acuerdos comerciales que sólo son posibles bajo la independencia. El aumento en la producción se logrará, además, a través del fomento de nuestro capital en diversas áreas de nuestra economía. Estos elementos promoverán una mayor autosuficiencia y se convertirán, en efecto, en la vía para romper con la dependencia para el beneficio mutuo de Puerto Rico y de los Estados Unidos.

PONENCIA DEL REPRESENTANTE POR ACUMULACION POR EL PARTIDO POPULAR DEMOCRATICO, HONORABLE CARLOS VIZCARRONDO IRIZARRY, ANTE LA COMISION DE RECURSOS DE LA CAMARA DE REPRESENTANTES DE LOS ESTADOS UNIDOS, EN LA VISTA PUBLICA SOBRE EL H.R. 856, EL 19 DE ABRIL DE 1997, EN SAN JUAN, PUERTO RICO

Buenos Días:

Comparezco ante ustedes en mi carácter de Representante electo del pueblo de Puerto Rico, bajo la insignia del Partido Popular Democrático y como puertorriqueño orgulloso de su herencia y de su cultura, de su personalidad de pueblo caribeño y latinoamericano, que mira a su socio en esta comunidad de valores que representa la asociación entre Puerto Rico y Estados Unidos al mismo nivel, aspirando a ensanchar y enriquecer esta relación.

La base de cualquier relación es el respeto mutuo. Comparezco aquí a reinvindicar el derecho de mi Nación Puertorriqueña a ser respetada, como supremo árbitro de su destino final. El Proyecto que estamos considerando en el día de hoy se aleja de lo que ha sido la realidad de la relación de afecto y respeto que ha existido en los pasados 99 años entre Estados Unidos y Puerto Rico. El insulto, y la degradación no puede ser base para un diálogo de pueblo a pueblo, para asegurar la defensa de sus mutuos intereses, por lo cual concordamos plenamente con la posición expresada por el Representante de la Administración Clinton ante este Comité, el pasado 19 de marzo al señalar que el proyecto contiene interpretaciones y representaciones del pasado constitucional que en nada ayudan al desarrollo de la presente condición política de Estado Libre Asociado hacia mayor autonomía u otras formas de relación entre nuestros pueblos.

Puerto Rico está orgulloso del paso afirmativo que dió en la dirección del pleno gobierno propio, al crear en el 1950 al 1952 una relación de asociación digna con los Estados Unidos mediante el Estado Libre Asociado, relación que su gobierno, el gobierno de Estados Unidos presentó al mundo como una relación que terminaba, no que reafirmaba como señala este proyecto, con la condición colonial de Puerto Rico.

Nuestro país necesita y se merece la verdad; la de ustedes y la nuestra. Si ustedes entienden que Puerto Rico, es una colonia, un mero territorio de los Estados Unidos, sepan Señores Congresistas que este pueblo no aceptó ser colonia en el 1952 ni lo acepta ahora. Este pueblo construyó una relación digna, libre de mancha colonial, al consentir la creación del Estado Libre Asociado. Si las premisas para ustedes han cambiado, para nosotros no. Como bien señaló Don Luis Muñoz Marín, ante un intento similar a éste en el 1962 "si Puerto Rico es una colonia de Estados Unidos debe dejar de serlo inmediatamente, por el buen nombre de Estados Unidos y por el honor y la dignidad del pueblo de Puerto Rico".

Para aclarar cualquier duda que pueda existir, por fundada o infundada que ésta sea, el Partido Popular Democrático ha presentado una definición de Nuevo Estado Libre Asociado ante esta Comisión enraizada en los mismos principios que aspirábamos concretizar en el 1952: autonomía con soberanía consagrada en una asociación que garantice la comunidad de intereses entre Estados Unidos y Puerto Rico en las áreas de moneda, defensa, ciudadanía y mercado.

Esa definición producto del diálogo y el consenso del autonomismo puertorriqueño, recoge los puntos mínimos aceptables para nuestra colectividad, basado en documentos adoptados por nuestro partido como la declaración de la juventud del Partido Popular Democrático del 15 de marzo de 1997 y la Resolución del Consejo General del Partido Popular Democrático del 17 de noviembre de 1990.

Pero no es solo sobre el Estado Libre Asociado que los puertorriqueños quieren la verdad. Cientos de miles de buenos puertorriqueños han creído de buena fe en la inminencia de una estadidad que represente una lluvia de millones de dólares en fondos federales, con plenas garantías a nuestra nacionalidad, cultura e idioma propio. ¿Eso es posible? ¿Cuál es el costo que ustedes están dispuestos a pagar para admitir a la Unión como Estado a una comunidad de 3.5 millones de ciudadanos cuyo idioma es el español, y que de acuerdo al Censo de los Estados Unidos de 1990, el 83% de sus habitantes ni habla, ni escribe, ni entiende el idioma ingles; donde más de el 60% de las familias vivirían de la dádiva federal? ¿Están ustedes dispuestos a retirar de nuestro país las bases militares que actualmente tienen como se exige en la actual definición de independencia? Si este proyecto se aprueba tal y como está los cientos de miles de puertorriqueños que atesoran su ciudadanía americana tendrían que votar por un espejismo, por una fórmula que no es posible, como es la estadidad o por cortar totalmente los lazos de asociación entre Puerto Rico y los Estados Unidos, como sería la independencia.

Señores Congresistas, llegó la hora de hablar con la verdad. ¿Qué ustedes quieren? Nos llegó la hora a ustedes y a nosotros, la hora de la mutua determinación. Puerto Rico y los autonomistas, estamos preparados.

Carlos Vizcarrondo Irizarry

CARLOS VIZCARRONDO IRIZARRY

Mr. UNDERWOOD. Mr. Emilio A. Soler Mari, President, Puerto Rican Democratic Action Foundation.

STATEMENT OF EMILIO A. SOLER MARI, PRESIDENT, PUERTO RICAN DEMOCRATIC ACTION FOUNDATION, SAN JUAN, PUERTO RICO

Mr. MARI. Muchas gracias y muy buenas tardes a los distinguidos miembros de este panel.

Acción Democrática puertorriqueña es una organización de la sociedad civil de Puerto Rico, no partidista, y su fundación en parte ha sido motivada en torno a esta iniciativa del Gobierno Norteamericano, que recogiendo el clamor internacional por la descolonización, intenta resolver dicho problema de las relaciones entre nuestras dos naciones.

Reconocemos, tal como fue anunciado cuando se radicó este proyecto, que este proyecto es uno sujeto a cambios y enmiendas, en el proceso legislativo de la Cámara, y a tales fines hoy comparecemos ante ustedes con los siguientes señalamientos y propuestas de enmienda.

En la expresión de principios, el proyecto debe reconocer a Puerto Rico como algo más que una isla situada en la entrada del mar Caribe, habitada por cuatro millones de... Cuatro millones de ciudadanos Norteamericanos, sino como una nación Hispánica debe reconocerse, Caribeña, de cinco siglos de existencia, con su propia historia, cultura e idioma.

Entendemos que por ser este un proceso de descolonización, las alternativas que se ofrecen deben cumplir con los requisitos mínimos de descolonización de acuerdo a derecho internacional. La alternativa de estado libre asociado-commonwealth, que está incluida en ese proyecto, ahora mismo no cumple con ese requisito, por lo cual entendemos debe ser excluida.

La estadidad como alternativa tal vez podría resolver el problema jurídico actual, pero entendemos que no el problema político. Las naciones no se disuelven con una votación y el sistema Federal está constituido para permitir la coexisten-no está constituido para permitir la coexistencia de una nación dentro de otra nación. Estados Unidos es la nación y no admite otras naciones dentro de la misma.

Solicitamos que este proyecto se enmiende, estableciendo una lógica presentación de las alternativas, una indepen-una independiente de la otra en la papeleta de votación. Se debe enmendar el proyecto para que contenga una definición clara de cada una de las alternativas propuestas. En el caso de la libre asociación, proponemos que el proyecto establezca la definición que acompañamos y que ha sido circulada por nuestra organización a todos los miembros del Congreso de Estados Unidos y a la Casa Blanca y que se ha acompañado en el idioma Inglés como Anexo 1 de esta ponencia.

La Casa Blanca más—y más de treinta congresistas ya han reconocido recibir este proyecto y le están dando consideración a el mismo y así nos los han confirmado. En términos breves, dicha definición de libre asociación debe incluir, el reconocimiento que Puerto Rico es soberano y autónomo y entrará en un Tratado de Libre Asociación con el pueblo de Estados Unidos.

Los ciudadanos de los Estados... De los Es- de los Estados Unidos nacidos en Puerto Rico continuarán siendo ciudadanos de los Estados Unidos de Norteamérica luego de la fecha en que entre en vigor el acuerdo de libre asociación con el pueblo de Estados Unidos.

El pueblo de Puerto Rico tendrá la capacidad para llevar a cabo sus asuntos internacionales. El pueblo de Puerto Rico tendrá plena autoridad para entrar en convenios y tratados internacionales. El Gobierno de los Estados Unidos apoyará las solicitudes de parte del pueblo de Puerto Rico para su membrecía en organizaciones internacionales.

El gobierno de los Estados Unidos y el gobierno de Puerto Rico podrán establecer y mantener representaciones y/o misiones en la capital de cada cual.

El gobierno de los Estados Unidos proveerá anualmente en calidad de asignación, un bloque por la misma cantidad de fondos que actualmente comprende sus aportaciones a Puerto Rico. En adición a aquellos fondos distribuidos como compensaciones, entitlements, a residentes individuales en la fecha en que entre en vigor el acuerdo.

El gobierno de Puerto Rico eh de Estados Unidos mantendrá la autoridad para y responsabilidad para velar por los asuntos de seguridad internacional y defensa pertinentes a Puerto Rico, sujeto a los términos y convenios por separado. Puerto Rico no estará incluido en el territorio aduanero de los Estados Unidos. La moneda de los Estados Unidos continuará siendo la oficial y circulante legal en Puerto Rico y todas las leyes de los Estados Unidos relativas a dicha moneda se hacen parte de ésta.

El proyecto debe establecer, que en caso de que el resultado de la votación arroje una mayoría simple, a favor de la independencia o la libre asociación, se aceptará esta como alternativa ganadora. Sin embargo, para la anexión será necesaria una mayoría absoluta.

Con respecto a los criterios para la elegilidad de los ciudadanos que votarán en el plebiscito, debe tomarse en cuenta la importancia de este proceso, el cual conllevaría la decisión final del destino de nuestro pueblo. Amparado en los precedentes de las Islas Palau, las Islas Marshall y la Micronesia, sugerimos la participación de todos los nacidos en Puerto Rico y sus hijos irrespectivamente de su residencia actual.

Cumplidos noventa y ocho de relación territorial corresponde a Estados Unidos el promover un proceso genuinamente colonizador, que permita deshacernos de los mitos asociados con la alternativa de status que convenientemente han creado los partidos políticos en Puerto Rico. Un paso afirmativo y esperanzador en dicho proceso debe ser el ofrecimiento al pueblo de Puerto Rico de una opción de libre asociación. Así lo solicitamos a nombre de nuestro pueblo.

Gracias.

[The prepared statement of Mr. Mari follows:]

Fundación Acción Democrática Puertorriqueña

PO Box 9022864
San Juan, Puerto Rico 00902-2864
Tel. (787) 725-1735

Presidente
Emilio Soler Mari

Vice-Presidente
Raúl Mariani Franco

Director Ejecutivo
Raúl Rodríguez Quiles

Director de Finanzas
José M. Muriente Graña

Director de Organización
Ramón Luis Nieves

Director Relaciones Internacionales
Néstor Duprey Salgado

Director de Prensa
Francisco Paz Vilariño

PONENCIA DEL LCDO. EMILIO SOLER MARI,
PRESIDENTE ACCIÓN DEMOCRÁTICA PUERTORRIQUEÑA
ANTE EL COMITÉ DE RECURSOS DE LA CÁMARA
DE REPRESENTANTES DE ESTADOS UNIDOS
EN LAS VISTAS CONGRESIONALES DE SÁBADO 19 DE
ABRIL DE 1997 SOBRE EL PROYECTO H.R. 856
(UNITES STATES - PUERTO RICO POLITICAL STATUS ACT)

PONENCIA SOBRE PROYECTO H.R. 856
(UNITED STATES PUERTO RICO POLITICAL STATUS ACT)
ANTE EL COMITE DE RECURSOS DE LA CAMARA
DE REPRESENTANTES DE ESTADOS UNIDOS

Acción Democrática Puertorriqueña es una organización de la sociedad civil de Puerto Rico no partidista y su fundación en parte ha sido motivada en torno a la iniciativa del Gobierno Norteamericano, que recogiendo el clamor internacional por la descolonización, intenta resolver dicho problema de las relaciones entre nuestras dos naciones.

Reconocemos, tal como fue anunciado cuando se radicó este Proyecto, que el mismo es uno sujeto a cambios y enmiendas en el proceso legislativo de la Cámara. A tales fines hoy comparecemos ante ustedes con los siguientes señalamientos.

En la expresión de principios el Proyecto debe reconocer a Puerto Rico como algo más que una Isla situada en la entrada del Mar Caribe habitada por cuatro millones de ciudadanos americanos; sino como una nación hispánica, caribeña, de cinco siglos de existencia, con su propia historia, cultura e idioma.

Entendemos que por ser éste un proceso de descolonización las alternativas que se ofrezcan deben cumplir con los requisitos mínimos de descolonización. La alternativa de Estado Libre Asociado (Commonwealth) no cumple tal requisito por lo cual debe ser excluída.

La estadidad como alternativa podría, tal vez, resolver el problema jurídico actual, pero no el problema político. Las naciones no se disuelven por una votación, y el sistema federal no está constituído para permitir la coexistencia de una nación dentro de otra nación.

Solicitamos que este Proyecto se enmiende estableciendo una lógica presentación de las alternativas; una independiente de la otra en la papeleta de votación. Se debe enmendar el Proyecto para que contenga una definición clara de cada una de las alternativas propuestas. En el caso de la Libre Asociación proponemos que el Proyecto establezca la definición que acompañamos y que ha sido circulada por nuestra organización a todos los miembros del Congreso de Estados Unidos y que se ha acompañado en el idioma inglés como Anejo I a esta Ponencia. En términos breves dicha definición deberá contener:

(1) El reconocimiento que Puerto Rico es soberano y autónomo (self-governing) y entrará en un Tratado (Compact) de Libre Asociación con el pueblo de los Estados Unidos.

(2) Los ciudadanos de los Estados Unidos nacidos en Puerto Rico continuarán siendo ciudadanos de los Estados Unidos de Norteamérica luego de la fecha en que entre en vigor el Acuerdo de Libre Asociación con el pueblo de los Estados Unidos.

(3) El Pueblo de Puerto Rico tendrá la capacidad para llevar a cabo sus asuntos internacionales.

(4) El Pueblo de Puerto Rico tendrá plena autoridad para entrar en convenios y tratados internacionales.

(5) El Gobierno de los Estados Unidos apoyará las solicitudes de parte del Pueblo de Puerto Rico para su membresía en organizaciones internacionales.

(6) El Gobierno de los Estados Unidos y el Gobierno de Puerto Rico podrán establecer y mantener representación y/o misiones en la capital de cada cual.

(7) El Gobierno de los Estados Unidos proveerá anualmente, en calidad de asignación en bloque (global), la cantidad de fondos que actualmente comprenden sus aportaciones a Puerto Rico, en adición a aquellos fondos distribuídos como compensaciones (entitlements) a residentes individuales en la fecha en que entre en vigor el Acuerdo.

(8) El Gobierno de los Estados Unidos mantendrá la autoridad para y responsabilidad para velar por los asuntos de seguridad internacional y defensa pertinentes a Puerto Rico, sujeto a los términos de convenios por separado.

(9) Puerto Rico no estará incluído en el territorio aduanero de los Estados Unidos.

(10) La moneda de los Estados Unidos continuará siendo la oficial y circulante legal en Puerto Rico, y todas las leyes de los Estados Unidos relativas a dicha moneda se hacen parte de este Acuerdo.

El Proyecto debe establecer que en caso de que el resultado de la votación arroje una mayoría simple a favor de la Independencia o la Libre Asociación se aceptará ésta como la alternativa ganadora. Sin embargo, para la anexión será necesaria una mayoría absoluta.

Con respecto a los criterios para la eligibilidad de los ciudadanos que votarán en el plesbicito debe tomarse en cuenta la importancia de este proceso, el cual conllevaría la decisión final del destino de nuestro pueblo. Amparados en los precedentes de las Islas Palau, las Islas Marshall y la Micronesia, sugerimos la participación de todos los nacidos en Puerto Rico y sus hijos irrespectivamente de su residencia actual.

Cumplidos noventa y ocho años de relación territorial corresponde a los Estados Unidos el promover un proceso genuinamente descolonizador que permita deshacernos de los mitos

asociados con las alternativas de status que convenientemente han creado los partidos políticos en Puerto Rico. Un paso afirmativo y esperanzador en dicho proceso debe ser el ofrecimiento al Pueblo de Puerto Rico de una opción de Libre Asociación. Así lo solicitamos a nombre de nuestro Pueblo.

Tanto bajo la dominación española como bajo la norteamericana, los puertorriqueños hemos estado en una indefinición política sin poder unir voluntades. La propuesta de la Libre Asociación es la vía para unir a todos los puertorriqueños.

En San Juan, Puerto Rico, a 19 de abril de 1997.

EMILIO A. SOLER MARI
PRESIDENTE, FUNDACIÓN
ACCIÓN DEMOCRÁTICA PUERTORRIQUEÑA

ANEJO I

AMEND Page 14, Line 7, section 4 (a) adding "C"

After "independence" delete all its content. And provide a new section C:

C: Puerto Rico should become a Free Associated State in bilateral compact with the United States. If you agree, mark here:_____.

This relationship of free association is one in which _____

(a)The people of Puerto Rico, acting through the Goverment established under its Constitution, is sovereign and self-governing.

(b) All the United States citizens born in Puerto Rico shall remain citizens of the United States of America subsequently to the effective date of the Compact of Free Association and are also citizens of Puerto Rico.

(c) A United States citizen who becomes a citizen of Puerto Rico and who does not renounce his United States citizenship, will retain his United States citizenship and continue to be entitled to the same rights and privileges as any other Unites States citizen.

(d) The Goverment of Puerto Rico has the capacity to conduct its international affairs and shall do on its name and right.

(e) To compete in the global economy, the Goverment of Puerto Rico has full authority and responsibility to enter into international agreements and treaties to promote its integration with North and South America, Caribbean and World Markets.

(f) The Goverment of the United States shall support applications by the Goverment of Puerto Rico for membership or other participation in regional or international organizations.

(g) The Goverment of the United States and the Goverment of Puerto Rico may stablish and mantain representation and/or missions in the capital of the other for the purpose of maintaining close and regular consultation on matters arising in the course of this relationship, and conducting other goverment business.

(h) In order to assist the Goverment of Puerto Rico in its efforts to advance the economic self-sufficiency of its people and in recognition of the special relationship that exist between them and the United States, The Goverment of the United States shall provide annually on a bloc grant basis the present level of U.S. funds and expenses in Puerto Rico which are not directly distributed to individual resident at the effective date of the Compact.

(i) The Goverment of the United States has authority and responsibilty for the international security and defense matters relating to Puerto Rico. This authority and resposibility includes: (1) the obligation to defend Puerto Rico and its people from attack or threats, as the United States and its citizens are defended; (2) the option to strategically deny or foreclose access to or use of Puerto Rico by military purpose of any third country; and (3) the option to stablish and use military areas and facilities in Puerto Rico, subject to the terms of separate agreements.

(j) Title to the property of the Goverment of the United States situated in Puerto Rico or acquired for or used by the Goverment of the United States in Puerto Rico on or before the day preceding the effective date of the Compact shall without reimbursement or transfer of funds, vest in the Goverment of Puerto Rico as set forth in a separate agreement which shall come into effect with the Compact. This provision shall not apply for the use of the property of the Goverment of the United States for which the Goverment of the United States determines a continuing requirement for defense and security, mutually agreed.

(k) Any needed specific arrangements for the establishment and use by the Goverment of the United States of the military areas and facilities in Puerto Rico will be set forth in separate agreements which shall come into effect simultaneously with the Compact.

(l) Puerto Rico is not included in the customs territory of the United States.

(m) The currency of the United States is the official circulating legal tender of Puerto Rico, and all laws of the United States relating to said currency are made part of the Compact.

(n) Except as otherwise provided in the Compact, the laws of the United States to Puerto Rico cease with respect to Puerto Rico, as of the effective date of the Compact.

(o) If a dispute between the Goverment of the United States and the Goverment of Puerto Rico cannot be resolved by negotiation, either party to the dispute may refer it for adjudication to a joint Puerto Rico - United States Compact Court as provided in detail in a separate agreement.

Mr. UNDERWOOD. Senator Eduardo Morales-Coll.

STATEMENT OF EDUARDO MORALES-COLL, PRESIDENT, ATENEO PUERTORRIQUENO, SAN JUAN, PUERTO RICO

Mr. MORALES-COLL. Muy buenas tardes a los miembros del Comité, y al pueblo puertorriqueño. Hice una ponencia por escrito, la cual ustedes tienen. Voy a limitarme a expresar algunas palabras solamente respecto a uno de los temas tratados.

El Ateneo puertorriqueño, la institución que presido, es una institución pluralista. Tiene miembros de todos los partidos políticos y por esa razón no expresamos ninguna opinión respecto a ninguna fórmula de status político. Solamente nos limitamos a tratar aquellos asuntos que sean de naturaleza cultural.

Ahora voy a hablar de una limitación que me preocupa grandemente y voy a hacer la observación de que el Proyecto 856, que pretende resolver la situación política puertorriqueña, está escrito en el idioma Inglés. Según el Buró del Censo de los Estados Unidos, para utilizar una referencia que nadie puede disputar, casi el ochenta por ciento de los puertorriqueños no conocen el idioma en que está proyecto está escrito.

El Ateneo se tomó el trabajo de traducir ese proyecto al Español y distribuirlo. Hizo lo mejor que pudo. Hizo lo que este Comité no hizo para que todos los puertorriqueños pudieran entenderlo.

Segundo, el Proyecto 856, que pretende resolver la situación política de los puertorriqueños, no ha circulado entre los puertorriqueños para que estos tengan la oportunidad de expresarse en estas vistas. El Ateneo se tomó el trabajo de circularlo gratis a todas las personas que pudo. Hizo lo mejor que pudo, lo que no hizo este Comité, para que todos los puertorriqueños podamos tener copia de ese proyecto y que podamos entenderlo.

Tercero, el Ateneo invitó a todo nuestro país, en una invitación pública, para que todos los puertorriqueños desde los más humildes a los más favorecidos, vinieran al Ateneo para expresarse sobre este proyecto, comprometiéndonos en el Ateneo a traducirlo y hacérselo llegar a ustedes, para que ustedes hicieran uso de el como mejor pudieran.

Comparecieron al Ateneo más de cincuenta personas de todos los niveles, pobres y ricos, a hacerse oír y expresarse sobre el Proyecto 856 que tenían en sus manos, porque el Ateneo se los había provisto. La gran parte de ellos no podían comparecer a estas vistas, porque no dominan el Inglés, como no lo domina más del ochenta por ciento de nuestra población, o porque no tenían los $50 dólares que es el costo de las cien copias que es necesario radicar en esta comisión.

Abrimos este proyecto a la discusión pública de todos los puertorriqueños de todas las ideologías. Realizado todo este esfuerzo por el Ateneo para beneficio de nuestro país, para que todo nuestro pueblo entienda el proyecto que están considerando, nosotros nos comprometimos a traer esa expresión a ustedes. Al yo venir aquí, a la Comisión a traer copia, creo que ustedes la deben tener ya, de la transcripción que habíamos hecho de todas esas ponencias al idioma Inglés, se nos informó que incluir esas participaciones en el récord era muy caro. ¿Cuánto están ustedes

dispuestos a gastar para reconocer la expresión de los puertorriqueños que no pudieron comparecer a estas vistas? [Applause].

Todo este proceso en el idioma Inglés es injusto para quien no ha recibido copia de esa ley en su idioma, o habiéndola recibido, no la entiende por ser sumamente técnica. Esta decisión de excluir la participación de aquellos que no pueden comparecer a estas vistas, es extremadamente injusta. Ustedes tienen copias de ellas. Yo se las someto con la súplica de que le den a estas personas que comparecieron al Ateneo, porque no pueden comparecer aquí hoy, la misma oportunidad que se ha dado en estas vistas, en el día de hoy, para que todas las personas que algún día lean el récord que habrá de levantarse de estas vistas, también encuentren que a ellas comparecieron policías, carpinteros y personas de todos los niveles económicos con y sin educación, para expresarse sobre algo que ellos saben que es de sumo interés porque es el destino de su nación.

Muchas gracias.

[Applause.]

Mr. UNDERWOOD. Thank you.

[The prepared statement of Mr. Morales-Coll follows:]

COVER PAGE

EDUARDO MORALES COLL, Esq.

PRESIENT

ATENEO PUERTORRIQUEÑO

SUPPLEMENTAL SHEET

EDUARDO MORALES COLL, Esq.

Apartado 1180
San juan, Puerto Rico
00902

Tel. (787) 722-4839
Tel. (787) 725-6175
Fax. (787) 725-3873

TOPICAL OUTLINE

Preliminary Statements

Statements on the Free Determination Process

Statements on House Bill 856

Closinng Statements

Hearings on U.S. House of Representatives Bill No.856
United States House of Representatives
at San Juan, Puerto Rico
April 19, 1997

Statements of Eduardo Morales Coll, esq.[1]

in representation of

ATENEO PUERTORRIQUEÑO

1- PRELIMINARY STATEMENTS

I am Eduardo Morales Coll, President of the Puerto Rican Athaeneum (Ateneo Puertorriqueño), Puerto Rico´s oldest and most active cultural institution, founded in 1876 for the promotion of Science, Arts and Literature and for the study, defense and diffusion of Puerto Rican cultural values. The Ateneo owns Puerto Rico´s oldest library with the best collection on books by Puerto Rican authors and about Puerto Rican matters. The Ateneo holds Puerto Rico´s most prestigeous and important anual Arts and literary contests. The Ateneo publishes its own books under the name Editorial LEA, which publications include a quarterly review, a series of books (cuadernos) on different subject matters, incliuding history, political sciences, arts and literature, and also publishes the minutes of the many international and local forums held at the institution.The Ateneo holds conferences and forums in arts, history, literature, political sciences and natural sciences, among others. The Ateneo presents concerts and recitals on poetry, music and other performing arts. It is, in summary, an apiary of cultural, artistic and literary activity.

It is the position of the Ateneo Puertorriqueño that House Bill number 856 raises many issues which fall within the interests of the Ateneo, specifically those related to cultural and linguistic matters, and with the very essence of the Puerto Rican nation[2].

It has always been good news everytime we know of any effort geared at

[1] For curriculum vitae see exhibit A

[2] The word "nation" will be used in this testimony in the same sense as it it used in H.R.856, that is, in its original sociologic and historic concept of an ethnical group within a defined territory, with its distinct vernacular language, common history, customs and traditions that live together with consciousness of their cultural identity and a will to conserve it. As usuallly done, we will use the term "state" when referring to the more recent use of the word "nation", referring to a full sovereign political body.

solving the Puerto Rican-United States colonial relations. Prior efforts date back from 1898 up to current year 1997. Those efforts have been made, on countless occations, throuhg envoys to the United States, through plebiscites here in Puerto Rico and also through claims before the United Nations. Notwithstanding that all of them have proven to be futile, we welcome the proceedures that have started with H.R. 856 to "allow the people of Puerto Rico to decide the future of their nation"[3] in the expectancy that this time it will be for real.

My statements today do not represent the position of any political ideology nor shall I give any endorsement to any political statements made by politically motivated people or political parties. The Ateneo is a pluralistic institution whose members are affiliated to the many political parties and movements in Puerto Rico. It is not our intention that our position be similar to, or differ from any partisan position. Our position only follows the Ateneo objectives as have been above stated. I may, notwithstanding, clarify statements made by some people for the only purpose of making you aware of the facts as we know them to be, for you to corroborate them, if you so wish. I urge you not to take any statement made to you, not even my own, as a proven truth or axiom. I hope that you corroborate all facts that are presented to you. For that purpose I will submit the necessary exhibits, or clear references, that will make your corroboration easier.

I have divided this work on two parts: the first one, (On Self Determination) I address some issues related to the principle of "self determination" and on the second, (United StatesH.R. 856 I make comments on specific parts of H.R. 856.

Before ending this preliminary statement, I must bring to the consideration of this Committee, and to the general public attention, three situations that have arised which run contrary to the interest of the clear and specific knowledge that the Puerto Rican community should have about Bill 856 so that this process be valid, and which also run contrary to the need of a full participation by the Puerto Ricans in this process:

First- H.R 856, which has been introduced in the House of Representatives "for a final decision of the political status of Puerto Rico", is unaccessible to more than 90 % of the Puerto Rican population, precisely the people whose political status is being decided by this bill. According to the studies and surveys made by the Ateneo on the proficiency of Puerto Ricans in the English language[4], which studies have been coroborated by the United States Census Bureau[5], less than 75 % of our population understand the English language. If we add to this situation the difficulties that a document of this nature has for the common person, due to the technicality of its phraseology, we can reasonably state that H.R 856 is unintelligible to more than 90% of the Puerto Rican population. Even though the Ateneo has made a translation of the bill for the benefit of our people, our effort could not surpass the cost of its distribution. The presentation of this bill to the Puerto Ricans in the English language and the conduction of these hearings also in the English language is an undue burden and a discrimination against the Puerto Rican Spanish speaking community, which is more than 95% of the total population of our nation.

[3] **U.S. House of Representatives' Committee on Resources Press Release, February 26, 1997

[4] See Exhibit B herein

[5] See Exhibit C herein

Second - The consultation and deliberative process intended by these hearings fall short of any reasonable expectation of legality under international law because, as of today, the second day of public hearings on this "self determination" bill, the United States Congress has made no effort in bringing or distributing or making available to the Puerto Rican community a copy of the bill that proposes to define their own political status. For all practical matters, H.R.856 is an unknown document to Puerto Ricans. I have personally made an informal survey among Puerto Ricans from the rural parts of our country and in many middle class urban neighborhoods and have found out that almost nobody knows what H.R 856 says. I invite the members of this Committee and also the distinguished representatives of our press to ask our people if they have had the opportunity to read this bill. Even though the Ateneo made hundreds of copies of Bill 856 for free distribution, we were not prepared to print nor distribute the amount of copies necessary for every Puerto Rican to have the opportunity of reading the Bill, understanding its contents and appearing to testify. The exclusion of the Puerto Rican community from having reasonable knowledge of Bill 856 and from an efficient participation on its public hearings is a bold-faced discrimination against the Puerto Rican people inasmuch as it deprives them of knowledge of the political process in which they are the subjects of the legislation.

Third, that the requisites established by the Committee for participating in these hearings are exclusory for the majority of the Puerto Rican people. At the time I am writing this paper, I still do not know if I can express myself in my vernacular Spanish language. I have taken the risk of making myself be heard today in English, a language I do not master, in fear of the higher risk of not being heard at all. As already stated, less than 10% of our population is qualified to read and understand an extremely technical document as H.R. 856. If we add up the aditional restriction of having to prepare a statement on that bill in the English language, and then appear before this Committee to read it and answer questions, we can estimate that you are limiting the possibility of participants to an insignificant part of our population. In addition, the imposition of making one hundred copies of the testimony, approximately one thousand twenty photocopied pages, even at a modic 5 cents per copy, is a luxury that not many people can afford.

2- ON SELF DETERMINATION

The United Nations Covenant on Civil and Political Rights, as well as the United Nations Covenant on Economic, Social and Cultural Rights, both approved by a unanimous vote of all the nations´ representatives in 1966, establish, in their very first paragraph, that "peoples, by virtue of their right to self determination, are entitled to freely determine the political, economic, social and cultural policies of their state".[6] The international community, as well as almost every international law scholar recognize that right "as a truly human right" [7]

In its State of the Nation´s Message to Congress of 1918, President Woodrow

[6] Article 1(3) grants peoples of dependent territories the right freely to decide their international status. This section is to be read in conjunction with Chapter 11 (on non-self governing territories), and it follows previous Resolution 1514 XV of 1960, which remained in full force and effect. See *Self Determination of Peoples*, A. Cassese, Cambridge University Press, 1995.

[7] *The Human Right to Self Determination Of Peoples*, J. Chalbaud, Tecnos Press, 1985

Wilson stated that "peoples and territories could not be transferred from one State to another State as if they were movable goods or pawns in a game". Even though that was, precisely, the fashion in which Puerto Rico was transferred to the United States, President Wilson remarks remain, as of today, as something curious for the modern trivia books. In its Inagural address in January,1997, President William Jefferson Clinton made clear his intention of terminating Puerto Rican colonial status and granting the right to self determination to Puerto Ricans, before the end of this century. We really hope that this Congressional initiative on H.B.856 will find its happy conclusion for President Clinton´s sake in posterity.

In our long expectancy for the solution of our political status through the exercise of our right of self determination, we Puerto Ricans are not showing any capacity for tolerance higher than the United States showing of their capacity for colonial exploitation. Taking advantage of the division between the Puerto Rican people in deciding the ultimate political status we wish to attain is a subterfuge for colonial exploitation. Slaves in the United States were not kept in slavery pending their decision on whether joining their masters in liberty or remaining in involuntary servitude. The decision by the United States to end colonialism in Puerto Rico is well overdue irrespective of our final choice on status. The decision of what kind of relations Puerto Ricans want to have with the United States can nevertheless wait for as long as both, The United States and Puerto Rico, feel prepared to make such decision.

We Puerto Ricans are very deeply divided in the issue of our relations with the United States. But the true and real division among ourselves is not on the three conspicuous political status alternatives of statehood, free association or independence. We need to enter deep into the consequences of our colonial subyugation to be able to understand where is it that lays our fundamental division. The definition of our final political status, even though it appears to be the main issue now at stake, bears less importance when compared to the traumatic conflicts that spurt from a deep sense of national identity running parallel to a syndrome of personal insecurity fostered by our complete economic dependence under our still existing colonial relations with the United States. This situation is imperative of being considered seriously before making any unrealistic political commitment that might foster further desillutions to the Puerto Rican people, or might uncover contradictory interpretations in the future about the true meaning of any section, specially of those that might propound to the alienation of our cultural or linguistic values. Voting for any of the proposed formulas go further than making a politically acceptable selection in the process of self determination. In voting for any formula in any contemplated plebiscite, there will be, to some a conscious, to others an unconscious expression of national affinity or of national disregard; in our case, to remain being Puerto Ricans, or to transculturate into something different. Even this claim of ours of on a possible transculturation process must be fully scrutinized.

The decision we make in favor of any of the contending formulas shall have a fundamental consequence in our future as a *nation* and could also have a consequence in the future of the United States as a *state*. It has been a lesson from history that nations that have been dominated by other nations with a different etnia eventually erupt in national movements, known as the *experientia teste*, a universal

phenomenon in the history of those nations where the until then latent national conscience begins a process of ethnic recuperation, accompanied by a claim of cultural identity and linguistic rights, ussually culminating in ethnic confrontations. [8]

It is necessary that our people be aware of all the consequences of our choice, whatever they might be, so that any decision is made with full knowledge. It is also necessary that the United States be aware of the possible convulsions any agreed decision could generate on one part of the Puerto Rican population now,[9] and on the other part later[10], as well as the claim for equal cultural and linguistic rights that Puerto Ricans will anyhow arise immediately after the results of the referendum if the ultimate decision on status shall be statehood. No valid self determination can be attained if there is not full knowledge of the situation existing at the time the determination is made, and full knowledge of the consequences of any such determination.

It is of extreme importance, when dealing with the process of self determination to recognize the group to which said rights are to be granted. Therefore, within the right to self determination it is implicit the right to self affirmation Self affirmation is the right of a community to proclaim its own existence without any foreign participation. Which means, for example, that no Puerto Rican can claim that Namibia is or is not a nation, or that it is or not entitled to the right to self determination. The ethnic conscience can only be claimed and perfected by the persons belonging to that group. In this sense, there is no such thing as a *diktat* by ousiders.[11] Puerto Rico has affirmed one time too many through all the years of United States intervention that we are a nation entitled to self determination. The denial of this reality, and in consequence thetreof the denial of any rights comprised within the right to Self Determination as to which Puerto Rico, as a nation, is entitled, will vitiate any such self determination process.

Of the same importance is the right to self definition, which is also inherent in the right to self determination of nations. Said right consists of defining who are the members of the nation. It is recognized to the community the right to to determine by itself which are the people qualified to form the group. In our case, the United States can not determine who are the people that belong to the Puerto Rican Nation. It has been internationally recognized[12] that the self determination rights are reserved to the peoples concerned. In our situation it should be stated ,in any statute implementing a self determination process that the only people that can participate in such a process are the Puerto Rican nationals, as such term is defined for this specific purpose. The term "national" is defined as which limits it to those born in the territory[13] including those residing in a foreign country but maintaining their sociologic ties with their

---

[8] Such as the ones we have wittnessed in Chekoslovakia, Yugoslavia, The Soviet Union

[9] those that will not accept the dilution of the Puerto Rican nation under any circumstance.

[10] when they find out that they are still second class cityzens, the same as our fellow Puerto Ricans now lifing in the United States, even though they are not desinfranchised

[11] Collective Human Rights By Peoples, Y Dinstein, cited in Int & Comp. Law Quart. 25 (1976)

[12] Western Sahara ICJ Recueil 1975,32

[13] ICJ Reports, 1955, p.23

nation[14]. The plebiscites that are held to implement the will of a nation during a self determination process are called "ethnic plebiscites". This denomination is given, precisely, because it is a specific group of peoples, the ones constituting the nation, the ones that have the right to detrmine all conditions relative to their self. As Chalbaud has stated,[15] "the people that exercise their right to self determination are risking their own existence as a nation. That is the reason for the absolute neccesity that the persons participating in that decision have a real and intimate relation with the nation, not only a mere residence, to qualify them as a part of that nation, more so when those residents are, or identify themselves, as members of another nation. The contrary is tantamount to an authentic fraud."

A plebiscite on self determination for Puerto Rico shoud show what the Puerto Rican nationals want their political destiny to be. What the residents of Puerto Rico want Puerto Rico to become has absolutely no importance in our self determination process. A denial or tampering with the self determination right exclusively reserved to the Puerto Rican nationals will also vitiate any self determination process.

Finally, during the process of implementing the selection made after exercising the right to self determination through popular vote, there are some requisites that should also be followed to avoid the territory reaching a condition where it finds itself again, in a need to claim, for a second time, claim the right to self determination. That would be the situation if Puerto Rico is admitted as a state in the federal union but the Puerto Rican community is not accepted into, or does not want to merge into the United States society, while our national characteristics, cultural identity and language use are kept intact. We will then become an ethnic minority within a multinational State, with all the caracteristics necessary to, again, claim the right to self determination under International law, thus creating a conflict between an internationally recognized right to self detrmination and a national interest against secession from the federal union. To prevent that possibility, the United States should either completely assimilate the Puerto Rican nation, together with its history, culture and language, through a complete desnationalization precess, something of dubious possibility and validity, or, in the alternative, the United States must become an official multinational state, as Canada, Belgium and Switzerland, where both cultures and both languahes are officially recognized in both, federal and state jurisdictions, something which I find completely valid but almost impossible.

At the time I am preparing this statement, a study is being conducted by the organization English First about what the people in the United States want in making or not the English language the only official language of your nation. When Mr. Carlos Romero Barceló appeared before a legislative committe in Puerto Rico to testify about a law which was to make Spanish the only official language of Puerto Rico, he stated that at that time there were 17 states of the union which already had made English their only official language. He also stated that the movement English Only was loosing strength because it was the product of racial and ethnic discrimination. Today, only eight years later, the number of states that have made English their only official language has increased to 33 states and we adventure to believe that the study being made by English only will prove that the great mayority of the United States people

[14] G. Heraud, *Modèle*, cit. p. 114

[15] Se supra, note 7

want their vernacular English language, as happens all over the world, as their only official language. The principle of the melting pot is regaining force in the United States, mostly with immigrants. Affirmative action, substractive bilingual education and other minority benefits are loosing grounds in the United States to attitudes and policies of more national unification and homogenization. I have no reason to belive that there will be a more flexible or tolerant attitude towards Puerto Ricans, their culture and language included, if incorporatied into the union. There should be no doubt from what we have said, that the self determination process of Puerto Rico, in one of its alternatives, will have direct consequences in both, the Puerto Rican and the United Sates nations. This dual characteristic is what makes this process one commonly known as a "conditional self determination process" . In ithe statehood alternative, for example, even if Puerto Ricans chose it as their ultimate political status, there is absolutely no way in that, at the moment of voting, neither President Clinton, this Committee, this House of Representatives now assembled in its 105th Congress, much less any future Congress can guarantee the Puerto Rican people that their choice in voting for statehood will be honored. This must be made very clear to the Puerto Rican people and any statement or representation made to the contrary i are deceitful and shoul be avoided.

To end this second part, let us mention two existing conditions that further restraint a trully free exercise of the right to self determination.

When General Nelson Miles disembarked his troops during the United States invasion to Puerto Rico in 1898, he issued a proclamation to our people announcing that the measure of liberty that we were to be given was to be one "consistent with military occupation", and that our existing laws and customs had to "conform to the rules of military administration". A close look at our actual relations with the United States shows that since then, nothing essential on that proclamation has changed, except a switch from the then occupation under military rule to the now occupation under congressional rule. The military occupation of Puerto Rico by the United States army, although not the "rule", is still in full efect and the latest news point towards an increase of interventions by the U.S. military in Puerto Rico[16] . The United States has one of its largest military bases, and its largest outside its continental territory, in Puerto Rico. The United States occupies two thirds of the area of the municipality of Vieques and uses it as a bombardment area notwithstanding the Puerto Rican community living there. The United States occupies a substantial and very conspicuous part of the total area of Puerto Rico for military purposes. No valid self determination can be freely attained under a military occupation by the colonial power.

Furthermore,here has not been in world history a single colonial experiment which has not caused a dichotomy on loyalty among the colonized community, some leaning towards the colonial power[17] and others remaining faithful to their own´s country priorities.[18] Puerto Rico has not been an exception to that rule. A few of the

[16] The possibility that the U.S. South Command be moved from Panama to Puerto Rico and the construction of a radar in Puerto Rico by the Armed Forces, both now under consideration by the U.S.

[17] See for example, the "Torys" during the United States war for independence; the "Josephines" during the Napoleonic occupation of Spain; etc.

[18] Piortrait du clonisè, Albert Memmi, 1966

most ardent defenders of Spanish sovereignity in Puerto Rico during the Spanish American war, like Dr. José Celso Barbosa, became advocates of annexation just a few months after the United States invasion to Puerto Rico in 1898.[19] The consequence of that experience, much more so when the colonial relation has existed for a long period of time, is the development of a symptom of dependence, be it of economic, political or even psichological nature. For more than 90 years Puerto Rico has evolved around an economic structure based on its political subordination to the United States, a situation that affords no space to any other economic structure, at least for the time being, and even for some time after the adoption of any other economic mold. It is then of no surprise that many people in Puerto Rico feel reluctant to adventure into an economic system that is, as of today, not only unexistent, but completely unknown to them since there has never been an offering nor an allowance of any other alternative. No valid self determination can be attained if the territory making the determination is under a condition of fear that precludes its people from making a completely free decision because of their inability to subsist without the economic system imposed by the colonial power.

3 - UNITED STATES H.R. 856

It will soon be one hundred years after that 12th of May, 1898 when the United States Navy bombarded the capital city of San Juan, Puerto Rico while its inhabitants were still sleeping, during the early morning hours before sunrise. Everybody was awakened by the blasts in their ears and started leaving their homes running in fear. Some men died, some women even gave birth while in the run. The House of Representatives Bill number 856, now the subject of this hearing , makes reference to the consequences of this abusive attack on the Puerto Rican people as "Puerto Rico was ceded to the United States and came under this Nation´s sovereignity..." [20]

On December 10, 1898, the Treaty of Paris was signed between Spanish and United States representatives, thus ending their war. In that treaty, pursuant to specific demands made to Spain by the United States President, William McKinley[21] , Spain ceded Puerto Rico to the United States, and its inhabitants´ civil rights and political status were left in a lymbo, to a future determination to be made by the United States Congress. This treaty was entered without any representation nor participation by the Puerto Rican peopl. Bill 856 takes this immoral transfer of property and people as the legal basis for Congress´ jurisdiction over Puerto Rico and the Puerto Ricans.

On October 24, 1945, the United States became signataries of the United Nations Charter. On December 14, 1960 the United States also signed Resolution 1514 (XV). On December 10, 1948 the United Nations proclaimed and adopted the Universal Declaration of the Rights of Men. Today, more than 50 years after the community of nations having abhorred the practice of colonialism, the Unites States still have in their Constitution statements for the perpetuation of this illegal practice, and still hold the territory of Puerto Rico and its people as its private posession, something so anachronic today as the middle ages feudal system.

[19] See Exhibit D

[20] See Sec. 2. Findings. (1)

[21] See Ekhibit E

No bill that is based on historical extortions, as shown in paragraph 1; that asserts an immoral act as its claim for jurisdiction, as shown in paragraph 2; and that shows such a flagrant disregard of fundamental human rights in violation of its own acts, now ratified in international law, deserves the respect of anyone with self respect. We hope that we are now at the end of this ignominious situation, to the United States more than to Puerto Rico, and that the process being commenced with H.B. 856 will mature to completion. It is not only necessary, to fulfill this expectancy, that all the requisites for a true and valid self determination processs be complied with, as stated by us hereinbefore. It is also necessary that the documents that set forth the rules to govern the process be truthfull, clear and equitable. We therefore suggest:

1- That the historical misstatements made on lines 10 to 11 of page 2 of H.R. 856 (the Bill) be deleted.

2- That reference to the Treaty of Paris as the basis for the United States sovereignity over Puerto Rico in line 12 of page 2 and in any other part of the Bill be deleted.

3- That the United States immediately relinquish any control over Puerto Rico under its territorial clause, and mention to said clause on line 20 of page 2 and on any other part of the Bill be deleted.

4-That since therewas no establishment of United States nationality for the inhabitants of Puerto Rico in the Treaty of Paris, reference to it on line 18 of page 2 of the Bill must be deleted.

5- That since false representations were made by the United States to the Puerto Rican people and to the international community of nations during the process of approval of the present constitutional status of Puerto Rico, and since some statements are being made in the Bill that are not correct or precise, all references made to that experience should be completely deleted.

6- That since all the United States courts decisions in the case of Puerto Rico, from the Insular cases up to the most recent ones have been confusing, erratic and contradictory, all references to them in the Bill should be deleted.

7- That since the relation made from line 5 of page 6 up to line 4 of page 8 is only a vely limited one of the myriad of actions taken by the Puerto Rican people, in the United States, in Puerto Rco and in International forums to solve their colonial status, said limited relation should be deleted.

8- Since there are actually more than 6,000,000 Puerto Ricans under the colonial rule of the United States living in Puerto Rico, in the United States and in other countries, line 5 of page 8 of the Bill should be corrected.

9- Since Puerto Ricans had attained a very significant level of local self

government prior to the United States invasion to Puerto Rico, the statement made in lines 24 and 25 of page 8,through line 1 of page 9 of the Bill is offensive, a historical misconception and a disregard to our long proven capabilities in self government. Therefore, said statement should be deleted.

10- Being consistent with the statement made on lines 9 and 10 in page 9 of the Bill as to the "common language of mutual understanding in the United States", lines 12 and 13 of that same page should be amended to readas follows: The Congress recognizes that at the present time,Spanish is the common language of mutual understanding in Puerto Rico.

11-Since there are no "official" languages approved by law in the United States, reference to the English language as the "official" language of federal courts in Puerto Rico is a misstatement and should be deleted.

12- According to scientific linguistic studies and surveys made in Puerto Rico[22] , the Puerto Rican people, in more than a 90% mayority, do not want and will not accept English as their language. Therefore, lines 20 to 22 of page 9 is an imposition that runs contrary to our cultural and linguistic rights and therefore violate the Charter of the United Nations, andThe Universal Declaration of Human Rights, and also Section one of the United Nations Covenant on Economic, Social and Cultural Rights, and the United Nations Covenant on Political Rights, both of whichwhich provide the rules for implementing the right to self determination . This is a right reserved to the United States only in the event Puerto Ricans choose the alternative of United States sovereignity under statehood, and should only appear as a condition to tat alternative under paragraph C of page 14 of the Bill.

13- If attainment of the statehood option shall mean the acquisition of "equal rights" , as stated in paragraph (4) of page 15 of the Bill, then all Puerto Ricans must be granted their linguistic rights to their vernacular Spanish language , which are the same rights now granted to anglophones in their use of their vernacular English language. The right to use the Spanish language must be recognized in all branches and levels of federal government, including Congress, the Executive agencies and departments, and in Federal courts.

14 The phrase " and Puerto Rico is enabled to expand and build upon existing law establishing English as an official language of the State government, courts, and agencies" in paragraph (7) of page 15 is a confusing statement that could create future linguistic litigation and which adds nothing to a "right" that the Puerto Rican people have, without the need of "enabling" legislation.

15- Sub paragraph (i) on line 18 of page 17 of the Bill is dead letter and should be deleted. First, because when English was made official in Puerto Rico in the year 1902, it was done to wash the face of the United States colonial governors, who were administering Puerto Rico without knowing the Spanish language. Even though

[22] See Exhibit F

the language was made official for that only purpose, the truth is that, more than 80% o today's population (one hundred years later) do not speak and do not want to speak English in their daily life. English is spoken by a limited minority in Puerto Rico, only at work, and when strictly necessary. Second, because if Puerto Ricans have clearly stated that they will continue to speak Spanish in Statehood, then there is already a "division along linguistic lines " that will only be erased through forcible submission.

16- Line 1 of page 20 should be amended and provisions should be made in the Bill to approve special legislation for this special situation. Actual electoral laws were not approved considering the nature of this special voting process. The actual electoral law does not contemplate the voting requisites that must be established in order to regulate the qualification of voters in the plebiscite. The actual electoral law grants any person with two months residence in Puerto Rico the right to intrude in our paramount self determination national process, no matter if they are involuntary residents only waiting for an opportunity to return to their country of origin, complete the term of their contractual commitments in Puerto Rico, or further move to a permanent residence in the United States. It must be recognized that this is not a common election of public officers where taxation grants a participation in the process. This is a consultation to the nationals of Puerto Rico on what they want the destiny of their nation to be.

17- The process of additional referenda might result in unnecesary waste of time, money and effort. Paragraph(4) on page 23 of the Bill should be ammended so that in case the process remains inconclusive, Congress proceed with complince of applicable international statutes, including United Nations resolution 1514 XV.

4- CLOSING STATEMENT

A process has started that shoud not be abandoned. We have made many comments and suggestions regarding the purity this process should have so that it be a truly expression of the free will of the Puerto Rican people as to the destiny of our nation. I do not know if the Bill, as drafted, can survive all the ammendment it needs in order to fulfill those requisites. It might be necessary to introduce another bill. But the important thing is that the process has started. We hope that it will continue untill completion,will full knowledge on all the people concerned on every aspect of the process, both substantial and procedural, and also with full knowledge of all the consequences of our choice.

Mr. UNDERWOOD. Next on my list is Mr. Manuel Fermin Arraiza, Puerto Rico Bar Association.

STATEMENT OF MANUEL FERMIN ARRAIZA, PRESIDENT, PUERTO RICO BAR ASSOCIATION, SAN JUAN, PUERTO RICO

Mr. ARRAIZA. No se preocupe por eso. Mi nombre es Manuel Fermín Arraiza y soy el Presidente del Colegio de Abogados de Puerto Rico. El Colegio de Abogados de Puerto Rico se fundó el 27 de junio de 1840. Es la más antigua asociación civil de Puerto Rico y la más antigua asociación profesional de vida continua en Puerto Rico. El Colegio de Abogados de Puerto Rico es una institución plural, amplia, donde todo el espectro político partidista y no partidista tiene voz y voto. Nuestras expresiones de hoy tienen una trayectoria histórica que se remonta a 1944 y son la expresión oficial del Colegio de Abogados de Puerto Rico, dato que ustedes pueden comprobar por el apéndice que se unió a nuestra breve ponencia y que fueron tomados por consenso dentro de la Comisión de Desarrollo Constitucional del Colegio de Abogados de Puerto Rico, donde todas las tendencias políticas estuvieron representadas.

La mejor prueba de que Puerto Rico es una colonia de los Estados Unidos de América es que tengamos que estar hoy aquí, bajo las condiciones que se explican en la carta de invitación. Es prepotente, paternalista y de condescendencia repudiable. Conceder cinco minutos a una institución civil, que desde 1944 se ha manifestado públicamente en términos institucionales no menos de veintiseis veces, es una falta de respeto. Pero reconocemos que el respeto no es la característica dominante de la metrópolis con la colonia.

El Colegio de Abogados de Puerto Rico no tiene preferencias sobre una solución particular al status nacional. El Colegio de Abogados de Puerto Rico no quiere la colonia, y aboga por un estado jurídico político digno para nuestra comunidad, libremente escogida por los puertorriqueños y que cumpla con los requisitos mínimos sustantivos y procesales que son satisfactorios en derecho internacional y política contemporánea.

Debo repetir hoy el angustiado e indignado clamor de nuestro Presidente, Licenciado Carlos Noriega en el 1993 ante las Naciones Unidas. "Señores, quinientos años de coloniaje, es mucho coloniaje. ¿Hasta cuándo?"

En esencia, el planteamiento procesal que propone el Colegio de Abogados de Puerto Rico es que un órgano deliberativo, libremente electo por los puertorriqueños, y con representación del universo ideológico político formule una propuesta específica para ser negociada con los Estados Unidos, en plano de igualdad soberana. Es, y debe ser así ejercido, el derecho del pueblo de Puerto Rico a escoger sus delegados, decidir la fórmula y los lapsos de tiempo para la negociación, sin imposiciones externas al pueblo de Puerto Rico, todo ello conjugado armónicamente con la Resolución 1514 de la Asamblea General de la Organización de las Naciones Unidas.

Difícilmente podrá conseguirse en el hemisferio Americano, una institución que haya defendido con más gallardía que el Colegio de Abogados de Puerto Rico, el sistema democrático de gobierno, el gobierno republicano, el estado de derecho, los derechos humanos y constitucionales, la justicia y la paz.

Precisamente de todo esto, es que trata la descolonización, que agravia al que la sufre y baldona al que la impone y sostiene. El colonialismo, como la esclavitud y como el apartheid, no tienen justificación en el día de hoy.

No puede encubrirse más la situación de Puer- del pueblo de Puerto Rico con medias verdades y fórmulas ilusorias y vanas. No traten de engañar al mundo libre. No pretendan sostener el sofisma que plantearon en la ONU. Es obligación del Congreso de Estados Unidos, propiciar el cambio definitivo de Puerto Rico, desde la ignominia de la conculcación, a la dignidad de la libertad buscada y asumida fervorosamente. Ser colonia del gobierno más poderoso del mundo no es honor. Es una deshonra para ustedes y motivo de pudor para nosotros.

Puerto Rico no es una cosa. Es un pueblo formado y con identidad propia. Puerto Rico no es objeto de comercio entre las naciones. Puerto Rico tiene su personalidad, y como lo que es, debe negociar su futuro con sus iguales. El espectro vergonzoso del Tratado de París y los casos insulares todavía indignan a las conciencias libres. Las Naciones Unidas señalaron la década de 1990 al 2000 como la década de la descolonización. Puerto Rico, mi patria, es una nación que no ha ejercitado a plenitud su derecho inalienable a la autodeterminación. Ustedes, el Congreso de los Estados Unidos de América, tiene la obligación moral y política de propiciar ese ejercicio. No les pedimos un favor, les exigimos un derecho. No queremos por caridad, lo que merecemos por justicia.

Gracias.

[Applause.]

Mr. UNDERWOOD. I would like to state an observation that the limitations of Congress do not mean that people do not take the ideas and sentiments quite seriously. I think the fact the Committee is here and the fact that the leadership in particular of this Committee has been seriously involved in this issue is important. The time and scheduling could not include the opportunity for everybody to appear.

Mr. YOUNG. I have a question, because I do think you offered some suggestions.

I really would suggest there has to be a change. This is the way I got involved in this. The status quo will not exist, it cannot exist and should not exist.

As the gentleman at the end—although I rarely agree with lawyers, I do think there is a moral obligation on behalf of the United States. So I want to congratulate each one of you.

I have a question about the Serrano amendment. Are you aware of this amendment, the voting by Puerto Ricans that are outside of Puerto Rico itself? I believe his amendment goes to the point it isn't limited to children born in Puerto Rico. I think it goes beyond that.

Would anyone like to comment on that?

Ms. MANGUAL VELEZ. Sí, con mucho gusto.

El Partido Independentista entiende que los nacionales de Puerto Rico son los únicos, los que tienen derecho a ejercer su derecho a la libre autodeterminación. Y son nacionales los que nacieron en Puerto Rico y los hijos cuyos padres hayan nacido en Puerto Rico, aunque residan fuera de Puerto Rico.

Mr. YOUNG. What you are saying is the parent is born in Puerto Rico, moves to the United States. Their children—but the children's children would not vote?

Ms. MANGUAL VELEZ. Eh pues, podrían votar, podríamos buscar la manera de aquellas personas que fueran hijos de padres que han nacido en Puerto Rico y que tienen el deseo de regresar, tienen lazos afectivos en Puerto Rico, un interés económico, político, social, puedan ejercer el derecho al voto. Todo depende del interés que tengan en regresar, de establecer unos lazos afectivos con Puerto Rico.

Mr. YOUNG. On the economics of it, Professor, I am somewhat in sympathy with what you have to say, your proximity to the Latin American countries. As a Commonwealth, you are prohibited to trade directly with Latin American countries, and probably as a State you would also be unable to trade directly with them. Is that correct?

Mr. IRIZARRY-MORA. Yes, sir. For the benefit of the people who are listening and watching through television, I will answer in Spanish.

Sí, bajo la estadidad, se impondrían las reglas eh... De los estados, en términos del... Del ... Existe un comercio interestatal, del cual Puerto Rico ha participado durante todo este siglo, por ser parte de... Estar dentro del comercio, del mercado común de los Estados Unidos... Eh... Pero es la independencia la opción que le provee a Puerto Rico la oportunidad de establecer nexos comerciales a través de tratados con países Caribeños, con países Latinoamericanos sin ningún tipo de impedimento, es decir, es la soberanía del pueblo de Puerto Rico la que le permitiría establecer ese tipo de contacto comercial con los países Caribeños, Latinoamericanos y con la Comunidad Europea y con el Sureste Asiático y por supuesto, con Estados Unidos, con Canadá, con todo el mundo. Y yo creo que—dentro de nuestra perspectiva económica, tendríamos el poder suficiente para atraer esa inversión que en este momento no llega, como muy bien usted ha señalado, porque se nos impone una camisa de fuerza, que impide la llegada de inversión desde el resto del mundo, fuera de la inversión que llega directamente de los Estados Unidos.

Mr. YOUNG. My time is up, gentleman.

The Chairman has touched upon it, those who could not testify. But the process as set forth in this bill is a long, slow process. Don't lose sight of that.

Puerto Ricans will have a chance to vote each time in the three-step process on whether they want to go forward, very much like Alaska did; and then eventually it will get to the Congress to be ratified. This is not an up-and-down vote.

And as far as everybody not getting a copy of the bill, we probably should have printed it in Spanish. We can't write a law in other than English to be actually legal, your lawyer will tell you that, in the U.S. Congress. We will do our best to try to keep enough information going through to the people of Puerto Rico and the media and make every effort we can to make sure that occurs.

I want to stress one thing, not to pat myself on the back, but this is a break where many of these Members of Congress could have

gone home. I ask you to think about it. Where would you be if we had not started this process?

If you are happy about the status quo and want to stay where you are, if you want no progress, you will be perfectly unhappy with what I am doing. But I am trying to bring a solution, because I think it is long past the time to have a colony or a territory under the United States' jurisdiction.

That is where it is, my personal belief; and this is why, as Chairman, I have gone forth with this process. Although it may not seem fair at times, it is the only way we have to work within the framework of our congressional body itself.

So keep in mind, each one of these people volunteered their time to come down here. I honor them for being with me. I have allowed them to chair the meetings for each different panel to try to get a better participation.

Thank you, Mr. Chairman.

Mr. UNDERWOOD. Thank you.

Mr. MILLER. No questions.

Mr. UNDERWOOD. Mr. Kennedy?

Mr. KENNEDY. No questions.

Mr. YOUNG. Just one final question on the issue of the vote. The way that it has been described, it always gets a little unwieldy to parents. I can understand that. Children, I don't know. It seems a little convoluted.

Do you agree with the notion put forth in the legislation that Congress has the right to withdraw citizenship from people in the territories?

Ms. MANGUAL VELEZ Nosotros entendemos que el Congreso tiene la autoridad, el poder, bajo la cláusula territorial para establecer los mecanismos adecuados para terminar con el problema colonial de Puerto Rico.

Bajo la cláusula territorial, puede el Congreso aprobar cualquier legislación que provea los mecanismos adecuados y que le garanticen a los nacionales de Puerto Rico, excluyendo a los extranjeros que residan aquí, para que solamente los Puertorriqueños tenga el derecho a ejercer el derecho al voto. Entre los nacionales tenemos a los hijos de los Puertorriqueños que residen en territorio en Estados Unidos, a los Puertorriqueños que no residan aquí pero que sean hijos de padres Puertorriqueños.

Mr. UNDERWOOD. My question is, do you accept the fact that the U.S. Congress can take away citizenship from Puerto Ricans?

And it would seem to me that if you do accept that, if you do accept that there is congressional authority to do that, then the people who should be allowed to vote would be the people who would lose their citizenship, who would lose the citizenship as a consequence of participation in the plebiscite.

That would, in my estimation, would not include Puerto Ricans on the mainland, because their citizenship would not be affected. But if you were a Puerto Rican who lived here and who had become a citizen through congressional action, then that seems to me the clearest link to determining who should actually participate in this election.

Mr. RODRIGUEZ-ORELLANA. Y si me permite... [Applause] No tengo la menor duda, señor Presidente, de que el Congreso de los

Estados Unidos, quien impuso la ciudadanía estadounidense en contra de la voluntad, en contra de la voluntad de los puertorriqueños en 1917, tiene el perfecto poder en el 1997 de eliminar la ciudadanía estadounidense sobre el territorio de la colonia de Puerto Rico. Eso es así bajo el Estado Libre Asociado. Bajo la independencia, no tenemos ningún empeño en tener la ciudadanía de Estados Unidos. Queremos la ciudadanía puertorriqueña en la República de Puerto Rico.

Ahora bien... Ahora bien... En la... El planteamiento suyo es, que como pueden ustedes quitar la ciudadanía estadounidense, podrían entonces ustedes quitarle la franquicia también a los puertorriqueños para votar, en un proceso de autodeterminación, y me parece que eso es tergiversar el orden lógico de las cosas. La realidad aquí es, que la nacionalidad puertorriqueña precedió a la ciudadanía. Por lo tanto es la nacionalidad puertorriqueña, los nacionales de Puerto Rico, los que deben participar en una determinación, independientemente de dónde vivan.

Y voy un paso más lejos. Si ustedes deciden en el poder omnímodo que tienen, quitarle la ciudadanía estadounidense a los puertorriqueños ahora, no se la quitan solamente a los que están residiendo aquí; se la quitan también a los que están residiendo allá, que hayan nacido acá. De manera que eso les crea a ustedes un problema mucho peor que el que ustedes quieren resolver.

Mr. UNDERWOOD. As I understand the discussion, Puerto Rican nationality exists independently of congressional law. That must be the basic assumption on the process of self-determination. We are never going to resolve that through congressional law.

What I think we resolve through congressional action is what Congress can give and take away is what should be the consequence of anything that is authorized by Congress. That was the only basic point.

My own time is running out. Yes, sir?

Mr. MARI. Entendemoseque... Eh... Personalmente yo, no tengo problema en eh... Si pierdo o no la ciudadanía Americana sino, pero sin embargo respondiendo a mucha gente en Puerto Rico, que en realidad para ellos, es verdaderamente un problema, nosotros no estamos de acuerdo con su eh... Posición en el sentido de que exista una eh... Un poder del Congreso bajo la cláusula territorial de revocar la ciudadanía de la manera que usted lo plantea.

Y esto, en realidad podríamos... Yo soy abogado, entrar en un tratado legal porque es muchos casos que tocan el asunto, y que ciertamente, no lo pone en los términos tan sencillos como usted lo está planteando. Para mí, es un derecho personal que tienen las... Que persona y si lo ha adquirido, existen unas maneras de defenderlo.

Por ejemplo, cuando en Puerto Rico se impone, como dijo el Presidente del Colegio de Abogados, la ciudadanía Americana en el 1917, fue a vis de unas invasiones posibles que existieran para Puerto Rico y siendo ciudadanos Americanos pues existía ya Estados Unidos con un... Es un derecho para defender a esos ciudadanos. Posteriormente en el 1942 hubo una ley de este propio Congreso, que estableció no solamente por legislación, que los puertorriqueños tenían derecho a la ciudadanía, sino que esa legislación muy específicamente dice, que para todos los efectos de

ley, los puertorriqueños se reputarán nacidos en Estados Unidos. O sea, ya cambia de una ciudadanía obtenida por medio de legislación, a una obteni- una que se torna constitucional.

Como le digo, eso es un debate bastante profundo... Me está también [Another voice] Que como hemos dicho antes, hay un asunto político que... Es más importante que este jurídico.

Mr. RODRIGUEZ-ORELLANA. Y solamente permítame aclarar una cosa de mi contestación anterior. Me refiero al poder que tiene el Congreso para quitarla prospectivamente. Retroactivamente, ya eso es otro problema constitucional. Mi contestación anterior se refería a quitarla prospectivamente.

Mr. UNDERWOOD. Well, perhaps fortunately for all of us, most of the members in the current Committee are not lawyers, at this moment.

OK, thank you very much.

Mr. KENNEDY. OK. I would like to have the fourth panel come up: Kenneth McClintock-Hernandez, Angel Cintron-Garcia, Zoraida Fonalledas, Etienne Totti del Valle, Ivar Pietri, and Hector Reichard. Thank you.

I would like to have the Honorable Kenneth McClintock-Hernandez begin for this panel.

STATEMENT OF KENNETH McCLINTOCK-HERNANDEZ, DESIGNEE FOR THE PRESIDENT OF THE SENATE, SENATE OF PUERTO RICO, SAN JUAN, PUERTO RICO

Mr. MCCLINTOCK-HERNANDEZ. Thank you.

I will address you in English, the language several Harvard, Yale, and Oxford antistatehood witnesses here today have collectively chosen to forget for political grandstanding purposes.

I first appeared before this Committee as a teenager to oppose a bill endorsed by the Popular Democratic Party that would have changed Puerto Rico's political status without a vote from the people of Puerto Rico. Twenty-one years later, after being elected twice to the Senate and having recently been elected by fellow state legislators and Governors as vice chairman of the Council of State Governments, I appear once again to support the Young bill, which for the very first time would provide a congressionally mandated opportunity to determine Puerto Rico's political status.

During those 21 years, I have spent perhaps half of my time and energy fighting for equality. The political indecision that past congressional and local inaction has represented exacts a terrible toll on our people. It divides our families, our communities, and our body politic, and it imposes a huge economic burden.

During 5 years in the Senate, I have been able to sample the economic costs that the status quo imposes on our people, many of which can't be adequately quantified, but that certainly cost us billions of dollars every year and hundreds of thousands of jobs. In many ways, we remain separate and unequal. *Plessy* v. *Ferguson* still lives in Puerto Rico.

In the air transportation industry, for example, most airlines treat us as "international"—separate and unequal. Considering that most fellow Americans prefer domestic travel—"See America First"—over international travel, every time American Airlines

switches you to their "international" desk when you attempt to book a flight to Puerto Rico, damage is done to our tourism industry.

It gets worse: In spite of having your boarding pass and having gone through the FAA-required security check, Delta Airlines forces you to stand in line again to obtain an "International Boarding Control Number." You certainly get the impression you are on your way to a "banana republic." In the entertainment industry, Puerto Rico is also treated as a foreign market—separate and unequal. The rights to American TV programming are sold here under international syndication, forcing cable TV systems to block out many broadcasts from the mainland, including the Olympics and other sporting events, pageants, and other programming, thus depriving American citizens of timely, quality programming. While, thanks to legislative pressure, movies no longer open months after opening on the mainland, many still take weeks to arrive on the island because, once again, we are separate and unequal. In commerce, many multinational companies treat Puerto Rico as part of their international, rather than domestic, operations—once again, separate and unequal. May I show you the most recent example. I am sure you haven't missed McDonald's anniversary 55-cent national promotion, applicable from Bangor to San Diego, from Key West to Anchorage. But it doesn't apply in what, evidently, McDonald's considers the "banana republic of Puerto Rico," depriving our consumers of the savings available to the rest of their fellow Americans stateside.

McDonald's is not alone. A few years ago, as we attempted to resolve a constituent's problem, we had to deal with Chrysler International—in London, England, of all places—rather than Chrysler Corporation in Detroit. In the interest of time, I will not go on and on with the many examples of economic discrimination that political indecision and the status quo foster. Our political status debate transcends hamburgers, plane tickets, and TV programs, but the untold examples demonstrate that the spirit of *Plessy* v. *Ferguson*—separate and unequal—pervades every aspect of our lives and imposes exacting tolls on society as a whole, depriving us of the equal protection that American flag is supposed to provide. The enactment of H.R. 856 provides the only real chance for an end to the economic segregation of Puerto Rico and the hope that some day we may be treated as equals, should that be the choice of the American citizens residing in Puerto Rico, in concert with Congress.

Thank you very much.

[The prepared statement of Mr. McClintock-Hernandez follows:]

Remarks by
Hon. Kenneth D. McClintock
Senate of Puerto Rico
on HR 856
before the
Committee on Resources
United States House of Representatives

• • • • •

San Juan, Puerto Rico
April 19, 1997

Mr. Chairman, members of the Committee.

I first appeared before this committee[1] as a teenager to oppose a bill endorsed by the Popular Democratic Party that would have changed Puerto Rico's political status without a vote from the people of Puerto Rico[2]. Twenty one years later, after being elected twice to the Senate[3] and having recently been elected by fellow state legislators and governors as Vice Chairman of the Council of State Governments[4], I appear once again to support the Young bill---which for the very first time would provide a congressionally-mandated opportunity to determine Puerto Rico's political status.

During those twenty one years, I have spent perhaps half of my time and energy fighting for equality. The political indecision that past congressional and local inaction has represented exacts a terrible toll on our people. It divides our families, our communities and our body politic, and it imposes huge economic burden.

During 5 years in the Senate[5], I have been able to sample the economic costs that the *status quo* imposes on our people, many of which can't be adequately quantified, but that certainly cost us billions of dollars every year and hundreds of thousands of jobs. In many ways, we remain separate and unequal. Plessy versus Ferguson[6] still lives in Puerto Rico.

In the air transportation industry, for example, most airlines treat us as "international"---separate and unequal. Considering that most fellow Americans prefer domestic travel---"See America First"---over international travel, every time American Airlines switches you to their "international" desk when you attempt to book a flight to Puerto Rico, damage is done to our tourism industry. It gets worse: in spite of having your boarding pass and having gone through the FAA-required security check, Delta Airlines forces you to stand in line again to obtain an "International Boarding Control Number". You certainly get the impression you're on your way to a "banana republic".

In the entertainment industry, Puerto Rico is also treated as a foreign market---separate and unequal. The rights to American TV programming are sold here under international syndication, forcing cable TV systems to block out many broadcasts from the mainland, including the Olympics and other sporting events, pageants and other programming, thus depriving American citizens of timely, quality programming. While, thanks to legislative pressure[7], movies no longer open months after opening on the mainland, many still take weeks to arrive on the island because, once again, we are separate and unequal.

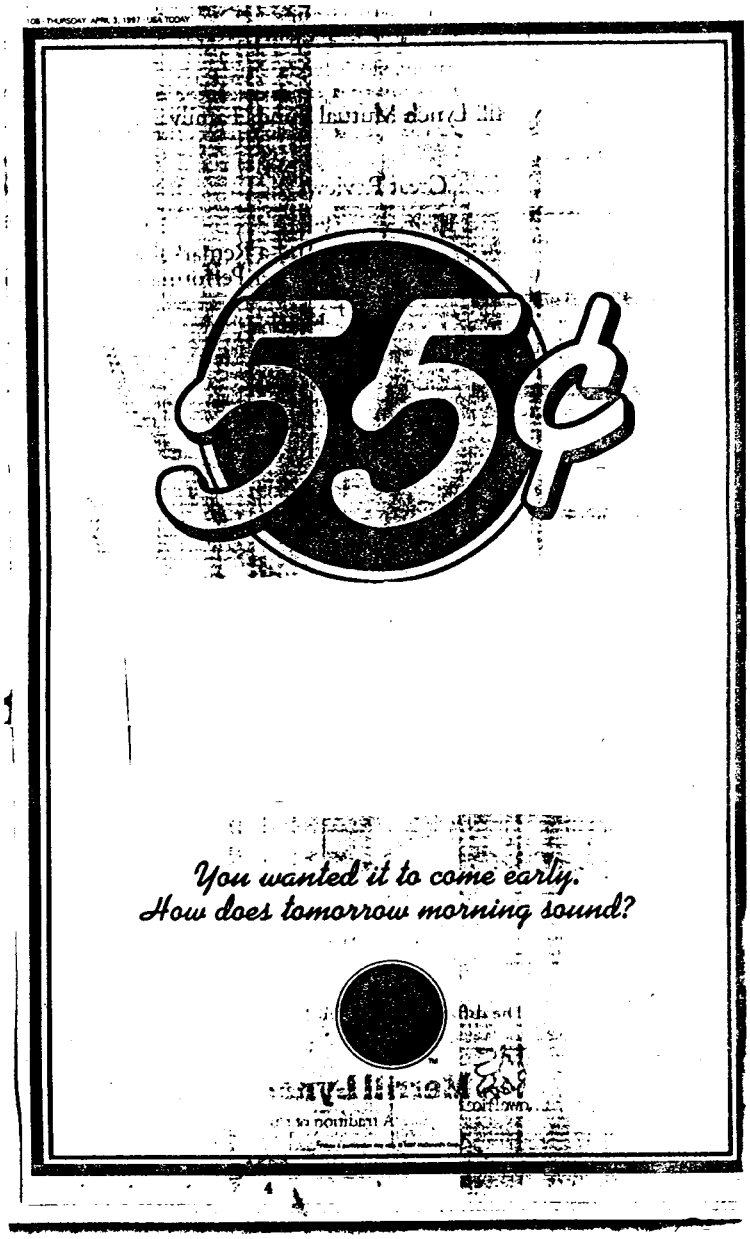
In commerce, many multinational companies treat Puerto Rico as part of their international, rather than domestic, operations---once again, separate and unequal. May I show you the most recent example. I'm sure you haven't missed McDonald's anniversary 55 cent national promotion, applicable from Bangor to San

Diego, from Key West to Anchorage. But it doesn't apply in what, evidently, McDonald's considers the "banana republic of Puerto Rico", depriving our consumers of the savings available to the rest of their fellow Americans stateside. McDonald's is not alone. A few years ago, as we attempted to resolve a constituent's problem, we had to deal with Chrysler International---in London, England, of all places!---rather than Chrysler Corporation in Detroit.

In the interest of time, I will not go on and on with the many examples of economic discrimination that political indecision and the *status quo* foster.

Our political status debate transcends hamburgers, plane tickets and TV programs, but the untold examples demonstrate that the spirit of Plessy versus Ferguson---separate and unequal---pervades every aspect of our lives and imposes exacting tolls on society as a whole depriving us of the equal protection that American flag is supposed to provide.

The enactment of HR 856 provides the only real chance for an end to the economic segregation of Puerto Rico, and the hope that someday, we may be treated as equals, should that be the choice of the American citizens residing in Puerto Rico, in concert with Congress.


55¢
You wanted it to come early.
How does tomorrow morning sound?

[1] Hearings by the Territorial and Insular Affairs Subcommittee of the Committee on Interior and Insular Affairs, January 20, 1976, San Juan, Puerto Rico.

[2] HR 11200, 94th Congress.

[3] In the 1996 general elections, the top vote getter among the 19-member pro-statehood majority in Puerto Rico's 28-seat Senate.

[4] Elected as Vice Chairman in December 1996, Senator McClintock will become Chairman of the Council of State Goverments in December 1998. He does not appear in these hearings in that capacity, although CSG's Eastern Regional Conference recently resolved:

"WHEREAS, all necessary rules and regulations respecting territories or other property belonging to the United States is vested in the United States Congress by Article IV, Section 3 of the U.S. Constitution.

WHEREAS, the quadrennial general election conducted on November 5, 1996 produced an absolute majority of Puerto Rico's voters casting ballots for a gubernatorial candidate publicly committed to seeking Congressional sponsorship of a political status plebiscite for Puerto Rico and that same commitment is shared by the Puerto Rico delegate to the United States Congress elected on that date, as well as by over two thirds of the members of both bodies of the Puerto Rico Legislative Assembly.

THEREFORE, BE IT RESOLVED BY THE EXECUTIVE COMMITTEE OF THE EASTERN REGIONAL CONFERENCE OF THE COUNCIL OF STATE GOVERNMENTS:

SECTION 1. Urges the One Hundred and Fifth United States Congress to enact legislation that will, no later than the 1998 centennial of the United States of severeignty over Puerto Rico, provide for a Congressionally authorized mechanism of referenda or plebiscite for political self determination by the American citizens who reside in Puerto Rico.

SECTION 2. Urges the National Executive Committee of the Council of State Governments, at its Spring Meeting, to approve a similar resolution.

SECTION 3. Directs staff to send a copy of this resolution to Council of State Governments' National Officers, the Governor, Speaker of the House of Representatives and President of the Senate of Puerto Rico and its resident Commissioner to the United States Congress."

[5] From 1993 to 1996, Sen. McClintock chaired the Committee on Federal and

Economic Affairs. His study on IRC Section 936 won national attention, attracting ABC correspondent Sam Donaldson to his office for an interview on ABC Prime Time Live which aired in June, 1993. His early work on that committee led to his midterm appointment as Chairman of the Governmental Affairs Committee, while retaining both chairmanships. During this term, both committees were merged into the Committee on Governmental and Federal Affairs, which he chairs.

6 Plessy v Ferguson, 163 US 537, is the 1896 case in which the United States Supreme Court declared constitutional the separate and unequal treatment of Afro-American citizens, a case which was later struck down in several contemporary cases, notably Brown vs Board of Education of Topeka, 347 US 483, 1953, which held that separate is inherently unequal.

7 As a result of hearings chaired by Senator McClintock, movie distributors now make movies available to exhibitors much sooner than before, allowing some to open here simultaneously with their nationwide opening. The delay, however, still averages several weeks.

Mr. KENNEDY. Mr. Angel Cintron-Garcia.

STATEMENT OF HON. ANGEL M. CINTRON-GARCIA, DESIGNEE FOR THE SPEAKER OF THE HOUSE, PUERTO RICO HOUSE OF REPRESENTATIVES, SAN JUAN, PUERTO RICO

Mr. CINTRON-GARCIA. Thank you, sir.

Chairman Young, Mr. Miller, Mr. Romero-Barceló, and members of the Committee on Resources of the U.S. House of Representatives, my name is Angel Cintron-Garcia. It is my privilege to continue serving the people of Puerto Rico in our House of Representatives for a third term as an at-large representative for the pro-statehood New Progressive Party. I am currently chairman of the Committee on Federal and Financial Affairs. Today I have the honor of testifying on behalf of the House Speaker.

In 1995, I testified before a joint hearing of the Subcommittee on Native and Insular Affairs regarding the results of the plebiscite of political status held in 1993 here in Puerto Rico. Back then, many local pundits spoke about the lack of resolve on your part to finally address and bring to an end the issue of Puerto Rico's self-determination. Nonetheless, you proved them wrong again when you—and we are gratified—by your renewed commitment to address this issue early on in this, the 105th Congress.

As time maybe more on our side this time around, I think it is extremely important to address all concerns that various Members of Congress might have regarding the various aspects of the bill, particularly the definitions contained within. That way, we will make sure that this process is a successful one. Therefore, in my case, I want to dwell on the concern brought forth by some Members of Congress regarding the issue of language in the case of statehood.

Concerns brought forth by some Members with regard to this issue have been twisted and misconstrued by the opponents of statehood. They argue that the true motive behind those concerns is a deep bedded racism toward Hispanics and other minorities within the United States, irrespective of whether they are U.S. citizens or not. Instead, these narrow-minded individuals here in Puerto Rico try to portray our Nation as being culturally monolithic, rather than taking into consideration the multicultural character of American society and its long and venerable history that is widely recognized as one of the United States' greatest strengths.

Nonetheless, I want to reassure those Members of Congress that we share most, if not all, of their concerns, especially our common quest for national cohesiveness between Puerto Rico and the 50 States. That is why I feel that this issue goes even further than just sharing a common language. It involves a respect for a series of values, as put forth by our Founding Fathers in the Constitution. Also, it entails a respect and commitment for such valued institutions such as the U.S. Armed Forces and others.

Still, in the last 4 years as chairman of the Select Committee on Banking Affairs, I had the honor of sponsoring important legislation that provides for further threads of national reform that I spearheaded. As part of banking reform that I spearheaded, we adopted the 1994 Riegle-Neal Act here in our island, allowing for further interaction between local and national banking institutions.

I also sponsored legislation amending our international banking law, thus providing a very important tool for the availability of funds for mainland and local companies interested in financing their export of products and services in regional trade.

In addition, I sponsored another important measure that allowed for the adoption of the UCC, Uniform Commercial Code, here in Puerto Rico, replacing our old mercantile act. This provided for easier commercial relations between the Government, companies in the mainland U.S., and Puerto Rico.

This term, as chairman of the Committee with jurisdiction over banking, I intend to update all the additional banking laws, including the creation of a currency exchange center here in Puerto Rico.

Last year, as chairman of the Select Committee on Telecommunications, I sponsored six measures which brought about an overhaul of the telecommunications market in Puerto Rico in accordance with all the recent FCC rulings. This year, as chairman of the Committee with jurisdiction over this area, we intend to update these laws in accordance with the FCC rulings and relevant court decisions.

These measures provide a much needed and very useful common ground with most Federal and State laws, facilitating indefinite and commercial connection between mainland businesses and local enterprise, obviously, going even further in striving for the common goal of national cohesiveness than just implementing a language provision in this bill. They obviously exploit our island's competitive advantage due to its location and its bilingual work force in order to maximize our potential as a bridge between the Americas, as a gateway for the United States and the rest of the hemisphere.

We can be an asset. We know that we can stand on our feet. We have all confidences in our people. We only need the opportunity to express our desire to be equal persons with the other 50 States. As our Governor says, "Lo mejor que está por venir."

In conclusion, we deserve to have a bill signed by the President of the United States later this year so that not another year goes by without us having the opportunity to finally achieve equality within the United States. One hundred years is more than enough time for the United States to act over an issue that affects the approximately 4 million U.S. citizens in Puerto Rico. Please, make House Resolution 856 a reality.

God bless Puerto Rico and our children. God bless America.

[The prepared statement of Mr. Cintrón-García follows:]

Testimony of

The Honorable Angel M. Cintrón-García
Chairman
Committee on Federal and Financial Affairs
House of Representatives
Government of Puerto Rico

Before the U.S. House of Representatives
Committee on Resources

regarding H.R. 856

April 21, 1997

Chairman Young, Mr. Miller, Mr. Romero-Barceló and members of the Committee on Resources of the United States House of Representatives:

My name is Angel Cintrón-García. It is my privilege to continue serving the People of Puerto Rico in our House of Representatives for a third term as an At-Large Representative for the pro-Statehood New Progressive Party. I am currently Chairman of the newly created Committee on Federal and Financial Affairs.

Today, I have the honor to appear on behalf of our Speaker of the House of Representatives, The Honorable Edison Misla-Aldarondo, who is also the National Committeeman for our state Republican Party.

On October 17, 1995, I had the privilege to testify at a joint hearing of the Subcommittee on Native American and Insular Affairs and the Subcommittee on the Western Hemisphere, regarding the results of the Plebiscite on Political Status held on November 14, 1993 in Puerto Rico. Back then, many local pundits spoke about a lack of resolve on your part to finally address and bring to an end the issue of Puerto Rico's self-determination. Nonetheless, you proved them wrong again when you submitted House Resolution 3024 on March 6, 1996.

Sadly, time was too short for such complex legislation to be considered and approved by both the House and the Senate in those last few weeks of the 104th Congress. Definitely, there was a need for more time in order to discuss in detail and with more ease a few understandable concerns that some members of Congress had with some issues relevant to this legislation.

This led those same pundits to claim victory over the many supporters of this bill. Thereafter, they made it into one of their major campaign issues against the pro-Statehood New Progressive Party and Governor Rosselló, who was running for re-election. As you might already be aware, our Party achieved an electoral mandate with victory margins unheard of since 1964.

That is why many in the media clearly understood that, among other things, the Puerto Rican electorate sent a resounding message to Congress in support of its efforts for a final resolution of our centuries old status dilemma. It is with such a perspective and with such an intention that our Legislative Assembly approved House Concurrent Resolution No. 2 in January of this year. Thus, we are very gratified by your renewed commitment to address this issue early on in this the 105th Congress.

As time may be more on our side this time around, I think it is extremely important to address all concerns that various members of Congress might have regarding the various aspects of the bill, particularly the definitions contained within. That way, we all make sure that this process is a successful one.

Therefore, in my case, I want to dwelve on the concern brought forth by some members of Congress regarding the issue of language in the case of statehood. I am in agreement with

most of the findings contained in Section 2 of the "Bill Emerson English Language Empowerment Act of 1997". English has historically been the common language and the common thread that binds individuals of so many different backgrounds together within the fifty states of the Union. That is why the first act approved by our Legislative Assembly upon our Party's regaining of control of the Legislature back in January of 1993, was the law that reinstated English, as well as Spanish, as the two official languages of the Government of Puerto Rico. Also, our Secretary of Education recently expressed the Administration's commitment in increasing the aptitude and knowledge of English among public school students by anouncing a series of policy steps geared towards making such an important goal a reality.

The concerns brought forth by some members of Congress regarding this issue have been twisted and misconstrued by the opponents of statehood. They argue that the true motive behind those concerns is a deep-bedded racism towards Hispanics and other minorities within the United States, irrespective of whether they are U.S. citizens or not. Instead, these narrow minded individuals here in Puerto Rico try to portray our Nation as being culturally monolithic, rather than taking into consideration the "multicultural character of American society...[and its]long and venerable history [that] is widely recognized as one of the United States greatest strengths."

Nonetheless, I want to reassure those members of Congress that we share most if not all of their concerns, especially our common quest for national cohesiveness. That is why I feel that this issue goes even further than just sharing a common language. It involves a respect for a series of values, as put forth by our Founding Fathers in the Constitution. Also, it entails a respect and commitment for such valued institutions as the United States Armed Forces, through which thousands of Puerto Ricans have given their lives in defense of a Nation of which they are not equal members.

Still, in the last 4 years as Chairman of the Select Committee on Banking Affairs, I had the honor of sponsoring important legislation that provided for further threads of national cohesiveness between Puerto Rico and the Fifty states. For example, as part of a banking reform that I spearheaded, we adopted the 1994 Riegle-Neal Act here in our Island, allowing for further interaction between local and national banking institutions. Also, I had the opportunity to sponsor legislation amending our International Banking Law, thus providing a very important tool for the availability of funds for mainland and local companies interested in financing their export of products and services in regional trade. In addition, I sponsored another important measure that allowed for the adoption of the 9 chapters of the U.C.C. here in Puerto Rico, replacing our old Mercantile Act which we inherited from Spain. This provides for easier commercial relations between companies in the mainland U.S. and Puerto Rico. This term, as Chairman of the Committee with jurisdiction over banking, I intend to update all the additional banking laws, including the creation of a currency exchange center here in Puerto Rico.

Last year, as Chairman of the Select Committee on Telecommunications, I sponsored 6 measures which brought about an overhaul of this important sector of the economy, allowing for the opening up of the telecommunications market in Puerto Rico in accordance with federal law.

This year as Chairman of the Committee with jurisdiction over this area, we intend to update these laws in accordance with all the recent FCC rulings and relevant court decisions.

These measures provide a much needed and very useful common ground with most federal and state laws facilitating investments and commercial interaction between mainland businesses and local enterprises; obviously going even further in striving for the common goal of national cohesiveness than just implementing a language provision in this bill would. They obviously exploit our Island's competitive advantage due to its location and its bilingual workforce, in order to maximize our potential as a bridge between the Americas, as the gateway for the United States with the rest of the Hemisphere.

We can be a an asset to this Union. We know that we can stand on our own feet. We have all the confidence in our People. We only need the opportunity to express our desire to be EQUAL partners with the other fifty states.

Thus, in conclusion, we need, or even more so, we deserve, to have a bill signed by the President, either late this year, or early next year, so that not another year goes by without us having the opportunity to finally achieve equality within the United States. 100 years is more than enough time for the United States to act over an issue that affects the approximately 4 million U.S. citizens in Puerto Rico. Please make sure that H.R. 856 becomes a reality.

God bless Puerto Rico and its People, and God bless the United States of America.

Thank you.

Mr. KENNEDY. Ms. Fonalledas.

STATEMENT OF ZORAIDA F. FONALLEDAS, REPUBLICAN NATIONAL COMMITTEEWOMAN, SAN JUAN, PUERTO RICO

Ms. FONALLEDAS. Chairman Young, Mr. Kennedy, Mr. Miller, Senor Barceló, and distinguished Members of Congress, my name is Zoraida Fonalledas. On behalf of the Republican Party of Puerto Rico, bien venidos a nuestra isla, I welcome you to our beautiful island and applaud the Committee's effort to provide a process that will finally give our 3.7 million United States citizens the right to freely determine their political status and to resolve the century-old relationship with the United States.

I am proud that our party platform and Presidents Nixon, Ford, Reagan, and Bush have supported Puerto Rico statehood. H.R. 856 will be the fulfillment of our party's commitment to this goal.

Today I would like to make two points about H.R. 856: That the status quo must end. Puerto Rico's current status, started as an unincorporated territory subject to the Constitution territorial clause, must be ended by establishing full self-governing through either statehood or independence. For nearly 80 years we have been United States citizens, but we have no voting powers for the President, who, as our Commander-in-Chief, has sent over 200,000 of our youth into battle, defending the Constitution which the court has determined is not fully applicable to us. Congress continues to make laws that affect our daily lives with no political accountability to any of the island's residents. This is intolerable.

After 400 years of Spanish rule and a century of American administration, we in Puerto Rico have earned our right to be first class citizens. The bill provides a process by which that goal may be achieved.

Second, America must admit Puerto Rico to the Union. The United States can ill afford not to admit Puerto Rico to the Union, as I hope it is in 1998.

I am not talking about monetary costs, since statehood has never been a business decision. As my grandfather said, President Rafael Martinez Nadad, statehood is not a question of dollars and cents, but of a desire for liberty. "La estadidad no es una cuestión de pesos y centavos, es cuestión de dignidad, de honor, de justicia y de el mínimo anhelo de libertad."

Denial of Puerto Rico's statehood will undermine America's credibility as the world leader in promoting liberty abroad and our relation with the more than 3 million Hispanics in the Western Hemisphere. And at home, political success in America among the 27 million Hispanics, whose number will go up by the year 2010, will go to those who seek to be inclusive of America's largest minority.

What chances would exist for candidates in key States such as California, Texas, Arizona, and Florida, where the Hispanic vote is critical to victory, if Congress fails to recognize Puerto Rico's right to statehood? The answer is self-evident. Puerto Rico must be allowed in statehood its language and culture.

Ronald Reagan put it best when he said, "In statehood, the language and culture of the island, rich in history and tradition, would be respected, for in the United States the cultures of the world live

together with pride." The self-determination process must be honest.

Finally, Mr. Chairman, as you and Chairmen Burton, Gallegly, and Gilman wrote in 1996 in response to the results of the plebiscite, there is a need in Congress to define the real options for change and the true legal and political nature of the status quo, so that the people can know what the actual choices will be in the future. This you have accomplished in this bill. All the status options as defined in the bill are capable of constitutional implementation.

The statehood definition is a good example. Puerto Rico will know that statehood will mean first class United States citizenship, a vote for President and Members of Congress, guaranteed United States citizenship for, full funding of Federal programs, and the continuation of both English and Spanish as the official languages of Puerto Rico.

Thus, initiative to rewrite this definition must be resisted, particularly efforts in Congress to really define statehood—redefine the statehood definition by establishing English as the official language or requiring English in Puerto Rico as the official language must be viewed as an attempt to compromise the self-determination process by forcing voters to choose, regardless of constitutionality, between retaining Spanish and voting for statehood.

The Constitution aside, we should recognize in this shrinking world that building linguistic bridges will enrich this Nation. In this respect, the bill wisely seeks to promote understanding and use of English in Puerto Rico, a skill not only necessary to participate fully in American society, but equally important as a tool for commercial success.

In conclusion, I encourage the Committee to have this bill passed by the full House as it now stands. Puerto Rico stands as an anomaly to the rest of the free world: The most populous colony, disenfranchized, administered by the foremost champion of democracy and self-determination.

Puerto Rico has endured half a millenium of its colonial rule. Puerto Rico must enter the new millenium in full control of its destiny, as either a State or as an independent nation. Passage of the United States-Puerto Rico Political Status Act will serve America and Puerto Rico well at home and abroad.

May God bless us all. And just a few words in Spanish.

Permítanme decirles estos... A estos miles de republicanos y demócratas estadistas, que estén conscientes de estos puntos. Puerto Rico tiene que defender y asegurar su ciudadanía Americana, obtener el voto presidencial, obtener el derecho a dos senadores y siete representantes en el Congreso de los Estados Unidos y obtener iguales derechos en fondos Federales que otros estados de la nación Americana. Puerto Rico tiene que defender su cultura y sus tradiciones y sus dos idiomas, Español e Inglés. Queremos ser el próximo estado de la unión. Ahora, no de aquí a quinientos años.

[Applause.]

El ideal de la estadidad de Barboza y Martinez Nadal vive en nuestros corazones y vivirá hasta que consigamos ser el próximo estado de la unión Americana.

Que Dios nos bendiga a todos y a toda esta juventud que será el futuro de nuestro Puerto Rico.

[Applause.]

[The prepared statement of Ms. Fonalledas follows:]

TESTIMONY

OF

ZORAIDA FONALLEDAS,

REPUBLICAN NATIONAL COMMITTEEWOMAN

FOR

PUERTO RICO,

BEFORE

THE

HOUSE RESOURCES COMMITTEE

ON H.R. 856

"UNITED STATES-PUERTO RICO POLITICAL STATUS ACT"

SAN JUAN, PUERTO RICO

APRIL 19, 1997

Submitted 4-17-97

CHAIRMAN YOUNG, RANKING DEMOCRAT GEORGE MILLER, DISTINGUISHED MEMBERS OF THE RESOURCES COMMITTEE AND OTHER MEMBERS OF CONGRESS:

MY NAME IS ZORAIDA FONALLEDÀS. ON BEHALF OF THE REPUBLICAN PARTY OF PUERTO RICO I WELCOME YOU TO OUR BEAUTIFUL ISLAND.

I ONLY WISH THAT MY GRANDFATHER, SENATE PRESIDENT RAFAEL MARTINEZ-NADAL, COULD HAVE LIVED TO SHARE THIS HISTORICAL DAY WITH ME. HE JOINED THE REPUBLICAN PARTY IN 1904, JUST FIVE YEARS AFTER ITS FOUNDING, AND DEVOTED HIS ENTIRE PUBLIC LIFE TO SEE HIS DREAM OF THE STARS AND STRIPES, FIRST BROUGHT ASHORE BY UNITED STATES MARINES IN 1898, RAISED OVER PUERTO RICO NOT WITH THE FORTY-FIVE STARS OF HIS YOUTH BUT WITH THE FIFTY-ONE THAT WOULD UNITE FOREVER OUR TWO GREAT PEOPLES.

I APPLAUD THE COMMITTEE'S ON-GOING EFFORTS TO PROVIDE A CONGRESSIONAL PROCESS THAT WILL FINALLY GIVE OUR 3.7 MILLION UNITED STATES CITIZENS THE RIGHT TO FREELY DETERMINE THEIR POLITICAL STATUS AND TO RESOLVE THE CENTURY OLD POLITICAL RELATIONSHIP WITH THE UNITED STATES.

AS THE REPUBLICAN NATIONAL COMMITTEEWOMAN FOR PUERTO RICO, I AM PROUD THAT OUR PARTY'S PLATFORM AND PRESIDENT'S NIXON, FORD, REAGAN AND BUSH HAVE ENDORSED PUERTO RICO SELF-DETERMINATION IN GENERAL AND PUERTO RICO STATEHOOD IN PARTICULAR.

HR 856 REPRESENTS THE FULFILLMENT OF OUR PARTY'S COMMITMENT TO THESE GOALS. GOALS WHICH, I AM HAPPY TO SAY, HAVE BEEN EMBRACED BY HOUSE MEMBERS FROM BOTH SIDES OF THE AISLE AS EVIDENCED BY THE BILL'S BROAD BIPARTISAN SPONSORSHIP. CLEAR EVIDENCE POINTING TO THE ULTIMATE PASSAGE OF HR 856.

TODAY I WOULD LIKE TO MAKE THREE POINTS ABOUT HR 856.

ONE, PUERTO RICO'S CURRENT STATUS AS AN UNINCORPORATED TERRITORY SUBJECT TO CONGRESS' PLENARY POWERS UNDER THE CONSTITUTION'S TERRITORIAL CLAUSE MUST BE ENDED BY ESTABLISHING FULL SELF-GOVERNMENT FOR OUR RESIDENTS THROUGH EITHER STATEHOOD OR INDEPENDENCE.

AFTER 400 YEARS OF SPANISH RULE AND A CENTURY OF AMERICAN ADMINISTRATION WE IN PUERTO RICO HAVE EARNED OUR RIGHT TO FIRST CLASS CITIZENSHIP. HR 856 PROVIDES A PROCESS BY WHICH THAT GOAL MAY BE ACHIEVED.

SECONDLY, WHEN PUERTO RICANS VOTE FOR STATEHOOD IN THE 1998 PLEBISCITE, AS I HOPE THEY WILL, THE UNITED STATES CAN NOT AFFORD NOT TO ADMIT PUERTO RICO INTO THE UNION AS THE FIFTY-FIRST STATE.

AND I'M NOT TALKING ABOUT MONETARY COSTS SINCE HISTORICALLY THE ISSUE OF STATEHOOD HAS NEVER BEEN A BUSINESS DECISION. OR, AS MY GRANDFATHER SAID, "STATEHOOD IS NOT A QUESTION OF DOLLARS AND CENTS BUT OF A DEEP DESIRE FOR LIBERTY."

DENIAL OF PUERTO RICO STATEHOOD WOULD UNDERMINE AMERICA'S CREDIBILITY AS THE WORLD LEADER IN PROMOTING LIBERTY ABROAD AND WOULD SEND A SIGNAL OF EXCLUSION TO THE 27 MILLION HISPANICS WHO POPULATE THE FIFTY STATES.

FINALLY, THE SELF-DETERMINATION PROCESS IN HR 856 LEADING TO FULL SELF-GOVERNMENT FOR PUERTO RICO SHOULD NOT BE ALTERED.

INITIATIVES TO REWRITE THE BILL'S STATUS OPTION DESCRIPTIONS MUST BE RESISTED. HR 856'S CONSTITUTIONALLY SOUNDED DEFINITIONS HAVE BEEN PAINSTAKINGLY RESEARCHED AND THEY OFFER VOTERS THE ONLY STATUS OPTIONS THAT ARE WITHIN CONGRESS' POWER TO IMPLEMENT.

SIMILARLY, ATTEMPTS IN CONGRESS TO REDEFINE THE STATEHOOD OPTION BY REQUIRING ENGLISH AS PUERTO RICO'S ONLY OFFICIAL LANGUAGE MUST BE VIEWED AS AN ATTEMPT TO COMPROMISE THE SELF-DETERMINATION PROCESS BY FORCING VOTERS TO CHOOSE, REGARDLESS OF CONSTITUTIONALITY, BETWEEN RETAINING SPANISH OR VOTING FOR STATEHOOD.

1-THE STATUS QUO MUST END

IT IS AXIOMATIC ALL OVER THE WORLD THAT WITHOUT THE VOTE PEOPLE ARE NOT IN FULL POSSESSION OF ALL THEIR POLITICAL RIGHTS. SIMILARLY, WITHOUT ALL THE BENEFITS AND DUTIES OF THE UNITED STATES CONSTITUTION NO AMERICAN CAN PLAY A FULL ROLE IN OUR SOCIETY OR REALIZE THE AMERICAN DREAM.

THIS IS JUST THE SITUATION WE FIND OURSELVES HERE IN PUERTO RICO. FOR NEARLY 80 YEARS WE HAVE BEEN UNITED STATES CITIZENS BUT WE HAVE NO VOTE IN CONGRESS OR FOR THE PRESIDENT WHO, AS COMMANDER-IN-CHIEF, HAS SENT OVER 200,000 OF OUR YOUTH INTO BATTLE DEFENDING A CONSTITUTION WHICH THE COURTS HAVE DETERMINED IS NOT FULLY APPLICABLE TO US.

MOREOVER, CONGRESS CONTINUES TO MAKE LAWS THAT AFFECT OUR DAILY LIVES WITH NO POLITICAL ACCOUNTABILITY TO ANY OF THE ISLAND'S RESIDENTS. IN FACT, MANY OF THESE LAWS ARE DISCRIMINATORY. ADDITIONALLY, MANY FEDERAL PROGRAMS AND BENEFITS ARE EITHER INAPPLICABLE HERE OR ARE FUNDED AT LEVELS BELOW THOSE OF THE STATES.

WHILE IT IS TRUE THAT WE DON'T PAY FEDERAL INCOME TAXES OUR ISLAND TAXES ARE ALL THE MORE HIGHER TO COMPENSATE FOR INEQUITABLE FEDERAL FUNDING.

HOWEVER, FEW PUERTO RICANS WOULD NOTICE ANY CHANGE IN THEIR OVERALL TAX BILL IF STATEHOOD CAME SINCE FEDERAL OUTLAYS WOULD CAUSE THE LOCAL TAX BURDEN TO BE REDUCED PROPORTIONATELY.

CLEARLY, THE CURRENT POLITICAL STATUS CAN NO LONGER BE TOLERATED. AMERICANS IN PUERTO RICO MUST EITHER BE FIRST CLASS CITIZENS PARTAKING EQUALLY OF THE AMERICAN DREAM AS RESIDENTS OF A FIFTY-FIRST STATE OR MUST EXCHANGE THEIR UNITED STATES CITIZENSHIP FOR THAT OF AN INDEPENDENT PUERTO RICO, THERE IS NO MIDDLE GROUND.

AND, I TRUST THAT WHEN THE TIME COMES, WE WILL CHOOSE GUARANTEED UNITED STATES CITIZENSHIP, THE UNITED STATES CONSTITUTION AND STATEHOOD.

2-AMERICA MUST ADMIT PUERTO TO THE UNION

ONCE STATEHOOD IS ENDORSED BY OUR VOTERS THE UNITED STATES HAS NO OTHER CHOICE THAN TO HONOR THAT EXPRESSION OF SELF-DETERMINATION.

HOW COULD THE UNITED STATES CONTINUE TO PREACH SELF-DETERMINATION TO THE REST OF THE WORLD YET FAIL TO IMPLEMENT A DECISION DEMOCRATICALLY REACHED BY 3.7 MILLION OF ITS OWN CITIZENS AT HOME?

WHAT CREDIBILITY WOULD BE ATTACHED TO AMERICAN FOREIGN POLICY SUPPORTING HUMAN RIGHTS AND DEMOCRATIC LIBERTIES AMONG ITS SPANISH SPEAKING NEIGHBORS IN THIS HEMISPHERE IF IT DENIED THESE SAME BASIC CONSTITUTIONAL GUARANTEES TO PUERTO RICO SIMPLY BECAUSE OF ITS HISPANIC ORIGINS?

WHAT CHANCES WOULD EXIST FOR CANDIDATES AT THE NATIONAL, STATE AND LOCAL LEVELS TO IN KEY STATES SUCH AS CALIFORNIA, TEXAS, ARIZONA AND FLORIDA, WHERE THE HISPANIC VOTE IS CRITICAL TO VICTORY, IF CONGRESS UNCONSTITUTIONALLY REQUIRES PUERTO RICO TO GIVE UP SPANISH AS ONE OF ITS OFFICIAL LANGUAGES AS A CONDITION FOR STATEHOOD?

THE ANSWERS TO THESE QUESTIONS ARE SELF-EVIDENT. THE UNITED STATES COULD ILL AFFORD NOT TO ADMIT PUERTO RICO TO THE UNION IF THAT IS THE STATUS CHOSEN IN 1998 BY THE PUERTO RICANS LIVING ON THIS ISLAND.

AMERICA'S WORLD LEADERSHIP DEPENDS ON SUCH EVEN HANDED UNIVERSAL TREATMENT ABROAD AND AT HOME.

AMERICA'S FUTURE SUCCESS IN NURTURING HUMAN DIGNITY AND EQUALITY THROUGHOUT HISPANIC AMERICA MUST REST ON SPREADING THESE RIGHTS TO HISPANICS IN AMERICA AND TO PUERTO RICO.

AND POLITICAL SUCCESS IN AMERICA AMONG HISPANICS, WHOSE NUMBERS WILL SWELL TO OVER 20 PERCENT OF THE UNITED STATES POPULATION BY 2010, WILL GO TO THOSE WHO SEEK TO BE INCLUSIVE OF AMERICA'S LARGEST MINORITY BY RECOGNIZING PUERTO RICO'S CLAIM TO STATEHOOD AND THE PRESERVATION OF ITS LANGUAGE AND CULTURE.

RONALD REAGAN PUT IT BEST WHEN HE SAID, "IN STATEHOOD, THE LANGUAGE AND CULTURE OF THE ISLAND -- RICH IN HISTORY AND TRADITION -- WOULD BE RESPECTED, FOR IN THE UNITED STATES THE CULTURES OF THE WORLD LIVE TOGETHER WITH PRIDE." (JANUARY 12, 1982)

3-THE SELF-DETERMINATION PROCESS MUST HONEST

MR. CHAIRMAN, AS YOU AND CHAIRMEN BURTON, GALLEGLY AND GILMAN WROTE ON FEBRUARY 29, 1996, IN RESPONSE TO THE RESULTS OF THE 1993 PLEBISCITE, "[T]HERE IS A NEED FOR CONGRESS TO DEFINE THE REAL OPTIONS FOR CHANGE AND THE TRUE LEGAL AND POLITICAL NATURE OF THE STATUS QUO, SO THAT THE PEOPLE CAN KNOW WHAT THE ACTUAL CHOICES WILL BE IN THE FUTURE."

THIS YOU HAVE ABLY ACCOMPLISHED WITH HR 856. THE STATUS OPTIONS AS DEFINED IN THE BILL -- COMMONWEALTH, INDEPENDENCE OR FREE ASSOCIATION AND STATEHOOD -- CLEARLY MEET THE CHAIRMEN'S TEST. THEY SHOULD STAND AS WRITTEN SO THE SELF-DETERMINATION PROCESS WILL OFFER STATUS OPTIONS WHICH, UNLIKE THE 1993 PLEBISCITE, ARE CAPABLE OF CONSTITUTIONAL IMPLEMENTATION.

TAKE THE STATEHOOD DEFINITION FOR EXAMPLE. PUERTO RICANS WILL BE WELL INFORMED OF WHAT STATEHOOD MEANS UNDER THIS DEFINITION. THEY WILL KNOW THAT STATEHOOD WILL END THEIR SECOND CLASS US CITIZENSHIP, THAT THEY WILL BE ABLE TO VOTE FOR PRESIDENT AND MEMBERS OF CONGRESS, THAT UNITED STATES CITIZENSHIP FOR THOSE BORN IN PUERTO RICAN WILL FOREVER BE GUARANTEED, THAT THERE WILL BE FULL FUNDING OF FEDERAL PROGRAMS, THAT LIKE ALL OTHER STATES OF THE UNION PUERTO RICO CAN CONTINUE TO HAVE BOTH ENGLISH AND SPANISH AS ITS OFFICIAL LANGUAGES.

THUS, EVERY ATTEMPT TO TAMPER WITH THE STATEHOOD DEFINITION MUST BE RESISTED. PARTICULARLY WITH REGARD TO LANGUAGE. AN ENGLISH-ONLY REQUIREMENT THAT WOULD REQUIRE A STATE OF PUERTO RICO TO ADOPT ENGLISH AS ITS OFFICIAL LANGUAGE WOULD NOT ONLY FAIL THE TEST OF CONSTITUTIONALITY UNDER THE TENTH AMENDMENT BUT, QUITE CANDIDLY, SERVE AS TROJAN HORSE USED BY STATEHOOD OPPONENTS TO UNDERMINE HR 856 BY DENYING THEN PEOPLE OF PUERTO RICO THE CHANCE FOR A FAIR STATUS VOTE.

LASTLY, THE CONSTITUTION ASIDE, WE SHOULD RECOGNIZE IN THIS SHRINKING WORLD THAT BUILDING LINGUISTIC BRIDGES WILL ENRICH THIS NATION.

OUR REPUBLICAN PARTY'S PLATFORM AGREES: "WE ADVOCATE FOREIGN LANGUAGE TRAINING IN OUR SCHOOLS AND RETENTION OF HERITAGE LANGUAGES IN HOMES AND CULTURAL INSTITUTIONS. FOREIGN LANGUAGE FLUENCY IS ALSO AN ESSENTIAL COMPONENT OF AMERICA'S COMPETITIVENESS IN THE WORLD MARKET."

THUS WE SHOULD FOSTER INCREASED LANGUAGE EDUCATION THROUGHOUT THE UNITED STATES TO PROVIDE OUR CURRENT AND FUTURE BUSINESS AND POLITICAL LEADERS WITH MULTI-LINGUAL FACILITIES.

SIMILARLY, HR 856 WISELY SEEKS TO PROMOTE INCREASED UNDERSTANDING AND USE OF ENGLISH IN PUERTO RICO. A LANGUAGE SKILL NOT ONLY NECESSARY TO PARTICIPATE FULLY IN AMERICAN SOCIETY BUT EQUALLY IMPORTANT AS A TOOL FOR COMMERCIAL SUCCESS.

IN CONCLUSION, THE COMMITTEE IS TO BE COMMENDED FOR ITS EFFORTS AND ENCOURAGED TO HAVE THE BILL PASSED BY THE FULL HOUSE AS IT NOW STANDS. ANY LAST MINUTE ATTEMPTS TO CHANGE THE BILL IN ANY WAY SHOULD BE VIEWED WITH HEALTHY SKEPTICISM SINCE, MORE LIKELY THAN NOT, THESE EFFORTS WILL BE UNDERTAKEN WITH THE ULTIMATE GOAL OF EITHER DEFEATING THE LEGISLATION OR COMPROMISING THE PLEBISCITE'S OUTCOME IN ADVANCE.

PUERTO RICO IS AMERICA'S LONGEST HELD TERRITORY TO HAVE NEITHER BECOME A STATE NOR GAINED ITS INDEPENDENCE.

PUERTO RICO STANDS AS AN ANOMALY TO THE REST OF THE FREE WORLD, THE MOST POPULOUS COLONY OF DISENFRANCHISED CITIZENS ADMINISTERED BY THE FOREMOST CHAMPION OF DEMOCRACY AND SELF-DETERMINATION.

PUERTO RICO HAS ENDURED HALF A MILLENNIUM OF COLONIAL RULE. PUERTO RICO MUST, IT DEMANDS, THAT IT ENTER THE NEW MILLENNIUM IN FULL CONTROL OF ITS DESTINY AS EITHER A STATE OR AS AN INDEPENDENT NATION.

PASSAGE OF THE UNITED STATES-PUERTO RICO POLITICAL STATUS ACT WILL SERVE AMERICA AND PUERTO RICO WELL, AT HOME AND ABROAD.

THANK YOU.

Mr. KENNEDY. I would like to have Etienne Totti del Valle.

STATEMENT OF ETIENNE TOTTI DEL VALLE, ESQUIRE, SAN JUAN, PUERTO RICO

Mr. TOTTI DEL VALLE. Thank you, Mr. Chairman.

I know you must be tired, and I appreciate your patience. If you are tired after several hours of this, imagine how the people of Puerto Rico feel after centuries of the same old debate.

I earnestly hope what I have to say will do honor to the generations as proud as I am of our heritage and loyalty to the principles embodied in the Declaration of Independence, who have passed from this life with the unanswered hope of leaving a legacy of true democracy and equality for the future generations of our beloved boriquen.

Let us consider some objective facts. In 1917, the Jones Act granted U.S. citizenship to Puerto Ricans. The logical and natural expectation that this would lead to incorporation of the island into the United States and therefore to statehood was soon derailed by the U.S. decision in the Supreme Court of People v. Balzac, which branded Puerto Rico as an unincorporated territory.

This is my passport. It is no different from the passport of millions of fellow citizens that reside in the 50 States. Our citizenship is unqualified. In this regard, I respectfully urge the Committee to reconsider the drafting of Finding 2 in Section 2 of H.R. 856, specifically where it states that Congress extended—and I quote—special statutory U.S. citizenship to persons born in Puerto Rico.

The Jones act made no reference to special citizenship. Three generations of Puerto Ricans in my family have proudly served in the Armed Forces of our Nation. Just as our passports are no different, our uniforms are no different. We have no labels allusive to special statutory citizenship.

We are indeed special in many ways, but from the standpoint of citizenship, we Puerto Ricans are as strong as the strongest link that bonds the proud people of the United States of America.

Labeling our citizenship as special can foster misunderstanding. Those of us born in Puerto Rico after the 2nd of March, 1917, were born citizens of our great and glorious Nation. Puerto Rican Americans have died in the stars and stripes uniform since before you were born.

Nearly 4 million citizens live in Puerto Rico. The number of Puerto Ricans living in the mainland has been estimated at 2.5 million. The population of the United States at last count did not reach 300 million.

It is a fact that more than 1 out of every 50 U.S. citizens alive today is Puerto Rican. More than 1 out of every 80 Americans lives in Puerto Rico. It is time, once and for all, to debunk the myth that Puerto Ricans are, objectively speaking, anything other than U.S. citizens.

Subjective identity is another matter. No single subjective identity, whether based on ethnicity, culture, religion, or origin, is incompatible with U.S. citizenship.

As a former chief justice of the Puerto Rico Supreme Court, Emilio del Toro in 1911 wrote: The United States of America was founded upon such stable principles as would permit the conglom-

eration under its flag of all the people of the earth, regardless of their language, their beliefs, their customs, if they coincide on the fundamental idea of respect for human rights and on the guarantee of man's progress toward goodness.

The freedom that our Nation stands for in the eyes of the entire world guarantees my right to be different from you and your right to be different from each of your colleagues, provided we all come together on a small but very basic set of principles and ideals. The major and most transcendental of these principles is equality. So sacred is the tenet of equality that our Founding Fathers began the Declaration of Independence: We hold these truths to be self-evident that all men are created equal.

The present political status of Puerto Rico provides inequality with our fellow U.S. citizens. Residents of Puerto Rico are unequal because our political system, based almost exclusively on status preference, has the practical effect of preventing the free and intelligent exercise of our right to vote. We vote, hostages of the emotion that permeates status politics. This prevents us from selecting among candidates based on rational analysis.

Status politics is a plague that pits one Puerto Rican against another, rendering us pawns in a never ending game that most politicians play. Mainland Americans are free to exercise their right to vote in a political election without regard or concern for status. Therein lies the first measure of our inequality, one that we owe, in part, to the timid aloofness of one Congress after another.

If only we had the Young bill back in 1917 or 1950, we would have been rid of the playing of the status politics which fosters divisiveness. But we have remained unequal throughout the century.

As a constituency of Americans, we are underrepresented. Our congressional representation, though not lacking in quality, is sorely lacking in quantity. The residents of Puerto Rico are recognizing that we lack the power that is essential to representative democracy.

For all proclamations made during five decades about Puerto Rico as a showcase of democracy, the honest to goodness truth is that the United States cannot preach democracy to the world when it has nearly 4 million citizens disenfranchised right here in the Western Hemisphere for all the world to see.

Why is there an exercise of public power over our borders, our forests, airports, communications, environment, water, and postal service, defense, food and drugs, minimum wages, banking laws, immigration and taxes, by a legislature in which we lack total representation, but by government isolation to legislation, we do not participate.

Put yourself in our position, if you will. There is so much that you take for granted that is lacking in our political system. The power will only reside with people when people have a right to vote for leaders that shape our Nation and guide its course through history.

As Americans, we want our rightful political power. We cannot hold the leaders of our Nation accountable; therein, another measure of our inequality.

Consider: The decision of the U.S. Supreme Court in Harris v. Rosario, which is the highest court of our Nation, decided an Amer-

ican citizen living in Puerto Rico could be treated differently from citizens residing in States. There was a rational basis for such a disparate treatment.

The Young bill offers more than a glimmer of hope for Puerto Rico. It offers the first opportunity in over 500 years for Puerto Rico to obtain full sovereignty. It offers the promise obtain to achieve full self government. It offers the promise of redemption from status politics, allowing the realignment of orders on the basis of philosophy instead of tribal colors. This piece of legislation progressively seeks to break with the past for this and future generations of Americans living here. The stability that a final status determination will provide shall help the climate for investment in Puerto Rico.

Finally, and most importantly, the Young bill bears the promise of political empowerment for people who will cherish it and exercise it as full participants in all our national concerns. I say this mindful of the fact that the people of Puerto Rico will have a clear and fair opportunity to express a reference for separate nationhood.

Whatever the choice, if Congress follows up by enacting appropriate legislation, Puerto Ricans will united with dignity and political rights in a true democracy. The aspirations and dreams of those who espouse the ideal of a separate republic should have our utmost respect.

We have a great responsibility at this historical juncture. It is imperative that Congress, first, and then the people of Puerto Rico, act with transparent clarity and resolute firmness. I believe from the very depths of my soul that the people of Puerto Rico could never enjoy a greater independence than that available to them, together as one with the other States of the Union.

I respectfully urge you and your fellow Representatives to hold steadfastly to your equitable, moral, and constitutional duties to Puerto Ricans. In order for this long overdue initiative to be successful, any legislation enacted must provide clear choices to Puerto Rico's voters. I believe the Young bill, as drafted, meets that standard. Next, the choices provided must be realistic lest this titanic effort become another exercise in futility.

And finally, as an American, I urge you to view and to support this bill as a means for dignification of American citizenship. In order to form a more perfect Union, our citizenship cannot be viewed nor treated as a commodity to be bartered with. American citizenship is not a passport of convenience to be brandished solely for the sake of the doors that it may unlock and the opportunities that it may offer. Our citizenship entails obligations and loyalties that Puerto Ricans have shown time and again.

Our citizenship entails obligations and loyalties that Puerto Ricans have shown time and again they are willing to assume even at the highest personal cost. The dignification of American citizenship, in our view, requires an unquestioned allegiance to one nation that thrives on freedom and diversity, from Rhode Island to California, from Alaska to Puerto Rico, but loyalty to one republic; allegiance that is true to the concept of e pluribus unum.

As Americans, we would do well to ask ourselves what rational basis can exist to request a legacy of citizenship to future generations while seeking to remain forever unequal. The world will watch

closely. Democracy beckons and a government of the people, by the people, and for the people must ultimately result from this initiative. Give the people of Puerto Rico the chance to make a clear choice, to come to grips with their destiny, to allow this daughter of the sea to become one with the land of the free.

Thank you.

[The prepared statement of Mr. Totti del Valle follows:]

U. S. HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES
WASHINGTON, D. C. 20515

LEGISLATIVE HEARING ON THE UNITED STATES-PUERTO RICO POLITICAL STATUS ACT HR 856
APRIL 19, 1997
CENTRO DE BELLAS ARTES LUIS A. FERRE
SAN JUAN, PUERTO RICO

Statement of: Etienne Totti del Valle,
Private Citizen

Honorable Chairman Young, Honorable and distinguished Members of the U. S. House of Representatives Committee on Resources, my dear fellow panelists, distinguished guests, invitees, ladies and gentlemen, fellow citizens all:

Thank you for the invitation to testify at this hearing. I earnestly hope that what I have to say will do honor to the generations of Puerto Ricans proud, as I am, of our Hispanic-American heritage and loyal to the principles embodied in the Declaration of Independence, who have passed on to the next dimension of existence with the unanswered hope of leaving a legacy of true democracy and equality for our future generations. I humbly hope that in some small way my comments may help to further your understanding of the plight that the sons and daughters of Boriquén have endured for centuries under the control of governments in which our people are denied their rightful participation.

Puerto Rico has languished in an ideological limbo for nearly a century after the disembarkation of American troops into this Spanish colony in 1898. Before that, during more than four centuries of occupation by the Spaniards who arrived at the end of the 15th Century, the residents of this island were subjects of the Spanish crown. Thus, the United States-Puerto Rico Political Status Act proposed in H.R. 856 represents the first opportunity in over five hundred years for Puerto Rico to achieve full self goverment.

On a subject pregnant with emotion and perennially dissected by subjective rethoric, let us pause to consider some objective facts. After the proclamation issued on June 28, 1898 by General Miles (Commander in Chief of the American troops that landed in Puerto Rico during the Spanish-American war) promising "the blessings of an enlightened civilization", Puerto Rico underwent a transformation. The general education of the masses, the new spirit of tolerance and supreme respect for the ideas of others, the establishment of independent courts, of just and equal laws for all, of an honest and patient government working for the common good, of a spirit of progress free from prejudice, of respect for human rights, and for all the basic freedoms that we now take for granted, were all part of this transformation. In retrospect, it would appear to the student of history that Destiny delivered Puerto Rico into the hands of Democracy forever. But something happened along the way. In 1900, after considerable debate, Congress held back from granting United States citizenship to the inhabitants of Puerto

Rico.1/ The "Foraker Act" or the "Organic Charter"2/ provided a measure of self-government under which laws passed by the territorial legislature were subject to veto by Congress. The Foraker Act provided that residents of Puerto Rico would be deemed citizens of Puerto Rico entitled to the protection of the United States. Seventeen years later, the Jones Act granted United States citizenship to Puerto Ricans.

The logical and natural expectation of Puerto Ricans that this would lead to incorporation of the island into the United States, and thereafter to statehood, was soon derailed by the United States Supreme Court decision in People v. Balzac, 258 U.S. 298 (1922) which branded Puerto Rico as an "unincorporated territory".

Decades later, the Immigration and Nationality Act of 1952 deemed Puerto Ricans nationals of the United States of America at birth.3/

This is my passport. It is no different from the passport of the millions of fellow U.S. citizens that reside on the mainland or in the non-contiguous states of Alaska and Hawaii. Our citizenship is unqualified. In this regard, I respectfully urge the Committee to reconsider the drafting of Finding #2 in Section 2 of HR 856, specifically where it states

> ... including extension of special statutory United States citizenship from 1917 to the present. (Emphasis added.)

There is no question that citizenship was granted by statute to persons born in Puerto Rico. That is correctly stated in the subject Findings. Nevertheless, the Jones Act made no reference to "special citizenship". Three generations of Puerto Ricans in my family have proudly served in the Armed Forces of our Nation. My grandfather served during the First Great War of this century, and my father was serving as a catapult Officer on the U.S.S. Langley in the Pacific when I was born. I served during the Vietman War. Just as our passports are not different, our military uniforms were no different. They have no labels allusive to "special statutory citizenship". It is perhaps the notion of being treated as "special" that has for years contributed to the discrimination suffered by many of my Puerto Rican brothers and sisters. We are indeed special in many ways, but from

---

1/ Juan R. Torruella, The Supreme Court of Puerto Rico: The Doctrine of Separate and Unequal, Editorial de la Universidad de Puerto Rico (1988), pp. 32-39.

2/ 31 Stat. 77 (1900).

3/ 8 U.S.C. § 1401

the standpoint of citizenship, we Puerto Ricans are as strong as the strongest link that bonds the proud people of the United States of America.

Back in 1917 when the Jones Act granted citizenship to Puerto Ricans, the people of this island where given the option to reject that citizenship. Adults had six months within which to act, and persons under the age of 21 had up to one year after their 21st birthday to reject the United States citizenship. Accordingly, with regard to those who were alive on March 2, 1917, when President Woodrow Wilson signed into law the Jones Act, one could argue that United States citizenship was an imposition. Of course, that is why the legislation provided the opportunity to reject that citizenship. Objectively speaking, however, those of us born in Puerto Rico after the 2nd of March 1917, were born citizens of our great and glorious nation. Those of us under 80 years of age born in this beloved tropical paradise, have never taken a breath of air with another objective identity than that of citizens and nationals of the United States of America. Speaking subjectively, one could argue that when we talk about imposing something upon someone, we are changing a condition or situation that that person had prior to the subject "imposition". That is why we must acknowledge that United States citizenship was not imposed on those of us born in Puerto Rico after March 2, 1917 because we never had another citizenship. The same situation applies to our fellow citizens born in other parts of the United States, like the mainland states and the outlying states and territories. They are born American just as we are born Americans.

As section 2 (14) of the Findings set forth in H.R. 856 recognizes, nearly 4 million United States citizens live in Puerto Rico. The number of Puerto Ricans and citizens of Puerto Rican ascendance living in the mainland has been conservatively estimated at 2.5 million. The population of the United States, at last count, did not reach 300 million. It is a fact, then, that more than one out of every 50 United States citizens alive today is Puerto Rican. More than one out of every 80 of our nation's citizens live in Puerto Rico. It is time, once and for all, to debunk the myth that Puerto Ricans are, objectively speaking, anything other than United States citizens or "Americans". Subjective identity is another matter. No single subjective identity, whether based on ethnicity, culture, religion or origin is incompatible with the citizenship of the United States of America. As former Chief Justice of the Puerto Rico Supreme Court Emilio del Toro y Cuebas wrote in 1911[4]

> Grandiose, without question, is the destiny reserved for Puerto Rico in the future development of the United States

---

4/ Porto Rico Progress and Porto Rico Horticultural News (Combined), published in San Juan, Puerto Rico, March 16, 1911.

> of America, founded upon such stable principles as would permit the conglomeration, under its flag, of all the people of the earth, regardless of their language, their beliefs, their customs, if they coincide on the fundamental idea of respect for human rights and on the guarantee of man's progress towards goodness.

The freedom that our nation stands for in the eyes of the entire world, guarantees my right to be different from you and your right to be different from each of your colleagues, provided we all come together on a small but very basic set of principles and ideals. The major and most transcendental of these principles is equality.

So sacred is the tenet of equality that our Founding Fathers began the Declaration of Independence

> We hold these truths to be self-evident: that all men are created equal,...

The present political status of Puerto Rico promotes inequality with our fellow United States citizens. Residents of Puerto Rico are unequal because our political system, based almost exclusively on status preference, has the practical effect of preventing the free and intelligent exercise of our right to vote. We vote driven by the emotion that permeates status politics. Most of us are blinded by a passion for the status ideal that we favor. This prevents us from selecting among candidates for elected office, on the basis of an intelligent and rational analysis between different philosophies of government. Status politics is a plague that pits one Puerto Rican against another, rendering us pawns in a never-ending game that most politicians play. Status politics take up a huge amount of the time of our elected leaders, our courts and our people. Mainland Americans are free to exercise their right to vote in political elections without regard or concern for political status. Neither they nor their state and local governments need to spend any time or energy on ideological status considerations. Therein lies the first measure of our inequality - one that we owe, in part, to the timid aloofness of one Congress after another. If only we had the Young Bill back in 1917, or after the first World War, when Puerto Ricans were instrumental to the victorious Allied cause! We would have been rid of the curse of status politics. We could vote to elect our government leaders solely on the basis of merit, free from the shackles of emotional adherence to addictive status rethoric.

The residents of Puerto Rico are unequals vis-a-vis our fellow citizens living in the several states, in that we lack the political power that is essential to representative

democracy. For all the proclamations made during five decades about Puerto Rico as a "showcase of democracy", the honest to goodness truth is that the United States cannot preach democracy to the world when it has nearly four million of its citizens disenfranchised right here in the middle of the western hemisphere for all the world to see. The preamble of the Puerto Rican Constitution pays great homage to the concept of democracy:

> We, the people of Puerto Rico, in order to organize ourselves politically on a fully democratic basis...declare: the democratic system is fundamental to the life of the Puerto Rican community; we understand that the democratic system of government is one in which the will of the people is the source of public power, the political order is subordinate to the rights of man, and the free participation of the citizen in collective decisions is assured; we consider as determining factors in our life our citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyment of its rights and privileges...

The present political status of Puerto Rico belies the preamble of the Commonwealth constitution. If the will of the people is the source of public power, why is our will not taken into account in the election of the President and Vice President of our nation? Why is there an exercise of public power over our boundaries, our forests, airports, communications, environment, weather and postal service, defense, food and drugs, minimum wages, banking laws, immigration and tax incentives by a legislature in which we lack voting representation and by a government in whose election we do not participate? As our fellow Americans, put yourselves in our position. There is so much that you take for granted that is lacking in our political system. The power will only reside in the people when the people have the right to vote for the leaders that shape our nation and guide its course through History. Puerto Rico's political power in Washington has been reserved and limited during this century to the privileged few elected leaders, and the lobbyists of certain corporations that don't necessarily represent the interests of the millions of Americans living on this island. As Americans who lack our rightful political power, we cannot hold the leaders of our nation accountable. Therein lies another measure of our inequality.

Witness, if you will, the decision of the United States Supreme Court in Harris v. Rosario, 446 US 651 (1980) in which the highest Court of our Nation held that an American citizen residing in Puerto Rico could be treated differently from citizens

residing in the States under the Aid to Families with Dependent Children Program, if there was a rational basis for such disparate treatment. Do we need cite any additional authority for the proposition that residents of Puerto Rico are unequals?

HR 856 - the Young Bill - offers more than a glimmer of hope for Puerto Rico. It offers, in the first place, the promise of redemption from the curse of status politics. If enacted, and God forbid that the oponents of democracy derail it, for the whole world is watching, Puerto Rico will be faced with an opportunity to achieve full self-government. This has not happened since the 15th century. This piece of legislation which courageously seeks to break with the past, can serve to vindicate the principle of equality for this and future generations of Americans living here. Another beneficial outcome of the entire process contemplated by this bill will be the realignment of Puerto Rican voters on the basis of political philosophy. The stability that a final status determination will provide shall enormously help the climate for investment in Puerto Rico. Finally, and most importantly, the Young Bill bears the promise of political empowerment for a people who will cherish it and exercise it as full participants in all our national concerns. When I say this, I am mindful of the fact that the people of Puerto Rico will have a clear and fair opportunity to express a preference for separate nationhood. Whatever the choice, if Congress follows up by enacting appropriate legislation, Puerto Ricans will be united with the political rights of all citizens in a true democracy.

The aspirations and dreams of those who espouse the ideal of a separate republic, in any of its forms, should have our utmost respect. We have a great responsibility at this historical juncture. It is imperative that Congress, first, and then the people of Puerto Rico, act with transparent clarity and with resolute firmness. I believe, from the very depths of my soul, that the people of Puerto Rico could never enjoy a greater independence than that available to them, together as one with the other States of the Union.

In my final comments, I respectfully urge you and your fellow representatives to hold steadfastly to your equitable, moral and constitutional duties to Puerto Rican Americans. In order for this long-overdue initiative to be successful, any legislation enacted must provide clear choices to Puerto Rico's voters. I believe that the Young Bill, as drafted, meets that standard. Next, the choices provided must be realistic lest this titanic effort become another exercise in futility. And finally, as an American, I urge you to view and to support this bill as a means for the dignification of American citizenship. In order to form a more perfect union, our citizenship cannot be viewed nor treated as a commodity to be bartered with. American citizenship is not a passport of convenience to be brandished solely for the sake of the doors that it may unlock and the

opportunities that it may offer. Our citizenship entails obligations and loyalties that Puerto Ricans have shown time and again they are willing to assume even at the highest personal cost. The dignification of American citizenship, in our view, requires an unquestioned allegiance to one nation that thrives on freedom and diversity; loyalty to only one republic. Allegiance that is true to the concept of E Pluribus Unum. As Americans we would do well to ask ourselves what rational basis can exist to request a legacy of citizenship to future generations while seeking to remain unequal forever.

The world will watch us closely. Democracy beckons, and a government of the people, by the people and for the people must ultimately result from this initiative. Give the people of Puerto Rico the chance to make a clear choice; to come to grips with their destiny, to allow this Daughter of the Sea to become one with the Land of the Free. Thank you.

Mr. KENNEDY. [Presiding] Mr. Pietri.

STATEMENT OF IVAR PIETRI, SAN JUAN, PUERTO RICO

Mr. PIETRI. Good afternoon, Chairman Young, Ranking Member Miller, Mr. Kennedy, Mr. Underwood and Mr. Romero-Barceló.

My name is Ivar Pietri. I appear before you as a private citizen that has, for 25 years, been a close analyst of the economy of Puerto Rico. For 15 years, I have served as an investment banker based in San Juan with a major international firm; and I helped raise over $20 billion in bond issues for borrowers in Puerto Rico. I am here to share with the Committee my insights into the economy of Puerto Rico as it relates to the political status issue. I am submitting for the record a more detailed presentation with economic charts.

I want to preface my comments by stating for the record that I am proud to be a U.S. citizen and that I believe that the United States of America, our country, is the greatest in the history of mankind. I want to ensure that U.S. citizenship for myself and for my four children. I want full rights as a citizen, and I am most willing to assume all the responsibilities, and I believe firmly that the only way to attain that goal is for Puerto Rico to be admitted as the 51st State.

Mr. Chairman, Puerto Rico is not and has never been an economic miracle. The economy of Puerto Rico has completely stagnated for 25 years. For decades, the local administrations, led by commonwealth advocates, purposely and irresponsibly pursued a one-dimensional development strategy, neglecting other initiatives and policies in order to foster dependency on Section 936 to sustain their political goals.

As we know, there are many conflicting views about the economic impact of statehood. Section and U.S. taxes have been the center of the economic arguments against statehood. There have been several studies that supposedly analyze the economic viability of statehood for Puerto Rico. However, they all share the same critical flaw: They are a static analysis that superimpose the U.S. tax system on our economy, remove Section 936, and then assume that nothing else changes. Well, that is not statehood; that is commonwealth with U.S. taxes and without 936. And, obviously, that would be negative.

These studies completely ignore the most important benefits of statehood: full integration to a U.S. economy, political power, credibility, permanence and the broad comprehension around the world of what it is. The benefits of statehood are definitely tangible, and they are concrete, and they will have an extremely positive impact.

Historically, territories have had a lower economic level than the States. Upon admission into the Union, full integration to a U.S. economy, they experience accelerated growth that allow them to converge with the national economy. Mr. Chairman, statehood is a precondition to Puerto Rico's economic growth not vice versa.

The opponents of statehood have used the notion that predevelopment must come before Puerto Rico is ready for statehood to distort the historical fact that statehood leads to economic growth, and we have 50 examples of that. It is easy to use faulty

analysis to pretend you can prove statehood would ruin our economy and would be more costly to the U.S. than the other options.

To believe some faulty logic defies logic and turns a blind eye to certain key facts. Why have the other 50 States been so successful, especially Alaska and Hawaii, the most recent States? And why can Puerto Rico not enjoy such success as part of the greatest and most prosperous nation on earth? After all, let us not forget that at the turn of the century the U.S. had five great offshore territories. Alaska and Hawaii became States, and they have prospered. Cuba and the Philippines chose independence, and we all know how much they have prospered.

Puerto Rico is still a territory, and it has marched along this entire century showing potential that will never be fulfilled until we become a State. To believe we cannot achieve more progress as a full partner in the Nation is to have a very cynical view of what it means to be a part of this great Nation, and it also takes a very dim view of our capabilities as Puerto Ricans to compete in the global economy and to contribute to our Nation.

This is the same view that held that the people of Puerto Rico are welfare basket cases and will all migrate to the mainland to go on welfare if the Congress made changes to Section 936. Have we not all heard that before? The enemies of statehood put our own people down to confuse us, to confuse the Congress and to confuse the Nation about the potential of Puerto Rico as a State. And I will say unequivocally to this Committee that if the people of Puerto Rico were welfare hounds, we would have moved to the mainland a long time ago. Those of us that moved in the past did so in search of opportunity, not welfare.

Mr. Chairman, the people of Puerto Rico are industrious, hard working and devoted to family. Those that rely on welfare do so only because the present political status has not provided them with the opportunities they aspire to. Puerto Rico has many competitive advantages and only as a State can the potential of these advantages be maximized. As a State, we can truly become the economic crossroads of the Americas.

Before I close, I would like to urge the Committee not to listen to the siren calls of those who insist on a level playing field between alternative forms of status. The playing field can never be level. Each status alternative is inherently different.

What the advocates of the level playing field want is to confuse the people of Puerto Rico into believing that the benefits of statehood are available under other forms of status. Mr. Chairman, as we all know, that is not the case. There is no substitute for statehood.

The opponents of statehood have used the level playing field concept to confuse our people. To have the benefits of statehood without the responsibilities would not only be unfair to all the other citizens of the Nation but, in some aspects, may well be unconstitutional.

No matter how many of those benefits Congress would concede them, however, no one could ever provide them with the most important ones of all: full integration into the U.S. economy, stability, permanence, dignity and the political power of statehood.

I urge the Committee not to accept definition changes to status alternatives that could lead to recreating the fiasco of the 1993 plebiscite. I strongly urge Congress to pass H.R. 856.

Thank you very much.

[The prepared statement of Mr. Pietri follows:]

Statement of Mr. Ivar A. Pietri,
Private Citizen, before the
Committee on Resources
U.S. House of Representatives
April 19, 1997

Chairman Young, Members of the Committee on Resources, ladies and gentlemen, my name is Ivar A. Pietri. I appear before you as a private citizen that has been for twenty-five years a close analyst of the economy of Puerto Rico and of its development in the last sixty years. For fifteen years, from 1981 to 1996, I served as an investment banker based in San Juan with a major international firm with headquarters in New York, and I played a leading role in raising over twenty billion dollars in bond issues in the U.S. and European markets for borrowers in Puerto Rico, ranging from the Government of Puerto Rico to major private issuers. I am intimately familiar with how the credit and finances of Puerto Rico are analyzed by nationally recognized credit rating agencies and by global institutional investors. I am now an independent entrepreneur and I am eager to share with the Committee on Resources my insights into the economy of Puerto Rico as it relates to the political status issue. I was born and raised in Puerto Rico, and have lived here but for three years, plus the time spent pursuing my higher education in the U.S. mainland. I am including seven charts in support of this presentation.

I want to preface my comments by stating for the record that I am proud of my United States citizenship and that I believe that the United States of America, ***our*** country, is the greatest in the history of mankind. I want to insure that U.S. citizenship for myself and for my four children, and their future offspring. I want to achieve the full rights of that citizenship for my family and for all my fellow citizens residing on the Island, and I am most willing to assume all the responsibilities of that citizenship. I believe firmly that the only way to attain that goal is for Puerto Rico to be admitted as the fifty-first state of the union.

Mr. Chairman, for much of the last fifty years, Puerto Rico has been touted as an economic miracle. Our per capita income was hailed as the highest south of the Rio Grande. Our standard of living was compared favorably to that of developing countries. But as an American, I hold that the comparison should be to the fifty states of our great Nation. That comparison leads to an entirely different conclusion. ***Puerto Rico is not and has never been an economic miracle.*** Mr. Chairman, the economy of Puerto Rico has completely stagnated for twenty-five years. Puerto Rico has not cut the enormous gap in standard of living with the rest of the U.S. since 1972. As you can see from examining Chart # 1, between 1950 and 1970 Puerto Rico grew at a pace that allowed it to reduce the economic gap with the rest of the U.S. That has not occurred in more than two decades.

As you can see from Chart # 2, since 1972 Puerto Rico's economy has basically been growing at a similar rate in real terms as that of the entire U.S. economy. ***But we cannot afford to grow at the same pace as that of the largest and most developed economy in the world.*** Chart # 3 shows the growth rates that Puerto Rico must exhibit if we are to catch up with the rest of U.S. You can see, that Puerto Rico must grow at a rate at least three times that of the national economy in order to close the gap in less than thirty years.

Today, in Puerto Rico the population below the Federal poverty level is 59%, per capita income is less than one third (1/3) of the national average and less than half of the lowest state, Mississippi. Our unemployment, even with a labor force particpation rate dramatically lower than the U.S. average, had not been below 14% since the early seventies until 1995 when it

dipped to an average of 13.8% for the year, and it has been above 20% several times in that period. Our economy stagnated during that period in spite of having the benefits of Section 936 of the U.S. Internal Revenue Code and no federal taxation. During that time our economic development was based on a failed model that depended strictly on artificial gimmicks that we did not control. Until 1996 we were an economy dependent on corporate welfare at a cost of up to $3.5 billion yearly to the U.S. taxpayer. Section 936 did contribute to Puerto Rico's economy, but its importance was grossly exaggerated over the years for political purposes by Commonwealth supporters and by the 936 companies themselves. ***For decades, the local administrations led by Commonwealth advocates purposely and irresponsibly pursued a one-dimensional development strategy, neglecting other initiatives and policies in order to foster dependency on Section 936 only to sustain their political goals.***

The changes to Section 936 that were recently enacted in Washington were inevitable when you look at it from the point of view of the Federal Government. Job growth in manufacturing has been marginal for over twenty years. Yet the cost of the program to the federal government grew dramatically every year. In 1985, 936 companies earned $5.1 billion. In 1989, they earned $8.1 billion. In 1992, their profits exceeded $10 billion. By 1996, it is estimated that the profits of 936 companies were above $14 billion. Clearly, this situation could not go on unchanged for much longer. The cost to the federal government simply grew out of control without a corresponding growth in jobs. This trend could not have been expected to change in the future because of productivity gains in manufacturing. Technology and competition dictate that manufacturing be more efficient every day. The company that does not keep up will lose ground to its competition. Even IBM has had problems of this nature. Digital Equipment did not leave Puerto Rico, costing us 3,000 jobs, because 936 was going to be changed. They left because of competitive pressures. They actually had several of their better plants in the world here.

Finally, Congress took the anticipated corrective action in repealing 936. That repeal, combined with the North American Free Trade Agreement (NAFTA), obliterated the economic rationale for Commonwealth status. Commonwealth advocates have justified this status on four so called "pillars": common citizenship, common currency, common market and common defense. These four "pillars" were backed up by the myth of "permanent" union with separate sovereignty, under the guise of "autonomy", and by no Federal taxation. NAFTA and its proposed expansion to Chile and beyond eliminated the exclusive nature of one of the so-called pillars of Commonwealth. This development and the repeal of 936 did away with the basis for the economic justification by Commonwealth advocates for that status as a viable option.

The elimination of Section 936, does not mean that the jobs that have been created with its help will be lost, it does not mean that the "936 companies" will leave Puerto Rico. Not only do the companies make huge profits in Puerto Rico, profits which grow significantly every year, but there have been other changes to the Internal Revenue Code that preclude the transfer from Puerto Rico of the intangible assets (which are responsible for most of the revenues from the products of 936 companies) to foreign countries in search of tax deferrals. Section 482 regulates intercompany pricing and section 367 regulates the transfer of the intangible assets including the imposition of a super royalty in the U.S. on the revenues from intangibles transferred outside the U.S. The result of these measures is that relocation to other countries in search of a tax haven is not an option, leaving the companies with no tax incentive to relocate their extremely

productive complexes from Puerto Rico.

As we all know, there are many conflicting views about the economic impact of statehood: section 936 and U.S. taxes have been the center of the economic arguments against statehood. There have been several studies that supposedly analyze the economic viability of statehood for Puerto Rico. However, they all share the same critical flaw: they are *static* analyses that superimpose the U.S. tax system on our economy and remove section 936, and assume that nothing else changes. That is not statehood. That is Commonwealth with U.S. taxes and without 936. Obviously, that would be negative. But these studies completely ignore ***the most important benefits of statehood: full integration into the U.S. economy, stability, credibility, permanence, political power, dignity and broad comprehension around the world of its political concept.*** Keep in mind that most of the studies were prepared with one purpose: to preserve the 936 program for those paying for the studies.

The benefits of statehood are definitely tangible and concrete, and they will most definitely have an extremely positive economic impact. Historically, territories, before becoming states, have been characterized by a lower level of economic development than that of the states. Upon admission into the Union and full integration into the U.S. economy, they experienced an accelerated rate of economic growth that allowed them to converge with the national economy. ***Mr. Chairman, statehood is a pre-condition to Puerto Rico's economic growth, not vice versa. The opponents of statehood have used the notion that pre-development must come before Puerto Rico is ready for statehood to distort the historical fact that statehood leads to dramatic growth.*** The benefits of statehood are difficult to quantify in a simple and neat way. It is easy to quantify what would happen if we simply superimpose U.S. taxes on our present system and eliminate section 936. Therefore, it is easy to use *faulty analysis to pretend* that you can *prove* that statehood would ruin our economy and would be more costly to the U.S. than the other two alternatives. In reality it is Commonwealth that would continue to be a fiscal sinkhole to the U.S. Treasury.

To believe such flawed analysis of the economic impact of statehood is to turn a blind eye to certain key facts:

- Puerto Rico has a per capita income that is less than one third of the national average, and about 50% of the poorest state, Mississippi. This gap has not been reduced in twenty-five years and, in fact, has begun to widen in recent years. This situation destroys the notion that a territory should "get ready" for statehood. This is simply not applicable. The fifty states are running away from us economically.

- Why have the other 50 states been so successful, especially Alaska and Hawaii, the most recent admissions into the Union? Hawaii completely transformed its economy after it became a state, from one that relied on defense expenditures by the Federal Government to one based on its tourism industry. And why can't Puerto Rico also enjoy such success as part of the greatest and most prosperous nation on Earth? *After all, let us not forget that at the turn of the century the U.S. had five great off shore territories with the potential to become states. Alaska and*

Hawaii became states and have prospered. Cuba and the Philippines chose independence and we all know how much they have prospered. Puerto Rico is still a territory, and has mucked along this entire century, showing a potential that will never be fulfilled until we become a state.

- To believe that we cannot achieve more progress as a full partner in the nation than as a territory is to have a very myopic and cynical view of what it means to be part of this great nation. It also takes a dim view of our capabilities as Puerto Ricans to compete in the global economy and to contribute to our Nation's economy. This is the same view that holds that the People of Puerto Rico are welfare basket cases and would all migrate to the mainland to go on welfare if the Congress made changes to section 936. The same people make those statements: the enemies of the only status that can give us the tools to close the economic gap with the rest of the Nation. The enemies of statehood put our own people down to confuse us, the Congress and the Nation about the potential of Puerto Rico under statehood. ***Well, I will say unequivocally to this Committee, to Congress and to the entire Nation, if the People of Puerto Rico were welfare hounds, we would have moved to the mainland already.*** Those of us that moved in the fifties and sixties did so looking for better opportunities for their families. Many succeeded in spite of being ill-equipped educationally, and more and more of the new generation of mainland Puerto Ricans are succeeding every day. Those of us that are moving to the mainland in the nineties, are successful professionals and entrepreneurs that contribute significantly wherever they settle. You only have to look as far as the Puerto Rican community in the Orlando, Florida area. ***Mr. Chairman, the People of Puerto Rico are industrious, dedicated, hard working and devoted to family. Those that rely on welfare do so only because the present political status has not provided them with the opportunities they aspire to.***

Puerto Rico has many ***competitive advantages: a strategic geographic location, a democratic tradition, we are under the U.S. flag, we have a dollar based economy, an infrastructure that needs improvement but is the best in Latin America, world class communications and transportation, a bilingual and bi-cultural business environment and, MOST IMPORTANT OF ALL, A LARGE, LOYAL, WELL EDUCATED, TRAINABLE AND HIGHLY PRODUCTIVE LABOR FORCE. Only as a state can the potential of these advantages be maximized for both Puerto Rico and the Nation.*** We have to use our cultural affinity with the rest of Latin America, now that the world is so well on its way toward free trade and regional trading blocks, to position ourselves as the ***Economic Crossroads of the Americas***. We have to become the trade and services *bridge* between the rest of the U.S., Europe and Latin America. Our tourism industry has as much potential as that of Hawaii or as that of any other part of the world. Governor Rosselló is trying very hard to make that potential become a reality. But his efforts are doomed to be limited in results until we resolve the political status issue.

Statehood will give the impetus needed to the above efforts. It is the only political status that can do it. The State of Puerto Rico will achieve the economic growth rate that we need to close the gap with the rest of the Nation.

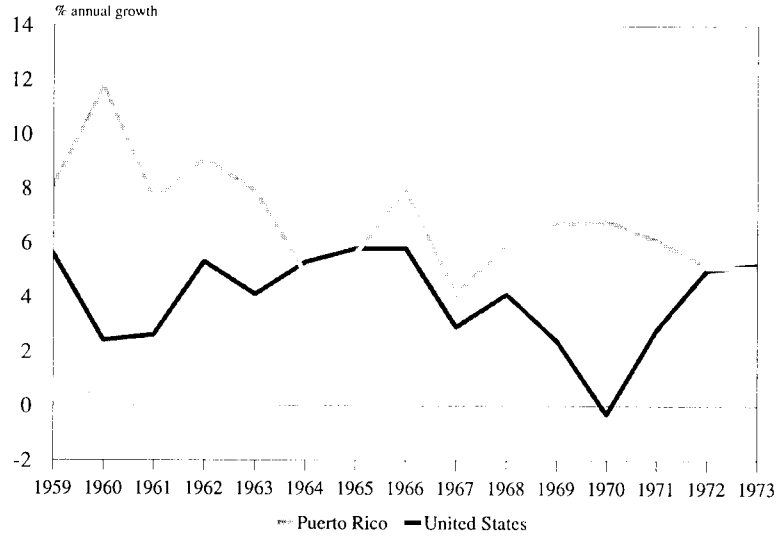
Before I close, Mr. Chairman, I would like to urge the Committee not to listen to the siren calls of those who insist on a level playing field between the alternative forms of status to be presented before the People of Puerto Rico. ***The playing field can never be level. Each status alternative is inherently different. What the advocates of the level playing field want is to confuse the people of Puerto Rico into believing that the benefits of statehood are available under the other status options. MR. CHAIRMAN, AS WE ALL KNOW, THIS IS NOT THE CASE.*** THERE IS NO SUBSTITUTE FOR STATEHOOD. The opponents of statehood have used the level playing field concept to confuse our People as they have continually done for over forty-five years. To have the benefits of statehood without the responsibilities would not only be unfair to all the other citizens of the Nation, but in some aspects may be unconstitutional. No matter how many of those benefits Congress would concede them, no one could ever provide them with the most important ones of all: full integration into the U.S. economy, stability, permanence and the political power of statehood. ***I urge the Committee not to accept definition changes to the status alternatives that could lead to re-creating the fiasco of the 1993 plebiscite.***

I join my voice to that of most witnesses before this Committee in asking that Congress assume its historical responsibility to the 3.8 million U.S. citizens residing in Puerto Rico. Our ancestors suffered four hundred years of exploitation as a Spanish colony. Although the United States has been a benevolent and rather generous ruler, after almost one hundred years of under U.S. sovereignty, almost a full century of political disenfranchisement under the U.S. flag, it is time that Congress recognize the contributions that these 3.8 million citizens can make to the Nation, and that we be granted the opportunity to enjoy our full and unalienable political rights under the Constitution of these great United States of America. I strongly urge Congress to pass H.R. 856. Thank you very much.

CHA # 1

Puerto Rico vs. United States:

Growth in Real Gross Product

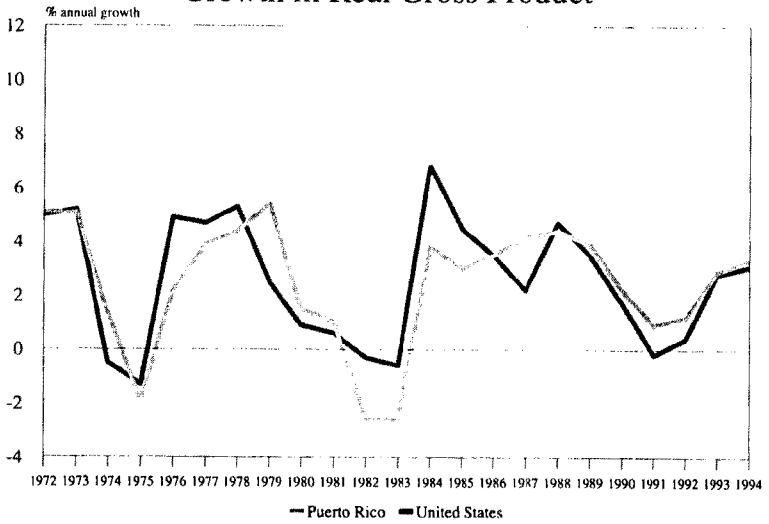


Sources: Puerto Rico Planning Board,
U.S. Department of Commerce

CHART #2

Puerto Rico vs. United States:

Growth in Real Gross Product



Sources: Puerto Rico Planning Board,
U.S. Department of Commerce

CHART #3

Economic Growth Rates

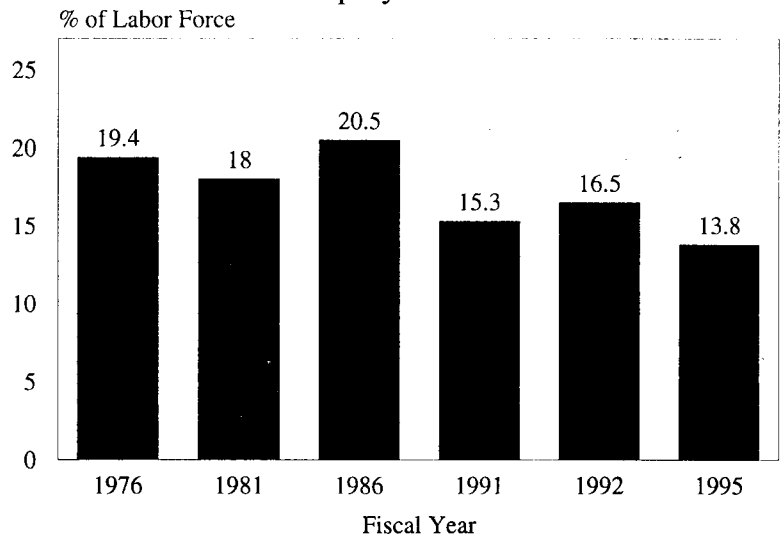
For Puerto Rico to Converge with U.S. Economy

U.S. Rate	P.R. Rate	Years to catch up
2%	4%	58
2%	6%	30
3%	6%	40
3%	9%	20

CHART # 4

Puerto Rico:

Unemployment Rate



Source: Puerto Rico Dept. of Labor and Human Resources, Household Survey

CHART # 5

United States vs. Puerto Rico

Per capita income

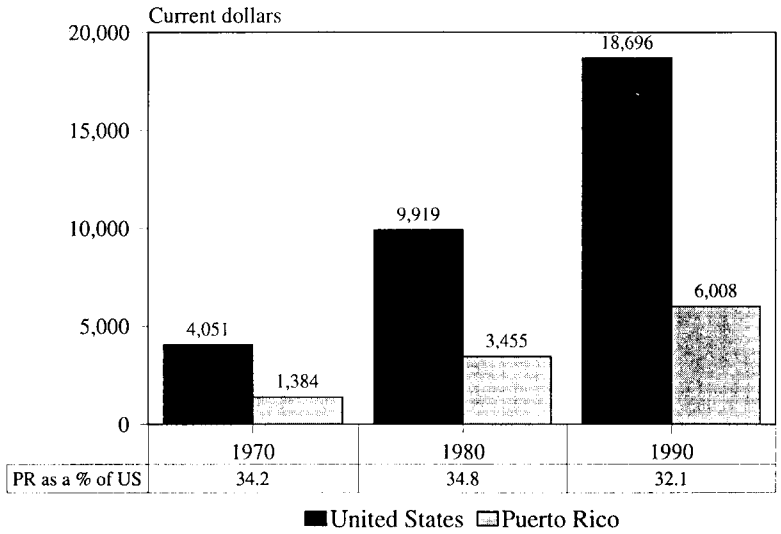


CHART # 6

Hawaii vs. Puerto Rico:

Visitor Expenditures as % of Gross Product

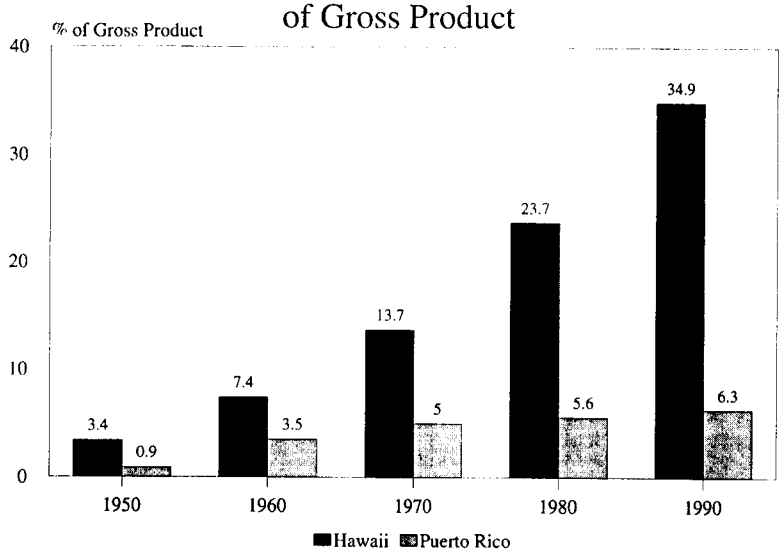
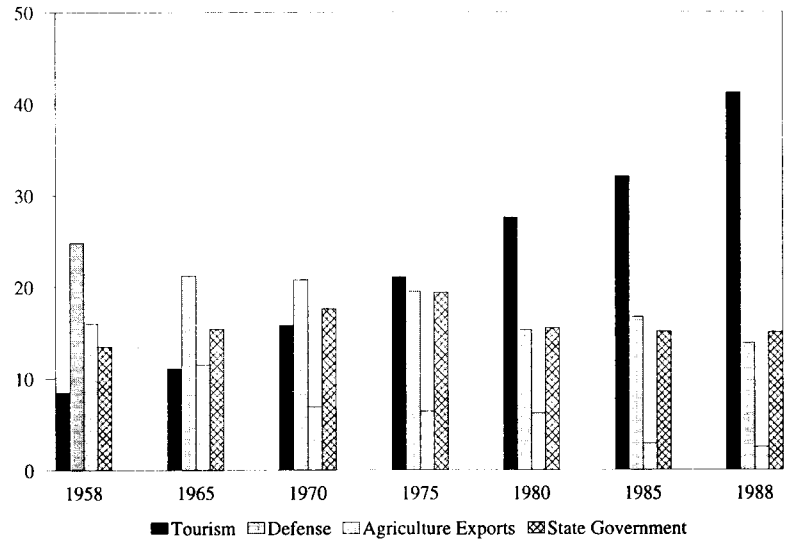


CHART # 7

Hawaii: Economic Sectors

as % of Gross State Product



Source: Hawaii Department of Business
and Economic Development

Mr. KENNEDY. Hector Reichard.

STATEMENT OF HECTOR REICHARD, ESQUIRE, PRESIDENT, PUERTO RICO CHAMBER OF COMMERCE, WASHINGTON, DC

Mr. REICHARD. Thank you.

Mr. Chair, members of the Committee, greetings to each and every one of you; and I really thank you for caring for Puerto Rico. You could be elsewhere, but you are here doing your good work.

My name is Hector Reichard. I am the President of the Puerto Rico Chamber of Commerce. Our organization is truly a cross-section of our economy for it groups together 1,600 individual members and, additionally, 60 organizations, which are like an umbrella organization, which brings together the bankers' association, the hospital associations, wholesalers, broadcasters, et cetera.

The presentation I have here for you today, which is a summary you have already in your files, reflects the positions assumed by our assembly of delegates since 1985 through 1996, also ratified by our executive Committee just recently. The Chamber has no selection as to status. We present to you here an economic analysis of what we think is important.

The worst thing that can face us is uncertainty. Certainly we wish to end that.

Our position revolves around two main concerns: first, that the plebiscite process should be fair and well-informed for the people to make an enlightened decision; second, if the Puerto Rican people choose to change the present status, an orderly and well-defined transition has to be clearly stated.

The plebiscite process should be dealt with on its own merits. It should not be mixed with the normal electoral process. I think you had a flavor of what it can be here today.

Before Puerto Ricans are asked to mark their status preference on the plebiscite ballot, it is necessary to clearly spell out the cultural, political and socioeconomic consequence of each alternative. The information transmitted to the people should be based upon accurate and unbiased data.

We are deeply concerned about the consistency of the data that Federal agencies have produced in the past with respect to the cost and benefits of each status alternative. Therefore, we value the resources of our institution to help in obtaining additional information about the socioeconomic consequences of each status alternative to supplement what has already been produced in order to allow the people to make a really informed decision.

The legislation that your Committee develops should delineate each step and action in the process for participating institutions and, more importantly, the responsibility and role of each participant at each step. Our institution believes that the private sector must have a role and, consequently, a responsibility in this important undertaking. We think our parties should welcome the private sector's contribution in this process. You should further encourage participation of Puerto Rican institutions to complement the contributions from the political parties.

For the people to make an informed decision, the following issues, we believe, must be clearly addressed before the plebiscite:

First, the transition period contemplated for each political status should be very clearly spelled out.

Second, the situation of the present U.S. citizenship of the Puerto Rican people under each status alternative should be addressed.

Third, the Federal tax treatment of U.S. corporations doing business in Puerto Rico under each status formula, including the period of time for which the corresponding tax treatment is guaranteed.

Fourth, the Federal tax treatment to residents and local businesses in Puerto Rico under each status, as well as during the different stages of the transition period.

Fifth, Puerto Rico's access to the United States commercial and financial markets under each status formula, including its position with respect to present and future trade agreements that the United States engages in with foreign countries.

Sixth, conditions and restrictions to Puerto Rico's access to foreign commercial and financial markets under each formula, as well as a market penetration of foreign goods into our market.

Seventh, adjustments to be made, if any, to Puerto Rico's long-term public debt under each status, as well as constraints, if any, to the issuance of additional public debt during each transition period.

Eighth, amount and term of U.S. transfer of payments to Puerto Rico under each status alternative. Particular attention should be paid to what is going to happen to contributions Puerto Rico makes to earmarked funds, such as social security, Medicare, unemployment and the Federal Deposit Insurance Corporation, among others.

Ninth, the conditions for travel and migration into Puerto Rico by the United States under each status alternative. This is a most crucial thing, since almost all families have close relatives in the United States.

It should become apparent that, for whatever reason, if these basic concerns could not be met, then a condition as to the timing of the plebiscite should be made.

The Chamber of Commerce realizes that some of the key factors that have contributed to our common development are subject to change as circumstances vary over time. We are also aware that the drastic change over a short period of time could prove to be changes that occur at a rate faster than the ability of our economy to adjust. Whatever alternative is democratically chosen by the people of Puerto Rico would probably result in economic adjustments and could entail sacrifices on our part.

Private enterprise is ready to shoulder its responsibility. However, even in times of budgetary constraint, Congress should be sensitive to our needs and economic realities. For example, I think Congress should focus on revised section 30(a), which former Governor Romero-Barceló and Governor Rossello are looking into right now, as a means to strengthen the Puerto Rican economy.

Socioeconomic development can only be achieved through a long-term process. With God's help, with your help and a great deal of work on our part, we are confident that we can achieve our mutual goal of human progress for the people of Puerto Rico, who, lest we forget, are proud citizens of the United States.

Thank you.

Mr. KENNEDY. Thank you.

Mr. KENNEDY. Mr. Romero-Barceló.

Mr. ROMERO-BARCELÓ. Mr. Pietri, before I ask my questions, I want to congratulate all six of you for your testimony. It has all been excellent testimony, and I think we have cleared a lot of issues that have been raised here today.

I want to ask Mr. Pietri, in your analysis of what statehood would mean to the economy in Puerto Rico, have you looked into what has happened to the per capita income of Puerto Rico during the past couple of decades and comparing it to the per capita income of the States of the Union? Have you looked at that in your studies?

Mr. PIETRI. Yes, Congressman.

We heard earlier this morning testimony comparing Puerto Rico's per capita income as the highest in Latin America, and that has been the kind of comparison that is generally done when Puerto Rico is touted as an economic miracle. They hail it as the highest south of the Rio Grande.

As an American, I hold that the comparison should be to that of the 50 States, not to Latin America. We are part of the United States. We are U.S. citizens. We should compare ourselves to the rest of the Nation. And when you do that, our per capita income presently is less than one-third that of the national average, less than half of the lowest state.

Mr. ROMERO-BARCELÓ. And that is Mississippi?

Mr. PIETRI. Mississippi. Not only that, but that gap has not been reduced since the early 1970's.

For a period of time, Puerto Rico did close the gap, during the 1950's and 1960's, relatively slowly. But since the early 1970's it stopped closing, and it has not closed since. And, actually, in the 1990's, it has begun opening back up.

Mr. ROMERO-BARCELÓ. Do you remember what the per capita income of Puerto Rico is compared to that of the State with the lowest per capita income—Mississippi? Do you remember the percentage?

Mr. PIETRI. It is about 47 or 48 percent. I do not recall precisely at this particular moment, but it is in the 40's—high 40's.

Mr. ROMERO-BARCELÓ. For the record also, in 1970 it used to be 52 percent that of Mississippi.

Mr. PIETRI. That is right.

Mr. ROMERO-BARCELÓ. And now we are one-third of that of the Nation.

Mr. PIETRI. That is right.

Mr. ROMERO-BARCELÓ. And in 1995–1996 it was down to 44 percent of that of Mississippi and less than one-third of that of the Nation. So instead of closing, that gap it has widened. Whereas the difference used to be only $1,300 in 1970 between the per capita income of Puerto Rico and that of Mississippi, it is now over $9,000; and the $9,000 is more than half of the whole per capita income of Mississippi.

Mr. PIETRI. Another key point regarding economic growth is that, basically, for several decades Puerto Rico has been growing at a pace that is similar to that of the rest of the Nation. Sometimes in the period of expansion we outgrow the Nation by a few tenths

of a percentage point. In recessions, several of them have been stronger here. We have felt the effect more. Particularly when high interest rates combine with high petroleum prices, the recession is deeper always here in Puerto Rico.

But the problem is that, when we have a third of the national average in per capita income, we just cannot afford to grow at the same pace as the Nation. We have to outpace it. We have to try to achieve a growth rate that is at least twice, possibly three times that of the Nation in order to close the gap.

If we want to close the gap in less than 30 years, we have to grow at almost three times the pace of the rest of the Nation.

Mr. ROMERO-BARCELÓ. This morning there was also testimony as to what statehood would mean, and they tried to indicate that we would have a loss of jobs. The Federal agencies in Puerto Rico have the same number, approximate proportion of number of employees as they have in the States of the Union; do you know that?

Mr. PIETRI. Absolutely not. The Federal expenditure per capita for procurement contracts, for whatever, all the other different categories, are a fraction in Puerto Rico of what they are in States per capita—any State.

Mr. ROMERO-BARCELÓ. And the Federal payroll in Puerto Rico, on a per capita basis, is that as high as it is on the mainland?

Mr. PIETRI. Absolutely not. It is a very small percentage as compared to the rest of the States.

Mr. ROMERO-BARCELÓ. We have very few employees here in health care.

Mr. PIETRI. Hardly any.

Mr. ROMERO-BARCELÓ. And even in the post office we are undermanned, is that not correct?

Mr. PIETRI. Yes, sir.

Mr. ROMERO-BARCELÓ. And in a lot of the other agencies we have much less employees on a per capita basis than States with a similar population. So there will be a lot more Federal jobs in Puerto Rico as far as that is concerned.

Mr. PIETRI. Yes. But Federal jobs really would be a minor portion of the jobs created. I think the massive amount of jobs that will be created will come from that certainty, because Puerto Rico has many competitive advantages.

Just a brief list of the competitive advantages: strategic geographic location, a democratic tradition. We are part of the U.S. flag, a dollar-based economy, an infrastructure that, while it may need improvement, is sound. We have world-class communications and transportation. We have a bilingual and bicultural business environment. We have, most important of all, a large, loyal, trainable and highly productive labor force.

Those are tremendous competitive advantages. But to make the most of them we need the certainty, we need the political power of statehood and its full integration into the national economy.

Mr. ROMERO-BARCELÓ. Why do you need the certainty?

Mr. PIETRI. Because whenever anybody makes an investment, that is the first item to be valued even before the return.

Mr. KENNEDY. Thank you. The only certainty here is that I will no longer be able to serve as chairman unless I limit your time.

Mr. Underwood.

Mr. UNDERWOOD. No questions.

Mr. KENNEDY. For my sake, I want to say how much I appreciated all of your testimony and the clarity of the testimony, especially with respect to the fact that currently, under the commonwealth status, Puerto Ricans are disenfranchised from their rights to elect seven more members—six or seven Members of Congress. And at least with all the decisions that are being made in the Congress, you could carry some real political weight; and the people would understand that in the future, I hope after Puerto Rico chooses statehood, which I expect they will, that the next hearings like this they will be done by a chairperson who has voting rights on the Committee and who will have seniority because they will have been able to have the same seniority rights as I currently have as a member of my State representing Rhode Island and all the other of my colleagues have in the U.S. Congress.

I have to now turn the gavel back over to Chairman Young, and I thank you all. Buenos dias.

Mr. YOUNG. [Presiding.] I want to thank the panel; and I have some questions that I will submit to you for the record. Because I do not think it is fair to continue when, as I said, we would adjourn at a certain time.

A lot was said today in all this period of time with different witnesses; but on any side of the aisle, those that have presented some ideas and some suggestions and can really help us make our decisions, I deeply appreciate that.

I am deeply interested in this, because I do believe that if we do not act in Congress, Puerto Rico has some serious, serious problems 20 years down the road, and the Congress would have to do things that I do not think would be appropriate. This is the time to act, to give you the right to take whatever direction you want to take. To me, that is the crux of all this hearing process.

I happen to believe that you can go forth and your economy can grow. As you mention, Ivar, the advantages you have are awesome. I know in Alaska, when we went from a territory to a State, we did grow. Regardless of the oil, we did grow. We went further and passed some laws to retain our fishing rights, for instance; and that occurred, and we have become very successful. So it can be done.

Before I excuse you, I want to tell you that these hearings do not take place accidentally. There is an awful lot of work that goes into a hearing.

We have, of course, Manase Mansur. He has been with us for a long time. Steve Hansen. Chris Kennedy has been through this and helped set up the legwork, along with Cherie Sexton, Jeff Petrich and Marie Howard. These are the people that make this operation work.

And, of course, the Capitol Police and those with us, escorting us to make sure this works, the Puerto Rican police force itself and those that have made it possible.

And to the audience, though it appears sometimes I get a little apprehensive and a little bit less than understanding, I do it because it is a thing I cherish. When I run my Committee I try to give the witnesses as much time as possible to make their testi-

mony and to have the Congressmen to ask questions to gain knowledge.

So I would again thank the people of Puerto Rico and San Juan for their courtesy and kindness. We will go to Mayaguez on Monday and continue this hearing process. And before I finish up, Mr. Miller has to say something, too.

Mr. MILLER. Mr. Chairman, I just want to join you and your remarks in thanking the staff and all those people who helped make this hearing today possible and Carlos for the invitation and to all the panelists and the panelists before us right now for their contribution.

The goal of coming here was to make sure that we would be able to establish a fair and open process to put a conclusion to this long-running debate; and I think that this hearing today has been very, very helpful in that process; and I want to thank you also for bringing the Committee here.

Mr. YOUNG. Thank you. Again, I want to thank everybody; and this hearing is adjourned.

[Whereupon, at 3 p.m., the Committee was adjourned; and the following was submitted for the record:]

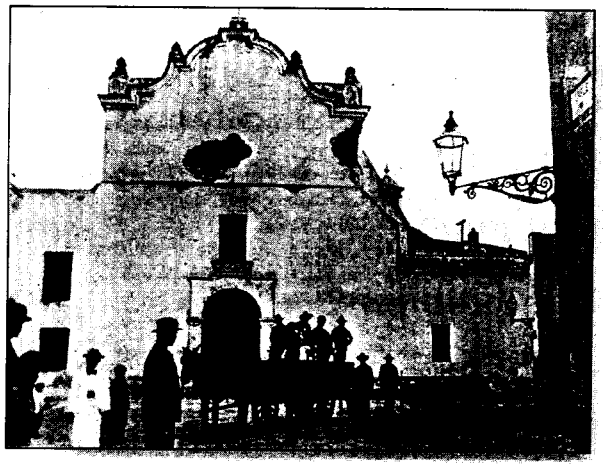
DUE TO THE COSTS OF PRINTING, ADDITIONAL TESTIMONY RECEIVED FOR THE RECORD WILL BE KEPT IN COMMITTEE FILES.

Hon. Pedro Rosselló, Governor of Puerto Rico
Hon. Sila M. Calderon, Mayor of the city of San Juan
Hon. Ramón Luis Rivera, Mayor of the city of Bayamon
Associated Republic
Hector O'Neill, President, Federation of Municipalities of Puerto Rico
Enrique Vázquez-Quintana, M.D., Party for Free Associated Nation
Arturo J. Guzman, Chairman, I.D.E.A. of Puerto Rico
Dr. Luis Nieves Falcón, Coordinator, and Jan Susler, Attorney at Law
Fermín L. Arraiza Navas and Fermín B. Arraiza Miranda
Eduardo González
Juan G. Muriel Figueras
José Garriga Picó
Efrain Hernandez-Arana

[Additional material submitted for the record follows.]

THE UNITED STATES INTERVENTION IN PUERTO RICO

A century after the invasion, an assesment of its impact and a call to responsibility



A STATEMENT BY PAX CHRISTI / PUERTO RICO

A NATIONAL SECTION OF PAX CHRISTI INTERNATIONAL

as presented by Mr. Juan Antonio Agostini, Spokeman for the national section's Directive Board before the Committee on Resources of the House of Representatives of the United States of America, on Saturday, April 19th, 1997 in San Juan, Puerto Rico.

TOPICAL OUTLINE OF STATEMENT BY PAX CHRISTI-PUERTO RICO

- **Argumentation on the historical impact of the 1898 invasion and subsequent USA intervention.**
- **The relationship between militarization and colonialism**
- **USA responsibility towards the decolonization of Puerto Rico after a century of USA presence.**
- **The justice requirements for each of the decolonizing alternatives.**
- **The importance of dialogue and non-violence in the resolution of the status dilemma.**

* NOTES ON PAX CHRISTI INTERNATIONAL

Pax Christi International is a worldwide Catholic movement for Peace and Reconciliation. It was founded by lay people in France in 1945. Its commitment was to reconcile the French and German people on the aftermath of World War II. At present it is a non-governmental organization (NGO) headquartered in Brussels, Belgium, with national sections in 4 continents and consultative status at the United Nations and the Council of Europe. It is the recipient of the 1983 UNESCO Peace Education Prize and of the 1987 U.N. Peace Messenger Award. Puerto Rico's national section was founded in 1984 by the late philanthropist and journalist Harold S. Lidin.

On October 16, 1993, during the Biennial Council of Pax Christi International, held at Maryknoll Center in Ossining, New York, delegates from worldwide national sections unanimously approved the following resolution on Self-determination for Puerto Rico:

"On November 14, 1993, a status consultation is to take place in Puerto Rico. This vote is being held at the initiative of the Puerto Rican Legislature and is not binding on the United States Congress.

"After 95 years of its military, political, economic, social and cultural domination of Puerto Rico, the United States of America bears the full and undeferrable responsibility of enabling a genuine process of political empowerment so that the People of Puerto Rico may freely exercise their right to self-determination.

"Puerto Rico is a distinct national entity with a culture, a language, a flag and a collective personality of its own. The United States, in response to the demands of the Puerto Rican people should recognize, accept, respect and help preserve those cultural components that mark this nationality as a unique and proud parcel of Humanity.

"On acknowledging Puerto Rico's distinct cultural and juridical uniqueness, Pax Christi International endorses the right of the People of Puerto Rico to self-determine its future political relationship with the United States of America through a legitimate and democratic process of empowerment and negotiations which will result in the attainment of a political status free of all vestiges of submission and colonialism."

Distinguished visitors, welcome to **our country.**
May that PEACE which comes from
Justice and Reconciliation
be the final result of this process of dialogue
that is bringing us together and face to face.

Built by the Spaniards in 1517, the San José chapel in Old San Juan is the oldest church in Puerto Rico and the second oldest in the Americas. When moving ahead on the welcome and timely --yet unripe-- initiative of bringing about a valid, self-determination process for Puerto Rico, we invite you to see this landmark as a memorable symbol of the impact that a century of U.S. intervention in Puerto Rico has had in the life of our people.

By the end of the 19th century, this historical monument had been a witness to a 4-centuries old socio-cultural process from which a distinct, self-conscious and self-asserting nationality --**the Puerto Rican nationality**-- had proudly evolved.

On **May 12, 1898**, from its hilltop location overlooking the ocean, the old San José Church had also witnessed --amidst the mist of dawn and the smoke of cannons-- how nine battleships of the U.S. North Atlantic Squadron led by Commander William T. Sampson, bombarded the city of San Juan during two and a half hours. More than 1,300 shells were fired--most of them erratically-- causing few human casualties, but doing considerable damage to important edifications. The San José Church was one of them, ending up with a a huge hole on its facade as is depicted on a postcard photograph of that year.

A little over two months later --on **July 25th, 1898**-- US troops finally invaded Puerto Rico through the Bay of Guánica and since then have kept our people and our territory under US sovereignty. The 1898 bombardment and outright invasion --not a plebiscite or referenda, not a law of Congress, not a bilateral pact---- marked the first impact of US penetration and intervention in Puerto Rico.

Since then and until now, US intervention has impacted every single aspect of life in Puerto Rico. Still today, Congress, the White

House, the Courts, the Pentagon and their respective ramifications--fully retain the **ultimate** political, judicial and constitutional authority over our men and women, our economy, our institutions, our ways of relating to other countries and many other rights that assist us as a people. It's as if we Puerto Ricans --a distinguishable parcel of Humanity, a collective person endowed with human dignity and entitled to the rights that stem from that-- were merely a possesion. And as such, a disposable one.

Being as objective as one can be and with all due respect to all compatriots who may think otherwise, we cannot avoid but acknowledging the belittled nature of the present political relationship between Puerto Rico and the United States.

We don't know if the present "Estado Libre Asociado" formula can be endowed with **real** measures of something more than nominal sovereignty. But as is, it no longer satisfies even its staunchest supporters. We can't either deny that among Puerto Ricans **of all status preferences** there's a widespread discontent with this situation. And more so with the "deaf ears" attitude with which past congresses and administrations have dealt with our status conundrum. This generalized discontent is evident in the amount of people gathering for these hearings inside and outside of the premises where they are being held.

When looking back over the last 99 years of our history, it becomes as clear as air that **militarism** is one -of the major reasons for the United States presence in Puerto Rico. It was so on **July 25, 1898**, it was so on **July 25th, 1952**, it was so on **November 27th, 1953** before the United Nations General Assembly, and it is so now.

All along this century, virtually every **political change** affecting our country's relationship with the USA --regardless of what other consequential developments may have benefitted one or both parties-- has been steered to first and foremost accomodate US military interests.

Consider these examples:

- In **1917**, the Jones Act, on extending statutory American citizenship to Puerto Ricans, **imposed** military service on our young men who were immediately recruited for the then ongoing **World War One**. Of course, our youth was also recruited for the Second World War, and the Korean, Vietnam and Persian Gulf wars.

- From **1950** to **1953**, the supposedly bilateral agreement process which gave birth to the present Commonwealth status was **not** really aimed at empowering Puerto Rico out of colonialism **--which it didn't--** but at having the United Nations withdraw the name of the island from the list of colonial and non-self-governing territories **--which they did--** thus, no longer requiring the United States to transmit information on Puerto Rico to the world body. Call it a misunderstanding, if you want.

  But, when in retrospection one now realizes that those were years of huge expansion of US military installations and warfare oriented activity in Puerto Rico --with the military and paramilitary components of the USA occupying a whopping 13% of our island's best farmable lands, plus the sky and the sea in various locations--one must conclude that it was <u>not</u> in the best of interests for the Pentagon to have to report all that military proliferation to the United Nations Organization (UNO) where its Cold War Soviet and Chinese counterparts could and would make use of that --for them very relevant-- information.

- At this very moment, while we are holding these hearings --which again are supposed to pursue a shared agenda of decolonization and self-determination for the People of Puerto Rico-- the US military establishment is intent in increasing its military activity on our island, thus ignoring the guidelines set by the United Nations and by International Law for such processes.

Some of our compatriots feel that what is rather offending under the present status is that this mammoth US military intervention in Puerto Rico is free of charge or at least revenue neutral for the United States. These compatriots would bargain for some kind of financial retribution to the People of Puerto Rico for

allowing the use of our land and resources for such military endeavors. **We disagree.**

For us at Pax Christi, as a worldwide movement committed to Justice and Peace, **militarization is unwelcome under any status formula,** be it statehood, some form of bilateral association or outright independence.

Militarism is just the rationalization of war. It is one of the major components in the set of anti-values of that **"Culture of Death"** --as it has been called by Pope John Paul II-- which is driving this planet towards self-destruction. Militarism and armamentism are mainly responsible for the growing impoverishment of nations, big and small. The evidence is there for all to see.

The fall and dismemberment of the former Soviet Union is a good --or rather, bad-- example. Its financial bankruptcy and political annihilation can be partly attributed to factors like the costs of maintaining a totalitarian state, or to widespread corruption among members of the power elite, or to the failure of the marxist economy, or to the eventual and costly social unrest among peoples and nationalities whose territories were invaded and annexed, but whose human components turned out to be unassimilable. In addition to those factors and in a much greater degree, the collapse of the Soviet Union must be attributed to its **unrestrained military expenditures** for the upkeep of its nuclear arsenal, its active armies and bases, its military presence in other satellite countries and the financially unsustainable arms race and "StarWar" saga vis-a-vis the United States during a Cold War that lasted well over four decades.

Now look closer. Look at your own astronomic and growing **budget deficit**. --one of the things said to be determinant on whatever your position will be when considering a status formula for Puerto Rico. The impact of that deficit is bleeding the United States economy and its cost is being **unfairly** paid by the aging, the poor, the sick, the migrants, the women and the ethnic minorities. Of course, some of it is due to the upsurge and competition of other world economic powers. And to the skyrocketing costs of senseless squandering of public and private resources. And to corruption at so many levels. But dont leave out its main component: **militarism.**

THE STATUS FORMULAS FROM A PERSPECTIVE OF JUSTICE

As a peace oriented movement, our major concern with each of the status formulas being considered for inclusion in a plebiscite ballot is that justice may prevail, that the Puerto Rican people are not to be deprived of their rights as a nationality, that they are entitled to the pursuit of happiness, that their language and culture are respected and protected and that they are not to be limited in their right to be genuinely represented and to participate in the processes of the body politic, particularly in matters and issues that affect them directly.

JUSTICE UNDER INDEPENDENCE

- An Independence-bound Puerto Rico deserves a just treatment and an upfront compensation to ease its way out of dependence. It cannot be left astray like a dingy on the sea. Special arrangements in matters like travel rights, currency, acqquired social rights, trade agreements, citizenship and other issues should be worked out as part of the Transition treaties.

- The Free Associated State option, as defined by its sponsors is subject to evaluation in terms of its compatibility with the USA constitutional order. The issue of sovereignty has to be clarified.

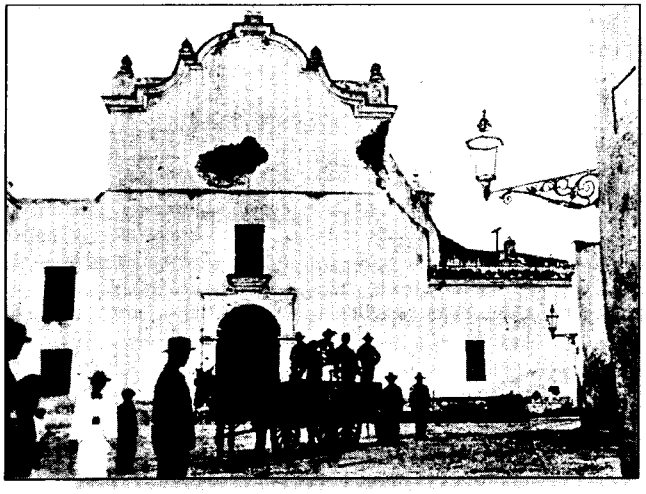
- Statehood as defined in the bill and as we know it --with English as a common language of all states and all citizens., allowing no individual representation in olympic and international events does pose a scenario of potential injustices toward a large majority (80%) of Puerto Ricans who would be excluded from holding public office except at municipal levels. This might lead to eventual conflict.

  Being English the only language in Congress and the federal Government, Puerto Ricans that do not have a full dominion of English would be totally unable to aspire to a congressional or federal position.

  This could be remedied by providing translation services at Congress and Federal level offices.

LA INTERVENCION DE LOS ESTADOS UNIDOS EN PUERTO RICO

A un siglo de la invasión, una evaluación de su impacto y un llamado a la responsabilidad



UNA DECLARACION DE PAX CHRISTI / PUERTO RICO

SECCION NACIONAL DE PAX CHRISTI INTERNACIONAL

presentada por Juan Antonio Agostini, Portavoz de la Junta Directiva de la sección nacional ante el Comité de Recursos de la Cámara de Representantes de los Estados Unidos de América, el sábado 19 de abril de 1997 en San Juan, Puerto Rico.

Distinguidos visitantes, bienvenidos a **nuestro país.**
Que la **PAZ** basada en la **JUSTICIA** y en la **RECONCILIACION**
sea el resultado final de este proceso de diálogo
que hoy nos reúne y nos enfrenta.

La iglesia San José data del año 1537. Es la más antigua de Puerto Rico. Hoy, al trabajar por la autodeterminación para nuestro pueblo, miremos este monumento como un símbolo memorable del impacto que ha tenido sobre la vida de nuestra gente la intervención de los Estados Unidos en nuestra tierra.

Hasta 1898, esta histórica capilla había sido testigo de cómo se había plasmado durante siglos una nacionalidad distinta, consciente y orgullosa de sí misma: la nacionalidad puertorriqueña.

La madrugada del 12 de mayo de aquel año, esa misma iglesia fue también testigo de cómo 11 barcos del Escuadrón del Atlántico Norte de Estados Unidos **bombardearon** durante más de 3 horas **nuestra ciudad de San Juan.**

Más de 1,300 cañonazos erráticos, ocasionaron pocas muertes, pero, causaron daño considerable a importantes edificaciones. Una de ellas fue la Iglesia San José, alcanzada y penetrada por balas de mortero que le abrieron un enorme agujero en su fachada.

Poco después --**el 25 de julio**-- las tropas del General Miles nos invadieron por Guánica. No hubo un plebiscito, ni un referéndum, ni una ley del Congreso, ni un pacto bilateral. **Bombardeo e invasión** constituyeron el primer impacto de la intervención de Estados Unidos en Puerto Rico.

Hoy, al repensar el siglo, se ve claramente que la razón principal para la presencia y permanencia de Estados Unidos en Puerto Rico ha sido **el militarismo**. Hasta cambios que se proclamaron como pasos de desarrollo político --independientemente de cualesquiera otros beneficios derivados de los mismos-- se dieron en función de los intereses militares norteamericanos. Dos ejemplos:

•En **1917**, con la ciudadanía estadounidense nos llegó también el reclutamiento militar de jóvenes puertorriqueños en la Primera Guerra Mundial y, por supuesto, en las demás guerras que siguieron.

•En **1952**, se proclama el Estado Libre Asociado como el fin del colonialismo (que hoy seguimos discutiendo) y amparado en eso Estados Unidos pide y consigue que las Naciones Unidas retiren a Puerto Rico de la lista de territorios coloniales y los eximan a ellos de tener que rendir más informes sobre su administración de Puerto Rico

Cuando nos percatamos de que para esos mismos años --en plena Guerra Fría-- Estados Unidos realizaba una gigantesca expansión de sus instalaciones militares en Puerto Rico, vemos que el objetivo principal no era descolonizar --**que no se hizo**-- sino conseguir --**que si se consiguió**-- que la ONU relevara a Estados Unidos de hacer informes sobre su administración militar en Puerto Rico, para no poner esa información al alcance de la Unión Soviética y China, sus contrapartes en la Guerra Fría.

Pero no es sólo el militarismo. Toda la vida puertorriqueña está impactada por la presencia e influencia del poderío norteamericano, con el Congreso, Casa Blanca, las Cortes, el Pentágono y sus respectivas ramificaciones reteniendo --sin nuestra participación ni nuestro genuino consentimiento-- la suprema autoridad sobre comercio, industria, banca, asuntos laborales, transportación, comunicaciones, la forma de relacionarnos con otros países y otros aspectos de nuestra vida de pueblo. Esto no debe ser así.

La historia tiene prisa. Es hora de que los Estados Unidos asuman la responsabilidad histórica que contrajeron cuando nos invadieron, nos bombardearon, nos militarizaron, nos dividieron hasta el tuétano y trastornaron nuestra visión de nosotros mismos. Pero la solución no está en imponernos un plebiscito más sin darle al país las herramientas de soberanía y de consenso para entender mejor sus opciones y ejercer más libremente su derecho.

Cualquier futura consulta de status debe estar precedida por un proceso de diálogo abierto entre los poderes oficiales de Estados Unidos y los sectores de opinión organizada en Puerto Rico, **incluyendo pero no limitándose** a los partidos políticos. Y es preciso señalar **desde ya** que en un asunto tan fundamental como la autodeterminación de nuestro pueblo hay que sentar bien claramente las reglas de juego para que sean solamente los que se juegan su vida y sus suerte con este terruño quienes participen y decidan lo que somos y lo que seremos

Somos todavía una familia dividida, indecisa sobre nuestro destino. Pero en algo **todos** los puertorriqueños estamos en perfecto acuerdo y es en que **SOMOS UN PAIS, SOMOS UN PUEBLO.** Nos une la firme e inderrotable voluntad de sobrevivir y de jamas entregar o diluir nuestra propia identidad.

Quiera Dios que este proceso nos sirva para encontrarnos a nosotros mismos y para cultivar una nueva y sana relación de amistad permanente con Estados Unidos, al igual que con otros pueblos.

Con la ayuda de Dios lo lograremos.

Muchas gracias.

Puerto Rico es un país de profundas raíces religiosas. Es precisamente **esa fuerza interior --basada en la fe y en los valores universales que ésta inspira--** uno de los factores que, desde el fondo de nuestra alma de pueblo cristiano, más nos ha ayudado a preservar nuestra unidad esencial como nacionalidad, a reconocernos como nosotros mismos, y a distinguirnos como persona colectiva que --sin dejar de amar y darle la mano a nuestros prójimos de otros acentos-- se ama primero a sí misma como **familia-patria** y atesora corazón adentro su propia, única y diferenciada identidad entre todos los pueblos de la Tierra.

Ese **amor propio por lo que somos,** --que compartimos todos los que nacimos en Puerto Rico y que trasciende todas nuestras divisiones y percepciones de la realidad.-- se activa y se aviva en momentos de peligro, creando un espacio común de solidaridad, de colaboración y de búsqueda inteligente de soluciones o alternativas. Así nos damos y así nos ayudamos los unos a los otros ante la amenaza del huracán, o de la inundación o de lo que sea que ponga en peligro el pedacito de patria o la patria misma que compartimos. Hoy venimos ante ustedes para convocarles a la reflexión a la luz de ese **amor propio por lo que somos** para atajar la amenaza y el grave peligro que representa para Puerto Rico y para el mundo la propagación del militarismo y de todos los males que éste acarrea.

El militarismo forma parte de la **cultura de muerte** --como la ha llamado Su Santidad Juan Pablo II-- que desangra los presupuestos tanto de las naciones grandes como de las pequeñas. Hay palpable evidencia de los efectos del militarismo en el empobrecimiento de la Humanidad.

Piénsese en el derrumbe y desmembramiento de la Unión Soviética. En esa reciente hecatombe política. --sin negar las causas atribuibles al totalitarismo, a la corrupción de las élites oficiales, a la ineficiencia del sistema implantado y a la eventual explosión civil en pueblos y nacionalidades anexados pero inasimilables-- hay que señalar que la Unión Soviética llegó también a su bancarrota económica por causa de un desbocado militarismo que devoró enormes cantidades del presupuesto soviético para poder mantener su arsenal de armas nucleares y sufragar la insostenible carrera armamentista con los Estados Unidos durante la llamada Guerra Fría.

Piénsese en su contraparte: el astronómico y galopante déficit presupuestario de los Estados Unidos de América. Ese, quienes lo están pagando **injustamente** --con grandes sacrificios y pérdidas reales de beneficios y servicios-- son los ancianos, los enfermos, los pobres, los migrantes, las mujeres y las minorías étnicas. Esa creciente insuficiencia económica en la nación más rica y poderosa del planeta no sólo obedece al surgimiento y competencia de otras potencias económicas internacionales. Ni únicamente a las pérdidas fiscales atribuibles al derroche malsano de los presupuestos gubernamentales y a la corrupción generalizada que percude el tejido público y privado en la nación norteamericana. Esa debacle nacional también tiene mucho que ver con los billones de dólares que anualmente se han destinado y siguen destinando a preparativos bélicos e instalaciones y arsenales militares, en sacrificio de prioridades más humanas. De acuerdo a un estudio del "*United States Nuclear Weapons Costs Study Project*", en un estimado conservador, entre 1940 y 1995 los programas de armas nucleares le costaron a los contribuyentes estadounidenses unos 400 **TRILLONES** de dólares. **(Artículo de The Economist, reproducido en El Nuevo Día, el lunes 27 de enero de 1997, página 48).**

Piénsese también en el mercado de armas y en los gastos de entrenamiento militar que se da a gobiernos corruptos en tantas partes del llamado Tercer Mundo y que éstos enfilan contra sus propios y empobrecidos pueblos. Piénsese en los cientos de miles de niños que mueren de hambre, en los cientos de miles de familias que no tienen techo, en la cantidad de seres inocentes que mueren despedazados al caminar por terrenos sembrados con minas antipersonales.

Piénsese ahora en Puerto Rico.

Más del 13% del territorio de este país está vedado a otros usos y accesos que no sean militares. Esto, sin el consentimiento de ningún cuerpo político de nuestro pueblo.

En Vieques, nuestra Isla Nena, **dos terceras partes** de su territorio --**27,000 cuerdas de terreno**-- están ocupadas por la Marina de Guerra de los Estados Unidos. El mar a la redonda es escenario de prácticas de guerra que atentan contra la seguridad y el derecho a ganarse la vida de los pescadores viequenses y culebrenses. Los explosivos auyentan o destruyen la pesca, la fauna y la flora marina. Ni el empleo ni el desarrollo turístico han proliferado allí. Por el contrario, las 7 centrales azucareras que había en Vieques desaparecieron muchos años antes que otras centrales azucareras de acá en la Isla Grande, las cuales eventualmente también sucumbieron ante el avance del urbanismo descontrolado, el creciente abandono del campo y la virtual desaparición de todos los cultivos en el país.

A eso súmenseles las decenas de miles de cuerdas con instalaciones militares o paramilitares en Ceiba, El Yunque, Culebra, Juana Díaz, Salinas, Sabana Seca, Aguadilla. Punta Salinas, Buchanan, Puerto Nuevo, Isla Verde, y hasta el Viejo San Juan. Y como si eso no fuera suficiente, ahora se proponen instalar un radar militar y aumentar el personal y la actividad castrense en nuestra tierra.

Mientras eso ocurre en nuestro estado libre asociado, en Japón, en Filipinas, en Panamá, en Alemania, en Inglaterra, en Francia y en muchos otros lugares del mundo crece la presión pública, a veces con demostraciones multitudinarias para que se suspendan todas las pruebas nucleares y se avance hacia el total desarme. Muchos gobiernos, incluyendo el de Estados Unidos, han tenido que responder al clamor de importantes sectores ciudadanos -- entre los que destacan los religiosos y los ambientalistas-- y han formalizado acuerdos como el Tratado de No Proliferación de Armas Nucleares en cuyo texto se propone "un temprano cese a la carrera (producción) de armas nucleares, el desarme nuclear y un desarme **general y total** bajo estricta y eficaz supervisión internacional."

LAS FORMULAS DE STATUS, DESDE UNA PERSPECTIVA DE JUSTICIA

Como un movimiento inspirado en la Paz, la mayor preocupación de Pax Christi/Puerto Rico es que bajo cada una de las fórmulas que se propongan y definan en un plebiscito, se acuerde y se fundamente en una relación de justicia, en la que no se prive al Pueblo de Puerto Rico de sus derechos como nacionalidad, en la que se le reconozca su derecho a la búsqueda de la felicidad y en la que su lenguaje y su cultura sean respetados y protegidos por el establecimiento político, particularmente en lo que concierne a asuntos y situaciones que le afecten en particular.

UNA INDEPENDENCIA JUSTA

Tras un siglo de complejas interacciones económicas, jurídicas y de otra índole con los Estados Unidos, un Puerto Rico encaminado hacia su independencia nacional requerirá un trato justo y la ayuda procesal y económica de Estados Unidos para facilitar su salida de la condición de dependencia. No puede ser botado como balsa en el mar. Se deben suscribir acuerdos especiales en aspectos tales como derechos de tránsito, moneda, correo, derechos sociales preadquiridos, requisitos de ciudadanía y otros asuntos que pueden ser parte de uno o más tratados de transición.

UNA ESTADIDAD JUSTA

La integración de un territorio a una metrópoli está aceptada como una opción de descolonización en el Derecho Internacional. En el caso de nacionalidades con rasgos disímiles a los del estado al que se incorporan, se les reconoce el derecho a preservar su identidad e idiosincracia incluyendo lenguaje.

La definición de estadidad sometida en el Proyecto Young como opción en un propuesto plebiscito --con el inglés como idioma en común de todos los estados y ciudadanos; sin provisión para participar con personalidad propia en eventos internacionales-- puede desembocar en una situación de exclusión y de conflicto. El requisito del dominio pleno del inglés para ocupar un escaño congresional en Estados Unidos excluye ipso facto a enormes sectores de la población de Puerto Rico donde se estima en un 80% ó más las personas que no podrían desenvolverse en un debate en inglés. Esto afectaría mayormente al sector sindical y a muchos otros sectores, incluyendo profesionales.

UNA LIBRE ASOCIACION JUSTA

La fórmula de nuevo "Estado Libre Asociado" propuesta por el alto liderato del Partido Popular Democrático, tal como está definida pudiera no ser compatible con el orden constitucional y la base de igualdad esencial entre los estados federados. El asunto de la soberanía necesita ser aclarado.

REMARKS BY THE HON. WILLIAM MIRANDA MARIN, MAYOR OF CAGUAS, PUERTO RICO, AND CHAIRMAN OF THE POPULAR DEMOCRATIC PARTY STATUS COMMISSION, AS TO THE PLEBISCITE PROPOSAL CONTAINED IN H. R. 856. DELIVERED BEFORE THE COMMITTEE ON RESOURCES OF THE UNITED STATES HOUSE OF REPRESENTATIVES, IN MAYAGÜEZ, PUERTO RICO, ON APRIL 21, 1997.

Mister Chairman and members of the Committee:

I am William Miranda Marín. I am testifying before you in regard to H. R. 856, as Chairman of the Popular Democratic Party Status Commission and Mayor of Caguas, the fifth largest city in my country. I also testify before you as a Puerto Rican who loves and reveres his homeland and his nationality, while defending and proudly cherishing his American citizenship. Believe me, there is no conflict whatever between one and the other! As a good Puerto Rican, I have devoted most of my life to serving my country, having reached top positions in national and municipal government. As a good American citizen, I have served for 34 years in the Armed Forces of the United States, reaching the top position in the National Guard, that of Adjutant General, and retiring with the rank of a two-star Major General.

As a good Puerto Rican and a good American citizen, I wish that I could truly say to you that I fully trust this Committee to correct the grave injustice to my people contained in this measure, of which the Chairman is the author. As filed, the bill represents a slap in the face of the Puerto Rican people and should be repudiated by every self-respecting and patriotic Puerto Rican. I wish that I could tell you, mister Chairman and committee members, that I trust you fully, but if I did so I would be lying to you. The Committee will approve the bill in all likelihood, with a cosmetic amendment or two, and self-respecting and patriotic Puerto Ricans will have to look elsewhere for the justice and respect they will have been denied--elsewhere in Congress, in the Executive Branch and perhaps even in court.

The Young Bill, as drafted, strips Puerto Rico of its autonomist essence, in open defiance of the democratic mandate of the people of Puerto Rico who created the Estado Libre Asociado between 1950 and 1952 and ratified it in the 1967 and 1993 plebiscites. It would deprive Puerto Ricans of the right to vote for the status they have chosen three times; and would offer Puerto Rico every conceivable status option

except the option that Puerto Rico has shown repeatedly that it favors. The Estado Libre Asociado is neither a territory nor a colony, mister Chairman and members of the committee. The Estado Libre Asociado is an autonomous and sovereign status, of permanent association with the United States and guaranteed American citizenship! American citizenship which we have won with our blood, sweat and tears. (Please see my attached newspaper column, "Young bill is unfair and irresponsible", which appeared in "The San Juan Star" on March 9, 1997).

It is ironic --indeed painful-- that it is precisely this year, on the 100th. Anniversary of the Autonomic Charter of 1897, that the ideological extremists of my country and their allies in Congress have chosen to try to wrest from us what Roman Baldorioty de Castro and other patriots won from a nation much less democratic than the nation you purport to represent.

Frankly, mister Chairman and members of the Committee, I cannot understand why some of you are determined to try to destroy the Estado Libre Asociado. Is it perhaps that some of you do not understand that this unique political status offers the greatest political and economic benefits to both Puerto Rico and the United States? Is it perhaps that some of you are unaware of the extraordinary economic growth registered in Puerto Rico over the past 45 years, principally as the direct result of our fiscal autonomy, which would disappear under statehood?

Should Puerto Rico be deprived of this vital instrument for growth and should we, in addition, be burdened with the payment of federal taxes, hundreds of thousands of Puerto Ricans would have been condemned to live in poverty and unemployment. Many would be forced to migrate to the United States in search for new opportunities.

Many Puerto Ricans who are vital components of the productive sector of our economy--fully one third of the population--would also leave because of the added tax burden to be paid in Puerto Rico, with no significant improvement in the quality of life. As the result of this we would be fulfilling the prophecy of a member of this committee who once wrote that statehood is for the poor. In Puerto Rico statehood would be for the poor because we would all be reduced to poverty. We would become increasingly dependent on federal aid, further eroding the self-esteem of those who would rather earn their livelihood than live of handouts.

Should this dismal scenario come to be, mister Chairman and members of the Committe, I would have to agree with those who claim that we would enjoy more sovereignity under statehood. I would agree with them in one respect only. Puerto Rico would become the ultimate sovereign welfare state.

The Popular Democratic Party is prepared--in fact, anxious--to take part in a fair plebiscite authorized by legislation resulting from a broad political consensus. In a plebiscite where Congress commits itself beforehand and in all good faith to move forward to implement its results . You have the power, mister President and committee members, to offer Puerto Ricans the opportunity to take part in a just and meaningful plebiscite leading to a solution of our status problems. This can be guaranteed by discarding the fundamental premises of this measure in regard to the Estado Libre Asociado and accepting the definition of this status formula which we have submitted to you. You have this power, mister Chairman and members of the committee, along with others in Congress and in the Executive Branch. You also have the power to persist in enacting this terrible piece of legislation, in effect disenfranchising more than one million Puerto Ricans.

A plebiscite where the custodians of the autonomist tradition are driven from the polls would be a sham, utterly devoid of meaning and effectiveness. Under fair and reasonable conditions the Popular Democratic Party shall never opt for an electoral boycott. But should this abusive and disrespectful measure prevail, mister Chairman and Committee members, you will not find us at the polls. We shall stay away, not because we will want to stay away, but because you will have left us with no other choice, because you will have disenfranchised us.

Having driven away the autonomist forces, you may, if you wish, declare that the "winner" is whatever status receives more than 50% of the vote, even if more than half of the voters stay away from the polls and those voting for the "winning status" represent little more than a third of the electorate. Under those conditions, statehood would "win", of course. The question then would be: what would Congress do with such a puny "mandate"? Confronted with the dilema of honoring or ignoring it, Congress would either way face dire consequences in the United States, in Puerto Rico and internationally.

As a good Puerto Rican and a good American citizen, I hope and pray that it shall never come to this. As a good Puerto Rican and a good American citizen I urge you, mister Chairman and members of the committe, to show respect and act fairly toward Puerto Rico and its people, and to abandon this effort to impose statehood upon us.

Do not make us lose our faith in American democracy.

Young bill is unfair and irresponsible

WILLIAM
MIRANDA MARÍN

Commentary

Barely a week after the filing of the second Young bill in Congress, and less than two weeks before its first scheduled committee hearing, the Popular Democratic Party is once again called upon to respond to a patently unfair and irresponsible legislative proposal. Like the first Young bill filed last year, the measure introduced in the House on Feb. 25 insults Puerto Rico by attempting to demean the status formula adopted by our people in 1952 and subsequently ratified in the 1967 and 1993 plebiscites.

Rep. Don Young of Alaska is the nominal author of this new effort to dismember the ideological center and force statehood on the Puerto Rican people, but the driving forces behind the proposal are Gov. Rosselló and Resident Commissioner Carlos Romero Barceló, with the active collaboration of Puerto Rican Independence Party (PIP) President Rubén Berríos. The real purpose of the measure is to to subvert any status mandate for the formula thrice favored by the electorate and to defeat autonomy by a relentless, guerrilla-like attack on two fronts: here and in Washington.

Because this alliance of ideological extremists has existed for years and enlisted the support of the Alaska congressman as early as 1995, the PDP Status Commission knew long before the new bill was filed that it would be utterly unacceptable. This is why we recommended and the party unanimously endorsed two resolutions, one of them rejecting the proposal in advance. We said at the time — and time has proven how correct we were — that the bill calling for a 1998 status plebiscite would contain the following features, all of them unacceptable to Puerto Rico:

■ It would attempt to define the Estado Libre Asociado as a classically colonial formula, thereby ignoring the bilateral pact entered into by the Puerto Rican people and the Congress between 1950 and 1952 and attempting to nullify the position on U.S.-Puerto Rican relations taken by the U.S. government at the United Nations and before the international community since 1953.

■ It would be openly weighted in favor of statehood following the pattern of the bill introduced last year.

■ It would refuse to spell out the consequences of statehood for Puerto Rico in terms of our language and national identity, our ability to attract outside capital and create jobs, and our independent condition as a full-fledged member of the international Olympic community.

■ It would define free association as the equivalent or near equivalent of independence, in a clear attempt to divide the autonomist vote, throwing a few scraps in the direction of the PIP and Berríos.

■ It would fail to commit Congress to implementing the plebiscite results, thus reducing the vote to a meaningless "sympathy contest."

■ It would mislead voters with references to transition periods for statehood or independence, with no guarantee that either would ever be granted and with repeal of the transition itself always subject to the whims of Congress.

The Rosselló-Romero-Berríos-Young bill calls for a plebiscite among four choices that bear no relation to the status formula adopted in 1952 and twice ratified — the last time fewer than four years ago. It calls for a plebiscite between statehood, independence and free association, as virtually interchangeable options, and the colonial, territorial condition that Puerto Rico was forced to endure from 1898 to 1952. By denying the Estado Libre Asociado its autonomist essence, the forces behind the Young bill have effectively stricken it from the ballot, and disenfranchised close to one million voters. The people of Puerto Rico are allowed to vote for every conceivable option except the option they have repeatedly favored. And should the Estado Libre Asociado win — even stripped of all content — we would be condemned to hold plebiscites every four years until it was finally defeated.

The second resolution presented by the Status Commission and adopted by the PDP commits us to taking part in what we have called "la consulta del Nuevo Milenio." It commits us to participating in a fair and even-handed effort to improve upon our present status or to opt for another status formula. It commits us to compete in a plebiscite authorized by Congress with a clear declaration that Congress will honor the democratic mandate of Puerto Ricans. We have made this commitment in good faith and in good faith we are prepared to honor it.

Estado Libre Asociado: Quo Vadis? Given the provisions of the Rosselló-Romero-Berríos-Young bill, where do we go from here? We go to Congress to testify before Young's Natural Resources Committee about a measure so fatally flawed that it should be scrapped altogether and give way to an entirely new proposal, drafted in consensus with the three Puerto Rican political parties. We go to Congress to define the Estado Libre Asociado, as legitimate custodians of the autonomist tradition. We go to Congress to lobby other House committees and through our friends in Congress, on the House floor itself, should Young's committee approve the bill, as appears likely. We go to the Congress to lobby the Senate should the Rosselló-Romero-Berríos-Young bill clear the House. We go to the White House, both while the bill is under Congressional consideration and after it has been vetoed upon, should this become necessary. And as a last recourse, we go to court to challenge the measure, if we must.

For nearly 50 years Congress and the federal Executive Branch have shown good faith in dealing with Puerto Rico, even if they have not always been receptive to our wishes. We trust that good faith will once again prevail over the gross partisanship of the Rosselló-Romero-Berríos-Young bill.

The PDP is morally committed to a plebiscite bill that is both fair and meaningful, and to rejecting anything resembling the so-called Young bill. We will go to Washington in good faith to try to correct the terrible injustice that this proposal foists upon us. We will walk that extra mile to save both Puerto Rico and the U.S. from a major international setback. We urge all self-respecting Puerto Ricans to follow our lead.

Should our good faith be spurned and our efforts fail, however, we will not be a party to deceit, and we are fully prepared to boycott the option of voting for death by asphyxiation or death by strangulation. Should our good faith be spurned and our efforts fail, we will not only stay away from the polls next year, but we will denounce the plebiscite before the world as a fraud and a sham.

Congress may decree that the "winner" is whatever formula receives more than 50 percent of the vote, even if more than half of the voters stay away and those voting for the "winning formula" represent only a third of the electorate. Under these conditions statehood would "win," of course, but what would Congress do with such a "mandate?" Confronted with the dilemma of honoring it or ignoring it, either way Congress would face terrible consequences, both in Puerto Rico and internationally.

Let us hope and pray that it never comes to this.

(The author is Mayor of Caguas and Chairman of the PDP Status Commission.)

AFELA

Afirmación Feminista del Estado Libre Asociado

PONENCIA EN LAS VISTAS DE LA COMISIÓN YOUNG SOBRE EL STATUS POLÍTICO DE PUERTO RICO

1. SOBRE LA COMPOSICIÓN Y PROYECCIÓN DE AFELA

AFELA es una agrupacion independiente de mujeres de filiación autonomista. Analizamos el Proyecto Young como historiadoras, abogadas, cientificas sociales, educadoras y servidoras públicas que somos. Documentamos sus imprecisiones, omisiones y exclusiones, que se extienden desde la sección inicial de "Hallazgos" hasta la sección final, que dispone de fondos que por ley corresponden al gobierno de Puerto Rico.[1] El trabajo de AFELA está a la disposición de

---

1 Sintetizamos en esta nota algunas de las principales imprecisiones, omisiones y exclusiones del Proyecto Young:

a) En el Proyecto Young se confunden los términos "sovereignty", "nationality" y "citizenship". Estos términos no son equivalentes, y su uso indistinto confunde la relación histórica y política de Puerto Rico y Estados Unidos.

b) El uso constante e indiferenciado del término "territory" con referencia a Puerto Rico a través de la sección de "Hallazgos" impide calibrar con precisión las etapas del desarrollo histórico y político de Puerto Rico durante el siglo XX en su relación con los Estados Unidos.

c) Se omite mencionar la derrota en el Congreso de la enmienda presentada por el Congresista Meader en 1952 a la Constitución del Estado Libre Asociado de Puerto Rico. La enmienda, derrotada en el Congreso, pretendía que el nuevo status del ELA no implicaba una delegación irrevocable de la autoridad del Congreso bajo la cláusula territorial. 98 Cong. Rec., no. 92, (May 28, 1952), pp. 6184-6185.

d) Las expresiones sobre la decisión de Harris v. Rosario omiten mencionar que el Tribunal no tenía ante sí, ni pretendió adjudicar, la cuestión de Puerto Rico, el Congreso, y la cláusula territorial. Se omite mencionar, también todas las decisiones del Tribunal Supremo de los Estados Unidos antes y después de Harris v. Rosario, que reconocen la soberanía de Puerto Rico sobre asuntos no reglamentados por la Constitución de los Estados Unidos.

ustedes y del pueblo de Puerto Rico, excluido hasta ahora del proceso iniciado por esta Comisión. Este panel es el primer resquicio que se abre en las vistas para entidades como AFELA y otros representantes de la sociedad civil, si bien se abre bajo unas condiciones insólitas que provocan nuestro asombro y merecen nuestro repudio.[2]

2. LA DENUNCIA DE LAS EXCLUSIONES

Las mujeres de AFELA venimos a decir que como mujeres y puertorriqueñas, conocemos de sobra la exclusión. Por eso repudiamos que este proyecto excluya a sectores vitales de nuestra sociedad, y distorsione la trayectoria histórica, jurídica, cultural y lingüística de la nación puertorriqueña.

Este Proyecto pretende excluir la fórmula de status preferida por los puertorriqueños por más de cuatro décadas.[3] La omitió totalmente en su versión original, y sigue estando ausente de su versión actual. Se incorporó su nombre, pero se falseó su definición. No hay un solo creyente en el Estado Libre Asociado, no hay un solo votante de los que hemos ganado todos los plebiscitos celebrados aquí desde 1952, que reconozca al Estado Libre Asociado en los términos del Proyecto Young.

---

[2] AFELA se une a la protesta planteada por el Congreso Nacional Hostosiano ante las restricciones y exigencias anunciadas por esta Comisión, que incluyen la posible juramentación de los deponentes, un límite de dos a cinco minutos por ponencia, y la exigencia de cien copias de cada ponencia, costeadas por los deponentes.

[3] En la sección 2, párrafo 15, líneas 12 a 20 del Proyecto, se excluye al Estado Libre Asociado de las opciones del pleno gobierno propio ("full self-government"), en las que, sin embargo, se reconoce la estadidad, la cual a todas luces disminuye y limita el ámbito de gobierno propio para Puerto Rico existente al presente.

3

El Estado Libre Asociado es una fórmula descolonizadora, así reconocida desde el momento de su formulación por los máximos representantes de los poderes estadounidenses.[4] Es la única fórmula descolonizadora alcanzada con éxito en la historia de Puerto Rico; la que ha hecho posible la democratización política, el desarrollo económico, y la afirmación cultural de los puertorriqueños, ingredientes esenciales de todo proceso auténtico de descolonización. Porque la descolonización es un proceso, no una condición.

Quien niegue el proceso descolonizador puesto en marcha por el Estado Libre Asociado en Puerto Rico, desconoce o falsea nuestra historia y nuestra realidad. La determinación de los puertorriqueños, expresada reiteradamente en las urnas, ha sido continuar la trayectoria innovadora iniciada en los años cincuenta; seguir haciendo historia y dando ejemplo al mundo de las formas posibles de colaboración y convivencia entre una nación grande y una nación pequeña. Pero el Proyecto Young pasa por alto esta historia que honra, no sólo a Puerto Rico, sino a Estados Unidos. Por eso es que la supuesta gestión descolonizadora del Proyecto Young es en verdad un acto colonial y retrógrado; porque no reconoce la libre determinación de los puertorriqueños manifiesta en sus tres plebiscitos, ni tampoco los acuerdos y logros alcanzados por nuestros dos países desde 1952.

---

[4] Según Earl Warren, Juez Presidente del Tribunal Supremo de los Estados Unidos, "In the sense that our American system is not static, in the sense that it is not an end but the means to an end--in the sense that it is an organism intended to grow and expand to meet varying conditions and times in a large country--in the sense that every government effort of ours is an experiment--so the new institutions of the Commonwealth of Puerto Rico represent an experiment--the newest experiment and perhaps the most notable of American governmental experiments in our lifetimes." En la serie videodocumental sobre su presidencia Decision: The Conflicts of Harry Truman, el Presidente Truman afirma: "I would not force any sort of government on the Puerto Rican people... if they didn't want it themselves... (After 1952) Puerto Rico had a new constitution and free government; and they had received it through the realities of the people themselves voting on it. The death knell for colonialism so far as the Western hemisphere was concerned."

Excluído también está de este Proyecto el reconocimiento del español, nuestra lengua vernácula, como la lengua propia de los puertorriqueños. Pretender que inglés y español se han hablado a la par en Puerto Rico, es desconocer o falsear nuestra historia y realidad lingüística. Reclamar que el inglés es talismán de todos los poderes, como hace este Proyecto, que lo convierte en lengua del gobierno estatal, los tribunales y el sistema educativo bajo la estadidad, sería hacer de la gran mayoría de los puertorriqueños una minoría en su propia tierra. Suplantar nuestra lengua por otra sería arrancarnos nuestro corazón. Recuerde esta Comisión congresional la resistencia del pueblo de Puerto Rico durante la primera mitad de este siglo ante tal pretensión, y su indiscutible fracaso.

Con motivo de las vistas congresionales sobre el status de Puerto Rico celebradas aquí en marzo de 1990, un nutrido grupo de líderes políticos, culturales y cívicos, firmó y publicó una carta abierta titulada "**SPANISH IS NOT NEGOTIABLE**", donde se afirma que "para el pueblo puertorriqueño, individual y colectivamente, el idioma español **NO ES NEGOCIABLE BAJO NINGUNA CIRCUNSTANCIA NI FORMULA DE STATUS.**" Entre los firmantes de esa declaración está el actual gobernador de Puerto Rico, y la "National Committeewoman" del Partido Republicano en Puerto Rico.[5]

3. EN FAVOR DE LA PARTICIPACIÓN EN CUALQUIER PLEBISCITO DE LOS PUERTORRIQUEÑOS QUE VIVEN FUERA DE LA ISLA

[5] La carta abierta al Congreso estadounidense, "Spanish is not Negotiable", firmada por líderes de todos los sectores políticos y culturales del país, entre ellos nuestro actual gobernador, Dr. Pedro Rosselló, se incluye como anejo a esta ponencia.

La determinación del status político de Puerto Rico no se puede dar sin el concurso y la participación de los puertorriqueños de todos los sectores. Es necesario reconocer que hace tiempo ya que la nación puertorriqueña rebasó sus fronteras isleñas.

Un millón de puertorriqueños emigró a los Estados Unidos entre 1945 y 1965: emigró en veinte años una tercera parte de nuestra población. Esta es una de las migraciones más grandes en la historia de la Humanidad. El movimiento migratorio entre Puerto Rico y Estados Unidos es constante, circular y multitudinario. Actualmente hay 3.5 millones de puertorriqueños radicados en la isla de Puerto Rico y 2.7 millones de puertorriqueños en los Estados Unidos que se identificaron como tales en el censo de 1990. Todo el mundo sabe que identificarse como puertorriqueño en Estados Unidos es exponerse a maltrato y prejuicio. Hay que vivir allá para saber lo que es ser minoría en Estados Unidos. AFELA sostiene que no se puede excluir de un plebiscito puertorriqueño a quienes afirman su puertorriqueñidad no cuando les conviene sino cuando les cuesta; a quienes ya han vivido la estadidad en carne propia, con todas sus ventajas y con sus desventajas y optan por afirmarse como puertorriqueños.

4. EN CUANTO A LA IMPORTANCIA DEL CONSENSO SOBRE PROPOSITOS Y PROCEDIMIENTOS

Los logros principales alcanzados por los puertorriqueños como pueblo sólo han sido posibles cuando ha habido

consenso sobre nuestros propósitos. El consenso ha sido uno de los pilares de nuestra democracia. El futuro de todos sólo se construirá si logramos todos ponernos de acuerdo en cuanto a principios y procedimientos sobre cómo lograr lo mejor para nuestro país.

No es imposible alcanzar el consenso. En Puerto Rico lo hemos alcanzado en los últimos años sobre asuntos tan alegadamente divisorios como la primacía del idioma español y el reclamo de la excarcelación de los presos políticos puertorriqueños que se encuentran en cárceles estadounidenses.[6]

El consenso se buscó y se alcanzó, tanto en Puerto Rico, como con el Congreso estadounidense, cuando el proceso plebiscitario de 1989-1991. Es indispensable que nuevamente se logre ahora.[7] Sólo así se legitimará ante el país y ante el mundo el resultado de cualquier plebiscito. Sólo así los puertorriqueños de buena voluntad estaremos dispuestos a reconocerlo y acatarlo.

Fragmentar los consensos esenciales de un pueblo hace imposible resolver de manera perdurable y pacífica el status de Puerto Rico. Puede significar escisiones sangrientas como las

---

[6] Anejamos documento de endoso de diversos sectores de opinión, entre ellos líderes del Partido Nuevo Progresista.

[7] AFELA propone que se adopten los términos procesales acordados por los tres partidos políticos principales de Puerto Rico y acogidos unánimemente por el Congreso en el proceso plebiscitario de 1989 -1991. En síntesis, se trata de que haya una definición precisa de cada fórmula de status que sea formulada por sus proponentes y reconocida por el Congreso; y que se explicite la posición del Congreso respecto a la lengua que se usaría en la legislatura, la judicatura, las oficinas de gobierno y el sistema educativo de Puerto Rico bajo la fórmula de estadidad. Que haya una segunda votación entre las fórmulas con mayor apoyo si ninguna alcanzara mayoría absoluta (más del 50% de los votos). Y que haya garantías de que el gobierno estadounidense implantará el status político seleccionado de esta manera por el pueblo de Puerto Rico.

que suceden en Africa, en Europa, en la vecina América, y las que han sucedido más de una vez en Puerto Rico. Poner en riesgo la paz social de un pueblo es una responsabilidad muy seria que no deben ustedes de asumir, señores congresistas.

AFELA les invita a que tengan presente que el consenso no se impone, se alcanza. Hay que convencer a los puertorriqueños de la validez y la justicia de este plebiscito. Esto aún no ha ocurrido, pero puede ocurrir, y nosotras, las mujeres de AFELA, deseamos vivamente que así sea. Por eso exhortamos a esta Comisión:

a modificar sus actuales actitudes autoritarias;

a comprometerse a respetar y cumplir la libre determinación de los puertorriqueños;

y a propiciar la búsqueda de acuerdos, tanto procesales como de principios, entre los verdaderos protagonistas de esta historia, que somos nosotros, las puertorriqueñas y puertorriqueños de las dos orillas de una nación llamada Puerto Rico, estrechamente vinculada a ustedes, más con su indisoluble y propia identidad.

Muchas gracias.

TV. Benitez

Testimony by
AFIRMACION FEMINISTA DEL ESTADO LIBRE ASOCIADO (AFELA)
during the
LEGISLATIVE HEARING OF THE COMMITTEE ON RESOURCES OF THE U.S. HOUSE OF REPRESENTATIVES
Held in San Juan, Puerto Rico, on April 19, 1997
Presented by Margarita Benitez, AFELA Spokesperson

1. ON THE COMPOSITION AND PROJECTION OF AFELA

AFELA is an organization of women of independent views who believe in the autonomist ideal. As historians, attorneys, social scientists, educators and public servants, we have scrutinized the Young Bill, put it under the microscope, so to speak. For the record, although normally we would welcome a bill seeking "a process leading to full self-government for Puerto Rico," we must oppose this Bill as it stands. We have documented and must decry the inaccuracies, omissions and exclusions of the Bill, from its initial section on "Findings" to its final section on "Availability of Funds," which attempts to legislate regarding funds that by law pertain to the Government of Puerto Rico.[1] We wish to put AFELA's work at your disposal and that of the people of Puerto Rico. Although this hearing is the first opportunity you have provided for organizations such as ours and other representatives of citizens organizations, we must express our dismay at the offensive conditions you have placed on those who wish to testify.[2]

---

[1] In this footnote we summarize some of the principal inaccuracies, omissions and exclusions of the Young Bill:

(a) The terms "sovereignty," "nationality," and "citizenship" are used indistinctly. These terms are not equivalent, and their indistinct use confuses Puerto Rico's historical and political relationship with the United States.

(b) The constant and unspecific use of the term "territory" with regard to Puerto Rico throughout the "Findings" section makes it impossible to pinpoint precisely the stages of Puerto Rico's historical and political development in its relationship with the United States during the twentieth century.

(c) It fails to mention that an amendment to the Constitution of the Commonwealth of Puerto Rico introduced by Congressman Meader in 1952 to the effect that Congress had not made an irrevocable delegation, transfer or release of its powers under the territorial clause of the U.S. Constitution, was defeated by the U.S. Congress. 98 Cong. Rec., No. 92, May 29, 1952, pp. 6184-6185.

(d) The reference to Harris v. Rosario decision fails to mention that the Court did not have before its consideration, nor did it attempt to adjudicate the issue of Puerto Rico, the Congress, and the territorial clause. It also fails to mention all the decisions of the Supreme Court of the United States, before and after Harris v. Rosario, which recognize the sovereignty of Puerto Rico regarding mattters not governed by the Constitution of the United States.

2. A DENOUNCEMENT OF EXCLUSION

As women and as Puerto Ricans, we AFELA members are very familiar with exclusionary politics. We therefore strenuously object to the way that the Young Bill excludes vital sectors of our society, and the way it distorts the historical, juridical, cultural and linguistic tradition of the Puerto Rican nation.

The Bill, intentionally or not, excludes the status formula, i.e. Commonwealth, preferred by Puerto Ricans for more than four decades.[3] It was excluded altogether from the original version of the Bill, and it is still absent from the version now under consideration. While the word Commonwealth may now be mentioned in the text, its true definition was not included. Not a single individual among those of us who have won every plebiscite held in Puerto Rico since 1952 recognizes the "Commonwealth" as defined by the Young Bill.

The Commonwealth is a decolonizing formula, recognized as such since its inception by the highest officials of the United States.[4] It is the only decolonizing formula successfully achieved by Puerto Rico in the twentieth century. Without a doubt, Commonwealth status has made possible the political democratization, economic development, and cultural affirmation of the Puerto Ricans, all of which are essential elements in a true decolonizing process. It is well to remember that decolonization is indeed a process, not a state of being.

---

requirement that 100 copies of each testimony be provided to the Committee at the expense of the witnesses.

[3] In Section 2, paragraph 15, lines 12 to 20 of the Bill, the Commonwealth formula is excluded as an option of "full self-government," among which, on the other hand, statehood is recognized. This clearly reduces and limits the existing measure of self government.

[4] According to the Honorable Earl Warren, Chief Justice of the Supreme Court of the United States, "In the sense that our American system is not static, in the sense that it is not an end but the means to an end -- in the sense that it is an organism intended to grow and expand to meet varying conditions and times in a large country -- in the sense that every government effort of ours is an experiment -- so that new institutions of the Commonwealth of Puerto Rico represent an experiment -- the newest experiment and perhaps the most notable of American governmental experiments in our lifetimes." In the film documentary about his presidency, Decision: The Conflicts of Harry Truman, President Truman affirms: "I would not force any sort of government on the Puerto Rican people... if they didn't want it themselves... (After 1952) Puerto Rico had a new constitution and free government and they had received it through the realities of the people themselves voting on it -- the death knell for colonialism so far as the Western hemisphere was concerned."

Whoever denies that a decolonizing process was initiated by the adoption of the Commonwealth of Puerto Rico, either ignores or grossly distorts our history and our reality. The self determination of Puerto Ricans, as expressed repeatedly in the polls, has called for a continuation of the innovative route begun in the 1950s. Through this way, we have chosen to continue to make history and provide an example to the world of possible forms of collaboration and understanding between a large nation and a small one. The Young Bill clearly ignores this history that honors, not only Puerto Rico, but the United States as well. In truth, the so-called decolonizing intent of the Young Bill is patently colonial and reactionary. It neither recognizes the process of self determination engaged by the Puerto Ricans in their three plebiscites, nor does it take into consideration agreements and advances achieved by our two countries since 1952.

The Bill also fails to acknowledge Spanish, our vernacular, as the rightful language of the Puerto Rican people. To claim that English and Spanish have been spoken equally in Puerto Rico is, again, a distortion of our history and our linguistic reality. To claim that English is the source of all powers, as this Bill does, demanding its usage by the state government, the courts, and the education system, would turn the great majority of Puerto Ricans into a minority in our own land. To replace our Spanish language with another language would mean our spiritual destruction. This Committee would do well to remember that the resistance of the people of Puerto Rico in the first half of this century resulted in total failure when such language replacement was attempted then.

In connection with the Congressional hearings on Puerto Rico´s status held in Puerto Rico in March 1990, a large group of political, cultural and civic leaders, signed and published an open letter titled "Spanish is Not Negotiable," which affirms that "for the Puerto Rican people, individually and collectively, the Spanish language is not negotiable under any circumstances nor status formula." Signers of this open letter included the current governor of Puerto Rico and the National Committeewoman of the Republican Party in Puerto Rico.[5]

---

[5] **The Open Letter to the U.S. Congress, "Spanish is Not Negotiable," signed by leaders of all political and cultural sectors of Puerto Rico, among them our current Governor, Dr. Pedro Rossello, is attached to this paper.**

3. IN SUPPORT OF THE PARTICIPATION OF PUERTO RICANS LIVING ABROAD IN ANY STATUS PLEBISCITE

The determination of the political status of Puerto Rico cannot and will not take place without the participation of Puerto Ricans from all sectors. The fact that the Puerto Rican nation for many hears has expanded beyond our island's shores must be taken into account.

One million Puerto Ricans migrated to the United States between 1945 and 1965, fully one third of our population during a 20-year period. This marks one of the largest migrations in the history of humanity. Even to this date, migration between Puerto Rico and the United States continues to be numerous and ongoing. Today there are 3.5 million Puerto Ricans residing in Puerto Rico and 2.7 million Puerto Ricans in the United States who identified themselves as such in the 1990 Census. How in the world could such an integral and massive part of our people be excluded from this process of determining our future when it could very well be their future a month, a year, a decade from now? Everyone is aware that to identify ourself as Puerto Rican in the United States is to face discrimination and prejudice. One must have lived in the United States to understand what it means to be a minority. Those who affirm their Puerto Rican nationality, not when it is convenient to do so but when they pay dearly for it, those who have lived under statehood with all its advantages and disadvantages but yet choose to assert themselves as Puerto Ricans, cannot be excluded from a Puerto Rican plebiscite.

4. THE IMPORTANCE OF CONSENSUS REGARDING OBJECTIVES AND PROCEDURES

The most important accomplishments of Puerto Ricans as a nation have only been possible when we have reached consensus on our objectives. Consensus has been one of the pillars of our democracy. The future of all Puerto Ricans can be determined only if we can reach an agreement over principles and procedures about how to attain what is best for our country. Naysayers and skeptics may think consensus is impossible. However, in recent years in Puerto Rico, we have achieved it on such allegedly divisive matters as the primacy of our Spanish language and the demand that Puerto Rican political prisoners who are in United

States jails be set free.[6]

Even more important to the Bill in question, consensus was sought and reached in Puerto Rico, and with the United States Congress during the plebiscite process of 1989-91. It must be reached again.[7] Only then will the result of any plebiscite be legitimized before this country and before the world. Only then will Puerto Ricans be willing in good faith to accept and abide by it.

We fear that ignoring the consensus of a people makes it impossible to resolve Puerto Rico´s status in a permanent and pacific manner. It could very well engender violence and unrest such as has been experienced in areas of Africa, Europe, and the neighboring Americas, and as has occurred more than once in Puerto Rico. To place the social peace of a nation at risk is a very serious responsibility, one to which this Congressional Committee cannot remain oblivious.

AFELA invites you to bear in mind that consensus is reached and never imposed. Puerto Ricans must be convinced that the referendum you are proposing is valid and just. This has not yet occurred, but if all the vital sectors of our community are given participation in its planning and execution, it certainly can happen. AFELA fervently prays this will come to pass. To this end, we urge this Committee:

* to commit itself and abide by the self determination of the Puerto Ricans, and

* to encourage the search for agreement, both in terms of processes and

---

[6] A statement endorsed by a wide range of opinion leaders, including New Progressive Party leaders, is attached to this paper.

[7] AFELA proposes that the procedures agreed upon by the three principal political parties in Puerto Rico and unanimously accepted by the U.S. Congress for the 1989-91 plebiscite be adopted. In summary, we advocate a precise definition of each status formula prepared by its proponents and acknowledged by Congress; that Congress make clear its position regarding the language to be used by the legislature, the judiciary, government offices and the education system in Puerto Rico under statehood; that a second vote be held among the formulas with the greatest support if none obtain an absolute majority of the votes cast (more than 50%); and that there be an agreement that the United States government will implemenet the politcal status selected by the Puerto Rican people.

principles, among us who are the real actors in this history --we, Puerto Rican men and women from both shores of a nation called Puerto Rico, with close links to the United States, but with our own indissoluble and distinct identity.

Thank you.

SPANISH IS NOT NEGOTIABLE

Honorables Congresistas de Estados Unidos presentes en las vistas de la Cámara de Representantes a celebrarse en Puerto Rico del 9 al 12 de marzo de 1990:

Independientemente de las diferencias que podamos tener sobre cual debe ser el destino político final del pueblo puertorriqueño, y sobre los mecanismos para logralo;

Independientemente de todas las otras diferencias sociales, económicas, religiosas, políticas y culturales que podamos tener;

Independientemente de las posiciones que podamos tener respecto a la conveniencia de aprender mas de un idioma y del momento mas oportuno para comenzar a hacerlo;

Independientemente de que reconozcamos que saber inglés es conveniente para manejarse en el mundo del comercio y la tecnología, y nos enriquece culturalmente;

Reconociendo que el poder para definir idiomas oficiales en todos los países reside finalmente en sus cuerpos representativos máximos, pero en el caso particular de Estados Unidos de América su Constitución no se pronuncia a tales efectos;

Nosotros, representando múltiples organizaciones políticas, profesionales, cívicas y culturales de las más variadas tendencias, llamamos la atención al hecho de que para el pueblo puertorriqueño, individual y colectivamente, el idioma español NO ES NEGOCIABLE BAJO NINGUNA CIRCUNSTANCIA NI FORMULA DE STATUS.

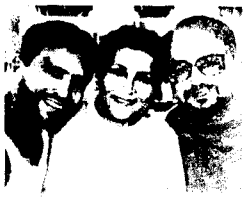
Cualesquiera mecanismos propuestos y cualesquiera sean los resultados del proceso utilizado para resolver la situación política de Puerto Rico, deberá reconocer el derecho legal y moral de nuestro pueblo a utilizar el español como idioma definitivo y definitorio de nuestra realidad cultural y de uso oficial en toda nuestra vida política, económica y social.

La lucha por conservar nuestro idioma lleva ya 92 años de activa y fructífera trabajo. Precisamente, señores Congresistas, su visita a nuestra Isla coincide con la celebración en la ciudad de Aguadilla de un taller comunal sobre la lucha de nuestro pueblo por reafirmar el español como su idioma vernáculo. Los invitamos cordialmente a visitarlo para que vean en el terreno que en esa estamos unidos por encima de cualquier otra consideración. Semejantemente, la realidad puertorriqueña de hoy es que EL IDIOMA ESPAÑOL NO ES NEGOCIABLE BAJO NINGUNA FORMULA DE STATUS.

16 de abril - Natalicio de José de Diego
Día de Reafirmación del Idioma Español.

FIRMANTES:

[illegible]



Luis Rosa (izquierda) con su madre, Hipólita, y su hermano, Félix

"Así como el gobierno de Sudáfrica decidió liberar a Nelson Mandela, a pesar de la 'peligrosa' reputación del C.N.A., los Estados Unidos deben liberar sus prisioneros políticos para que podamos hablar con credulidad sobre los derechos humanos ante la comunidad internacional."

Rvda. C. Nozomi Ikuta
Ministerios de Liberación
American Missionary Association
United Church Board for
Homeland Ministries
Iglesia Unida de Cristo

Adolfo Matos

***Foto en frente**: Oscar López Rivera*

Porque el gobierno de los Estados Unidos los ha sentenciado a severas y desproporcionadas condenas por luchar contra la situación colonial de Puerto Rico...

YA ES TIEMPO DE LIBERAR A LOS 15 PRISIONEROS POLÍTICOS PUERTORRIQUEÑOS

Cinco mujeres y diez hombres puertorriqueños(as) han sido sentenciados(as) a cumplir condenas equivalentes a cadena perpetua por su lucha contra la dominación colonial de los Estados Unidos sobre su nación: Puerto Rico. La mayoría de ellos ha estado ya encarcelados durante 16 años, con condenas de hasta 105 años. Las Naciones Unidas reconoce su lucha y declara que no pueden ser tratados como criminales.

Sin embargo, el gobierno de los Estados Unidos los somete a:

✲DESTIERRO: ubican a los prisioneros lo más lejos posible de sus familiares y comunidades.

✲DENEGACIÓN DE LIBERTAD BAJO PALABRA: a aquellos que la solicitaron, informándoles que la pidan otra vez dentro de 15 años o que cumplan su sentencia.

✲PRIVACIÓN SENSORIAL: celdas incomunicadas, sin ventanas, pintadas de blanco y con una luz intensa 23 horas al día.

✲DENEGACIÓN DE TRATAMIENTO MÉDICO: agravándoles su condición de salud y/ó causándoles daños irreparables.

✲CÁMARAS DE VIDEO: para vigilarles 24 horas, inclusive al bañarse y al hacer sus necesidades fisiológicas.

✲PALIZAS: que les han causado daño físico permanente.

✲UNIDADES DE CONTROL: con programas de modificación de conducta, que les provocan serios trastornos físicos y psicológicos.

✲ABUSOS MÉDICOS: operaciones e introducción de sustancias desconocidas en sus cuerpos sin su consentimiento.

✲BRUTALES ASALTOS SEXUALES: todas las prisioneras los han sufrido al negarse a ser tocadas por guardias varones.

✲REGISTROS DE TODAS SUS CAVIDADES: nariz, ojos, boca, orejas, axilas, vagina y recto; a los varones: prepucio, testículos y recto.

¡NO ES JUSTO!

UNETE AL RECLAMO DE:

-Zaida Hernández Torres
-Roberto Rexach Benítez
-Héctor Luis Acevedo
-Ruben Berrios
-Cardenal Luis Aponte Martínez
-Arzobispo Desmond Tutu
-Coretta Scott King, Vda. del Rev. Martin Luther King
-Willie Colón
-Andy Montañez
-Ismael Miranda
-Jacobo Morales
-Amnistía Internacional, cap. de Estados Unidos
-y muchos más.

¡FALTAS TÚ!

SOLICITA AL PRESIDENTE CLINTON LA AMNISTÍA DE LOS 15 PRISIONEROS POLÍTICOS PUERTORRIQUEÑOS.

¡YA ES TIEMPO DE TRAERLOS A CASA!

Estado Libre Àsociado de Puerto Rico
Cámara de Representantes
Capitolio, San Juan, Puerto Rico 00901

Hon. Ferdinand Lugo González
Representative District 19 Mayagüez

Speaker
Committee on the Western Region

Member
Committee on Government
Committee on Agriculture
Committee on Natural Resources

TESTIMONY OF HON. FERDINAND LUGO GONZALEZ
REPRESENTATIVE DISTRICT 19 MAYAGÜEZ
ESTADO LIBRE ASOCIADO DE PUERTO RICO

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
MAYAGÜEZ, PUERTO RICO

H.R. 856
UNITED STATES-PUERTO RICO
POLITICAL STATUS

P.O. BOX 9022228
House of Representatives
San Juan, Puerto Rico 00902-2228

GOOD AFTERNOON
MR. PRESIDENT OF THE RESOURCES COMMISSION
MR. RESIDENT COMMISSIONER, ROMERO BARCELO
DISTINGUISHED CONGRESSMEN WHO VISIT US

WELCOME TO THE REPRESENTATIVE DISTRICT 19, TO MAYAGÜEZ AND THE WEST OF THE COMMONWEALTH OF PUERTO RICO. I REPRESENT THE DISTRICT WHERE THIS HEARING IS BEING HELD RIGHT NOW. I ALSO REPRESENT THOUSANDS OF PUERTORICANS WHO, LIKE ME, FEEL INDIGNANT AT THE SCARCE OR INEXISTENT SERIOUS POLITICAL CONSIDERATION THAT BILL 856 SHOWS TOWARDS THE PEOPLE OF PUERTO RICO AND TO ITS GREATEST POLITICAL AND JURIDICAL ACCOMPLISHMENT: THE *ESTADO LIBRE ASOCIADO DE PUERTO RICO*.

PUERTO RICO HAS A LONG AUTONOMIST TRADITION WHICH BECAME A REALITY, AFTER STRUGGLES, SUFFERINGS, INCARCERATIONS AND NEGOTIATIONS, IN THE *CARTA AUTONOMICA* WITH SPAIN IN 1897. WE CELEBRATE IN THIS PRECISE YEAR ONE HUNDRED YEARS OF OUR FIRST PROJECT OF SELF GOVERNMENT, THE *CARTA AUTONOMICA* THAT MADE POSSIBLE THE FIRST CONSTITUTIONAL STAFF AND THE FIRST PUERTORICAN GOVERNMENT INAUGURATED ON FEBRUARY 14, 1898.

THE HISPANIC AMERICAN WAR CAME AFTER THE MENTIONED EVENTS. PUERTO RICO, WHICH WAS NOT TAKING PART IN THE WAR, WAS OCCUPIED BY THE UNITED STATES MILITARY FORCES. PUERTO RICO'S FIRST AUTONOMIC GOVERNMENT WAS DISSOLVED BY THE FORAKER ACT.

WE HAD TO RESTART OUR NATIONAL STRUGLE TO RESCUE OUR SELF GOVERNMENT, THE CIVIL INSTITUTIONAL ORDER, OUR IDIOSINCRACY OF A NATION DISHONORED AND UNDER DOMINION. THEY WERE ATTAINED FIFTY THREE (53) YEARS LATER, A PRODUCT OF STRUGLES, SUFFERINGS,

IMPRISONMENTS, PERSECUTIONS AND NEGOTIATIONS WITH THE UNITED STATES CONGRESS, IN THE FORM OF A COMPACT WHICH GRANTS US THE RIGHT TO GOVERN OURSELVES.

THE DATE WAS 1950, AFTER THE UNITED STATES AND THE INTERNATIONAL COMMUNITY SAW THE FORCE, VIGOR AND DEMANDS OF PUERTORICANS FOR MORE AUTONOMY, SELF GOVERNMENT AND A CONSTITUTION. THE UNITED STATES CONGRESS APPROVED PUBLIC LAW 600, WHICH RECEIVED RATIFICATION BY THE MAJORITY OF THE PEOPLE OF PUERTO RICO. SUBSEQUENTLY, A COMPACT WAS APPROVED BY CONGRESS AND PUBLIC LAW 447 SIGNED BY THE PRESIDENT ON MARCH 3, 1952. IT CONSTITUTED THE COMPLETION OF A COMPACT BETWEEN TWO NATIONS.

THE COMPACT AND THE BIRTH OF THE *ESTADO LIBRE ASOCIADO* RECEIVED THE RECOGNITION BY THE UNITED STATES TO SUCH EXTENT THAT THE U.S. STATE DEPARTMENT PRESENTED TO THE UNITED NATIONS GENERAL COUNCIL THE POSITION THAT PUERTO RICO HAD OVERCOME ITS COLONIAL STATUS AND WAS INVESTED WITH THE ATTRIBUTES TO GOVERN ITSELF AND SOVEREIGNITY AS AN AUTONOMOUS POLITICAL ENTITY.

THE COMPACT AND THE NEW POLITICAL RELATION HAS RECEIVED THE SUPPORT OF THE PEOPLE OF PUERTO RICO IN THREE (3) PLEBISCITES, THE MOST RECENT HELD IN 1993. NOW CONGRESS ATTEMPTS WITH BILL 856 TO GO BACK IN HISTORY, TAKE AWAY THE COLECTIVE RIGHTS OBTAINED BY US IN ASOCIATION WITH THE UNITED STATES AND GO BACK TO THE COLONIAL SITUATION EXISTENT PREVIOUS TO 1952 OR MAKE US FAVOR STATEHOOD AGAINST OUR EXPRESSED WILL. PUERTO RICO WILL NOT ALLOW THAT TO HAPPEN.

THIS BILL, IGNOMINOUS AND DISHONORABLE FOR THE PEOPLE OF

PUERTO RICO IS FOLLOWING THE LEGISLATIVE PROCESS, AS IF PUBLIC HEARINGS WERE A RUTINARY INVESTIGATIVE PROCESS OF CONGRESS AND NOT A SERIOUS PROJECT AS DESERVED BY OUR STATUS.

TO REQUIRE ONE HUNDRED COPIES OF THE TESTIMONY FIVE DAYS AHEAD OF THE HEARING, AND THE ADVISE THAT THE WITNESSES COULD BE PLACED UNDER OATH, HAS THE EFFECT, IF NOT THE INTENTION, OF INTIMIDATING WITNESSES, OR AT LEAST CREATES A DISPLEASING OPINION ABOUTH THE COMMITTEE'S PRECEDURES AND ENDS.

CONGRESSMEN, AFTER FORTY FIVE (45) YEARS OF *ESTADO LIBRE ASOCIADO*, FAVORED BY THE PEOPLE OF PUERTO RICO ON THREE SEPARATE OCASIONS, YOU NEED TO UNDERSTAND THAT THE PUERTORICAN NATION DOES NOT WANT INCORPORATION AS A STATE OF THE UNION. WE DEMAND RESPECT TO THE COMPACT ESTABLISHED IN 1952 AND WE ARE ON OUR WAY TO REQUEST MORE AUTONOMY.

IF YOU ACCEPT THE DEFINITION PROPOSED BY THE PRESIDENT OF THE *PARTIDO POPULAR DEMOCRATICO,* AND COMMIT YOURSELVES TO IMPLEMENT THE PEOPLES' CHOICE IN A REASONABLE PERIOD OF TIME, YOU WILL BE GRANTING A FAIR PROCESS. ONE IN WHICH WE WILL BE ABLE TO PARTICIPATE WITHOUT GIVING UP OUR RIGHTS, GUARANTEES AND PRIVILEGES OBTAINED DURING MORE THAN ON HUNDRED (100) YEARS OF STRUGGLE FOR OUR AUTONOMY AND SELF GOVERNMENT.

THANK YOU.

APRIL 17, 1997

POSITION OF THE

ASSOCIATION OF PRO-COMMONWEALTH ATTORNEYS

H.R. 856

UNITED STATES - PUERTO RICO POLITICAL STATUS ACT

Witness: Ramón L. Velasco, President

Association of Pro-Commonwealth Attorneys

American International Plaza Building

250 Muñoz Rivera Avenue

San Juan, Puerto Rico 00926

POSITION OF THE
ASSOCIATION OF PRO-COMMONWEALTH ATTORNEYS
REGARDING H.R. 856
UNITED STATES - PUERTO RICO POLITICAL STATUS ACT

The Association of Pro-Commonwealth Attorneys appears before the Committee today in order to participate in this Congressional Hearing on H.R. 856, United States - Puerto Rico Political Status Act. We believe it is important to point out to this Committee that there are several basic findings included in the Bill that in our opinion are incorrect or inconsistent with the law and court decisions. The most relevant ones are the interpretation proposed in the Bill of the 1950-52 procedure for instituting internal self-government; its legal effects; the application to Puerto Rico of Resolution 1541 (XV); the interpretation of Harris v. Rosario (446 U.S. 651) and the subsequent interpretation of the intent of Congress in the 1950-52 process; the interpretation of the 1993 plebiscite result and the use of the Territorial Clause to clarify status issues; the interpretation that full self-government for Puerto Rico is attainable only through independence with or without free association with the United States, or through statehood.

The history of political development in Puerto Rico and the political aspirations of our people have always been within the framework of autonomy. Puerto Rico is clearly a distinct people with a culture deeply rooted in its "Taíno", Spanish and African heritage.

In 1898, when the United States acquired Puerto Rico, an autonomous status had been achieved with Spain. Since then, a constitutional evolution and development started with the Congress of the United States. Throughout that process, law has been a decisive factor. The Supreme Court dealt with this new experience starting with the so-called Insular Cases in the period from 1901 to 1922. Since these newly acquired territories including Puerto Rico were not intended to become states of the Union, the legal deliberations and controversies were related on how to fit them in the American system and the application of the United States Constitution. Since no precedent existed, the Supreme Court created a new constitutional policy and instituted the concept of incorporated and unincorporated territories.

The Foraker Act of 1900 and the Jones Act of 1917 were the two organic acts that organized the government of Puerto Rico. Other Congress statutes together with those organic acts developed the local self-government. Finally, in the process of 1950-1952 the people of Puerto Rico achieved full self-government with a constitution adopted by the people of Puerto Rico as a compact. The federal government 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. (Córdova & Simonpietri Insurance v. Chase Manhattan Bank, 649 F.2nd 36 (1981), cited with approval in Rivera-Rodríguez v. Popular Democratic Party, 457 U.S. 1, p. 634, (1982).

In 1950 the U.S. Congress enacted Public Law 600, 48 U.S.C. § 731b, *et seq.*, which enabled the people of Puerto Rico to make a constitution to govern its internal affairs consistent with the American democratic tradition of government by consent of the people. Public Law 600, by its own terms, was a proposal to the people of Puerto Rico to enact this constitution in the nature of a compact with the United States of America. In furtherance of this goal, it declared that when the constitution by the people of Puerto Rico was approved, must of the provisions of the Organic Act of 1917, as amended, 39 Stat. 951, 48 U.S.C § 731, would be automatically repealed. All of the "territorial" or "organic" provisions of the Organic Act were repealed by this provision of Public Law 600, including Section 34 of the Act which established the power of Congress to review all laws enacted by the Puerto Rico Legislature as Congress saw fit.

Consistent with the nature of the Compact entailed by Public Law 600, this United States statute was itself submitted to the people of Puerto Rico in 1951 for its approval. After it was approved, a constitutional convention was elected by the people of Puerto Rico in order to enact a constitution in which the people organize itself into a body politic constructing the government of the island in accordance with the consent of those to be governed. This constitution was submitted to the Congress of the United States of America in 1951. It was approved by Congress, Public Law 447, 48 U.S.C.A. § 731d in 1952, as a compact between Congress and the people of Puerto Rico. The Puerto Rico Constitution would become operative upon its approval by the people of Puerto Rico and subject to some changes in its language provided by the same act of Congress.

It is significant that Public Law 447 suggested that a paragraph be added to Section 3 of Article VII of the Constitution for the Commonwealth of Puerto Rico stating that any amendment or revision of the Constitution "shall be consistent with the resolution enacted by the Congress of the United States approving this Constitution, with the applicable provisions of the Constitution of the United States, with the Puerto Rican Federal Relations Act, and with Public Law 600, Eighty-First Congress, adopted in the nature of a Compact."

The Constitutional Convention of Puerto Rico approved Public Law 447 of the United States by resolution number 34 in its plenary session of July 10, 1952. Subsequently, the Constitution and the establishment of the Commonwealth of Puerto Rico as approved came into effect by the proclamation of the Governor of Puerto Rico of July 25, 1952. This process is consistent with the negotiation of a compact between the Government of the United States and the People of Puerto Rico.

The United States of America informed the United Nations that it would not transmit any information under Article 73e of the U.N. Charter with regard to the Commonwealth of Puerto Rico, because the people of Puerto Rico had attain its full measure of self-government consistent with the Constitution of the United States. In its memorandum to the General Assembly, the United States stated that Puerto Rico "is a state which is free of superior authority in the management of its own local affairs but which is linked to the United States of America and

hence is a part of its political system in a manner compatible with its federal structure and which does not have an independent separate existence."

It further stated that "By the various actions taken by the Congress and the People of Puerto Rico, Congress has agreed that Puerto Rico shall have, under that Constitution, freedom from control or interference by the Congress in respect of internal government and administration, subject only to compliance with applicable provisions of the Federal Constitution, the Puerto Rican Federal Relations Act, and the acts of Congress authorizing and approving the Constitution, as may be interpreted by judicial decision. Those laws which directed or authorized interference with matters of local government by the Federal Government have been repealed."

Representative Frances Bolton, a member of the United States delegation to the United Nations stated the following to that international body on November 3, 1953:

> "There exists between the People of Puerto Rico and the United States a bilateral compact of association which has been accepted by both, and which, in accordance with judicial decisions, could not be amended without common consent."

The memorandum of the United States concluded the following:

> "The U.S. Government, therefore, has decided that with the entry into force on July 25, 1952, of the constitutional arrangements establishing the Commonwealth of Puerto Rico, it is no longer appropriate for the United States to continue to transmit information to the United Nations on Puerto Rico... [This] constitutes a recognition of the full measure of self-government which has been achieved by the People of Puerto Rico."

During the process of debate and position papers the United States Government submitted several positions interpreting what has happened in 1952, among others the following:

> "As noted above, the present Chairmen of the Congressional committees concerned with Puerto Rican affairs have both expressed the view that the new constitutional status of Puerto Rico and the terms of its voluntary association with the United States are the result of an agreement not to be rescinded or changed unilaterally by either party. However, under our constitutional system these are questions to be determined ultimately by our courts, including the questions as to the relationship of this agreement to the United States Constitution.
>
> The problem has, in fact, been recently passed upon by the United States District Court for Puerto Rico (a federal, not a Commonwealth Court)."

The Court clearly states that the relationship between Puerto Rico and the United States is now based on a compact and cannot therefore be changed except by mutual consent. See U.S.

Cong. Rec. 83rd Cong., 1st Sess, Vol. XCIX, 1953 (A1476). See also Mora v. Torres, 113 F.Supp. (D.P.R. 1953) and Mora v. Mejías, 206 F.2d 377 (1st Cir. 1953).

Subsequently, on November 27, 1953, the United Nations General Assembly promulgated Resolution 748 VIII approving the cessation of the transmission of information of the United States in respect to Puerto Rico.

The United States Supreme Court has consistently ruled that Puerto Rico has a unique relationship with the United States that had no parallel in American history. Examining Board v. Flores de Otero, 426 U.S. 572 (1972). It has consistently held that it has the degree of autonomy and independence normally associated with the states of the Union and that Puerto Rico like a State, is an autonomous political entity. Rodríguez v. Popular Democratic Party, 457 U.S. 1 (1982). It has also been stated that Puerto Rico is to be deemed sovereign in matters not ruled by the Constitution. Calero Toledo v. Pearson Yacht Leasing, 416 U.S. 663 (1974); Rodríguez v. Popular Democratic Party, 457 U.S. 1 (1982); Alfred L. Snapp & Son, Inc. v. Puerto Rico, 458 U.S. 592 (1982); Posadas de Puerto Rico v. Tourism Company, 478 U.S. 328 (1986).

In Calero Toledo v. Pearson Yacht Leasing, 416 U.S. 663, the Supreme Court said "These significant changes in Puerto Rico's governmental structure formed the backdrop to Judge Magruder's observations in Mora v. Mejías, 206 F.2nd 377 (1953); 'It may be that the Commonwealth of Puerto Rico --- "El Estado Libre Asociado de Puerto Rico" in the Spanish version - organized as a body politic by the people of Puerto Rico under their own Constitution, pursuant to the terms of the Compact offered to them in P.L. 600, and by them accepted, is a state within the meaning of 28 U.S.C. § 2281." See also Torres v. Puerto Rico, 442 U.S. 465, 469-70 (1979); Alfred L. Snapp & Son Inc. v. Puerto Rico, 458 U.S. 592 (1982); Posadas de Puerto Rico Assoc. v. Tourism Co., 478 U.S. 328 (1986); United States v. Quiñones, 758 F.2nd 40 (1st Cir. 1985). This makes Puerto Rico sovereign, as a state of the Union, over matters not ruled by the Constitution of the United States.

In Examining Board v. Flores de Otero, the United States Supreme Court again established that a compact between the United States and the Commonwealth of Puerto Rico exists after it was offered by Public Law 600, pages 593-594. It stated that the purpose of Congress under the Compact was to grant to Puerto Rico the degree of autonomy and independence normally associated with states of the Union. The Court stated that "we readily concede that Puerto Rico occupies a relationship to the United States that has no parallel in our history...", and recognized 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..."

In Rivera Rodríguez v. Popular Democratic Party, 457 U.S. 1 (1982) the United States Supreme Court stated unequivocally, in a right-to-vote case, that Puerto Rico, like a state, is an autonomous political entity, sovereign over matters not ruled by the Constitution". It cites Calero Toledo, *supra*, and Córdova & Simonpietri v. Chase Manhattan Bank, 649 F.2d 36 (1st

Cir. 1991). The United States Supreme Court stated that the methods by which the People of Puerto Rico and their representatives "have chosen to structure the Commonwealth's electoral system are entitled to substantial deference."

Subsequently, in United States v. Quiñones, 758 F.2d 40, at page 42 (1st Cir. 1985), the Court stated that Puerto Rico "ceased being a territory of the United States subject to the plenary powers of Congress as provided by the Federal Constitution. The authority exercised by the federal government emanates thereafter from the Compact itself. Under the compact between the People of Puerto Rico and the United States Congress, it cannot amend the Puerto Rico Constitution unilaterally."

The Bill mistakenly addresses the case of Harris v. Rosario, 446 U.S. 651 (1981) in order to state that Puerto Rico has not achieved the full measure of self-government that it can under the Constitution of the United States. Harris held in its two paragraph *per curiam* opinion citing Califano v. Torres, 435 U.S. 1 (1978), that Congress was empowered to treat Puerto Rico differently than a state in granting aid to families with dependent children because, among others, Puerto Rican residents do not contribute to the federal Treasury, and the cost of extending the provisions to Puerto Rico would be high for the U.S. Treasury. It mentioned briefly the Territorial Clause of the Constitution of the United States, Article IV § 3 Cl. 2 as the basis for that power.

The Supreme Court of the United States did not face in Harris the question on whether Congress retained plenary power to legislate for Puerto Rico, and accordingly was silent as to that proposition. The Court just ruled in Harris that Congress can under the Territorial Clause, treat Puerto Rico differently than a state as respect the application of aid programs. This interpretation simply misses the substantial distinction between the power of Congress to treat Puerto Rico differently than a state, and the power to legislate for the unincorporated territories basically at Congress pleasure. This decision is a glitch in the constitutional interpretation that the United States Supreme Court has advanced regarding Puerto Rico. The Court has consistently held that the powers of Congress to legislate in regards to internal affairs of Puerto Rico is limited by the compact and is the same as that in which Congress might legislate upon a state. That is the rule of law as it stands today. See Rivera-Rodríguez v. Popular Democratic Party, Alfred L. Snapp, and Posadas de Puerto Rico v. Tourism Company, *supra.*

Aside of cases involving Puerto Rico there are other cases which can throw some light to the issues of (a) the power of Congress to enter into agreements with territories and (b) the state of the law regarding self-governing territories or commonwealths' treatment under the law in the United States constitutional and judicial systems.

In Commonwealth of the Northern Mariana Islands v. Daniel Atalig, 723 F.2nd 682 (9th Cir. 1984) the court stated: "Guam is subject to the plenary power of Congress and has no inherent right to govern itself. Okada, 694 F.2nd at 568. In contrast, the NMI possesses a right to self-government acknowledged in the Trusteeship Agreement and the Covenant. This distinction suggests that the NMI [Northern Mariana Islands] legislature, like that of a state, has

power to provide statutory authority for government appeals to this court in criminal cases." In the case of Ngiraingas v. Sánchez, 858 F.2nd 1368 (9th cir. 1988) the court stated "As a creature of the federal government, Guam stands in sharp contrast to 'bodies politic' as that phrase is normally understood. ('The government of Guam totally lacks the degree of local autonomy possessed by states or commonwealths within the federal system.') Unlike states, Guam has no sovereign status; it cannot create a system of laws and administration except by leave of Congress." See also, U.S. Ex Rel. Richards v. De León Guerrero, 4 F.3d 749 (9th Cir. 1993).

In De León Guerrero, the Court of Appeals for the 9th Circuit stated as follows "At the outset, we emphasize that the authority of the United States towards the CNMI [Commonwealth of the Northern Mariana Islands] arises solely under the Covenant. The Covenant has created a "unique" relationship between the United States and the CNMI, and its provisions alone define the boundaries of those relations. For this reason, we find unpersuasive the Inspector General's reliance on the Territorial Clause as support for enforcement of the federal audit. He argues that because the CNMI is governed through Congress' power under the Territorial Clause, Congress has plenary legislative authority over the CNMI... The applicability of the Territorial Clause to the CNMI, however, is not dispositive of this dispute. Even if the Territorial Clause provides the constitutional basis for Congress' legislative authority in the Commonwealth, it is solely by the Covenant that we measure the limits of Congress' legislative powers." De León Guerrero, page 754 (citations omitted).

It has been stated publicly that the intent of this bill is to grant Puerto Rico the full extent of self-government consistent with the Constitution of the United States of America. It is an unnecessary provision to state that the existing relationship between Puerto Rico and the United States is not enough in this regard. The Supreme Court of the United States has stated in many occasions as we have seen, even after Harris (Rivera Rodríguez v. Popular Democratic Party, *supra*), that Puerto Rico has the autonomy and sovereignty that a state has. If integration of Puerto Rico as a state would provide that measure of self-government sought by this Bill, then the present Commonwealth status also provides same without the added costs that statehood would entail for the Treasury and the People of the United States of America. It is unnecessary to disenfranchise Commonwealth supporters with the promise of continued referendums that may bring havoc to the Puerto Rican economy.

We have found no judicial precedents whatsoever for the proposition that one Congress may not create a statutory limitation on another Congress power to legislate in the future with respect to the status of territories. Congress is not limited under the Territorial Clause to the binary options of retaining its plenary power or wholly ceding it to the subject jurisdiction. Congress has on many occasions chosen to delegate part of its Territorial Clause authority and to retain part. See for example, Cincinnati Soap Company v. United States, 301 U.S. 308 (1937), regarding the transition of powers to the Philippines. See also United States v. Husband R. (Roach), 453 F.2d 1054 (1st Cir. 1971), cert. den. 406 U.S. 935 (1972). In this case the Court stated that Congress has delegated its plenary authority over the Canal zone in Panama to the executive branch of the Government of the United States.

Congress, in the exercise of its plenary powers under the Territorial Clause also delegated its power over territories to the executive branch on February 20, 1929, through a joint resolution of Congress providing that, until legislation for the government of American Samoa and the Swains Islands was enacted, they were to be governed under the direction of the President of the United States, 45 Stat. 1253, 48 U.S.C. § 1661. Again, Congress ceded part of its authority when it established its sovereignty in the former trust territory that is now part of the United States, know as the Commonwealth of the Northern Mariana Islands ("CNMI"). By Public Law No. 94-241, March 24, 1976, Congress ceded its plenary powers under the Territorial Clause over the CNMI, by entering into a Covenant of Political Union at the same time that Congress acquired sovereignty over the island. As is the case with Puerto Rico, the United States Court of Appeals for the ninth Circuit has decided consistently that the relationship between the United States and the CNMI is governed by the covenant. See Commonwealth of the Northern Mariana Island v. Atalig, 723 F.2d 682 (9th Cir. 1984); U.S. ex rel. Richards v. De León Guerrero, 4 F.3d 749 (9th Cir. 1993).

Thus, the bipolar and black-and-white view that either the United States retain under the Territorial Clause full sovereignty over a territory or it does not, is mistaken.

In view of this history of judicial interpretations and United States Government official positions, we think it should be clear that Puerto Rico has achieved self-government and that its autonomy and sovereignty are equal to those normally attributed to a state.

It is therefore, a mistake to base this Bill on the assumption that the only alternatives of complete self-government are the ones included in the Bill. The Commonwealth created in 1952 is an alternative with dignity. It is not perfect, and can be expanded and modernized. The definition submitted by the Popular Democratic Party achieves the goal of respect to the Rule of Law and opens a process of negotiation to clarify and/or expand the present relationship. The concept of self-determination applies to the process of presenting the alternatives itself. The way this Bill is enacted does not comply with that rule. The Bill disqualifies the present state of the law without any participation of Puerto Rico. The final arbiter of these matters is the Supreme Court, as was announced to the United Nations. When Public Law 600 was approved by the Congress, the requirement of its acceptance by the People of Puerto Rico was dictated by Congress. That same procedure must be used now.

There is another aspect that should worry us all. The United States has been consistent year after year in the United Nations in its position that Puerto Rico's case is closed. The future development and greater autonomy of Puerto Rico is both necessary and desirable in a modern and changing world. However, it is a private matter between two sovereigns that are associated by a compact. The United Nations resolutions numbered 1514 (XV), 1541 (XV) and other resolutions require among other things the demilitarization of the territory. This applies to territories that have not achieved full self-government and are still under the jurisdiction of the United Nations. Puerto Rico is not such a territory, and arguing that it is, does not serve the best interest of either the United States or Puerto Rico. It is unnecessary and can be divisive

and risky. The enemies of the United States and Puerto Rico may try to influence this Congress to fall into that mistake.

The presentation of the alternatives presented in this bill does not satisfy a majority of the potential voters in a plebiscite. The interpretation of the existing relationship in this bill may provoke the need for the courts intervention to adjudicate the controversies created by the premises included in it.

Statehood is not good business for the United States and Puerto Rico, neither is good for our desire to be a distinct people and your needs to be a cohesive nation bound by your language, traditions and history. This differences have been recognized by the Supreme Court on several cases since the Insular Cases.

Puerto Rico is associated with the United States permanently, bounded by our many common interests. Any bill should take this into consideration. The Supreme Court has constructed the Constitution creatively when needed. Congress must act accordingly. We are sure Commonwealth will win a fair and just plebiscite. Let us create a procedure for the expansion and modernization of the compact, that would make the next generations of Americans and Puerto Ricans proud of this generation.

Ramón L. Velasco
President

PROELA

P.O. Box 2864
San Juan, Puerto Rico 00902

Statement of Luis Vega Ramos, President of PROELA, Committee on Resources of the U.S. House of Representatives Regarding H.R.856, the United States-Puerto Rico Political Status Act

Mayagüez, Puerto Rico
April 21, 1997

PROELA
P.O. Box 2864
San Juan, Puerto Rico 00902

April 21, 1997

Luis Vega Ramos
President and designated representative
PROELA
Tel. (787) 753-3748

Summary of Statement to the Committee on Resources of the U.S. House of Representatives Regarding H.R. 856 the United States-Puerto Rico Political Status Act

H.R. 856 must refrain from offering any territorial options. Not even as a transition to another status. The options to be included are Independence, Statehood and Free Associated State or *Estado Libre Asociado* in Spanish. This is what international and U.S. law provide for.

The options must be clearly defined in terms of economic and cultural consequences. This is particularly important in the case of statehood because we are a distinct Spanish-speaking nationality that won't assimilate easily.

Fair play forbids that two options have the same definition.

All Puerto Rican nationals must be allowed to vote.

H.R. 856 needs a quicker response and implementation mechanism.

Estado Libre Asociado **has** to be one of the options. But not as it is today. Instead, it must be included as it should be: **sovereign, clearly outside the Territorial Clause and associated to the U.S. only by means of a bilateral compact.**

The Popular Democratic Party calls for a *nuevo Estado Libre Asociado* to be based solely on Puerto Rican sovereignty. In terms of applicable law, that means free association.

There is no constitutional impediment for the inclusion --in the compact-- of U.S. citizenship guarantees for this and new generations of Puerto Ricans. Furthermore, dual citizenship provisions are viable under standing precedents. It's simply a question of political will.

DISCLOSURE REQUIREMENT FORM

1. Luis Vega-Ramos.

2. P. O. Box 2864, San Juan, Puerto Rico 00902.

3. (787) 753-3748.

4. PROELA

5. Juris Doctor, University of Puerto Rico School of Law; B.A. Liberal Arts & Social Sciences with a concentration in Political Science, University of Puerto Rico at Río Piedras.

6. No.

7. No.

8. President.

9. No.

10. No.

11. No.

PROELA
P.O. Box 2864
San Juan, Puerto Rico 00902

Statement of Luis Vega Ramos, President of PROELA, to the Committee on Resources of the U.S. House of Representatives Regarding H.R. 856, the United States-Puerto Rico Political Status Act
Mayagüez, Puerto Rico
April 21, 1997

PROELA is a civic organization that for twenty years has advocated in Puerto Rican, federal and international forums for the development of the relationship between Puerto Rico and the United States within the context of a bilateral compact of association.

We come before this Committee for the third time in as many years to urge the Congress to enact legislation leading to the final solution of the political status debate and to demand respect and recognition for the right of the Puerto Rican nation to self-determination, full decolonization and sovereignty. We sincerely hope that we have reached a stage where we have more Congressional appearances behind us than ahead of us.

Last year, we testified on H.R. 3024, a similar bill to the one that we are discussing today. On that occasion, we urged you to demonstrate fair play and goodwill in drafting the legislation.

Today, as we refer to H.R. 856, we add the following. Goodwill requires that you refrain from offering any territorial options. If you mean what you say --when you claim that you want to decolonize Puerto Rico-- you cannot offer neither the status of unincorporated territory, nor the incorporated kind. Not even as a transition to another status. These are simply not options of full self government.

The only options that can be included are Independent Republic, State of the Union and Free Associated State or *Estado Libre Asociado* in Spanish. This is what international law requires and what U.S. constitutional law mandates.

Goodwill also requires that all Puerto Rican nationals, regardless of where they live be allowed to vote. The right to self determination applies only to nations, not to random groupings of people. Puerto Rico is a nation and we demand that all of us have a say in this decision.

Fair play requires that the options are placed on equal footing and clearly

defined to the electorate in terms of economic, juridical, cultural and linguistic consequences. This is particularly important in the case of statehood because, as you should be aware, we are a distinct Spanish-speaking nationality that will have a strong aversion to assimilating into the American body politic.

Secondly, fair play requires that each option have it own definition. Two options cannot have the same definition. That would be misleading to the electorate and a negation of the self determination process.

Finally, both fair play and goodwill demand that a quicker response and implementation mechanism be included. We should not have to wait for decades and several votes so that our children or grandchildren finally know if the Congress is going to implement what we voted for. We congratulate the Administration and Congressman George Miller for their unequivocal stand on this issue.

For the specifics of our proposal, we direct you to the document ***Suggested Amendments on 105th Congress' H.R. 856*** , included as part of the testimony offered to you by Mr. Angel Ortíz-Guzmán, Esq.

As for our preferred option, we stated last year:

> Let us be totally clear. *Estado Libre Asociado* **has** to be one of the options. But not as it is today. Instead, it must be included as it should be: **sovereign, clearly outside the Territorial Clause and associated to the U.S. only by means of a bilateral compact.** Your willingness to include this legitimate option would be the clearest indicator of the seriousness of your offer.

We argued at that time that our proposal constituted the majority position of the pro-Commonwealth electorate. Recent events have confirmed our argument.

On March 15, the youth organization of the Popular Democratic Party (PDP) sponsored a consensus definition that was endorsed by prominent leaders of the party and by ourselves. This agreement constitutes the minimum parameters that are acceptable for all *autonomistas*. It should be the building block on which we erect a comprehensive offer of bilateral association to the People of Puerto Rico.

This definition, which we make part of our statement, clearly established the *nuevo Estado Libre Asociado* (new Free Associated State) as a formula based solely on Puerto Rican sovereignty. This has a clear implication for H.R. 856, since the options included in that bill are either U.S. sovereignty ones or Puerto Rican sovereignty ones. Let there be no mistake about it. The consensus within the PDP -- a consensus of which PROELA is a proud part of-- is for a sovereign Free Associated State connected to the U.S. only by means of a detailed bilateral compact.

In terms of international law and U.S. constitutional law, that means a full free association, which includes a guarantee of U.S. citizenship.

Much has been argued about the compatibility of a sovereign free association and the retention of U.S. citizenship by the Puerto Rican individuals that wish it and their offspring. Even former U.S. Ambassadors have let their opinions be known. We welcome the debate and look forward to its final adjudication.

In the last years we have done our homework and have found out that there is no legal or constitutional impediment for the inclusion of U.S. citizenship guarantees for this and future generations of individuals on Puerto Rico as part of the compact. Furthermore, the inclusion of dual citizenship provisions is viable and tolerated under long standing constitutional precedents and practices.

We submit a letter, prepared by our team of legal experts, that explains in great detail our proposal and that was recently sent to the Honorable Chairman. After considering its arguments, you will agree that Puerto Rican sovereignty and nationality, full self government and U.S. citizenship are compatible. It is simply a question of political will, not one of constitutional restraints. We urge Congress to adopt a policy that is permissible, sound and morally right.

On your shoulders rests a grave responsibility. H.R. 856 can be one more drummer in an endless march of follies. Or, if you let goodwill, fair play and respect to both our nations rule the process, this bill could still be the beginning of a beautiful friendship --and partnership-- between Puerto Rico and the U.S.

The choice is yours.

Muchas gracias.

PROPOSAL OF THE POPULAR DEMOCRATIC PARTY YOUTH
DEFINITION OF THE
NUEVO ESTADO LIBRE ASOCIADO
(NEW FREE ASSOCIATED STATE)

The new Free Associated State of Puerto Rico shall be a bilateral compact of permanent association between the people of Puerto Rico and the people of the United States.

This compact will recognize that the sovereignty of the people of Puerto Rico resides onto itself and, it will also establish, that the government of the United States will exercize control of those powers that are expressly delegated by the Puerto Ricans by means of a process of mutual agreement between the people of Puerto Rico and the United States.

The terms, conditions and benefits of the bilateral compact would not be alterable unilaterally by any of its signatories and, in the same manner it is established that any change in the relationship will have to be made by mutual consent. The applicability of federal laws shall be agreed upon by the terms of the compact.

The new Free Associated State recognizes, protects and guarantees the following areas:

- The permanence of the common currency, common market, common defense with the United States, and the irrevocability of the U. S. citizenship, making certain that it is insured to future generations.

- The existence of the Puerto Rican nationality with our own Spanish language and olympic autonomy.

- The people of Puerto Rico will mantain its fiscal autonomy making sure that special attention will be given to the protection of agriculture and to the implementation of of economic incentives that would permit the development of local and foreign industries on the island.

- The faculty so that Puerto Rico participates in international organizations, also having the power to subscribe agreements provided that these always comply with public policy national interests for both governments.

- The new Free Associated State will guarantee federal assignments to Puerto Ricans y the full participation in those programs in which, by our condition as U.S. citizens, we have right to.

In San Juan, Puerto Rico, on the 15th of March, 1997.

Ferdinand Pérez (signed)
President PDP Youth

The Honorable Severo Colberg Toro (signed)
Puerto Rican House of Representatives

The Honorable Carlos Vizcarrondo (signed)
Puerto Rican House of Representatives

Marco Antonio Rigau, Esq. (signed)
Former Senator of Puerto Rico

Luis Vega Ramos (signed)
President of PROELA

The Honorable Jorge De Castro Font (signed)
Puerto Rican House of Representatives

The Honorable Eduardo Bhatia (signed)
Puerto Rican Senate

The Honorable Roberto Vigoreaux (signed)
Puerto Rican House of Representatives

PROELA
P.O. Box 2864
San Juan, Puerto Rico 00902

April 17, 1997

The Honorable Don Young
Chairman
Committee on Resources
U.S. House of Representatives
Washington D.C, 20515

Dear Mr. Chairman:

This letter is in response to the one addressed to you by Ambassador Fred M. Zeder II dated March 19, 1997.

In his letter, Ambassador Zeder draws on his experience, which began in 1982, as a signatory on behalf of the United States of the Compact of Free Association with the Republic of the Marshall Islands, the Republic of Palau and the Federated States of Micronesia, to advise you on the nature of that political option.

We are aware of Ambassador Zeder's role on the adoption of the "Compact of Free Association Act of 1986". However, we invite you to also consider the views of Ambassador Peter J. Rosenblatt, who was the actual negotiator of the Compacts of Free Association, several years before Ambassador Zeder came in to sign them. Ambassador Rosenblatt expressed opposite views to those of Ambassador Zeder -- particularly on U.S. citizenship issues-- in a radio interview with WOSO from Washington the very same day of Ambassador Zeder's letter to you. We suggest that Ambassador Rosenblatt be invited to testify before you. But, in the meantime, we will expand on this letter on our views and the facts.

We thank Ambassador Zeder for being so kind to dedicate his (10-single spaced pages) letter to the proposal made by our organization as submitted to your Committee during hearings celebrated on 1996 on your H.R. 3024 bill.

The undersigned have researched and written several legal memorandums and law review articles that deal with citizenship issues relating the adoption of a free association model for Puerto Rico. Mr. Vega-Ramos wrote PROELA's "Bilateral Compact Analysis I: Implications on the U.S. citizenship status of Puerto Ricans in light of P.L. 103-417, 'The Immigration and Naturalization Technical Corrections Act of 1994' " (1995). Mr. Mariani-Franco, Esq. wrote PROELA's "Bilateral Compact Analysis II: Viability under U.S. constitutional and international law of a dual

citizenship arrangement between the federal government and the government of a non territorial Free Associated State" (1996). This two papers are already part of the Congressional record regarding last year's H.R. 3024. Mr. Ortíz-Guzmán, Esq. has authored two law review articles on the subject of free association for Puerto Rico. Revista Jurídica de la Universidad Interamericana de Puerto Rico, vol. XXVIII, núm. 1, p. 297; vol. XXIX, núm. 2, p. 37. Upon request, we would be able to submit a translation of those articles to the Committee. We are willing to discuss both international law and constitutional law issues with respect to the establishment of a Free Associated State relationship for Puerto Rico.

In responding to Ambassador Zeder's letter, we ask you to consider the following points:

1. The granting of the status of "citizens of the Trust Territory of the Pacific Islands" to people born on any of the islands encompassing the trust territory is **not** analogous to the recognition of the status of "citizens of Puerto Rico" under the terms of the Foraker Act which was on force between 1900 and 1917. 31 Stat. at L. 77. (Zeder at p. 2).

In the case of the trust territories, their citizenship followed the territory. In our case, the recognition of Puerto Rican citizenship by a federal statute followed our existence as a cultural and sociological nation. In fact, § 7 of the act recognizes the constitution of "a body politic under the name The People of Puerto Rico ...."

The citizens of the trust territory were conferred a citizenship of a unit that was artificially created by the United Nations --the Trust Territory of the Pacific-- and entrusted to the Government of the United States to administer and decolonize. They did not exist as a distinct people or sociological unit until the trust was created. In the case of Puerto Rico, Congress itself recognized the existence of a distinct sociological unit --called "The People of Puerto Rico"-- that preceded the concession of citizenship. This distinction is the key to the international and constitutional implications of free association for Puerto Rico.

2. We agree that the decolonization process of Puerto Rico began in 1952. We further agree that said process did not extend full equal citizenship with regards to the States of the Union nor full self-government within the federal constitutional system. We acknowledge and recognize the conclusion and the implications of the U.S. Supreme Court Decision on ***Harris v. Rosario,*** 446 U.S. 651 (1980).

That constituting the current legal reality, the international and constitutional recognition of Puerto Rico as a free associated state requires only that Congress exercise its Territorial Clause power "to dispose of the territory" (seemingly forgotten by Zeder at page 3, par. 5) in conjunction with the **simultaneous** exercise by the President of his foreign relations and policy making powers. This would be accomplished simply by the Presidential signing and approving of the Congressional Act that disposes of all territorial authority over Puerto Rico and establishes the terms of the compact of free association. Nothing else needs to be done.

3. Ambassador Zeder is simply wrong in arguing that such an exercise as the one described in the above paragraph would imply terminating U.S. citizenship in Puerto Rico. Under present law, specifically the "Immigration and Naturalization Technical Corrections Act of 1994" (hereinafter referred to as INTCA), after the withdrawal of U.S. sovereignty in recognition of the sovereignty of the Free Associated State, U.S. citizens can retain their citizenship and transfer it to their children and grandchildren by a simple and already enacted procedure of registering their claim to it.

4. When discussing "nationality and citizenship" in Free Associated States (Zeder, pp. 5-7), the Ambassador addresses the PROELA proposal specifically, and our citation of testimony presented to Congress when the Compact legislation was being considered.

We thank the Ambassador for recognizing that our citation of § 172 of the Compact of Free Association is accurate. Hearing Report, Subcommittee on Native American and Insular Affairs, Committee on Resources, H.R. 3024, San Juan, Puerto Rico, March 23, 1996, pp. 136-137.

Ambassador Zeder adds that our explanation of the official section-by-section analysis, which included a background explanation that addressed the issue of dual citizenship "correctly states U.S. law regarding dual citizenship" (Zeder at p. 6, par. 4), and that as it was specifically stated in said analysis **"[a] United States citizen who becomes a citizen of the FAS and who does not renounce his United States citizenship, would retain his United States citizenship and continue to be entitled to the same rights and privileges as any other United States citizen."** We agree.

The Ambassador further states that in the Free Associated States in the Pacific, a U.S. citizen who acquires dual citizenship by also becoming a citizen of the Free Associated States, will be treated under U.S. law **"in the same manner"** as a U.S. citizen who acquires a second citizenship in any other country. (Zeder at p. 6, par. 7 and at 7). We also agree.

5. We disagree, however, with Ambassador Zeder that our position, which he so clearly and accurately summarized, is misleading (Zeder at p. 7, par.1). We have never argued that said record created any new or special right. What we did --and continue to do now-- was submit to your Committee that the record recognized the juridical reality as it stands today both in international law and U.S. constitutional law. We simply presented evidence that our citizenship proposal under a compact for a Puerto Rican Free Associated State is legally and constitutionally viable under current U.S. and international law. Nothing more.

Contrary to Ambassador Zeder's argument, if the people of Puerto Rico vote to establish Puerto Rican sovereignty, Congress has the widest of latitudes to determine both the process and the terms of that transition. In fact, in the specific case of the adoption of a Compact of Free Association, the determinations of Congress constitute a non judicially reviewable political question. ***Matter of Bowoon Sangsa v. MIC,*** 720 F. 2d 595 (1983); ***Antolok v. U.S.,*** 873 F. 2d 369, 381 (D.C.

Cir. 1989). Therefore, Congress has no impediment to incorporate the existing INTCA into the terms of the compact, much in the very same way that it in the existing Compact of Free Association did with § 936 of the Internal Revenue Code .

The law of state succession (Zeder at p. 7, par. 2) does **not** apply here, since Puerto Rico has never been "part of" the United States but simply "appurtenant to", as the Insular Cases established at the beginning of the century. The People of Puerto Rico are neither succeeding nor seceding. We would be entering into a new type of arrangement in which Puerto Rico would be neither a part of nor a possession of the United States.

6. Having failed to make a valid international or constitutional law point, the Ambassador recedes into arguing the so called "legal inconsistency and political incompatibility of the PROELA proposal (Zeder at p. 7, par. 3, line 7).

As we have shown, our proposal is legally consistent and politically compatible with U.S. constitutional law and U.S. international practices.

We are not asking for a "citizenship right superior " to the one we were unilaterally granted in 1917. We are demanding respect for a citizenship right that we now enjoy, nothing more, but certainly nothing less. PROELA does not propose parity in federal programs, but the present level of federal funding in exchange for U.S. military presence.

What does this citizenship entail for Puerto Ricans on the islands. Besides, the key right to travel to and from the United States and the guarantee to earned rights (such as Social Security and Veterans' pensions) , not much more, except the right to transmit that citizenship to our descendants. The very same rights and privileges that any U.S. citizen is entitled to now regardless of the country where he or she chooses to be or was born into.

7. PROELA states unequivocally, with adequate legal basis for it, that virtually 100 percent of the population of Puerto Rico could keep the current U.S. citizenship, under the terms of the Compact of Free Association.

We are not asking for a Congressional grant of "dual" citizenship as part of the compact. Congress cannot grant Puerto Rican citizenship in a sovereign Puerto Rico. That would clearly be up to the Government of Puerto Rico. What we are arguing for is the preservation of the right of retention and reclamation of the U.S. citizenship that we now have and, furthermore, for the recognition of the right we also have as a people to determine Puerto Rican citizenship by our own constitutional processes and institution. In short, we are defending what we have.

8. The Ambassador invites us to consider temporary special citizenship rights as part of a transition process. We are forced to decline.

We insist, as recognized by the Ambassador himself (at p. 7, par. 6) , that once the existence of Puerto Rican citizenship and Puerto Rican sovereignty are recognized, the eligibility of Puerto Rican citizens for U.S. citizenship will be governed by the United States law, the applicable one being the aforementioned INTCA of 1994.

The selective application of the legislation governing the transfer of U.S. citizenship abroad, meaning that there would be a certain set of rules governing said procedure for U.S. citizens anywhere in the world and another more restrictive set of rules governing the same procedure for U.S. citizens in Puerto Rico, could face a valid constitutional challenge under the equal protection clause by individual U.S. citizens residing in Puerto Rico.

To force Puerto Rican citizens to choose between their God-given nature as a distinct people on one hand, and their current U.S. citizenship on the other, as Ambassador Zeder proposes (at p. 8) is not, as he claims, a "legitimate interest" of the United States, but rather a recognition that the granting of that citizenship in 1917 was a mistake and a stain on the moral international standing of the United States of America.

9. Congress, the Ambassador admits (at p. 9, par. 4) , has the discretion to enact in the Compact the "dual citizenship" rules that currently apply --as they were established by the Supreme Court on the case of ***Kawakita v. U.S.*** , 343 U.S. 717 (1951)-- which permit that a U.S citizen embrace another citizenship to which it is entitled by right of birth without losing its U.S. citizenship. If anything, the INTCA made this process a lot easier.

In fact, an official statement of policy of the State department on dual citizenship quotes the aforementioned case: "Dual nationality is the simultaneous possession of two citizenships. The Supreme Court of the United States has stated that dual nationality is 'a status long recognized in the law' and that 'a person may have and exercise rights of nationality in two countries and be subject to the responsibilities of both. The mere fact that he asserts the rights of one citizenship does not without more mean that he renounces the other', ***Kawakita v. U.S.*** , 343 U.S. 717 (1951)."

We are not talking about prospective "mass dual citizenship". We are talking about the existing one. Any other policy would be an arbitrary, capricious and punitive one directed towards a people who did not ask for what they were bestowed upon in 1917, and would constitute a crass violation of due process and equal protection rights. The adoption by Congress of a policy, such as the one suggested by Ambassador Zeder, would leave the door wide open to constitutional challenges that could potentially derail the whole decolonization process.

The establishment of a dual citizenship arrangement with the Free Associated State of Puerto Rico is a matter of policy; not an issue of constitutional limitations. This, in fact has been long recognized by the Department of State. Therefore, the question Congress should ask itself is what policy is better for the United States. Either one that creates new problems and the potential for endless litigation or, one that settles the issue, fairly and squarely to the mutual interest of the People of the United States and the People of Puerto Rico. To us, the answer seems obvious.,

10. In other words, when Congress exercises its power "to dispose of" a territory, its exercise of said powers constitutes "a political question" not subject to judicial review, as it has been concluded in the aforementioned ***Bowoon Sangsa v.***

MIC and *Antolok v. U.S.* Thus, if the proposal submitted to you by PROELA last year is incorporated into the terms of the compact, Congress would be establishing a statement of public policy that cannot be revoked by he courts. We urge you to do so.

We resent the statement made by Ambassador Zeder to the effect that we have taken liberties with the truth. That is simply not the case. Every single assertion made by us --both here and in the materials submitted to the Committee last year-- is supported by facts, statutory precedents, judicial decisions and statements of policy by the different branches of the U.S. Government.

Our organization, Mr. Chairman, urges you to join us in convincing the 535 members of Congress that PROELA's proposal is constitutionally and juridically viable and politically and morally correct.

We are willing and able to elaborate on these views when we testify next Monday on Mayagüez before your Committee.

We thank you for your kind attention to this letter.

Cordially,

Luis Vega-Ramos
President

Angel Ortíz-Guzmán, Esq.
Vice President and Legal Counsel

Raúl Mariani-Franco, Esq.
Board Member and Legal Counsel

Néstor Duprey-Salgado
Executive Director

DECLARACION DE PRINCIPIOS DEL
COLEGIO DE ABOGADOS DE PUERTO RICO
ANTE LA SITUACION COLONIAL VIGENTE
(HR 856; Committee of Resources)

Manuel Fermín ARRAIZA, Presidente
Colegio de Abogados de Puerto Rico
Apartado 9021900
San Juan PR 00902-1900
Tel. (787)721-3358

JUSTIFICACIÓN

Mi nombre es Manuel Fermín ARRAIZA y solicité comparecer a estas vistas públicas en mi capacidad de Presidente en funciones del Colegio de Abogados de Puerto Rico (PO Box 9021900, San Juan, Puerto Rico 00902-1900; Tel. (787)721-3358).

El Colegio de Abogados de Puerto Rico en la actualidad es creatura de ley (Ley #43 de 1932 (4 LPRA 771 et seg.) y su existencia y funciones han sido objeto de análisis judicial, con resultados positivos (Ex Parte Jiménez 55 DPR 54) (In Re Bosh 65 DPR 248).

Estas vistas públicas son de interés para el Colegio de Abogados de Puerto Rico ya que, aparte de su origen político, tiene implicaciones jurídicas definitivas y consecuencias vitales de trescendencia histórica para todos los puertorriqueños.

No es nuestro interés defender una fórmula particular de definición política para nuestra patria. Nuestro interés es que se establezca un sistema sustantivo y procesalmente aceptable para la necesaria descolonización de Puerto Rico. No creemos que pueda alguien defender con seriedad que Puerto Rico no es una colonia de Estados Unidos de América.

Ni el Colegio de Abogados de Puerto Rico ni este que les habla, recibe fondos federales para su subsistencia, ni nos dedicamos al cabildeo. No somos agencia del estado, ni tenemos contratos con los Estados Unidos de América.

El Colegio de Abogados de Puerto Rico es una institución plural, amplia, donde todo el espectro político-partidista y no partidista tiene voz y voto. Nuestras expresiones de hoy tienen una trayectoria histórica que se remonta a 1944, y son la expresión oficial del Colegio de Abogados de Puerto Rico, dato comprobable por la data del Apéndice.

DECLARACION DE PRINCIPIOS DEL COLEGIO DE ABOGADOS DE PUERTO RICO ANTE LA SITUACION COLONIAL VIGENTE

La mejor prueba de que Puerto Rico es una colonia de Estados Unidos de América es que tengamos que estar hoy aquí, bajo las condiciones que se explican en la carta de invitación. Es prepotente, paternalista y de condescendencia repudiable.

Conceder cinco minutos a una institución civil que desde 1944 se ha manifestado públicamente en términos institucionales no menos de veintiseis (26) veces es una falta de respeto. Pero reconocemos que el respeto no es la característica dominante de la metrópoli con la colonia.

El Colegio de Abogados de Puerto Rico no tiene preferencias sobre una solución particular al status nacional: el Colegio de Abogados de Puerto Rico NO QUIERE LA COLONIA, y aboga por un estado jurídico-político digno para nuestra comunidad, libremente escogida por los puertorriqueños y que cumpla con los requisitos mínimos sustantivos y procesales que son satisfactorios en Derecho Internacional y política contemporánea.

Debo repetir hoy el angustiado e indignado clamor de nuestro presidente, Lcdo. Carlos Noriega, en 1993 ante las Naciones Unidas: "Señores, quinientos años de coloniaje es mucho coloniaje. ¿Hasta cuando?"

En esencia, el planteamiento procesal que propone el Colegio de Abogados de Puerto Rico es que un órgano deliberativo libremente electo por los puertorriqueños y con representación del universo ideológico político, formule una propuesta específica para ser negociada con los Estados Unidos en plano de igualdad soberana. Es y debe ser así ejercido, el derecho del Pueblo de Puerto Rico escoger sus delegados, decidir las fórmulas y fijar los lapsos y el tiempo para la negociación, sin imposiciones externas al Pueblo de Puerto Rico, todo ello conjugado armónicamente con la Resolución 1514 (XV) de la Asamblea General de la Organización de las Naciones Unidas.

Difícilmente podrá conseguirse en el hemisferio americano una institución que haya defendido con mas gallardía que el Colegio de Abogados de Puerto Rico el sistema democrático de gobierno, el gobierno republicano, el estado de derecho, los derechos humanos y constitucionales, la Justicia y la Paz. Precisamente de todo esto es que trata la descolonización, que agravia al que la sufre y baldona al que la impone y sostiene. El colonialismo, como la esclavitud y el apartheid, no tienen justificación en el día de hoy.

No puede encubrirse mas la situación del Pueblo de Puerto Rico con medias verdades y fórmulas ilusorias y vanas. No traten de engañar al mundo libre, no pretendan sostener el sofisma que plantearon a la ONU. Es obligación del Congreso de los Estados Unidos propiciar el cambio definitivo de Puerto Rico desde la ignominia de la conculcación a la dignidad de la libertad buscada y asumida fervorosamente. Ser colonia del gobierno mas

poderoso del mundo no es honor, es una deshonra para ustedes y motivo de pudor para nosotros. Puerto Rico no es una "cosa", es un pueblo formado y con identidad propia. Puerto Rico no es objeto de comercio entre las naciones, Puerto Rico tiene su personalidad, y como lo que es, debe negociar su futuro con sus iguales. El espectro vergonzoso del Tratado de Paris y los Casos Insulares todavia indignan a las conciencias libres.

Las Naciones Unidas señalaron la década de 1990-2000 como la Década de Descolonización. Puerto Rico, mi patria, es una nación que no ha ejercitado a plenitud de derecho su inalienable vocación a la autodeterminación. Ustedes, Congreso de los Estados Unidos de América, tienen la obligación moral y política de propiciar ese ejercicio. No les pedimos un favor, les exigimos un derecho. No queremos por caridad lo que merecemos en Justicia.

APENDICE

Documentos oficiales del Colegio de Abogados de Puerto Rico relativos a la descolonización

1. Informe sobre el problema político de Puerto Rico (1944).
2. Informe sobre los requisitos mínimos esenciales sustantivos (1963).
3. Informe sobre las relaciones jurídicas entre Puerto Rico y Estados Unidos (1973).
4. Informe sobre la descolonización de Puerto Rico (1973).
5. Informe sobre un nuevo pacto entre Puerto Rico y Estados Unidos (1975).
6. Informe sobre los requisitos procesales esenciales para la decolonización de Puerto Rico (1977).
7. Informe sobre la descolonización y la libre determinación del Pueblo de Puerto Rico (1978).
8. Informe sobre la descolonización y libre determinación del Pueblo de Puerto Rico (1979).
9. Informe sobre la descolonización de Puerto Rico (1980).
10. Informe sobre la situación del proceso de descolonización y la inclusión del caso de Puerto Rico en la agenda de la Asamblea General de las Naciones Unidas (1981).
11. Informe sobre Puerto Rico y su inclusión en la agenda de la ONU (1982).
12. Informe sobre Puerto Rico y su inclusión en la agenda de la ONU (1983).
13. Informe y recomendaciones sobre una consulta para una Asamblea Constituyente sobre las relaciones de Puerto Rico y Estados Unidos (1985).
14. Informe sobre el Pacto de Libre Asociación de las Islas Manshall y Micorenensia con E. U. A. (1985).
15. Informe sobre dos nuevas iniciativas constitucionales ante la ONU (1985).
16. Ponencia ante el comité del Interior y Asuntos Insulares (1986).
17. Declaración del Colegio de Abogados de Puerto Rico sobre los proyectos del status (1989).
18. Comparecencia ante la ONU (1989).
19. Ponencia ante el Comité de Descolonización de la ONU (1990).
20. Ponencia ante la ONU (1991).
21. Ponencia ante la ONU (1992).
22. Comparecencia ante la ONU (1993).
23. Comparecencia ante la ONU (1994).
24. Statemente before Mr. Young (1995).
25. Comparecencia ante la ONU (1995).
26. Comparecencia ante la ONU (1996).

HECTOR REICHARD DE CARDONA, ESQ.

CHAMBER OF COMMERCE OF PUERTO RICO

100 TETUAN STREET
PO BOX 9024033
SAN JUAN, PR 00902-4033

Tel. (787) 721-6060
Fax. (787) 723-1891

HECTOR REICHARD DE CARDONA, ESQ.

CHAMBER OF COMMERCE OF PUERTO RICO

100 TETUAN STREET
PO BOX 9024033
SAN JUAN, PR 00902-4033

Tel. (787) 721-6060
Fax. (787) 723-1891

The Plebiscite Process

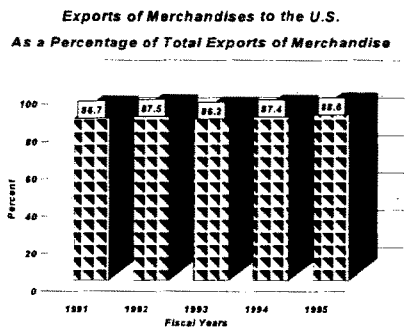
The plebiscite process should be dealt on its own merits. It should not be mixed with the normal electoral process. Voters have to be able to focus upon the status issue, apart from any distractions and confusions with other issues. The plebiscite process should be separate and apart from the normal electoral process. In consequence, the plebiscite should be held in 1998, two years prior to our normal elections.

All political parties in the Island have different positions with regard to their desired solutions to the status question. Indeed, each one of them uses the status as the principal issue in their political platforms and as their main identifier. As a result, the issues of governance and administrative policies are mingled in the electoral process with those related to the status and the type and form of future political relations between Puerto Rico and the United States. This situation creates confusion among voters, obscuring their ability to focus on the real issues to be decided at each electoral process.

The status question is an ideological and emotional issue, becoming one of the most divisive issues in Puerto Rico. Too many human and economic resources have been spent in debating this issue. Moreover, the status uncertainty and the recent plebiscite processes create uncertainty among present and potential investors. Uncertainty is an enemy of economic prosperity; therefore, this uncertainty should be resolved as quickly as possible. Neither Congress nor the Puerto Rican people should wait another century to decide this issue. Once the status question is resolved, efforts could be more efficiently channeled to deal with the various social and economic problems of our society.

It is clear that a final solution on this issue is of foremost relevance for the future of our people. At a plebiscite we will be deciding not only our future, but also the one for the generations to come. The long-term performance of the status question requires that voters be well-informed on the consequences of their decisions. Before Puerto Ricans are asked to mark their status preference on the plebiscite ballot, it is necessary to clearly spell-out the cultural, political and socioeconomic consequences of each political status. Each status alternative to be presented to the will of the people must be accurately defined, incorporate terms and conditions fully acceptable to Congress, and be explained in a manner so the people can understand the implications of each status option. The information transmitted to the people should be based upon accurate and unbiased data.

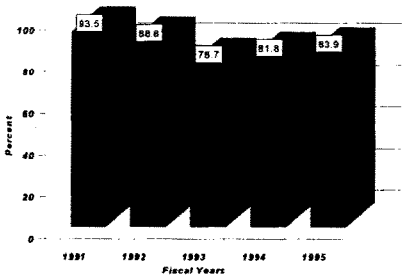
In this connection, the Chamber of Commerce is deeply concerned with the consistency of the data that federal agencies have presented in the past about the consequences, costs and benefits of each status alternative. Even objective issues are veiled by confusion, caused by data produced on different basis. Different and contradictory statements have been issued about the nature of our American citizenship. A recent GAO report on the implications of federal taxation under statehood indicates that its estimates for federal taxation of personal income are merely gross computations. The same report refuses to estimate corporate income tax liability, and totally skips the question of federal excise taxation. That kind of information is not only confusing, but it also



Source: P.R. Planning Board

contributes to misinform. Hereby we offer the resources of our institution to help in obtaining additional information about the socioeconomic consequences of each status alternative to supplement what has already been produced, and what needs to be produced in order to allow the people to make an informed decision.

The legislation that your Committee will develop for this process should delineate each step and action in this process, the participating institutions for each step in the process, and, very importantly, the responsibility and role of each participant at each step. Our institution believes that the private sector must have a role and a consequent responsibility in this important undertaking. Political parties should welcome the private sector's contributions to this process. Your Committee should encourage a broader participation among Puerto Rican institutions to complement the contributions of political parties.



Source: P.R. Planning Board

The Outcome and Its Transition

1. The Transition

Puerto Rico's economy has been directed and structured on the basis of its present status. Our economy has achieved a high and increasing degree of integration to the U.S. economy. It should be noted that, on the average, 89 percent of our exports of merchandises go to the U.S. market, and that exports of merchandises represent about 84 percent of our local GNP. Most of our imports come from the continental U.S., and our financial markets are totally integrated to the national market. The capital stock of Puerto Rico, which has been slowly built up over the past years, has been put in place based upon our existing political relationship with the U.S. It cannot change overnight. To do otherwise risks grave dislocations and suffering for the people of Puerto Rico if the change is not accompanied with countervailing measures.

Our tax structure is based upon present economic conditions, as any tax system ought to be. Any change in the status will require a major restructuring in taxation. A drastic and fast change in the local tax system could destabilize the whole economic fabric, and dislocate economic relations.

Whatever alternative is democratically chosen by the people of Puerto Rico will probably result in economic adjustments and could entail sacrifices on our part. Private enterprise is ready to shoulder its responsibility; however, even in times of budgetary restrain, Congress should be sensitive to our needs and economic realities. Self-sustained economic development can only be achieved through a long term process. With your help, and a great deal of work on our part, we are confident that we can achieve our mutual goal of human progress for the people of Puerto Rico. But an adequate transition period is necessary. It ought to be designed in all relevant details and informed to the people before they are asked to choose.

2. U.S. Citizenship

We are American citizens since 1917, accepting with honor the responsibilities of such citizenship. Our gallant participation in U.S. wars and conflicts from World War I to the Desert Storm Operation is clear evidence for this point.

Various federal officials have lately issued confuse and contradictory statements about the nature of our citizenship and of its future under different status options, including the present one. We feel that Congress has the moral duty to state without ambiguity what will be the situation of present U.S. citizenship of the Puerto Rican people, and of our children, under each status alternative. A clear expression from Congress is necessary to spell out the confusions created by federal officials, and for Puerto Ricans to make appropriate decisions.

3. Federal Tax Treatment of U. S. Corporations

Our industrialization program has been developed on the basis of preferential federal tax treatment of U.S. corporations doing business in Puerto Rico. Drastic modifications made in 1993 and 1996 to Section 936 severely eroded that industrialization strategy, not only because tax benefits were diminished, but also because they created uncertainty about the stability of federal policies toward Puerto Rico. Since uncertainty is a formidable enemy of productive investment and economic growth, we now face more difficult conditions to promote prosperity for our people.

No matter if Puerto Rico chooses to maintain the present commonwealth status, or to become a state or a republic, there is a common interest in promoting the economic development of the Island. We obviously want to prosper. It is not in the best interest of the United States to have a pauper possession, state or a republican neighbor. Over the

past half century Puerto Rico has made, with the assistance of the federal government, big efforts to promote its economic growth. We have worked hard, and achieved great improvements in economic conditions. But more efforts are needed to reach the goal of economic development. Even the status quo should be regarded as a transition from poverty to progress, and our economic strategies are designed from this perspective. Any change in status has to provide instruments to achieve our common goal of economic development.

It is important for Congress to realize that any successful transition requires an efficient instrument. For that reason, we actively support the efforts of private organizations and of the Government of Puerto Rico to enhance Section 30A, to make it an efficient and effective instrument for transforming this Island into a developed and prosper economy. At the very least, Congress ought to clearly state what will be the federal tax treatment to U.S. corporations under each status formula, as well as under the corresponding transition periods, including the period of time for which the corresponding tax treatment is guaranteed.

4. Federal Tax Treatment to Residents and Local Business

People know that the local tax system will have to be adjusted if there is a change in status. We all realize that the present tax structure is consistent with existing conditions, and that any transformation in conditions, as it will be the case if the political status is changed, will result in deep modifications in taxation. The problem is that no reliable information has been produced about how those changes might be.

The role, functions and activities of government differ under each status formula. In a state, the U.S. federal government is in charge of many activities that, at present time, are the responsibility of local authorities, and federal taxes will be levied on local residents. In a republic, all or most of the activities actually performed by the federal government in Puerto Rico will be transferred to the local government, and it won't be subject to federal laws and regulations. Both scenarios drastically change the needs and tax handles for government financing. Transformations of that nature cannot be done overnight without a grave risk of serious economic dislocation.

We know of no serious study to document and analyze this most important aspect. It is unfair to ask people to choose between status options and do not tell them the consequences of their possible decisions. At the very least, Congress ought to clearly establish which will be the federal tax treatment to residents under each status, as well as during the different stages of each transition period.

5. Access to U.S. Commercial and Financial Markets

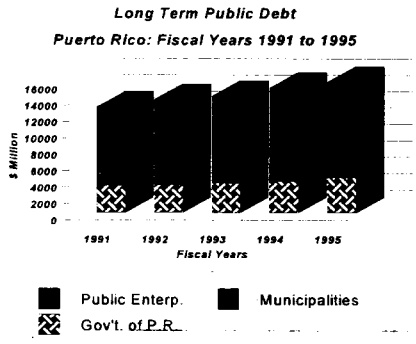
Over the past century Puerto Rico integrated its economy to the U.S., with obvious mutual benefits. It has been already shown that 89 percent of our exports of merchandise

are sold in the U.S., and that we depend upon external trade for our economic survival, since exports of merchandise account for 84% of our local GNP. Our monetary and financial systems are also totally integrated to the U.S. Most of our productive and infraestructural investments are financed with funds lent from U.S. individuals and institutions, while Puerto Rican savers hold some $20 billion in assets issued by the federal government and private U.S. institutions.

Any modification in the status quo will have consequences in our economic organization. These effects ought to be clearly identified, and measures designed to take advantage from favorable opportunities and to minimize any adverse effect. Again, limited information has been produced at this respect. Here is necessary to clarify what will be the terms and conditions for Puerto Rico's access to the United States commercial and financial markets under each status formula, including what will be its position with respect to present and future trade agreements that the U.S. engages with foreign countries.

6. Access to Foreign Commercial and Financial Markets

The ***New Economic Model*** of the Government of Puerto Rico is predicated upon the diversification of our economy. It calls for promoting growth in all industrial sectors, to reduce our dependency on manufacturing, as well as for the diversification of export markets and sources of investment funds. Such policy is consistent with U.S. interest in reducing its trade deficit.

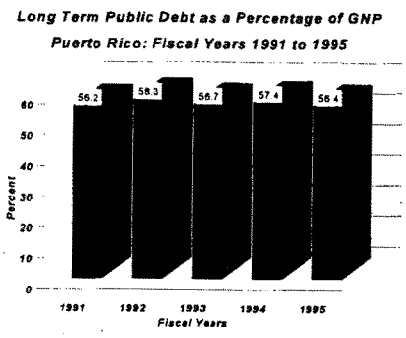


Source: P.R. Planning Board

A change in status would modify conditions for the implementation of this economic model. In order to know what modifications we will have to make in our economic strategies, it is necessary to know which will be the conditions and restrictions to Puerto Rico's access to foreign commercial and financial markets under each status formula, as well as the market penetration of foreign goods in our economy.

7. Long Term Public Debt

The topic of the long term public debt under each status formula is important by itself, as well as in relation to the design of modifications in our tax structure. Our long term public debt has been issued to finance investments in the infrastructure. Many of these investments are responsibility of the federal government in the states of the Union. On the other hand,



Source: P.R. Planning Board

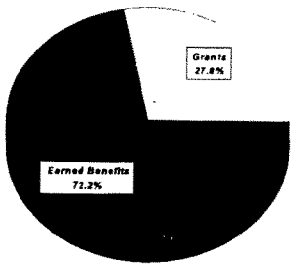
some of these investments were made to comply with federal laws and regulations, and they would have been unnecessary in a republic. Also, in a republic, the design of the projects does not have to follow federal regulations, and construction costs would have been lower, diminishing the amount needed for debt financing.

Long term public debt represents 57 percent of Puerto Rico's GNP. Given the tax handles presently available, the Island has no problem in paying for the service of that debt. But with a change in status, the government's ability to raise revenues will also change, and adjustments have to be made to recognize that fact.

Also, Puerto Rico needs to continue its present aggressive program to enhance its infrastructure. That is essential for the competitiveness of our economy. It is, therefore, necessary to know if there will be any constrain for issuing new public debt under the transition periods of the different status formulas.

8. U.S. Transfers

The issue of federal transfers if another that should be properly addressed before the Puerto Rican people is asked to make a decision about the status. Federal transfers to individuals totaled $6,594 million in fiscal year 1996, accounting for 30.6 percent of personal income in the Island. Of these transfers, 72.2 percent were earned benefits, such as social security pensions and veterans benefits. It is essential for the people to know about what will be the amount and terms of U.S. transfers to Puerto Rico under each status option. That information is vital for the persons to make an informed decision. Particular attention has to be paid to what is going to happen to contributions that Puerto Rico make to earmarked funds, such as Social Security, Medicare, Unemployment Insurance and the FDIC, among others.



9. Travel and Migration

Almost all families have close relatives living in the continental United States. For family ties to be maintained, it is necessary to keep unrestricted travel between the U.S. and Puerto Rico.

Migrations of Puerto Ricans to the continent happened as a derived effect of U.S. citizenship and of high unemployment and low income levels in the Island. In consequence, the issue of migration is related to the previously mentioned of U.S. citizenship and economic development, but has a humanitarian dimension by itself. Hence, voters must know conditions for travel and migration between Puerto Rico and the United States under each status alternative.

Final Remark

Should it become apparent that, for whatever reason, these basic concerns about the plebiscite process cannot be properly addressed for 1998, and the Puerto Rican voters cannot be afforded the opportunity to make an informed decision in selecting among the status options at that time, the plebiscite should not be held in 1998. The plebiscite ought to take place only when sufficient information is available to each voter, so he can make an informed decision at the earliest possible date that does not coincide with the regular electoral process.

Exhibit 1

Resolution # 1

PUERTO RICO POLITICAL STATUS

WHEREAS: A proposal from Congressman Don Young is under the consideration of Congress to establish mechanisms that will define the status and political relationship between Puerto Rico and the United States.

WHEREAS: The decisional process with respect to the design of the mechanism that will be used to redefine the status will be accelerated in the coming months.

WHEREAS: The results of a plebiscite with respect to the political status of Puerto Rico will have serious economic consequences and will affect the coming generations of our country, as well as the quality of life and the development of private enterprise.

WHEREAS: The Chamber of Commerce of Puerto Rico represents all sectors of the private enterprise and groups entrepreneurs with different opinions with respect to the political relationship that should exist between Puerto Rico and the United States.

WHEREAS: This Institution supports that the electoral process on any plebiscite with respect to Puerto Rico's political status must guarantee the most complete discussion and the most objective analysis to maintain a debate that will stimulate the maximum participation of the Puerto Rican electorate in the expression of their preferences.

THEREFORE: Be it further decreed that the Chamber of Commerce of Puerto Rico, in its Annual Assembly of June 22, 1996, has agreed to make the efforts deemed necessary to:

1- Participate in all those hearings required to ascertain that the conditions to maintain our economic progress and development of private enterprise are safeguarded regardless of the political status that prevails at the end.

2- Request from the political leaders to maintain a high quality debate to promote a more ample participation of the electorate based on the real options.

STATEMENT OF ROBERT UNDERWOOD

COMMITTEE ON RESOURCES
HEARING ON HR 856
PUERTO RICO
APRIL 19, 1997

Good morning and thank you, Mr. Chairman, for the opportunity to be here in Puerto Rico. Today and on Monday, the Committee will hear from representatives of various points of view and from all segments of Puerto Rican society about the most fundamental issue any people can deal with - their political future. The seriousness of the issue is underscored by the attention given to the hearings here in Puerto Rico and, of course, the spirit of the people as reflected by the highly demonstrative demonstrations.

The process of conducting Congressional hearings depends upon a sense of fairness and commitment in the leadership of the Committees which conduct those hearings. I am pleased to acknowledge the leadership of this Committee - the Chairman, Don Young, and the Ranking Member, George Miller - that while they rarely agree on many important issues before the nation, that they agree that Puerto Rico deserves a fair hearing in Puerto Rico. This is a level of committment which not only reflects well upon the leadership of the Committee, but the importance and seriousness of the issues which we will be confronting.

El Proyecto Young as it is reported here in the press is in reality part of a larger project all of us continue to labor in. All of us are participants in the great American project - the project of perfecting democracy. The project continues whether the issues before us are about racial injustice, ethnic division, equal opportunity, the appropriate relationship between states and the federal government and, as it is today, the relationship between a federal government and an appendage to that government.

In the case before us today, that appendage is Puerto Rico. In its existing form, the Commonwealth of Puerto Rico is described in various ways depending upon one's vision for the future. It is a colony, it is a unique status, it is a unique colony, it is a freely associated state, it is a nation awaiting deliverance, it is a people seeking first class citizenship. It is not for me to decide; that is for the people of Puerto Rico to decide in concert with the federal government. I think our responsibility as a Committee is to ensure that the process which is ultimately developed allows for fairness and closure.

It should be a process which does not move the people to a

choice out of desparation or out of frustration and it should be a process in which the options are clear and direct, at least on the ballot. We can leave it up to elected officials later during campaign season to mischaracterize each other's position. And it should be a process which leads to change, if this is the desire of the Puerto Rican people. This is why the federal government's responsibility to act must be stated in unequivocal terms so that the process does not itself lead to more frustration and uncertainty. The federal responsibility must be consistent with a modern, 21st century understanding of decolonization and it must lead to a process which forces expeditious action.

My role in this process is unique. I represent an island which is seeking resolution of its own political status. I share more in common with the Resident Commissioner than with other members of the House of Representatives. I represent an island which came under the U.S. flag through the Treaty of Paris ending the Spanish-American War. In the March hearing in Washington, Governor Rosello stated that Puerto Rico has been a colony longer under the U.S. flag than anyone else; not exactly. Guam was invaded by U.S. Marines in June 1898; Puerto Rico's experience came a month later.

Due to our similarities as historical appendages to the federal bodypolitic and due even to our common colonization by Spain (which dates back 325 years for Guam), I feel a special responsibility not to evaluate the efforts of the Puerto Rican people; but instead to facilitate the aspirations of the people to move towards the full decolonization of their homeland. I believe the committee comes to this hearing with open hearts as well as open ears.

○