REPORT BY THE PRESIDENT'S TASK FORCE ON PUERTO RICO'S STATUS

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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OVERSIGHT HEARING ON "THE REPORT BY THE PRESIDENT'S TASK FORCE ON PUERTO RICO'S STATUS."

Thursday, April 27, 2006
U.S. House of Representatives
Committee on Resources
Washington, D.C.

The Committee met, pursuant to call, at 10:05 a.m. in Room 1324, Longworth House Office Building, Hon. Richard W. Pombo [Chairman of the Committee] presiding.

Present: Representatives Pombo, Rahall, Duncan, Fortuño, Drake, Flake, Gibbons, Jones, Grijalva, Bordallo, Napolitano, Mark Udall, Faleomavaega, Christensen, Cardoza, Young, McMorris, Inslee.

Also present: Representatives Burton, Wicker, Weller, Serrano, Gutierrez, Velázquez, Lincoln Diaz-Balart, Kennedy, and Dent.

STATEMENT OF THE HON. RICHARD W. POMBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

The CHAIRMAN. The Committee on Resources will come to order. I ask unanimous consent that the gentleman from Indiana, Mr. Burton, the gentleman from Mississippi, Mr. Wicker, the gentleman from Illinois, Mr. Weller, the gentleman from New York, Mr. Serrano, the gentleman from Illinois, Mr. Gutierrez, the gentlewoman from New York, Mrs. Velázquez, the gentleman from Florida, Mr. Diaz-Balart, the gentleman from Rhode Island, Mr. Kennedy, and the gentleman from Pennsylvania, Mr. Dent, be allowed to sit on the dais and participate in the hearing.

Hearing no objection, so ordered.

The Committee is meeting today for an oversight hearing to receive testimony on the Report by the President's Task Force on Puerto Rico's Status. Under Rule 4[g] of the Committee Rules, any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member. This will allow us to hear from our witnesses sooner and help Members keep to their schedules. Therefore, if other Members have statements, they can be included in the hearing record under unanimous consent.

On behalf of the full Committee, I would like to welcome everyone in attendance today and especially our witnesses. We are also fortunate to have with us on the dais numerous Members that

currently do not serve on the Committee yet have a particularly strong interest in the issues that relate to Puerto Rico.

The nearly four million people living on Puerto Rico and the millions that have settled in various parts of the continental United States are represented by Members all over the country, from New York to Florida and elsewhere. Thus, some Members have a strong and vocal constituency in their districts, while others with us today know well the long history the United States shares with the island that date back to 1898.

It is difficult to deny that the debate over Puerto Rico's political status is one that truly permeates the entire Puerto Rican culture. There are clear differences between the political parties and the voting populace in Puerto Rico on what path to a more defined status is best or what outcome is most advantageous. Still Puerto Ricans living on the mainland United States or on the islands remain steadfast, united on one fact—their voices must be heard, and action should be taken regarding this debate.

These two aspirations seem reasonable enough, though we have seen the passage of time with Presidents Reagan, George H.W. Bush, Clinton, and the current Administration grapple with the best form by which to reflect the will of the people. This oversight hearing represents one of the first substantial steps on this issue in Congress since multiple major actions in 1998 when Don Young was Chairman of the Committee.

The impetus for this hearing is the Report by the President's Task Force on Puerto Rico's Status, which was released a few days before Christmas last year. The Task Force was formed under an Executive Order by President Clinton in 2000, and this document will be very helpful to both inform and reenergize discussion. It represents a constructive contribution to this debate as it provides Congress with findings and self-determination procedures that are stated to be compatible with the Constitution and decision of our courts.

Further, the report gives a short history of the relationship between the U.S. and Puerto Rico while formally offering recommendations to Congress concerning political status options. Congress has the primary authority and responsibility to weigh and legislate status options that the body will accept as legally valid. To that end, our hearing today will be a crucial step in analyzing the status debate in light of the report's findings.

The necessary goal of this committee and Congress generally is to decide what the most prudent form of an educated, informed, self-determination process should emerge. That is the only way we can empower the people living in Puerto Rico to exercise their right to be the linchpin of this debate.

I thank the witnesses for coming, and I look forward to their testimony. At this time, I would yield what remains of my time for a short statement from the Resident Commissioner from Puerto Rico, Mr. Luis Fortuño, so that he may welcome the witnesses providing testimony here today. Mr. Fortuño.

STATEMENT OF THE HON. LUIS G. FORTUÑO, A DELEGATE IN CONGRESS FROM PUERTO RICO

Mr. FORTUÑO. Thank you, Mr. Chairman. I want to thank Chairman Pombo for his leadership in holding this hearing today, only four months after the President's Task Force on Puerto Rico's Status issued its long-awaited report. I also wish to thank Ranking Member Rahall for his cooperation and commitment in making this a truly bipartisan effort. I also want to extend my greetings to all my fellow members in the Resources Committee present here today and to my colleagues who have honored us with their presence at this historic hearing.

I would like to recognize and thank all the distinguished witnesses who have traveled to our nation's capital to testify today at this hearing, including three previous Governors of Puerto Rico and the representatives of all the major political parties from Puerto Rico.

I want to express my deep, personal gratitude to the 106 Members of this Congress, especially my fellow Puerto Rican, José Serrano, that have joined me in fighting H.R. 4867, which seeks to implement the recommendations of the Task Force report so that the U.S. citizens of Puerto Rico may, for the first time in 108 years, move directly in a federally sponsored plebiscite under individual status preference.

I am humbled by the support of my colleagues and my constituents in Puerto Rico to my proposal. I also want to thank Senators Martinez and Salazar and the other nine bipartisan cosponsors who yesterday filed S. 2661, companion bill to H.R. 4867, the Puerto Rico Democracy Act of 2006. We are honored to have the Senators share our commitment to grant Puerto Ricans for the first time in our history the opportunity to express their status preference by a direct vote in a federally sponsored plebiscite.

The Task Force was created by Executive Orders of President Bill Clinton and President George W. Bush. The mission of the Task Force was to provide options for Puerto Rico's future status or relationship with the government of the United States. The report was developed without prejudice toward any particular status option and has developed options that are compatible with the U.S. Constitution and the basic laws and policies of this great nation.

Different views and positions adopted by the Task Force have been objectively determined. Those individuals who now criticize this effort of the Task Force only reflect their personal opposition or ideology. I would find it impossible to prove specific claims to factual, Constitutional or legislative errors in the report. Again, thank you Chairman Pombo and Ranking Member Rahall for holding this hearing today.

[The prepared statement of Mr. Fortuño follows:]

Statement of The Honorable Luis Fortuño, a Delegate in Congress from Puerto Rico

I want to thank Ranking Member Nick Rahall for yielding some of his allotted time to me, and for making an emotional reference to the patriotism demonstrated by the people of Puerto Rico in defense of our great Nation. Thank you!

It is mostly about what Ranking Member Rahall has just stated. I will make various statements in support of the Task Force Report on Puerto Rico's Status and of the reasons why we should have a federally sponsored plebiscite in Puerto Rico,

but nothing is truly more important than the patriotism of the Puerto Rican men and women who have served with honor and distinction in every war since we became citizens of the United States in 1917, 89 years ago. Puerto Ricans have fought in defense of our Nation, and the democratic principles of freedom for which it stands, since World War 1. They have fought, and many have made the ultimate sacrifice, on the battlefields of Europe and Africa, the Pacific and Korea, Vietnam and the Middle East, and recently in Afghanistan and Iraq. I regularly visit our wounded at Walter Reed, and am honored to witness first-hand their dedication and love for our Nation.

We have made a disproportionate contribution to our current effort on the War on Terrorism. We have earned our keep, and we deserve congressional consideration of our request for a fair and legitimate process to exercise our right to self-determination.

I want to state this very clearly, I am in full agreement with the conclusions and recommendations of the President's Task Force Report on Puerto Rico's Status. As a result of this, I have limited myself, in H.R.4867, to following the recommendations of the Task Force Report. It is ironic that critics of the Report have stated that it is stacked in favor of statehood, yet I have been criticized in my District for not filing a "statehood bill", and limiting myself to setting up a "democratic process" where the people of Puerto Rico could express their individual status preference. It is ironic that the Report has been labeled as "stacked in favor of statehood", and yet we will hear testimony today from the representatives of the Puerto Rico Independence Party supporting most of the conclusions of the Task Force Report.

In this very brief statement, I want to address some of the most frequent concerns or questions raised by my congressional colleagues, when we converse on the issues of the Task Force Report, the status of Puerto Rico, and H.R. 4867.

The most frequently asked question by my colleagues is: why do we need to deal with this? The Treaty of Paris, which formally ended the Spanish-American War on December 10, 1898, resulted in Spain relinquishing Puerto Rico, among several other territorial holdings, to the United States. Puerto Rico has remained under the sovereignty of the United States, under the Territorial Clause of the U.S. Constitution since then, even though Congress allowed for a local constitution to be approved in 1952 allowing a certain degree of self-government, strictly for local matters within Puerto Rico.

After 108 years of territorial status, Puerto Rico remains the longest standing territory in the history of the United States. Congress retains jurisdiction over the Puerto Rican status issue, so we have a constitutional responsibility to address the issue. Although Congress has consistently expressed its commitment to respect the right of self-determination of the people of Puerto Rico, Congress has never sponsored a plebiscite to allow the people of Puerto Rico to express themselves on their preference based on options that are compatible with the U.S. Constitution and basic laws and policies of the United States.

Another frequently asked question is: haven't the people of Puerto Rico expressed themselves repeatedly in the past in favor of Commonwealth, the current status? It is ironic that the Task Force Report has been criticized by the proponents of the current territorial status as being stacked in favor of statehood when every single plebiscite held in Puerto Rico has been stacked against the statehood or independence options by an option that has often defined Commonwealth as "the best of two worlds", or translated into laymen's terms to mean "all the benefits of statehood, without the responsibilities." Some of the characteristics included in the definition of enhanced Commonwealth are the following:

- PR would be recognized as a nation but in a permanent union with the US, under a covenant binding upon both nations.
- Veto power over applicability of federal laws.
- U.S. would continue to grant citizenship to persons born in PR.
- U.S. would continue all assistance programs to Puerto Ricans.
- U.S. would provide a new annual block grant for social and economic development.
- U.S. would provide incentives for investment in PR.
- U.S. would be responsible for the defense of PR.
- Free trade between PR and US.
- Puerto Ricans would continue to enjoy rights under the U.S. Constitution.
- The Commonwealth would possess all powers not delegated to the US.
- The Commonwealth would be able to determine the jurisdiction of the U.S. courts.
- Puerto Ricans would not pay federal taxes.

I believe it is highly unlikely that this 109th Congress, or any other future Congress would be willing, or constitutionally able, to grant most of these provisions.

Is it any wonder that Commonwealth has prevailed in the past plebiscites? Would any future Congress be willing to grant Puerto Ricans benefits that are not available to the constituents of any of the Members of Congress? Not likely.

When status plebiscites are sponsored at the local level in Puerto Rico, the definitions of the status options are left to the local political parties, and party partisanship takes over. A clear example of this are the results of the last plebiscite, in which the option "none of the above" prevailed by a plurality. We cannot afford a similar travesty in the future, which is why a federally sponsored plebiscite is needed.

Another concern that has been raised by sympathizers of the current territorial status option is that the formula that has prevailed in the past has been excluded from the process proposed by the Task Force Report and H.R. 4867. Nothing is further from the truth. The Puerto Rican people will be able to vote in the first plebiscite to retain the current territorial status, if they so choose.

Legislation has also been filed in both the House and the Senate to ignore the recommendations of the Task Force Report, and place in the hands of a select group of delegates the power to decide what will be the status option that the people of Puerto Rico will present to Congress. A Constitutional Convention was held in Puerto Rico over 50 years ago, and we are still arguing about the solution to our century old status as a territory. This proposal is promoted by the same persons that believe that the best strategy to solve our status dilemma is to procrastinate and wear-out the opposition, which are those of us that believe that it is high time to decide on a permanent, non-territorial status option.

I want to be perfectly clear on this, as the freely elected representative of the people of Puerto Rico to Congress, I will not now, or in the future, support any bill that denies my constituents, the people of Puerto Rico, the right to exercise their right to self-determination by a direct vote. The people of Puerto Rico deserve nothing less. We have earned this right. We have been waiting 108 years. Now it is time for Congress to carry out its constitutional responsibility.

Thank you.

The CHAIRMAN. Thank you. I recognize Mr. Rahall for his opening statement.

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

Mr. RAHALL. Thank you, Mr. Chairman. I commend you as well for holding these hearings, and to the people of Puerto Rico, to the families who have lost a husband, a father, a daughter, a son in our wars in the defense of the United States of America, I take this moment to salute you.

We can debate the political status, but what is not subject of debate is the patriotism of the people of Puerto Rico. At this point, Mr. Chairman, I ask unanimous consent my full statement be made a part of the record, and following your lead, I will submit that into the record and yield the balance of my time also to the gentleman from Puerto Rico.

[The prepared statement of Mr. Rahall follows:]

Statement of The Honorable Nick J. Rahall,
Ranking Democrat, Committee on Resources

Thank you, Mr. Chairman. To the people of Puerto Rico, to the families who have lost a husband, a father, a daughter, a son, in our wars, in the defense of the United States, I take this moment to salute you. We can debate political status. But what is not subject of debate is the patriotism of the people of Puerto Rico.

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

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

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

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

And beyond such contributions, there remains Puerto Rico's patriotism, beginning in World War I where twenty-thousand Puerto Ricans served in the U.S. military. There is no doubt that tens of thousands more are currently serving in our armed forces; fighting our wars and dying for our country.

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

In the past century, three plebiscites have gauged the people's desires to advance their current political status in the American family as a U.S. territory. It has become clearer that with each completed plebiscite, all has become vague, with a choice of "None of the Above" garnering more votes than any other political status option on the ballot in the 1998 plebiscite.

An effort was undertaken by former President Clinton to bring more clarity to the issue by establishing, through Executive Order, a Task Force to review what status options could be considered viable to establish a non-territorial form of government for Puerto Rico. The Order was honored in the Bush Administration and we have those recommendations before us today.

I believe that this Committee's responsibility is to be an honest broker with the people of Puerto Rico as this issue moves forward. It would be misleading to ignore the recommendations of this Report, the positions of previous Administrations, our Committee's own record, international law, indeed our country's Constitution.

At the table of these United States, Puerto Rico has sat for more than a century on a two-legged stool. It is not fully empowered. It does not have full representation. And that is wrong.

For in this day and age, certainly, all people represented by a democracy should have an equal voice on issues which not only effect them but future generations as well. Puerto Rico has been denied this equal voice for far too long.

In my opinion, this Report makes clear which paths can be tread. It keeps us honest with Puerto Rico. No matter where any of us personally lean, we have a duty to be clear and honest in this process and let the majority of the people of Puerto Rico decide their future.

And with this Report and this meeting today, I believe we are starting a process that will one day be looked upon as one of those rare moments when history itself seemed to hold its breath.

Thank you.

Mr. FORTUÑO. I want to thank you again. I want to thank Ranking Member Nick Rahall for yielding some of his allotted time to me and for making an emotional reference to the patriotism demonstrated by the people of Puerto Rico in defense of our great nation. Thank you again, Mr. Rahall. It is mostly about what Ranking Member Rahall has just stated. I will make various statements in support of the Task Force Report on Puerto Rico's Status and of the reasons why we should have a federally sponsored plebiscite in Puerto Rico, but nothing is truly more important than the patriotism of the Puerto Rican men and women who have served with honor and distinction in every war since we became citizens of the United States in 1917, 89 years ago.

Puerto Ricans have fought in defense of our nation and the Democratic principles of freedom for which it stands since World

War I. They have fought, and many have made the ultimate sacrifice on the battlefields of Europe and Africa, the Pacific and Korea, Vietnam and the Middle East, and recently in Afghanistan and Iraq.

I regularly visit our wounded at Walter Reed Hospital, and I am honored to witness firsthand their dedication and love for our nation. We have made a disproportionate contribution to our current effort on the war on terrorism. We have earned our keep, and we deserve congressional consideration of our request for a fair and legitimate process to exercise our right to self-determination.

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It is ironic that critics of the report have stated that it is stacked in favor of statehood, but yet I have been criticized in my own district for not filing a statehood bill and limiting myself to setting up a Democratic process where the people of Puerto Rico could express their individual status preference.

It is ironic that the report has been labeled as stacked in favor of statehood, and yet we will hear testimony today from the representatives of Puerto Rico's Independence Party supporting most of the conclusions of the Task Force report.

In this brief statement, I want to address some of the most frequent concerns or questions raised by my congressional colleagues when we converse on the issues of the Task Force, the status of Puerto Rico, and H.R. 4867.

The most frequently asked question by my colleagues is: Why do we need to deal with this? The Treaty of Paris, which formally ended the Spanish-American War on December 10, 1898, resulted in Spain relinquishing Puerto Rico, among several other territorial holdings, to the United States.

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Another frequently asked question is: Have not the people of Puerto Rico expressed themselves repeatedly in the past in favor of commonwealth, the current status? It is ironic that the Task Force report has been criticized by the proponents of the current territorial status as being stacked in favor of statehood when every single plebiscite held in Puerto Rico has been stacked against state-

hood or independence options, my option that has often been defined as commonwealth as the best of two worlds or, translated into layman's terms, to mean all the benefits of statehood without the responsibilities.

Some of the characteristics included in the definition of enhanced commonwealth are as follows: That Puerto Rico will be recognized as a separate nation in permanent unity with the United States under a permanent binding upon both nations; veto power over applicability of Federal laws; that the U.S. will continue to grant citizenship to the persons born in Puerto Rico; that the U.S. will continue to allow assistance programs to Puerto Ricans; they will provide a new annual block grant for socioeconomic development; they will provide incentives for investment in Puerto Rico; that the U.S. will be responsible for our defense, and that there will be free trade between Puerto Rico and the United States; that Puerto Rico will continue to enjoy rights under the U.S. Constitution; the commonwealth will possess all powers not delegated to the United States; that the commonwealth will be able to determine the jurisdiction of the U.S. courts presently there; and that Puerto Ricans will not pay any Federal taxes.

I believe it is highly unlikely that this 109th Congress or any other future Congress will be willing or Constitutionally able to grant most of these provisions. Is it any wonder the commonwealth has prevailed in the past plebiscites? Will any future Congress be willing to grant Puerto Ricans benefits that are not available to the constituents of any of the Members of Congress? Not likely.

When status plebiscites are sponsored at the local level in Puerto Rico, the definitions of the status options are left to the local parties, and party partisanship takes over. A clear example of this are the results of the last plebiscite in which the option, none of the above, prevailed by a polarity. We cannot afford a similar travesty in the future, which is why a federally sponsored plebiscite is needed.

Another concern has been raised by sympathizers of the current territorial status option is that the formula that has prevailed in the past has been excluded from the process proposed by the Task Force. Nothing is further from the truth. The Puerto Rican people will be able to vote in the first plebiscite to retain the current territorial status if they so choose.

Legislation has also been filed in both the House and the Senate to ignore the recommendations of this Task Force report and place in the hands of a select group of delegates the power to decide what will be the status option that the people of Puerto Rico will present to Congress.

A Constitutional convention was held in Puerto Rico over 50 years ago, and we are still arguing about the solution to our century old status as a territory. This proposal is sponsored by the same persons that believe that the best strategy to solve our status dilemma is to procrastinate and wear out the opposition, which are those of us that believe that it is high time to decide on a permanent, nonterritorial status option.

In closing, I want to be perfectly clear on this. As the freely elected representative of the people of Puerto Rico to Congress, I will not now or in the future support any bill that denies my

constituents, the people of Puerto Rico, the right to exercise their right to self-determination by a direct vote. The people of Puerto Rico deserve nothing less. We have earned this right. We have been waiting for 108 years. Now it is time for Congress to carry out its Constitutional responsibility. Thank you again. I yield back.

The CHAIRMAN. I would like to now introduce our first panel. Welcome, Mr. C. Kevin Marshall, Deputy Assistant Attorney General with the Department of Justice, who also served as Co-Chair of the President's Task Force on Puerto Rico's Status, to our hearing today to talk about the work of the Task Force. Before Mr. Marshall gives his testimony, I wish to continue my customary practice of swearing in all witnesses as provided under Rule 4[f].

[Witness sworn.]

The CHAIRMAN. Thank you. Let the record show he answered in the affirmative. Welcome to the Committee. We eagerly anticipate your testimony. You can begin.

STATEMENT OF C. KEVIN MARSHALL, DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, U.S. DEPARTMENT OF JUSTICE, CO-CHAIR, PRESIDENT'S TASK FORCE ON PUERTO RICO'S STATUS

Mr. MARSHALL. Thank you, Mr. Chairman and Ranking Member Rahall, for inviting me to discuss the work and report from the President's Task Force on Puerto Rico's Status. As you mentioned, I am the Deputy Assistant Attorney General from the Justice Department's Office of Legal Counsel. As the Attorney General's designee on the Task Force, I serve as his Co-Chair, along with the Deputy Assistant to the President and Director for Intergovernmental Affairs, Ruben Barrales.

The status of Puerto Rico and the options regarding that status have been issues for many years. President George H.W. Bush in a 1992 memorandum recognized that Puerto Rico's current commonwealth status grants it significant self-government, described Puerto Rico as a territory, and directed that it be treated like a state.

President Clinton, in establishing the Task Force in 2000, made it the policy of the executive branch to help answer the questions that the people of Puerto Rico have asked for years regarding the options for the island's future status and the process of realizing an option. The Task Force is required to consider and develop positions on proposals without preference among the options for the commonwealth's future status.

Its recommendations are limited, however, to those options permitted by the Constitution. In establishing the Task Force, President Clinton also expressly recognized that Puerto Rico's ultimate status has not been determined and noted the different visions for that status within Puerto Rico. Although Puerto Rico held a plebiscite in 1998, none of the proposed status options received a majority. Indeed, none of the above prevailed because of objection to the ballot definition of the commonwealth option.

Some in Puerto Rico have proposed a new commonwealth status that among other things could not be altered without the mutual consent of Puerto Rico and the Federal government. In October 2000, a few months before President Clinton established the Task

Force, William Treanor, who held the same position in the Office of Legal Counsel that I now hold, testified to this committee that such a proposal was not Constitutional.

Seeking to determine the Constitutionally permissible options and recommended process for realizing one of the options, the Task Force considered all status options objectively without prejudice. We sought input from all interested parties and met with anyone who requested a meeting.

The Task Force issued its report last December and concluded that there were three general options under the Constitution for Puerto Rico's status: One, continue its current status as a largely self-governing territory; two, admit Puerto Rico as a state; or three, make Puerto Rico independent.

The primary question regarding options is whether the Constitution allows a commonwealth status that could be altered only by mutual consent. Since 1991, the Justice Department has consistently taken the position that the Constitution does not. The Task Force report reaches that conclusion as well.

The report is, of course, not a legal brief, but it does outline the reasoning and includes as appendices two extended analyses by the Clinton Justice Department. Thus, the new commonwealth option, as the Task Force understands it, is not consistent with the Constitution.

Any promises that the United States might make regarding Puerto Rico's status as a commonwealth would not and could not be binding on a future Congress. Puerto Rico may remain in its current status indefinitely, but it would remain subject to Congress' authority under the Constitution to regulate U.S. territories.

The report provides additional details on the other two permissible options, statehood and independence. Additional copies of the report have been provided to the Committee for your convenience.

With regard to process, the Task Force sought to ascertain the will of the people of Puerto Rico in a way that, in the words of the report, "provides clear guidance for future action by Congress." The keys to providing clear guidance are first, to speak unambiguously about the Constitutional options, and second, to structure the process so that popular majorities are likely.

The Task Force, therefore, recommends a two-step process. The first step is simply to determine whether the people of Puerto Rico wish to remain as they are. We recommend that Congress provide for a federally sanctioned plebiscite on this question.

If the vote is to remain as a territory, then the second step would be to have periodic plebiscites to inform Congress of any change in views. If the first vote is to change Puerto Rico's status, then the second step would be another plebiscite in which the people would choose between statehood and independence.

Two points about this recommended process merit brief explanation. First, consistent with our Presidential mandate, it does not seek to prejudice the outcome even though it is structured to produce a clear outcome. Puerto Ricans have before voted by a majority to remain as a commonwealth. They may do so again.

Second, the process does not preclude action by Puerto Rico itself to express its views. At the first step, the Task Force recommends a plebiscite "to occur on a date certain." If Congress wished to

ensure that some action occurred but not preclude local initiative, it could allow a sufficient period before that date certain.

Thank you for the opportunity to share the views of the Task Force. I have submitted my written statement for the record, and I look forward to taking your questions.

[The prepared statement of Mr. Marshall follows:]

Statement of C. Kevin Marshall, Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice

Thank you, Mr. Chairman and Ranking Member Rahall, for inviting me to discuss the work and report of the President's Task Force on Puerto Rico's Status. President Clinton established the Task Force in December 2000, and President Bush has continued it through amendments of President Clinton's Executive Order. The Task Force consists of designees of each member of the President's Cabinet, and the Deputy Assistant to the President and Director for Intergovernmental Affairs, Ruben Barrales. I am a Deputy Assistant Attorney General in the Justice Department's Office of Legal Counsel. As the Attorney General's designee on the Task Force, I serve as its Co-Chair, along with Mr. Barrales.

The status of Puerto Rico, and the options regarding that status, have been issues for many years. In 1992, for example, President George H.W. Bush issued a Memorandum that recognized Puerto Rico's popularly approved Commonwealth structure as "provid[ing] for self-government in respect of internal affairs and administration," described Puerto Rico as "a territory," and directed the Executive Branch to treat Puerto Rico as much as legally possible "as if it were a State." He also called for periodically ascertaining "the will of its people regarding their political status" through referenda.

President Clinton, in his order establishing the Task Force, made it the policy of the Executive Branch "to help answer the questions that the people of Puerto Rico have asked for years regarding the options for the islands' future status and the process of realizing an option." He charged the Task Force with seeking to implement that policy. We are required to "consider and develop positions on proposals, without preference among the options, for the Commonwealth's future status." Our recommendations are limited, however, to options "that are not incompatible with the Constitution and basic laws and policies of the United States."

On the same day that he issued his Executive Order, President Clinton also issued a Memorandum for the Heads of Executive Departments and Agencies regarding the Resolution of Puerto Rico's status. That memorandum added that "Puerto Rico's ultimate status has not been determined" and noted that the three major political parties in Puerto Rico were each "based on different visions" for that status. Although Puerto Rico held a plebiscite in 1998, none of the proposed status options received a majority. Indeed, "None of the Above" prevailed, because of objection to the ballot definition of the commonwealth option.

Some in Puerto Rico have proposed a "New Commonwealth" status, under which Puerto Rico would become an autonomous, non-territorial, non-State entity in permanent union with the United States under a covenant that could not be altered without the "mutual consent" of Puerto Rico and the federal Government. In October 2000, a few months before President Clinton established the Task Force, this Committee held a hearing on a bill (H.R. 4751) incorporating a version of the "New Commonwealth" proposal. William Treanor, who held the same position in the Office of Legal Counsel that I now hold, testified that this proposal was not constitutional.

Thus, the Task Force's duties were to determine the constitutionally permissible options for Puerto Rico's status and to provide recommendations for a process for realizing an option. We had no duty or authority to take sides among the permissible options.

The Task Force considered all status options objectively, without prejudice. We also attempted to develop a process for realizing one of the options. We sought input from all interested parties. The Members met with anyone who requested a meeting. I myself had several meetings with representatives of various positions, and also received and benefited from extensive written materials.

The Task Force issued its report last December and concluded that there were three general options under the Constitution for Puerto Rico's status: (1) continue its current status as a largely self-governing territory of the United States; (2) admit Puerto Rico as a State, on an equal footing with the existing 50 States; or (3) make Puerto Rico independent of the United States.

As indicated in my discussion of the 1998 plebiscite and the origins of the Task Force, the primary question regarding options was whether the Constitution currently allows a "Commonwealth" status that could be altered only by "mutual consent," such that Puerto Rico could block Congress from altering its status. Since 1991, the Justice Department has, under administrations of both parties, consistently taken the position that the Constitution does not allow such an arrangement. The Task Force report reiterates that position, noting that the Justice Department conducted a thorough review of the question in connection with the work of the Task Force. The report is, of course, not a legal brief. But it does outline the reasoning, and it includes as appendices two extended analyses by the Clinton Justice Department. The second of these, a January 2001 letter to the Senate Committee on Energy and Natural Resources, also was sent to this Committee on the same date. The report also cites additional materials such as Mr. Treanor's testimony and the 1991 testimony of the Attorney General.

The effect of this legal conclusion is that the "New Commonwealth" option, as we understand it, is not consistent with the Constitution. Any promises that the United States might make regarding Puerto Rico's status as a commonwealth would not be binding. Puerto Rico would remain subject to Congress's authority under the Constitution "to dispose of and make all needful Rules and Regulations respecting the Territory...belonging to the United States." Puerto Rico receives a number of benefits from this status, such as favorable tax treatment. And Puerto Rico may remain in its current Commonwealth, or territorial, status indefinitely, but always subject to Congress's ultimate authority to alter the terms of that status, as the Constitution provides that Congress may do with any U.S. territory.

The other two options, which are explained in the report, merit only brief mention here. If Puerto Rico were admitted as a State, it would be fully subject to the U.S. Constitution, including the Tax Uniformity Clause. Puerto Rico's favorable tax treatment would generally no longer be allowed. Puerto Rico also would be entitled to vote for presidential electors, Senators, and full voting Members of Congress. Puerto Rico's population would determine the size of its congressional delegation.

As for the third option of independence, there are several possible ways of structuring it, so long as it is made clear that Puerto Rico is no longer under United States sovereignty. When the United States made the Philippines independent in 1946, the two nations entered into a Treaty of General Relations. Congress might also provide for a closer relationship along the lines of the "freely associated states" of Micronesia, the Marshall Islands, and Palau.

With regard to process, the Task Force focused on ascertaining the will of the people of Puerto Rico. In particular, we sought to ascertain that will in a way that, as the report puts it, "provides clear guidance for future action by Congress." The keys to providing clear guidance are, first, to speak unambiguously about the options the Constitution allows and, second, to structure the process so that popular majorities are likely. The inconclusive results of the 1998 plebiscite, as well as an earlier one in 1993, did not strike us as providing much guidance to Congress.

We, therefore, have recommended a two-step process. The first step is simply to determine whether the people of Puerto Rico wish to remain as they are. We recommend that Congress provide for a federally sanctioned plebiscite in which the choice will be whether to continue territorial status. If the vote is to remain as a territory, then the second step, one suggested by the first President Bush's 1992 memorandum, would be to have periodic plebiscites to inform Congress of any change in the will of the people. If the first vote is to change Puerto Rico's status, then the second step would be for Congress to provide for another plebiscite in which the people would choose between statehood and independence, and then to begin a transition toward the selected option. Ultimate authority, of course, remains with Congress.

Two points about this recommended process merit brief explanation. First, consistent with our presidential mandate, it does not seek to prejudice the outcome, even though it is structured to produce a clear outcome. At least once before, Puerto Ricans have voted by a majority to retain their current Commonwealth status. They may do so again. But it is critical to be clear about that status. Second, our recommended process does not preclude action by Puerto Rico itself to express its views to Congress. At the first step, we recommend that Congress provide for the plebiscite "to occur on a date certain." We did not, of course, specify that date. But if Congress wished to ensure that some action occurred but not preclude the people of Puerto Rico from taking the initiative, it could allow a sufficient period for local action before that "date certain." If such action occurred and produced a clear result, there might be no need to proceed with the federal plebiscite.

The Task Force knows well the importance of the status question to the loyal citizens of Puerto Rico and to the nation as a whole. We appreciate the Committee's commitment to this matter and the opportunity to share our views.

The CHAIRMAN. Thank you, Mr. Marshall. Can you describe for me the consultation process that went into the formulation of this report? Would you say that you considered the viewpoints of all of Puerto Rico's political parties and leaders?

Mr. MARSHALL. I believe we did. We received written materials from several positions on the commonwealth. We met with many people. I myself met with many people, both from the island and lawyers representing various positions on the island.

The CHAIRMAN. Near the end of your testimony, you had an interesting comment. You implied that no Federal plebiscite may be necessary. Does this mean that we should move legislation showing Puerto Rico that Congress would like action, for example, but then wait on final action if they initiate their own plebiscite process?

Mr. MARSHALL. What the Task Force had in mind was there are people who argue that Puerto Rico itself should initiate any statement of the popular will on its status. In our view, Federal action is necessary, but it did not seem to us inconsistent with Federal action for any Federal legislation to allow a period and opportunity for that local action to occur.

The CHAIRMAN. Considering your role on the Task Force and as an employee of Department of Justice, would you agree with the assertion that Puerto Rico remains subject to Federal powers under the Constitution's territory clause? Do any court cases lead you to a different conclusion than that?

Mr. MARSHALL. The answer to your first question is yes, as the report expressly says. The answer to the second question is no.

The CHAIRMAN. Thank you. I want to recognize Mr. Rahall.

Mr. RAHALL. Thank you, Mr. Chairman. Thank you, Mr. Marshall for your testimony. I do not have a question but rather a personal observation. As many in this room know, many years ago I got involved in the Tren Urbano transit project in Puerto Rico. At that time on the other committee on which I serve, I chaired the Surface Transportation Subcommittee and subsequently served as its Ranking Member. Throughout that time, I was a champion of the Tren Urbano project and saw the need for such.

My good friend, the former Transportation Secretary, Carlos Pesquera, and I traveled every mile of the proposed line. The Honorable Pedro Rosselló, sitting directly behind you, was Governor at that time, and I worked very closely with him as well on this project.

I saw firsthand on many occasions the severe highway traffic congestion that literally freezes San Juan and the neighboring communities and cities, and as I looked across the nation, I could find no place else more needy of a modern transit system, including our own Los Angeles.

Now what does this have to do with the current political status and debate? Everything, because as I fought for this project, for its authorization and funding, I did encounter resistance. Puerto Rico is not a state came the resistance. Why should we spend all this money for Tren Urbano? I am here on bread and butter issues

today quite honestly, not theory, not on idealism, but pure bread and butter issues.

If Puerto Rico were a state, I have no doubt that the Tren Urbano project would have been completed many years ago. I am convinced of that, and the high cost on the economy of traffic congestion and the cost on the quality of life in San Juan and its environs would have been avoided. And if Puerto Rico chose another course, perhaps it could apply for some type of foreign aid, but the status quo cannot exist any longer. People need to understand that there are tangible benefits to making a decision on status now.

Colonialism must end. This is the 21st century, and indeed the United States must set the example. So let the people decide in a free and open election. That is, of course, envisioned by the President's Task Force and the legislation introduced by the gentleman from Puerto Rico. I yield back.

The CHAIRMAN. Mr. Duncan.

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

Mr. DUNCAN. Well, first of all, let me say that I agree with Mr. Rahall, and I want to thank the people of Puerto Rico for their patriotism and their friendship and their many, many contributions to the United States. I want to thank Chairman Pombo for this opportunity to better examine important issues surrounding the self-determination process for Puerto Rico and to hear from our very distinguished witnesses.

I have a lengthy statement that I wish to place in the record. Let me just say the most important thing is that we are trying to do everything possible to ensure fairness in the process with which we move forward.

I certainly enjoyed the friendship and the close working relationship with Governor Acevedo-Vilá when he was Resident Commissioner, and I also have enjoyed working with Resident Commissioner Fortuño. He serves on a subcommittee that I chair, and he is a really outstanding and, I think, one of the most popular Members of this Congress, and I look forward to working with him as we move forward on this issue. I understand that Governor Acevedo-Vilá could not be here with us today due to a financial or fiscal crisis in Puerto Rico, and I hope there is an opportunity to hear in the future from the Governor.

I was a member of this committee when we examined the Puerto Rican political status in 1998. At that time, the Congress brought a bill to the House Floor for consideration, a bill very similar to the Administration's proposal and my colleagues' proposal, H.R. 4867. On final passage of that bill in 1998, 177 Republicans voted against the bill.

I remain concerned about legislation that would put into place a process that could undermine the commonwealth status of today and impose upon Puerto Ricans really not a completely fair process. Commonwealth status is the only status to have won a referendum in Puerto Rico. This compact agreement that led to the commonwealth government and Constitution was in 1952 supported by

more than 80 percent of Puerto Rican voters, who expressed their right to self-determination.

I believe that any future consideration by Congress of statehood for Puerto Rico or for that matter any other political jurisdiction must enjoy at minimum a super majority of support by the citizens of that jurisdiction. The voters in both Alaska and Hawaii supported statehood by more than 80 percent before being admitted to the union. Statehood for Puerto Rico has never before won a local referendum. In fact I think it consistently receives about 45 or 46 percent.

The Administration's report suggests an approach which set into place a first ballot vote where statehood and independence supporters would be teamed against Puerto Ricans who support commonwealth. Certainly it does not seem fair to me to set up a process that, for instance, could end up in 49 percent voting in favor of commonwealth, 10 percent voting in favor of independence, and then 40 percent or so voting in favor of statehood, and then leaving after that the only choice then being between statehood and independence. That does not seem to fair to me.

In fact, what seems the fairest to me would be if you are going to limit the voters to just two choices after the first three are voted on, then certainly the choice that receives the most votes, the most votes, the highest percentage of votes in the first election should be on the ballot if you are going to limit it to just two choices after that.

So I have some concerns about this, some problems with it. The position that I am taking was, as I said, supported by almost 180 Republicans the last time we voted on this, and I think that we need to listen very closely to everyone and hear all the choices and concerns and recommendations and suggestions. We should certainly look at this before we leap into anything on this and try to set up the fairest process possible. Thank you, Mr. Chairman.

[The prepared statement of Mr. Duncan follows:]

Statement of The Honorable John Duncan, a Representative in Congress from the State of Tennessee

I want to thank Chairman Pombo for this opportunity to better examine important issues surrounding the self determination process for Puerto Rico and to hear from some distinguished witnesses here today opinions about a controversial report on Puerto Rico's political status.

Let me first make clear that my position regarding self determination for Puerto Rico is rooted in the belief that we ensure fairness in any process moving forward.

Just as I enjoyed working with Governor Acevedo-Vilá when he was Resident Commissioner, I enjoy working with Resident Commissioner Fortuño on issues important to the United States and to Puerto Rico.

I understand that Governor Acevedo could not be here today due to a fiscal crisis in Puerto Rico. I hope there is an opportunity in the future to hear from the Governor.

I was a Member of this Committee when we examined the Puerto Rico political status in 1998.

At that time, the Congress brought a bill to the House Floor for consideration. That bill was very similar to the Administration's proposal and my Colleague's proposal, H.R. 4867. On final passage, 177 Republicans voted against this bill.

I remain concerned about legislation that would put into place a process that both undermines the Commonwealth status of today and imposes upon Puerto Ricans an unfair, recurring self determination process that would conclude only after a status other than Commonwealth is chosen.

Commonwealth status is the only status to have won a referendum in Puerto Rico.

This compact agreement that lead to the Commonwealth Government and Constitution, was in 1952 supported by more than 80% of Puerto Rican voters who expressed their right to self determination.

I firmly believe any future consideration by Congress of statehood for Puerto Rico, or for that matter any other political jurisdiction, must first enjoy at minimum a super majority of support by the citizens of that jurisdiction.

Voters in both Alaska and Hawaii supported statehood by more than 80% before being admitted to the Union. Statehood for Puerto Rico has never before won a local referendum. Consistent votes against statehood in recent plebiscites clearly show that a majority of Puerto Ricans oppose statehood.

The Administration's report suggested approach would set in place a first ballot vote where statehood and independence supporters would be teamed against Puerto Ricans who support Commonwealth.

My opposition to H.R. 4867, my support for democracy, and my appreciation of how important this issue is for Puerto Rico and for the United States led me to introduce H.R. 4963, the Puerto Rico Self Determination Act of 2006.

H.R. 4963 simply recognizes Puerto Rico's right to self-determination and would ensure that status deliberations for Puerto Rico initiate locally through a constitutional convention.

I look forward to this hearing today, and to working with Governor Acevedo-Vilá and Resident Commissioner Fortuño further on issues important to the Commonwealth of Puerto Rico.

I have additional relevant information that I request be included in the hearing record.

Thank you.

The CHAIRMAN. Thank you. Mr. Faleomavaega.

STATEMENT OF THE HON. ENI F.H. FALEOMAVAEGA, A DELEGATE IN CONGRESS FROM AMERICAN SAMOA

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I certainly want to commend you and Mr. Rahall for calling this hearing. I think it is most appropriate and certainly want to personally welcome our colleagues, who although are not members of the Committee, but certainly more than welcome to join us here, more especially because their ancestry happens to be from Puerto Rico.

I also would like to offer my personal welcome to our former colleagues, whom I have had the privilege of working with over the years, and I cannot say more: Our former colleague, now Governor Acevedo, who unfortunately is not able to join us here this morning; also Governor Rosselló, who is here; and my good friend, Governor Colón, whom I have known years before in my younger days; and my good friend, Governor Barceló, who has also served formerly as a member of this committee and Resident Commissioner of Puerto Rico for being here.

Mr. Chairman, I think there is no question that we all have our personal preferences in terms of the different political statuses that we have discussed over the years for Puerto Rico, and we have had several plebiscites, both I presume sponsored by the Federal government, but uniquely also at times, there were plebiscites held under the guidance of the Puerto Rican government and the leaders themselves.

I recall at one time when the plebiscite was held, there was a percentage of about 48 percent in favor of commonwealth, 46 in favor of statehood, and I believe 4 percent in favor of independence. And to this day, I think these three basic political organizations are still very much active.

I think if there is anything that we ought to do is to work on the procedure, that it will reflect and provide a mechanism where the

people of Puerto Rico are given an absolute say in the process so that there is no sense of manipulation, if you will, or some way procedurally so that it will tend to favor one option, whether it be statehood, commonwealth or independence.

I think this is probably the heart of the issue here before us. I noticed, and I wanted to ask Mr. Marshall, there are currently two proposed bills now before the Congress, H.R. 4963, the chief sponsor, the good gentleman from Tennessee, Mr. Duncan, and I myself also as a cosponsor of this legislation, and also H.R. 4867, my good friend and colleague, Mr. Fortuño. And I wanted to ask Mr. Marshall if he has had a chance to review both of these proposed legislations.

Mr. MARSHALL. I am aware of both of those bills.

Mr. FALEOMAVAEGA. What is your position on them?

Mr. MARSHALL. My understanding is those bills were recently introduced, both of them in March, and I do not believe the Administration has taken a position on those bills.

Mr. FALEOMAVAEGA. My apologies. There is a conflict in my coming here a little late. Am I to understand that the position of the Administration, basically they want absolute fairness in the process if there is to be a plebiscite, whether it be sponsored locally or as well as by the Federal government?

Mr. MARSHALL. The position of the Administration would be that set out in the Executive Order. Beyond that, I am not in a position to state a position of the Administration.

Mr. FALEOMAVAEGA. So there is no position of the Administration at this point in time?

Mr. MARSHALL. I am here speaking on behalf of the Task Force.

Mr. FALEOMAVAEGA. All right. I will come back to you later on that. Thank you, Mr. Chairman.

The CHAIRMAN. I think as, Mr. Faleomavaega, we move forward with this issue, I think we all look forward to having the Administration comment on both bills. The hearing today is on the Task Force report, but I am sure that as this whole process moves forward that we will hear from the Administration on both those bills.

The CHAIRMAN. Mr. Fortuño.

Mr. FORTUÑO. Thank you, Mr. Chairman. Mr. Marshall, I just want to make clear asking you this. There have been some questions asked of the fairness of the process. Indeed the Task Force met with every single political party, all three political parties in Puerto Rico, is that correct?

Mr. MARSHALL. I believe that is correct.

Mr. FORTUÑO. And did you receive, not just you, but others in the Administration, such as the Attorney General, extensive input from all parties, including the Governor and his representatives in Washington, including what is so-called the Cooper memorandum that you have? Did you receive that document?

Mr. MARSHALL. I received at least one memorandum from Mr. Cooper.

Mr. FORTUÑO. Did you have a chance to look at it?

Mr. MARSHALL. Yes, I and others read it quite thoroughly.

Mr. FORTUÑO. And after analyzing the memorandum, you still came to the conclusion that is shown in the report?

Mr. MARSHALL. Yes. I also met with Mr. Cooper on at least two occasions.

Mr. FORTUÑO. So there were extensive discussions with the Governor and his representatives on this?

Mr. MARSHALL. My co-chair met with the Governor. I did not myself have direct discussions with the Governor.

Mr. FORTUÑO. You have included as part of the report the January 18, 2001, Justice Department opinion issued to the Chairman of, on this side, the Senate Committee on Energy and Natural Resources, The Honorable Frank Murkowski. And actually in that opinion, are you familiar with the opinion?

Mr. MARSHALL. Yes.

Mr. FORTUÑO. In that opinion actually, page 5, discuss a new commonwealth, there are some statements specifically stating that the Constitution, the U.S. Constitution, recognizes only a limited number of options for the governance of an area. "Puerto Rico could Constitutionally become a", reading from the third paragraph, "become a sovereign nation or it could remain subject to the United States' sovereignty if we want to solve this issue once and for all."

The terms of the Constitution do not contemplate an option other than sovereign independence, statehood or territorial status. Is that still the position that you and the Justice Department hold?

Mr. MARSHALL. Yes. And in fact, the case that is cited in that paragraph is cited in our report for the same proposition.

Mr. FORTUÑO. Were you made aware when you were working on the report of what is called the enhanced commonwealth or development of a new commonwealth under which Puerto Rico would be a nation in a permanently binding relationship with the United States under which the commonwealth could determine the application of Federal laws and Federal court jurisdiction and enter into foreign trade, tax and other agreements, but the U.S. would still have to continue to grant citizenship to the residents of the island and accord aid to Puerto Ricans and a totally free entry of products shipped from Puerto Rico to the U.S., and on top of that, grant a new annual subsidy to aid our government? Are you familiar with that proposal?

Mr. MARSHALL. I was familiar with what we called a new commonwealth proposal in our report, and we describe it, not with all the details you have listed. I was also aware of some variations on that. Whether I was aware of that precise one, I do not recall.

Mr. FORTUÑO. After analyzing that proposal, is it your opinion that this proposal is a possible status option?

Mr. MARSHALL. The proposal we described in the report as new commonwealth is not in our view a viable status option under the Constitution as it is now. To the extent what you have described is analogous to that, the same conclusion would probably apply.

Mr. FORTUÑO. So essentially what you are saying, that we would have to amend the U.S. Constitution in order to be able to obtain what has been proposed?

Mr. MARSHALL. Yes, and the report says that.

Mr. FORTUÑO. Do you think there is a chance that it will be amended, our Constitution, the U.S. Constitution, any time soon?

Mr. MARSHALL. I was not hired by the Attorney General for my prophetic abilities, so I cannot answer that question.

Mr. FORTUÑO. Thank you very much.

The CHAIRMAN. Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair. I have read with great interest some of the information that has been presented to me not only because of my being Hispanic but also because I am chair of the caucus, the Hispanic Caucus. I have been privy to some of the information, and I have been in Puerto Rico a few times, but I was greatly distressed that I was misrepresented at one time after a short hall meeting with an individual from Puerto Rico.

That said, I just wanted to tell you that I agree with the comments of some of my colleagues, Mr. Faleomavaega and Mr. Duncan, in regard to allowing the Puerto Rico people to speak. And I would certainly ask, Mr. Marshall, if in your deliberation in your seeking counsel from all the individuals that you did, did you speak to any of the working class, the people of Puerto Rico, to see how they felt?

Mr. MARSHALL. I myself did not. I know that other members of the Task Force traveled to Puerto Rico. I do not know exactly who they talked to.

Mrs. NAPOLITANO. In other words, there was no effort or attempt to actually ask the people who we are supposedly making decisions for?

Mr. MARSHALL. What I was trying to say in my previous answer was that I do not know the answer to that.

Mrs. NAPOLITANO. Thank you. I still hold that I think the people need to determine and not Congress and not certainly the political parties, whoever they may be.

I would like to yield to my colleague, Nydia Velázquez, the rest of my time.

STATEMENT OF THE HON. NYDIA M. VELÁZQUEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. VELÁZQUEZ. Thank you. Mr. Marshall, can you explain to us why has the President not endorsed the findings of this report?

Mr. MARSHALL. The Task Force had a limited mandate, which was to report to the President and provide advice and recommendations to him and to Congress. That is what we have done. That is why we are here.

As the President required, every Cabinet-level department was represented on the Task Force. This report is, therefore, an interagency recommendation to him as well as to the Congress, but the Executive Order that creates the Task Force does not contemplate approval, disapproval or any public declaration by the President.

The President has received the report as, of course, has the Congress. No Presidential action is required in order for Congress to proceed, and we hope that our report provides beneficial information for you and for the people of Puerto Rico as well as the Administration.

Ms. VELÁZQUEZ. So clearly, sir, there are complicated issues involving Constitutional, political and socioeconomic matters that require in-depth analysis. Previous reports like the one that I have in front of me have spanned volumes, yet the body of your report is only 10 pages. How can you come before this committee and tell

us we should make decisions that will impact the lives of millions of people based on 10 pages?

You are here, and you are testifying representing the Task Force, and your answer to Mrs. Napolitano is that you believe that some meetings took place in Puerto Rico. My question to you is: Did you, the Task Force, travel to Puerto Rico, and in a public, open way conduct public hearings for all the political parties, for all the people in Puerto Rico, to be able to participate? Where is the fairness, open process that we are fighting for in Iraq? Can you explain that to me?

Mr. MARSHALL. I am sorry, Congresswoman. There were several questions in there. Could you please repeat the first question?

Ms. VELÁZQUEZ. Well, my question to you is this is an important issue for the people of Puerto Rico, and believe me, as a Member of Congress of Puerto Rican descent, I would love to see seven Puerto Ricans coming from Puerto Rico to join in the House of Representatives. Why? But that is a decision that the people of Puerto Rico has to make, and we cannot issue a report that is just basically supporting one status option, and that is statehood.

Mr. Chairman, I ask unanimous consent that the previous Presidential commission report that have members appointed by the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and the Governor of Puerto Rico, a list that included representatives of the main political parties at that time be incorporated into the record.

The CHAIRMAN. Without objection. The gentlelady's time has expired.

Ms. VELÁZQUEZ. Thank you.

The CHAIRMAN. Mr. Flake.

Mr. FLAKE. Chairman, I would like to yield two minutes to the gentleman from Indiana.

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

Mr. BURTON. First of all, I thank you, Chairman Pombo, for allowing us nonmembers to be here today. I appreciate it, and I appreciate you yielding to me. In 1998, we did hold hearings in Puerto Rico. I was there. I was one of the people that held the hearings. Don Young, who was Chairman of Resources at the time, and myself, we sponsored legislation dealing with this issue, and we held numerous hearings in Puerto Rico, and we had everybody that wanted to testify. So this is not the first time that this has been discussed.

And I want to say something about my good friend, John Duncan. The reason 160 some Republicans voted against it—and my Democrat friends will get a kick out of this—is because we did not think we could elect any Republicans down there. And they said, why would we want to make a state that is going to give the House of Representatives to the Democrats forever?

And so that is why an awful lot of the Republicans in the House of Representatives voted against that legislation. That is a fact. It had nothing to do with whether or not there was merit for statehood or not. Now we have a Republican here I want to tell you, so there is possibility down there that we can elect some Republicans.

And so those of us that were for the legislation very similar to what Representative Fortuño is talking about felt like this was the best way for the people of Puerto Rico to really have their voices heard, to get this thing clearly defined so that they could make a decision on whether or not they wanted to be a state or they did not want to be a state.

And we thought the mechanism that we talked about in 1998 was the right one. I think that the recommendation of the Task Force and your legislation, Representative Fortuño, is the right way to go. I still feel that.

I have a statement for the record, Mr. Chairman, I would like to insert. I will not take any more of your time, but I sincerely hope that we get this resolved. If and when Puerto Rico becomes a state, I hope we elect good representatives, mostly Republican. Thank you very much.

[The prepared statement of Mr. Burton follows:]

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

Puerto Rico has been a U.S. territory for 108 years, and is the longest held U.S. territory. This means that for 108 years, we have been debating what to do about Puerto Rico; whether it should continue to be a U.S. territory, or whether we should encourage the people of Puerto Rico to move towards something more permanent, be it statehood or independence. It is astounding to imagine all that what we could have accomplished had we spent these past 108 years focusing on how to make life better for the Puerto Rican people.

Congressman Fortuño's bill, the Puerto Rican Democracy Act of 2006, is based on the President's Task Force on Puerto Rico's Status which was released last December, and puts into words what Congress should have done long ago. It is time for Congress to put these words into action.

In simple terms, this bill provides the four million people of Puerto Rico with a chance to determine their own fate, through a two-part plebiscite. During the first, the Puerto Rican people will vote to either preserve the status quo and remain as a U.S. territory, or whether they wish to pursue a Constitutionally viable path toward permanent non-territorial status with the U.S. Should they decide to go forth with the latter option, the second plebiscite would present them with the choice of electing separate sovereignty, either through independence, free association, or to become the 51st state of the U.S.

Some of my colleagues have different ideas about how to solve the ongoing issue of Puerto Rico's status. One bill that's been introduced, the Puerto Rico Self-Determination Act of 2006, sets forth steps toward Puerto Rican self-determination through a constitutional convention, where the people—through their political parties and establishment—would work to decide what kind of permanent status they wish to move towards.

The problem with this bill is that it presumes the Puerto Rican people wish to abandon their territorial status, which many previous plebiscites indicate is not what the Puerto Ricans want.

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

Congress shouldn't dictate to the Puerto Rican people what is best for them, the people themselves must decide that. Congress doesn't face the same realities day in and day out that the people of Puerto Rico face; realities like serving in the United States military, without being able to elect its Commander-in-Chief. To date, at least 50 people from Puerto Rico have given their lives for the global war on terror and American freedom, but didn't have the opportunity to vote for their President.

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

Mr. FLAKE. Thank you.

The CHAIRMAN. Mr. Flake is recognized for the remainder of his time.

Mr. FLAKE. Thank you, Mr. Chairman. I want to commend Mr. Fortuño for working so hard on this issue. There are few people in Congress who work harder on any issue than he has worked on this one, and I want to commend him for that. I am proud to cosponsor the legislation.

Let me just ask, Mr. Marshall, the Governor in Puerto Rico has indicated that the Task Force actually eliminates commonwealth status as an option, but yet does not the Task Force report actually say that the residents can vote to continue with commonwealth status?

Mr. MARSHALL. That is correct.

Mr. FLAKE. So commonwealth status is not eliminated as an option?

Mr. MARSHALL. That is correct.

Mr. FLAKE. And the Task Force recommendation or the report states that?

Mr. MARSHALL. Correct.

Mr. FLAKE. OK. Thank you. I yield back.

The CHAIRMAN. Thank you. Ms. Christensen.

STATEMENT OF THE HON. DONNA M. CHRISTENSEN, A DELEGATE IN CONGRESS FROM THE VIRGIN ISLANDS

Ms. CHRISTENSEN. Thank you, Mr. Chairman and Ranking Member for holding this meeting and to you and my colleagues for allowing me to go out of turn because I am going to have to leave, but I want to just say good morning and welcome to the witness at the table and all of the distinguished witnesses behind you. The list of today's testifiers reads like a Who's Who in the annals of recent Puerto Rico history.

I also want to say that as a close neighbor of a fellow offshore possession of the United States, your status debate and process is more than just an interesting issue to me. It is very important, and it is very relevant to our own in the U.S. Virgin Islands, and whatever course you take, even the process you adopt, will affect all of the rest of us.

That being said, I have some questions as to why we are even here. As I understand it, Puerto Rico, like the rest of us, has the ability to conduct a referendum, a convention or any process that we decide on. I would also think that having Congress dictate what the process should be would go against the grain of most Puerto Ricans, especially since it carries no guarantee that the Congress will automatically accept that outcome.

I know there is a sense among some that what exists in Puerto Rico is not a democracy, and I disagree with that. I have thought about it. I disagree. Just because Puerto Rico is not a state does not mean that democracy does not exist, and the people in that democracy do have the right to decide, they have the right to petition this Congress, and to date, they have decided to remain in their current status.

It often seems as one looks at it, reads about it, listens to it that this is more of a partisan fight than a popular debate, and it needs

to be a popular debate. And it is for that reason that I have decided to support H.R. 4963, the Puerto Rico Self-Determination Act of 2006, which opens the process up entirely for the people of Puerto Rico to decide the course and the ultimate status of the desire.

A decision like this one that evolves has to evolve. It can take a long time. It really cannot be forced, and I think the Task Force report and the bill that comes out of that attempts to force a quicker response to this important issue that really is going to take some time.

I really regret that I cannot stay for the hearing. I have to set up my Health Braintrust session far in advance of today to be able to get a large enough room and to invite people from around the country to come, but I guarantee I will read every word of every testimony, and I will continue to follow the debate and the process, as will the local television stations and newspaper, and I invite, you know, continued dialog with both sides.

I just want to mention another issue that I feel is more urgent which can also impact my district and I think, you know, the Committee also needs to be concerned about, and that is the fiscal impasse in Puerto Rico, and I hope that it can come out of any partisan debate politics that may be influencing it and focus simply on the best analyses, recommendations and what is best for the people that all of us and you work for.

I am sure that there is one thing that all sides agree, and that is your commitment to La Isla de Boricua and the people of Puerto Rico, and in the end, as long as the people decide, whatever they decide, they will be the winners. Again, I really regret that I cannot stay, but I have followed this issue very, very closely. I will continue to follow it, and I will continue to listen to both sides, but as of right now, I really have to come down on the side of H.R. 4963. Thank you.

The CHAIRMAN. Thank you. Mr. Gibbons.

STATEMENT OF THE HON. JIM GIBBONS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. GIBBONS. Thank you very much, Mr. Chairman, and to each and every one of our panel witnesses that are going to be here today, welcome. It is a pleasure to have you before us. I have served on this committee for 10 years now, and I was here back in 1998 when we considered this question with Mr. Young, who was the Chairman, and Mr. Chairman, thank you for your continued interest in this process.

I join with my colleague, Mr. Duncan, who expressed some concerns, and I share in his comments as well about the fairness of the process. As I look at this report, it appears that the report recommends a two-step process, and that vote process would put votes for the two extreme options it appears of statehood and independence competing together against the votes for a commonwealth.

If the combined vote for statehood and independence defeats commonwealth, we would then have a runoff between statehood and independence. I would only ask you if this sounds like a fair process, a process which excludes the option that has the most support of the people in Puerto Rico, and yet it would appear to have

the other two options ganging up on the commonwealth side. Do you see any challenges to that process?

Mr. MARSHALL. I have already heard some of those challenges, so I guess the answer to your last question would be yes. With regard to what option now has the most support, I honestly do not know the answer, because one persistent question has been how the commonwealth option or status is defined. The report did think that it had come up with a fair process, as I have mentioned. In at least one of the prior referenda, commonwealth did receive a solid majority. There is no reason to think it could not do so again if that were what the people thought.

Mr. GIBBONS. Let me ask a question. As a member of the Task Force, actually as one of the co-chairmen I think you said you were, right?

Mr. MARSHALL. Yes.

Mr. GIBBONS. Did the Task Force members who represented the various departments prepare an analysis of how their departments interact with the commonwealth during this process?

Mr. MARSHALL. I do not think I can go into our written internal product, but I do know that each of the representatives was aware of that.

Mr. GIBBONS. And did they examine the implications of Puerto Rico changing its status, either in terms of the budget or other policy implications?

Mr. MARSHALL. We considered those things, yes.

Mr. GIBBONS. Well, if there were no hearings, apparently what you indicated earlier in Puerto Rico for your committee, why did it take five years to write a nine-page report with three recommendations?

Mr. MARSHALL. I do not know the full answer to that question. I have been on the Task Force for a year, and I think we moved fairly expeditiously.

Mr. GIBBONS. Well, let me ask a question. What was the budget for the committee or the Task Force?

Mr. MARSHALL. I do not think we had a budget.

Mr. GIBBONS. Unlimited budget? Come on now. You are in the government. You have a budget on everything.

Mr. MARSHALL. My answer was not that we had an unlimited budget.

Mr. GIBBONS. You did not have a budget, or you just do not know what the budget was?

Mr. MARSHALL. I am not aware of a budget for our work. We were all detailed from our departments.

Mr. GIBBONS. I guess my question then is, in your opinion, as an intelligent individual who is obviously an attorney, why not have an up or down, yes or no vote on independence, a yes or no vote on statehood, or a yes or no vote on commonwealth? Because you made this recommendation, this two-step process recommendation. I want to just sort of get your ideas on why not just have separate independent votes, and whoever wins wins or whichever.

Mr. MARSHALL. I am not here to testify to my own personal opinion, intelligent or otherwise. I can say that the report, as I have explained today, seeks to set up a process that will produce a clear

outcome that will provide clear direction to Congress, and we think we have done that.

Mr. GIBBONS. OK. Well, again, I join with my colleague from Tennessee in expressing his concerns about the fairness of this process. I certainly want the people of Puerto Rico to be able to express their own will, to be able to express their own concerns and their own decisions in this process. And if we artificially construct a process which denies them of that inevitable right and outcome, then I do think there is very deep concern about the process which was constructed in this report.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman. I would like to yield the time that I have to my friend, Congressman Gutierrez.

Mr. GUTIERREZ. Thank you very much. I want to first say to the Chairman, Mr. Pombo, and to the Ranking Member, thank you so much for allowing me to participate, and I would like to express a special thanks to the Resident Commissioner of Puerto Rico, Luis Fortuño, for allowing me and many of my colleagues to participate in this process.

I think it speaks volumes about his intention to have a fair and open process by allowing us to participate. I say that in the vein that while we disagree, he is still allowing us to participate, and I want to thank him personally here this morning.

I would like to ask you, Mr. Marshall, Puerto Rico was not, I believe, as indicated on page 9 of your report, relinquished by Spain. That is the verb you use. In 1898, the U.S. wrested control of Puerto Rico from Spain through armed force. Have you read the history of Spanish-American War?

Mr. MARSHALL. Yes.

Mr. GUTIERREZ. OK. So we did send General Miles there of Wounded Knee massacre fame to lead the troops? Do you know that?

Mr. MARSHALL. I do not know. I am not going to answer whether or not that is correct.

Mr. GUTIERREZ. Then I think before you coauthor a report about Puerto Rico, you should understand the basic elements of Puerto Rican history. We were not relinquished. The Spanish-American War, we were war booty as a result of the Spanish-American War. So therefore, Puerto Rico was a colony of the United States beginning in 1898.

Mr. MARSHALL. The word "relinquish" is referring to the act by which Spain handed sovereignty to the U.S. We are not attempting to make a commentary on the war or Puerto Rico's previous status as a colony of Spain.

Mr. GUTIERREZ. OK. Do you know that the U.S. demanded that Puerto Rico be part of war repatriations or booty from Spain as a condition for peace?

Mr. MARSHALL. Yes.

Mr. GUTIERREZ. OK. So in other words, it was not wrested? It was really taken. And the reason I bring that issue up is because you see Puerto Rico was already a nation in 1898 with its own culture, its own history, its own language. From a judicial perspective,

Puerto Rico was an autonomous province of Spain with a very high level of degree of self-government.

And I bring that to your attention because this historical background, just to bring to the attention of the Committee, that Puerto Rico was indeed a nation assisted by the inalienable right to self-determination and independence, the inalienable right to self-determination and independence, and that the colonial case of Puerto Rico is not just a matter for the U.S. Congress.

If I heard you correctly and if I read the report correctly, you stated that the Congress could unilaterally act in its relationship with Puerto Rico and change the conditions of the current relationship between the people of Puerto Rico and the people of the United States, is that correct, Mr. Marshall?

Mr. MARSHALL. That is correct.

Mr. GUTIERREZ. OK. As a matter of fact, your report goes to the extreme to state that you could unilaterally grant independence for Puerto Rico or transfer Puerto Rico's territory to another entity, is that correct?

Mr. MARSHALL. I am not sure whether that second statement is expressed in the report, but it is correct that we say that Congress has all the authority with regard to Puerto Rico that it would have with regard to any territory.

Mr. GUTIERREZ. OK. So here is my question. Then this should not be just an issue for the Congress of the United States, should it, given that we went to the United Nations? Do you recall when the government of the United States under President Eisenhower with Ambassador Cabot Lodge went to the United Nations in 1953 and obtained an agreement by which we, the United States, no longer had to report to the committee on decolonization because Puerto Rico had achieved a degree of self-determination?

Mr. MARSHALL. I cannot say that I personally recall that, but I am aware of that.

Mr. GUTIERREZ. OK. Since you cannot personally recall that, are you aware of that historical fact?

Mr. MARSHALL. Yes.

Mr. GUTIERREZ. OK. If that is so and you are saying today that you can unilaterally change the condition as a matter of fact, then indeed Puerto Rico continues to be a colony of the United States.

Mr. MARSHALL. What I believe happened in 1953 was that after Congress approved the popularly approved Puerto Rican Constitution, the Governor of Puerto Rico asked the United States to ask of the United Nations that the United States no longer file a report with regard to Puerto Rico because Puerto Rico had become self-governing. The President did do that. He filed a request, and we ceased filing the reports.

In that request, we did not state that Puerto Rico's status and system could not be changed. I am aware of a prior statement by our Ambassador to the United Nations that suggests that, but that was not in our official request to the United Nations.

The CHAIRMAN. The gentleman from Illinois' time has expired.

Mr. GUTIERREZ. Thank you very much.

The CHAIRMAN. The gentleman from Alaska, former Chairman of the Committee, Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman. I want to thank the great Luis Fortuño for bringing this bill to the Floor and representing Puerto Rico. I also want to recognize my good friend, Carlos, the horse out in the audience that has worked with me very hard on this issue for a long time. This is not new to me, and poor you, Kevin Marshall. I hope this does not turn out as a hostile meeting. At least there was a report. There has been little action since the last time out of this committee when we reported the bill. That did get to the Floor, and we won by one vote. And I had hoped it had gone over, and it would have been an accomplishment because this is long overdue.

At that time, we were celebrating the hopefulness of having the opportunity for the Puerto Rican people to decide what they wished to be once and for all, 100-year anniversary. You were supposed to be a state before Hawaii. I want people to understand that, but somehow Hawaii got in front of you, and I do not quite understand because we were Alaska, and we became actually the next to the last state entered into the union, but that is the way it was supposed to be.

I can tell you that I am a little concerned because I have said publicly I do not believe commonwealth will work. It was ironic when I went to Puerto Rico and had hearings—and we did have hearings in Puerto Rico. We had two hearings in Puerto Rico, had everybody participate in them. The independent party, the commonwealth, the statehood party, everybody participated, and I never enjoyed as much activity of anywhere in my life or the participation and the sincerity and the passion on both sides of the issue.

I can remember going down the street in a cavalcade of automobiles, and I had I believe 55,000 people on one side of the street cheering for me, and the other side, there was 55,000 booing me. Patrick Kennedy, you were with me. And I just have said all along that the constant inactivity of not acquiring a permanent status, as long as the commonwealth exists in Puerto Rico—I mean, I may go to that road. I mean, think about it.

You get a lot of the things that every other state get, but you do not have the responsibility, which I think is important to be part of our society within the United States, and believe me, you are part of the United States. The service that you have rendered to the United States, the veterans that have been participating in every war that I can believe we have been involved in, other than the Spanish-American War, and you were involved in that, too, has been on the side of the United States and with great patriotism and great pride.

So this hearing is about more than anything and other than the report is about where we are headed as a Congress, as a nation and as a commonwealth and where you are going to end up at. And I am going to do everything to make sure that the Resident Commissioner, the gentleman who represents that area, as I have done every time before to work with him, work with the Governor.

I am sorry the Governor is not here, by the way. I will say that right up front. He is the Governor of the state. There was prior notice that this meeting would be held, and I am just a little bit

disappointed that he was not here. This is a good time to be in Washington, D.C.

I plan on going to Puerto Rico with the help of the Chairman during this period of time to go down and again have a visit and to listen and understand, and hopefully we will be able to achieve I think a solution to this uncertainty that exists right now in Puerto Rico.

I respect you. I respect the people from Puerto Rico. I am deeply moved because we were the next to the last territory to become a state, and I know what commonwealth is all about. It will not work.

Mr. Kennedy, I yield to you.

Mr. KENNEDY. Ten seconds, Mr. Chairman. I think you are a perfect example of what political power as a state is all about. I do not think you would want to return to a commonwealth, especially after all the earmarks that you and Mr. Stevens managed to appropriate to Alaska, which makes it particularly the number one state in the country in terms of the amount of Federal money it gets back, and Puerto Rico as a commonwealth is now among practically the lowest in terms of entitlements because it is not a state. And, Mr. Chairman, I think it is proof positive about why Puerto Rico's future will better be off if it is a state.

Mr. YOUNG. I thank the gentleman for those comments, and I take great pride in that. You know, I will say that my good friend, Luis Fortuño, has been very successful in making sure that Puerto Rico gets quite a few more earmarks than they used to get because they know that I understand the problems down there. The highway problems, the bridge problems, communication problems, I understand them because I have been there.

Mr. Chairman, let me say one thing. For all of those in this committee, earmarks are good.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired. Mr. Cardoza. You have no questions right now, Mr. Cardoza? You are going to claim your time and yield it?

Mr. CARDOZA. I will yield to Ms. Velázquez.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman. Let me take this opportunity, because I was taken aback when Congresswoman Napolitano yielded to me. I was not expecting that. It was not programmed. But I want to take this opportunity to thank the Chairman and the Ranking Member, and also I want to take the opportunity to really recognize our friendship with the Resident Commissioner from Puerto Rico. Thank you very much for not opposing us to participate in this important hearing.

You know, I come from Puerto Rico. I grew up in Puerto Rico. I have nine brothers and sisters in Puerto Rico and like 50 nephews and nieces, so I have a vested interest in this issue.

But to answer both to Mr. Don Young and Mr. Kennedy, I appreciate your position about providing more resources to Puerto Rico, but what is best for Puerto Rico? Only the Puerto Rican people should answer that question. It is not and it should not be my position as a Member of Congress to decide what is the best political option for Puerto Rico. That is not self-determination.

Mr. Marshall, your report recommends a series of endless votes, and my question is: How Democratic is a process where you repeatedly make people vote until you get the outcome that is to your liking?

Mr. MARSHALL. I do not think that is a fair characterization of the report with respect. The first step, as we said, is to ask Puerto Ricans whether they are happy with the status quo. I do not think it would be an enhancement of democracy if we simply ask them once and stopped.

Ms. VELÁZQUEZ. And you go again and again and again until the commonwealth is defeated, and then you will have the options of statehood and independence. But you know if you read history and you know because you met with the stakeholders from Puerto Rico that the independence option and the different plebiscites that have taken place in Puerto Rico, the independence option always get no more than 5 percent. So at the end of the day, it will be statehood.

Mr. MARSHALL. I am sorry. I am not sure what your question was.

Ms. VELÁZQUEZ. At the end of the day, the result will be statehood, the statehood option, because historically they are going to be fighting between the statehood and the independence for the commonwealth votes, and when you see that most in every place I conducted in Puerto Rico, the independence option does not get more than 5 percent. So what would be the end result? Statehood.

My second question. Please explain how valid a self-determination process can be if it was originated by a few bureaucrats without any open hearings in Puerto Rico to listen to the people's opinions? Did you conduct any public hearings in Puerto Rico?

Mr. MARSHALL. I did not conduct any public hearings.

Ms. VELÁZQUEZ. I am asking again because I asked you previously, and you did not answer.

Mr. MARSHALL. You asked several questions, and I asked which was the precise one, and that was not what you listed.

Ms. VELÁZQUEZ. Yes. OK.

Mr. MARSHALL. I did not hold any public hearings in Puerto Rico.

Ms. VELÁZQUEZ. And you do not think that such an important process should conduct a public hearing in Puerto Rico to listen to the people that are going to be affected by the outcome of this process?

Mr. MARSHALL. I think that the Task Force faithfully carried out the duties it was given by President Clinton and President Bush.

Ms. VELÁZQUEZ. And in that mandate that was given by President Clinton and President Bush, did it say that they did not have to conduct public hearings in Puerto Rico?

Mr. MARSHALL. It did not address that question.

Ms. VELÁZQUEZ. I would like to request for the hearing record that the Task Force submit all documents used in the development of the report with a corresponding list of all individuals who contributed, along with their professional credentials and expertise, and I ask unanimous consent, Mr. Chairman.

The CHAIRMAN. I can ask unanimous consent, but I would object to it. I do not believe that at this time that we have access to all of that information, but I will continue to work with Mr. Marshall

to see what information is available that we can include as part of the hearing record.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Mr. Marshall, would you be willing to share with our staff the documents that were used for this final report? We are fighting for openness and democracy in Iraq, so we could do the same here.

The CHAIRMAN. The gentleman from California's time has expired, but I will allow Mr. Marshall to answer the question.

Mr. MARSHALL. I am not in a position to answer that question. I assume that many, if not all, of the documents to which you are referring would be protected by privilege.

The CHAIRMAN. I recognize Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman, and thank you to the Resident Commissioner for your leadership on this issue. Could you, Mr. Marshall, answer me this question rather quickly? Could you please explain the difference for us between the previous votes that have been taken in regard to the status of Puerto Rico versus a congressionally authorized plebiscite, as recommended by your report?

Mr. MARSHALL. The details of the various votes are in the report. The previous votes have all been initiated within Puerto Rico by the previous votes. Those votes have, with some exceptions, not produced majorities, and there has in at least some of those votes been serious controversy over what exactly the commonwealth option is.

Mr. DENT. OK. Another question I have is it is my understanding that the Governor of Puerto Rico has claimed that the Task Force report stands for the proposition that the U.S. may cede Puerto Rico to another nation, rescind U.S. citizenship of those born on the island, and renege on its legal interpretation of commonwealth before the U.N. in 1953, is that correct?

Mr. MARSHALL. I have already addressed the United Nations question from Congressman Gutierrez. With regard to citizenship, the report addresses that question. There is international law and custom on that question. And with regard to ceding Puerto Rico, as I have previously answered, our view is that Puerto Rico is subject to congressional authority as a territory, and that would include all the authorities that Congress has regarding its territories.

Mr. DENT. And finally, the Governor of Puerto Rico has said that he thought the Task Force was dormant before its report and suggested that his views were not considered. Did the Task Force consult with the Governor, and did it and others in the Administration, such as the Attorney General, receive extensive input from the Governor and his representatives, and did you seriously consider it?

Mr. MARSHALL. The answer to all three of those questions is yes.

Mr. DENT. OK. And again, the Governor has claimed the Task Force does favor statehood as Puerto Rico's future status. Does the Task Force favor statehood in your view, or did it objectively analyze Puerto Rico's status proposals and options?

Mr. MARSHALL. I believe the answer is the latter. Our mandate from the President barred us from having prejudice with regard to any of the Constitutional options.

Mr. DENT. Thank you. I have no further questions. I yield back the balance of my time.

The CHAIRMAN. Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman, and thank you, Mr. Fortuño, for your leadership on this. You represent Puerto Rico very well. I am sure you wish you could represent it fully like the rest of us, and I wish you would be able to come to the Floor, and when we decide whether to send Puerto Ricans over to Iraq to fight for this country, that they would have the same right that Puerto Ricans in the mainland have when voting for Members of Congress.

I appreciate what Ms. Velázquez and Mr. Gutierrez said about their family in Puerto Rico, but if those family members were here in the United States, they would have the right to vote for a Member of Congress. But they are in Puerto Rico, and as American citizens, they are disenfranchised.

If my colleagues from Puerto Rico wanted to run for Congress in Puerto Rico as American citizens, they would not have that right currently under the given status that we have. We just celebrated last year the 40th anniversary of the Voting Rights Act. It was a very important victory for voting rights in this country to enfranchise people who were disenfranchised up until that point. I think it is ironic that we are celebrating the 40th anniversary of the Voting Rights Act, and yet we are denying 4 million people of their and seven Congresspeople their right to vote.

I think that the point I made with Alaska is a very simple point, and that is if the people of Puerto Rico had a vote here, they would have, in the vernacular, yank in this place. They would have power. They would have an opportunity not to depend on the great beneficence of Mr. Young. They would have their own power. They would not have to rely on the goodwill of those of us who would like to see parity for health care funding and for education funding for the people of Puerto Rico. They would have their own power.

They would not have to go with their hat out looking for goodwill. They would have political power, and I guarantee you Puerto Rico's economy would improve markedly, as we have seen every other territory that has become a part of the United States, seen its economy and its quality of life improve dramatically.

I think the arguments for commonwealth at the time that commonwealth was adopted were very appropriate. It was a step forward to have commonwealth, but we are talking not about history and what happened 50 years ago.

Today we are talking about the future of Puerto Rico and what is going to happen in the next 50 years. I do not think it is really germane to be rehashing conversations that were made 60 years ago and neglect the fact that what we are really talking about here is the future of Puerto Rico.

I want to acknowledge our former colleague, Romero. Thank you very much for being here, and certainly Pedro Rosselló and Governor Hernández Colón for your leadership. I know all of you are working very hard and care deeply about Puerto Rico, and I think all of us respect the fact that you are doing the best that you can to represent the viewpoints of people in Puerto Rico. I just wish that those same views were adequately represented here on Capitol

Hill. I thank the Chairman for including me in the hearing, and again, thank you for letting us speak.

The CHAIRMAN. Mr. Diaz-Balart.

STATEMENT OF THE HON. LINCOLN DIAZ-BALART, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. DIAZ-BALART. Mr. Chairman, thank you very much for your courtesy and your committee for allowing us who are not members of this committee to visit you today and to speak on this very important issue.

I have to go to the Floor, but I wanted to come by because I feel very strongly about this issue and on the record state once again, number one, my support for the report of the President's Task Force on the status of Puerto Rico.

I join Mr. Kennedy in commending Luis Fortuño for his leadership. He has done an extraordinary job as a member of this body in advocating for the rights of the people of Puerto Rico and in educating the membership of this body with regard to the very critical issue that is before this committee today. I wanted to make certain that I not fail to commend and congratulate Luis Fortuño for his extraordinary leadership.

I do not have a position with regard to how the Puerto Ricans should vote. Personally my personal opinion is that from my vantage point, it would not be appropriate. I think that the people of Puerto Rico have a right to self-determination. I am a supporter of the right of self-determination for all peoples, including the people of Puerto Rico.

I think that the President's report, the roadmap established by, suggested by the President's report and drafted by Mr. Fortuño and presented to us in the form of his legislation is the appropriate roadmap for the people of Puerto Rico to have the opportunity to settle their status, which has been a provisional status all of these decades, to settle their status once and for all.

This plan, the Fortuño legislation, would permit the people of Puerto Rico to vote for the current status if they should wish to do so, but it also would give the people of Puerto Rico the opportunity to decide upon a permanent, nonterritorial status. It is, in my view, an appropriate roadmap.

As Mr. Fortuño is the first one to say, it is not necessarily perfect, but it is one that we in this Congress should support because it satisfies the goal that needs to be satisfied, and that is the people of Puerto Rico will have the option either to retain the current status or to once and for all settle their status with a permanent nonterritorial solution.

I wanted to once again utilize this opportunity to support the roadmap that has been suggested by the President's Task Force and to express once again my support for the Fortuño legislation that I am honored to be a cosponsor of, and, Mr. Chairman, as I leave now to head to the Floor, I thank you once again for your generosity and your courtesy.

The CHAIRMAN. Thank you. Mr. Serrano.

STATEMENT OF THE HON. JOSÉ E. SERRANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. SERRANO. Thank you, Mr. Chairman. First of all, I want to once again thank you and the Ranking Member for allowing us to participate in this hearing and to thank my friend, and it is one thing that Luis and Nydia and I agree on, our special friendship established very quickly with the gentleman from Puerto Rico, Luis Fortuño, and for your input in making sure that we are a part of this hearing.

I also want to thank you for allowing in the bill that you put together, on which I am a prime cosponsor with you, my amendment that would allow those of us born in Puerto Rico but who reside outside to vote in any vote that takes place, any referendum that is held.

I have often said that I may be the leader of a group that only has one member, me, and that is a group that focuses not on what Puerto Rico's political future should be but what it should not be. I am totally committed with every ounce of energy in my body and my being to doing away with the colonial status of Puerto Rico. I believe as a Puerto Rican born on the island that it is wrong for my birthplace to be for 108 years a colony of the United States, but I also believe as an American Congressman that it is wrong for my country and my Congress to hold a colony 108 years later from the time that it took control of the territory.

So I come from this perspective of what is good for my Puerto Rican community and also what is good for the country in which I have grown up in and where I have had all my children and where my parents are buried and whose Congress I am a member of. The only solution in my opinion is a permanent status that is noncolonial in nature.

Now some of the critics of this bill say that the bill leans toward statehood. I suspect that any time that you present the commonwealth for what it is, a territorial colonial status, that immediately allows people to say that the bill leans to statehood. Also, some folks have said if you have votes, it will lead eventually to statehood. That makes an assumption I am not ready to make yet, which is that every person who now supports the commonwealth would vote for statehood before voting for independence.

I do not know that those folks not given a choice to vote for the commonwealth would vote for statehood. They may opt to vote for independence. It is a difficult situation to deal with is what the final result will be.

I am also not troubled by the size of the report, 10 pages. The Gettysburg address was the back of an envelope. The impact was monumental. The Bill of Rights were 10 simple sentences, and perhaps world democracy centered, no matter what you think of our country, on those 10 sentences that did not have to go into great explanation. I am not worried about the size of the report.

I continue to be worried about the fact that my country is issuing these reports 108 years after it should have issued the first report. That is the problem. The big question here is for the commonwealth supporters to ask themselves, what is the next step? Is the next step to continue the colonial status, or did the people who created the commonwealth envision a next step? Is permanent union

the next step toward statehood, or was commonwealth only a placeholder for independence?

Either way, it is clear to me that commonwealth was never intended to be around. Now even those who support commonwealth truly do not support it, because if they did they would not be against the initial vote of our bill that says keep the commonwealth or make a change.

They want to keep the commonwealth, but not the commonwealth that exists now. Some write a letter to Santa Claus, a wish list asking for things, that Congress would have to negotiate. Statehood is a clear petition from people. That has been done before. We know what statehood brings into play.

Independence is a clear petition. It has been done by this country with the Philippines and other territories, and it has been done throughout the world. But an enhanced commonwealth is the one that troubles me, because I do not know what that means except that I do think I know what it means, but the commonwealth supporters do not want that as an option. It means free association with the United States. That should be the next drivable step for commonwealth if it is not statehood or independence, and so I support this bill for these reasons.

I will close with this statement. I think that the mistake we Puerto Ricans have made for 108 years—and I do not blame anyone for it, I think those were the circumstances created by the folks holding the colony whose Congress I am a member of—is to get us to be in support of something rather than united against a colony.

Had we united early on against the colony, this would have been resolved a long time ago. But I believe this bill can resolve it, and if you vote the commonwealth in our first vote, just vote for no change and the commonwealth will continue. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired. Mr. Weller.

STATEMENT OF THE HON. JERRY WELLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. WELLER. Thank you, Mr. Chairman, and first let me begin by just saying thank you for the courtesy and the opportunity that you and the Ranking Member have granted a number of us to attend and participate in today's hearing. It is an honor to sit at your dais, Mr. Chairman, and I appreciate the opportunity to be with you.

I also want to commend my friend and colleague, Luis Fortuño, for your leadership on behalf of Puerto Rico. I see a number of friends in the audience, Governor Rosselló, Governor Romero, Mayor Santini, and others who are in the audience today, folks that I have gotten to know over the years and consider friends.

Like my friend, Mr. Serrano, I believe after 108 years of second-class citizenship, United States citizens who reside on the island of Puerto Rico deserve the opportunity to choose their destiny, and I also believe after fighting in our wars, fighting our freedoms, in fact it is my understanding that today that if you consider all the states in the union, that per capita there are more Puerto Ricans fighting in Iraq and Afghanistan than 45 states. Puerto Rico ranks

in the top four or five in the representation of those who are fighting in the war against terrorism.

I believe that the United States citizens residing in Puerto Rico deserve the right to vote for their commander-in-chief. I believe they deserve the right to full citizenship. Of course that is a choice they should make, and that is why I am a cosponsor of the Resident Commissioner, Luis Fortuño's, legislation.

I for one am disappointed that the Governor chose not to be here today. This is an extremely important hearing regarding the future of Puerto Rico, and I am disappointed that the Governor chose not to be here, and frankly I had some questions for him that I wanted to ask.

Mr. Marshall, maybe I should direct this question to you. The Governor has proposed what he calls a development of a new commonwealth under which Puerto Rico would be a nation in a permanently binding relationship with the United States, under which the commonwealth would determine the application of Federal laws and Federal court jurisdiction and enter into foreign trade, tax and other agreements, and the United States would continue to grant U.S. citizenship.

All current aid to Puerto Rico would continue, and totally free entry to products shipped from Puerto Rico would continue, and grant an additional new annual subsidy to this new government that the Governor proposes be created.

I am troubled by this proposal. Essentially under this proposal, the Governor would be called Mr. President. The Governor would have the powers to appoint Ambassadors and establish diplomatic relationships with other nations.

The Dominican Republic Central American Free Trade Agreement, of such benefit to Puerto Rico and other parts of the United States, could be renegotiated from the standpoint of Puerto Rico, and again, while having such great autonomy, Puerto Rico would continue to receive generous subsidies from taxpayers living elsewhere in the United States. I am troubled by this proposal, and I am wondering, Mr. Marshall, can this proposal that has been advanced by the Governor, do you consider that a possible status option?

Mr. MARSHALL. Congressman, in your description, the key phrase I think was "a permanent binding relationship with the United States." To the extent the proposal includes that, the view of the Task Force is that the Constitution does not allow such a relationship apart from statehood.

Mr. WELLER. Are there any other U.S. territories, any other parts of the United States that currently have a similar arrangement as proposed by the Governor? The State of Illinois, for example, my home state, could declare itself a nation within a binding relationship of the United States and have diplomatic relations with others?

Mr. MARSHALL. I am not aware of any other relationships like the one you described.

Mr. WELLER. Let me clarify. I know this question has come up, and I just want to ask that you clarify this for us. Appendix E on the Task Force report regarding whether or not citizenship can be taken away, can you clarify that again for those of us here on

whether or not under your Task Force report under Appendix E U.S. citizenship can be taken away from those residing on the island of Puerto Rico?

Mr. MARSHALL. The report itself simply identifies the issue on citizenship and makes some very narrow statements about what would need to be addressed and what could be done. The document at Appendix E, at pages 11 to 12—I think that is correct, I may have the wrong pages—identifies a potential Constitutional question that would need to be resolved in the details of working out citizenship.

It also notes that the Justice Department in 1991 had a somewhat different view from what the Justice Department had in 2000. It was beyond the scope of the report to resolve that legal question.

Mr. WELLER. There are some who have suggested that this Task Force report is biased in favor of statehood. Do you agree?

Mr. MARSHALL. No, I do not.

Mr. WELLER. Could you explain why?

Mr. MARSHALL. First, our mandate from the President was twofold, to identify the Constitutionally permissible options and second, come up with a process to realize an option without prejudice toward the options. We have faithfully attempted to carry that out. I think we have succeeded.

As I also mentioned, there is no reason to think that a majority vote in favor of the current status is an impossibility or even particularly unlikely. I cannot claim to predict what will happen, but I do not think it is fair to claim that the process we have set up forejudges the result.

Mr. WELLER. Thank you. Mr. Chairman, you have been very generous. Thank you for the courtesy and the opportunity to participate in today's hearing. Thank you.

Ms. MCMORRIS. [Presiding.] Very good. Mr. Inslee.

Mr. INSLEE. Thank you. I appreciate it. I just want to express a thought of appreciation for the Puerto Ricans serving in our military forces. I am told somewhere between 15,000 to 20,000 Puerto Ricans are serving the United States of America I believe in Iraq, and I just want to express an appreciation for their contribution, and join a lot of my colleagues who have said that our obligation to enhance the Democratic principles of people in Puerto Rico is very deep obligation given at least for a lot of reasons, including those people's service.

Mr. Marshall, I wonder could you give me sort of a lay description of the relationship as far as Congress would concern and the executive branch of people in Puerto Rico and people living in Washington, D.C.? Could you just sort of describe their relative congressional situation, Presidential situation?

Mr. MARSHALL. With regard to the political powers of Puerto Ricans?

Mr. INSLEE. Yes. Relative to those people who reside in the District of Columbia.

Mr. MARSHALL. The persons in the District of Columbia have the right to vote for electors for President under a Constitutional amendment, and they also elect a delegate to the House. Residents of Puerto Rico elected Congressman Fortuño. They do not have a

right to vote for electors for President, and I believe that neither in the District of Columbia nor in Puerto Rico do the residents get to vote for Senators.

Mr. INSLEE. Actually I guess as far as congressionally for selection of a Member of the U.S. Congress and selection of the President of the United States, Puerto Ricans are actually sort of in the same boat with people who reside in the District of Columbia, is that pretty much the situation?

Mr. MARSHALL. I believe they are. I will not claim to know the specifics, but I believe in general they are in the same boat, as you say, with regard to the House of Representatives. Residents of the District of Columbia actually have greater rights with regard to election of the President. As I said, even though the District of Columbia is not a state, that right was granted through a Constitutional amendment.

Mr. INSLEE. I guess I point that out a little bit saying that we need to enhance I believe some Democratic principles in Puerto Rico, but there is another place which is the District of Columbia as well. I just kind of want to make that point. What would you say were the most contentious issues during your Task Force? What were the most contentious issues that you felt were most difficult to resolve here?

Mr. MARSHALL. As I mentioned in my statement, Congressman, the most difficult legal question was, of course, whether the Constitution presently permits what we called the new commonwealth option, and that was the question on which I received the most input from advocates of the various positions on Puerto Rico, both in writing and in meetings.

Mr. INSLEE. Very well. Thank you very much.

Ms. MCMORRIS. Thank you very much. We appreciate you being here today.

Mr. MARSHALL. Thank you.

Ms. MCMORRIS. At this time, we are going to go to panel II, which consists of a group of individuals elected to or chosen to represent the three primary political parties in Puerto Rico. Their views of the Task Force report should be helpful for the Members. Now that you are seated, I need to ask you to stand so we can administer the oath.

[Witnesses sworn.]

Ms. MCMORRIS. The Chairman now recognizes Mr. Carlos Dalmau, the Executive Director of the Popular Democratic Party Status Committee. He will be speaking on behalf of the president of the party who is also the current Governor of Puerto Rico. Many Members here today served with Mr. Vilá when he was here in Congress, but unfortunately the Governor could not attend our hearing. Mr. Dalmau will remember that under the Committee Rules he must limit his oral statement to five minutes, but that his entire statement will appear in the record. Mr. Dalmau.

STATEMENT OF CARLOS DALMAU, EXECUTIVE DIRECTOR OF THE POPULAR DEMOCRATIC PARTY STATUS COMMITTEE

Mr. DALMAU. Thank you, Madame Chairman and the Committee. My name is Carlos Dalmau. I am the executive director of the Popular Democratic Party Committee on Status. As you know, the

Governor was not able to attend this hearing because he is leading the effort to deal with a fiscal crisis that threatens to shut down the Puerto Rican government. This crisis is very similar to the 1995 Federal shutdown that you I am sure remember, but I am sure that the Governor would like to be here very much.

Even during these difficult times, I welcome the opportunity to share my views with the Committee on this very important issue for the people of Puerto Rico. The topic today is the Task Force report. Let me focus first on the legal aspect of the report. The report dedicates only four-and-a-half pages to the legal analysis of the Puerto Rico status conundrum. I think that the drafters of the report were so eager to get to the conclusions of the report that they did not discuss or consider 200 years of case law and scholarship.

I am submitting along with my testimony a thorough memorandum by Charles Cooper. The Cooper memo illustrates how many issues were ignored by the report, how many issues were not confronted by the report, and Mr. Marshall's testimony today did not add anything to the substance of the report, but beyond the lack of analysis of this 14-page report, there are four conclusions that are particularly disturbing for the people of Puerto Rico.

Let me share them briefly with you. First, that Congress can directly legislate and change the island's governmental structure today. They can basically abolish the legislature and fire the Governor that was elected by the people. That is one of the conclusions of this report.

Second, that the Federal government may cede Puerto Rico to another nation, and maybe you can trade us to China or Pakistan. This is the kind of reckless conclusion that basically calls into question the seriousness of this entire exercise.

The third point is that the U.S. citizens born in Puerto Rico, it does not matter if they move into the mainland, can be deprived of their American citizenship. So, the fourth point being that the Constitution prohibits the U.S. Government from entering into a relationship with the people of Puerto Rico that is based on mutual consent, and as you will see from the record, the Cooper memorandum explains in great detail how wrong legally and policy wise this position is.

This report does not provide a true self-determination process. Four months have passed since this report was issued. The President has not said a word, and the silence of the President speaks volumes. So, you may ask what is the next step? There are two bills in Congress today, one that embraces the report, and we can call that the statehood bill. We have another bill, cosponsored by Congresswoman Velázquez and Congressman Duncan, that provides for a true self-determination process through a Puerto Rican Constitutional convention.

The problem with the statehood bill is that it lays out a process that would unfairly stack the deck in favor of statehood. It basically is an attempt to undermine the commonwealth, proposing a two-stage process. First, you vote against the commonwealth as defined by the report thus eliminating the commonwealth option by uniting the forces of independence and statehood.

It is very simple, but fundamentally antidemocratic. Puerto Ricans deserve better. It is time for a better and new approach.

The Duncan-Velázquez bill is the right approach. Madame Chairman and members of the Committee, the people of Puerto Rico have been struggling on this issue for a long time. All the people that are witnessed from the island have been here many, many times. I am a member of a new generation of people in Puerto Rico that want to try a new approach, and I can see that democracy triumphs in Puerto Rico if we let the people of Puerto Rico decide. Thank you very much.

[The prepared statement of Mr. Dalmau follows:]

Statement of Carlos G. Dalmau, Executive Director, Popular Democratic Party Committee on Status

Mr. Chairman and Members of the Committee. My name is Carlos G. Dalmau. I am Executive Director of the Popular Democratic Party Committee on Status. As you know, Governor Acevedo-Vilá could not attend this hearing today, because he is leading the effort to solve an imminent fiscal crisis that might result in a government shutdown.

The situation is similar to the 1995 Federal Government shutdown which I am sure you remember well. But for Puerto Rico this is a first and the impact, I dare say, is proportionately more devastating for our economy and for the lives of thousands of public workers.

Even during these difficult times, I welcome the opportunity to present my views on behalf of the Popular Democratic Party. I worked in Congress for 3 years and I am truly glad to be back. I appreciate the interest that this Committee has shown in dealing with such an important issue for all Puerto Ricans.

I sincerely hope that this hearing is only the beginning of a broad and inclusive process, not limited to the political parties. The status of Puerto Rico is such a fundamental issue for us that I urge you to be as inclusive as possible. And more importantly, I hope that these efforts result in a true Self-Determination process. I am sure that the Governor will be very active during this process.

The topic of this hearing is the Report issued by the President's Task Force on December 22, 2005. First, let me focus on some of the legal conclusions of the report that are most questionable.

Volumes have been written on the legal and constitutional aspects of the status of Puerto Rico. The scholarly debate is rich, complex and extensive. However, the Report under the title of Legal Analysis, dedicates only 4 and a half pages to analyze the whole legal conundrum of Puerto Rico's status. If this was a college paper, it would get a grade of D—and that from a lenient professor.

It seems that the drafters of the Report were so eager to get to the conclusions that they forgot to support them and to discuss the applicable law altogether.

I am submitting along with my testimony a thorough memorandum by Charles Cooper, a former head of the Office of Legal Counsel at the Department of Justice, and also a bibliography of related scholarship so they can be made part of the record. The Cooper memorandum had been submitted to the members of the Task Force several months before the report was issued. In light of the weight of authorities cited in this memo, it is perplexing that the Task Force Report does not even attempt to mount a legal defense of its conclusions. Some of these conclusions pretend to be supported by a 14 page Department of Justice memorandum on Guam, which as you will see is completely discredited by the thorough legal analysis in the Cooper memorandum.

Beyond the lack of depth and real analysis, there are 4 conclusions that are particularly disturbing.

First, that Congress can directly legislate and change the island's governmental structure unilaterally. The logical consequence of this report is that this Congress can abolish the Puerto Rico legislature, fire the Governor and appoint an Emperor. That is the only logical consequence of this formalistic—all or nothing—view of the territorial clause of the Constitution that the report puts forth.

Second, the Federal Government may relinquish U.S. sovereignty by ceding Puerto Rico to another nation. Maybe you can trade us to the Chinese for some currency value concessions. It is embarrassing that in this day and age, Federal officials will put such a conclusion on paper. It really calls into question the seriousness of this entire exercise.

Third, that U.S. citizens born in Puerto Rico may be deprived of their citizenship at any time because of the statutory nature of it. I would like to see how the U.S.

Courts will rule on an attempt to deprive Puerto Ricans in Florida and New York of their U.S. citizenship.

The analysis or lack thereof of the issue of citizenship is painful. The drafters of the Report adopt without discussion the legal position advocated by some that Congress can revoke the U.S. Citizenship of the people of Puerto Rico because we are allegedly merely statutory citizens. They do this ignoring case law and legal scholarship that sustain the contrary position.

This report, at a time in which we are discussing immigration in America and the rights of foreign workers in this country is outrageous. This report issued in times of war when our brothers and sisters are sent into harms way in Iraq is a shame.

Fourth, that the Constitution somehow prohibits the U.S. Government from entering into a relationship with Puerto Rico based on mutual consent. The Cooper memorandum explains in great detail just how ludicrous and legally wrong is the mantra repeated in the Report that the Congress may not bind itself to a relationship based on mutual consent. This conclusion ignores over 200 years of precedent. It is our position that the United States Constitution permits the United States and the people of a territory to enter into a bilateral and binding political relationship. The authors of the Report attempt to unjustifiably limit the options available to the people of Puerto Rico in order to create an artificial majority for statehood.

All of these conclusions, if adopted by the United States, would have tremendous political and legal repercussions.

The Report also casts grave doubt as to the value of the commitments made by the United States to the world. As former U.N. Ambassador Jeane Kirkpatrick stated in a recent New York Times OpEd "quite unbelievably, the Task Force raised questions about Puerto Rico's status that reminded us of what we heard from the Cuban delegation and its communist allies" 25 years ago.

This Report does not provide the basis for any legitimate process of self-determination. Four months after the publication of the Report, President Bush has not said a word about it. The President is silent and with good reasons.

I respect the fact that many Puerto Ricans have legitimate reasons to favor full independence or statehood. I am willing to debate in any public forum why I think the Autonomous alternative of the Commonwealth is the best choice today for Puerto Rico. I am willing to let the people decide their future status through a truly democratic process. But no Puerto Rican should be forced to accept the premises and conclusions of this report no matter what political advantage they may think they can get out of it. No American citizen should accept the implications of this report. Pro-statehood citizens should not favor statehood because they are threatened or scared by a purposefully biased Report. Puerto Ricans should not be scared into voting for statehood because otherwise they may be ceded to Pakistan.

What is the next step? There are two status bills in Congress today, pending your consideration. One of them embraces the Task Force Report and its recommendations. The other one, the "Puerto Rico Self-Determination Bill" co-sponsored by Congressman Duncan and Congresswoman Velázquez, provides for a true self-determination process through a Puerto Rican Constitutional Convention.

The problem with the report and the Fortuño bill is that they lay out a twisted process for a referendum that would unfairly stack the deck in favor of statehood.

What this report does is an outrageous mathematical exercise. In order to ignore the Commonwealth option, the proposed two-stage process adds all the possible votes against Commonwealth, to knock that option out in the first round.

In every plebiscite held in Puerto Rico, Commonwealth has won. Statehood has never won.

The report tries to change that by creating an artificial majority. The math is simple. If you add the second place—statehood—to the third place—independence—then you can fabricate an artificial majority against the real majority, the Commonwealth.

It is very simple, although perverse and antidemocratic. Puerto Ricans deserve better. It is time for a new and better approach. An approach that is fair to everyone. Supporters of autonomy, statehood or independence, all Puerto Ricans deserve a fair, inclusive and democratic process with all of the three options represented.

With this in mind, the Governor and the Popular Democratic Party support the bipartisan bill sponsored by Congressman Duncan and Congresswoman Velázquez, H.R. 4963 "The Puerto Rico Self-Determination Act of 2006"—as well as its Senate companion, S. 2304, introduced by Senators Kennedy, Lott, Burr and Menendez.

The Duncan-Velázquez bill is the right approach. The bill offers Congressional recognition of the right of Puerto Ricans to hold a constitutional convention as the democratic mechanism to solve this issue. And it commits the Congress to respond to the proposals of this convention. This new approach learns from the mistakes of

the past and follows the example set by America's founding fathers allowing us to fully exercise our democratic rights in an open and inclusive process.

The time to resolve Puerto Rico's status is now. I urge you affirm Puerto Rico's dignity and political rights. I invite you to reject a legislation that derives from the Task Force Report. I invite you to endorse the legislation that would establish the constitutional convention as the new and most democratic approach to solve this issue.

Everyone else testifying before this Committee today has been here, on this same issue, many times before. They are part of a generation that has spent its entire life on this issue. I acknowledge their historic contributions to this process, but as a member of a new generation I do not want to be here in 30 years dealing with the same issue. We have taken a hard look at the lessons from those prior experiences. One reason why the constitutional convention holds a particular appeal to people of my generation is that it is the only approach where Puerto Ricans are responsible for our own future. Work with us, not against us.

Conclusion

Congress has yet another chance to make it right. Puerto Ricans deserve more than this Report and the bill introduced by Commissioner Fortuño. Mr. Chairman and distinguished Members I urge you to go beyond this report. I urge you to support the Duncan-Velázquez Self-Determination bill. Let us really provide a process of self-determination in Puerto Rico that is fair and inclusive.

The issue is status and it needs to be addressed. In this process Puerto Ricans are entitled to be told the whole truth. But as you know the truth is a fragile thing in politics. And in this Task Force Report the truth has been twisted to make a trap for fools. Puerto Ricans will not be deceived again. We deserve much more.

The Popular Democratic Party is ready. We are ready to write a new chapter based on dignity, democracy and mutual respect. Puerto Ricans are ready, we are not afraid. It is about time that we conclude what was started in 1952. Congress has a choice to make. Let us move forward towards a new beginning in US-Puerto Rico relations.

[The response to questions submitted for the record by Mr. Dalmau follows:]

Response to questions submitted for the record by Carlos Dalmau

Questions by Congressman Rahall

Question 1

This question takes the words of Luis Muñoz Marín completely out of context. Muñoz Marín's comment was not intended to be a legal conclusion; it was simply a remark to underscore the mutual nature of the relationship. Muñoz Marín was referring to an extreme set of circumstances in which Puerto Rico acted against the compact or against the United States. For instance, if the majority of Puerto Ricans voted for independence and declared war on the United States, that would clearly be a case in which Congress must not be bound by the compact and could legislate to change the relationship.

Question 2

Because Congress has never authorized a federally mandated plebiscite for Puerto Rico, the options that have been presented to the voters can always be argued that contain some elements that the Congress might not support. In the case of statehood, in all of their campaigns in 1967, 1993 and 1998 they prominently featured the following themes: (i) as a State, Puerto Rico will be able to continue participating in international Olympic competitions, competing even against Team USA; (ii) as a State, everything will continue in Spanish; and (iii) as a State Puerto Ricans will end up not paying any taxes, and will instead receive more welfare funds. It is highly unlikely that a state of Puerto Rico would be permitted to enter the Union under those premises, but that was how it was presented. The fact that the Commonwealth proposal included changes to that option, does not diminish from its victories.

What is most salient of the 1998 vote is that when 50.2% of the population voted for None of the Above they were voting to reject all other options for changes in political status, thus that majority preferred to remain as a Commonwealth as it exists today. The option that you mention that received almost no votes was a farce drafted by statehood supporters which sought to portray Commonwealth in the most negative fashion possible.

Question 3

Yes, I completely disagree with the statement by Congressmen Young and Miller regarding Congressional retention of full plenary powers.

With regards to the statement by Resident Commissioner Fernos, I believe that the simple language of Public Law 600 makes it clear that as a compact, its provisions cannot be unilaterally repealed. But as explained in detail in the Cooper Memorandum, the full legislative history of Public Law 600, not one quote taken out of context, gives greater support to the mutual consent elements of the compact. These elements were subsequently repeated to the world in the Cessation Memorandum to the United States, both in the official written document and in the statements by the U.S. delegation.

In 1971 the future Chief Justice of the Supreme Court William Rehnquist put it clearly in the OLC Memo mentioned before:

> "One Congress could bind subsequent ones where is creates interests in the nature of vested rights, e.g., where it makes a grant or brings about a change in status. Thus we concluded in the early 1960's that a statute agreeing that the United States would not unilaterally change the status of Puerto Rico would bind subsequent Congresses."

Our position follows this longstanding principle. The powers of self-government vested to the people of Puerto Rico under the compact under which commonwealth was established cannot be revoked by Congress. These vested powers are irrevocable.

Question 4

I firmly believe that the relationship established in 1952 can be improved and must be further clarified in good faith by the parties. Imperfect as it may be, I believe it was based on mutual consent and may not be unilaterally abrogated. I recognize that there is a debate about this issue, though not necessarily a good faith debate, so I prefer that we move away from a historical discussion of what happened in 1952 and establish that for the future we can have a bilateral relationship.

The U.S. Constitution gives Congress ample authority and latitude to establish a relationship of mutual consent with Puerto Rico. Unfortunately the Task Force Report dismisses this position, but it does so without any legal analysis. I have supplied the Committee with the Memorandum by Charles Cooper that makes abundantly clear Congressional power to enter into such relationships.

The death penalty issue really has nothing to do with this controversy. Many States prohibit the death penalty, but the fact that Congress has authorized the death penalty for certain Federal crimes, does not diminish the sovereignty of the States, nor does it diminish that of the Commonwealth.

The bilateral nature of the relationship does not require for Puerto Rico to become an independent sovereign nation. The term sovereign is not an all or nothing proposition. As explained in response to one of the questions by Congressman Young, there is a growing consensus that in the 21st Century sovereignty has been transformed from the monolithic concept prevailing in the 19th Century to a flexible concept as we see it applied today all over the world.

The founding fathers, ahead of their time in so many areas, understood the concept of sovereignty from a pragmatic perspective. The Federal Union of States itself recognizes a dual sovereignty that cannot be unilaterally broken. There is absolutely nothing in the U.S. Constitution that prohibits an analogous dual sovereignty relationship with a non-State jurisdiction. This is conclusively shown in the Cooper memorandum in contrast to the Task Force report and its attachments which a void of any serious legal analysis.

Question 5

Yes, some kind of exemption from the Jones Act requirements for the use of U.S. crewed, built and owned vessels would be one of the issues that would be part of the discussion of laws that should not apply to Puerto Rico, but that would be part of the overall agreement upfront, so I cannot agree with the characterization that it is a law that the Commonwealth would unilaterally "nullify."

Question 6

As I indicated in an answer to a question by Congressman Young, if Congress were to enact H.R. 4963 I am confident that the Puerto Rico Legislative Assembly would support the Constitutional Convention. Its initial opposition to the Convention was based on the fact that during the campaign the NPP promised a plebiscite and such proposal is part of their party platform. However, if Congress supports the Convention and establishes a fair process, the NPP will be free to embrace the Congressional position without the political cost of not keeping their campaign pledge.

Questions by Congressman Young

Questions 7 through 15

Questions 7 through 15 which appear to have been submitted by Congressman Don Young are in large part premised on an incorrect foundation. There is no such thing as the "Governor's New Commonwealth proposal." What these questions seem to reference is a resolution approved by the Popular Democratic Party in 1998 for the purpose presenting to the Puerto Rican voters a proposal to develop Commonwealth that could be included in the 1998 plebiscite that was held in Puerto Rico. The Puerto Rico Legislative Assembly did not allow for the inclusion of any such proposal.

What the Governor is proposing today, and has been proposing since his first day in office, is that the first step should be for Puerto Ricans to elect a Constitutional Convention and such convention would have the option of drafting a proposal to the Congress for a new or amended compact. Whether the 1998 resolution will be the basis of such a proposal is unknown at this point and it will ultimately depend on the position of the delegates elected by the people to the Convention. Thus, there is no new Commonwealth proposal on the table at this point. Since that resolution was adopted in 1998, the Congress has not immersed itself in a process that would call for the discussion and viability of such a proposal. So while it is difficult to answer questions that are fundamentally based on an erroneous premise, I will answer them as best I can.

Question 7

Since the referenced New Commonwealth proposal has never been submitted by the Popular Democratic Party for Congressional consideration, there would be no reason for Congressional or federal officials to opine as to its viability. The problem with the Task Force Report is that we do not even get the chance to discuss the specifics of an enhanced commonwealth because it concludes that the Commonwealth cannot exist under the Constitution.

Question 8

The amount of the referenced block grant is one of the many issues that would be discussed and negotiated as part of a good faith process if there is a good faith process. To decrease the levels of economic dependency is one of the goals that the PDP has established for the future. Whatever the final cost, it would certainly be significantly less than the added cost to the Federal treasury of making Puerto Rico a state.

No. I do not believe that the socio-economic incentives referred to tax credits.

No. If read carefully, the proposal is designed to make Puerto Rico less financially dependent from the Federal treasury, which contrasts with the case of statehood, where Puerto Rico would become much more financially dependent.

Question 9

The establishment of a mechanism so that Federal laws do not automatically apply to Puerto Rico was something that was given serious consideration by Congress when it discussed status legislation from 1989 and 1991. This can be accomplished in various ways, so I cannot agree with one Member's opinion that there is "no chance" that something of this nature can be agreed to. As the legislative record reflects it is a matter of statesmanship and political will.

Question 10

Even assuming that this question is based on the 1998 resolution, the premise of the question is incorrect since the resolution does not speak about the Commonwealth on its own limiting the jurisdiction of the federal courts. This leads me to believe that individuals who do not favor Commonwealth have been giving Members of Congress purposefully incorrect information.

Question 11

This question references a "State Department witness" who made certain representations as to the views of the State Department. I am unaware of any State Department witnesses making any statements regarding Puerto Rico during 2006. I am aware that the House Resources Committee held a hearing on October 4, 2000 on H.R. 4751, a bill introduced by Congressman Doolittle. That hearing and bill raises a number of questions. Without answers to those questions, it is very difficult to answer Question 18. Why did Congressman Doolittle introduce this legislation? Who asked him to do so? The Popular Democratic Party did not. H.R. 4751 took the 1998 PDP resolution and presented it in a distorted fashion. Why did the Com-

mittee hold a hearing on October 4, 2000, only one month before the elections in Puerto Rico?

With regards to testimony by a State Department witness at such 2000 hearing, his testimony is not even available on the House Resources Committee web site archives, so it is difficult to respond to it directly, so I will take the characterization of such testimony in this question as valid for the purpose of providing an answer.

Some views expressed in the past regarding the participation by Puerto Rico in international organizations and a greater role internationally by Puerto Rico suffer from what I believe to be a myopic view of the world and U.S. foreign policy today. I believe the U.S. has much to gain by having Puerto Rico exercise a greater role internationally. While it might be true that in the past there has not been the ideal coordination between the Commonwealth Government and the State Department, I believe that if we establish better channels of communication and strengthen our mutual trust, the U.S. Government will feel comfortable that Puerto Rico can be an asset to the U.S. in its international relations.

In fact, for many years it was a very active asset, reaching its zenith during the formation of the Alliance for Progress, whose first director was Teodoro Moscoso, a Puerto Rican who left the Commonwealth Government to joint the U.S. State Department. So I do think that a greater international role for Puerto Rico is viable and desirable for both the United States and Puerto Rico. Let me just mention two works on the subject: W. Michael Reisman, Puerto Rico and the International Process: New Roles in Association (1975) and the classic book by Carl J. Friedrick, Puerto Rico, Middle Road to Freedom (1959).

Since the Committee made clear that the Governor was invited to testify in his capacity as President of the Popular Democratic Party and I testified on his behalf in my capacity as Chairman of the PDP's Status Commission, I do not think it would be appropriate for me to respond to questions regarding comments by Commonwealth Government officials.

With regards to trade agreements, it should be noted that while the U.S. Virgin Islands does not negotiate its own trade agreements, it is outside of the U.S. Customs Union so there is indeed room for flexibility in the area of international trade.

The last question under Question 18 is premised on an outdated vision of sovereignty as a zero sum game, where one entity's gain must be another entity's loss. The prevailing view in the 21st Century is that sovereignty is a flexible concept. Every nation agrees to cede some element of what could have been an absolute sovereignty, simply as a matter of coexisting on the same planet. The Federal Union of States itself recognizes a dual sovereignty that cannot be unilaterally broken. There is absolutely nothing in the U.S. Constitution that prohibits an analogous dual sovereignty relationship with a non-State jurisdiction.

Question 12

This question shows one of the fallacies that is being repeated by opponents of the Constitutional Convention. This notion that the two step vote outlined in the Task Force Report is "more democratic" than the Constitutional Convention is simply not true. If you arbitrarily limit the options available to the people in a direct vote as recommended in the Task Force Report, the process becomes totally anti-democratic. The Constitutional Convention is well recognized around the world as a valid democratic mechanism, but it has its deepest roots in U.S. history since it was the mechanism used for the adoption of the U.S. Constitution. The Constitutional Convention will have before it a full range of options and the voters will have the last word on approval. So I do not agree that a status choice among artificially limited options is "more democratic."

Clearly we envision that the choice made by the Convention has to be mutually acceptable and to that end it would be useful to establish a mechanism where the Convention can consult with the Executive Branch, so that at the very least the proposal can be presented to the Congress with the support of both the Convention and the Federal Executive. In such consultation process, a certain level of negotiation is inevitable, but the negotiation should take place at such time and not beforehand. We believe that if legislation like H.R. 4963 is adopted, the President has the power to appoint a consultation committee, or some other entity that can interact with the Convention.

If Congress were to enact H.R. 4963, I am confident that the Puerto Rico Legislative Assembly would support the Constitutional Convention. The NPP legislators that previously opposed the Convention would be hard pressed to oppose it if the Congress has supported it.

With regards to what took place between 2001 and 2004, I believe that Chairman Young has been given false or at least incomplete information. The cornerstone of the status proposal made by the PDP to the Puerto Rican voters in the 2000 election

was the creation of a Committee of Unity and Consensus where all three political parties in Puerto Rico would first have to agree on the process that needed to be followed to resolve the status issue. Governor Sila M. Calderón attempted to organize such a Committee but the New Progressive Party boycotted the same and refused to participate. Since that was the commitment that the PDP had made to the voters in the 2000 elections, it would have been contrary to such commitment for Governor Acevedo to have at that time proposed Federal legislation for the development of the Commonwealth or for the election of a Constitutional Convention. In the 2004 elections, Governor Acevedo ran on a platform in support of the Constitutional Convention, and he has held true to that commitment with his support for H.R. 4963.

Question 13

The concept of association entails a wide spectrum of alternatives. The problem with the Task Force report is that in order to give statehood an edge over the commonwealth it has arbitrarily limited the concept of association. The Report ignores the applicable case law and the scholarly debate on the subject. Our view is that the Report's formalistic position is the result of political calculations and not of sound legal analysis.

The Report does not provide the basis for any legitimate process of self-determination. The PDP opposes the process recommended by the Task Force because it tries to create an artificial majority for statehood. As I explained in my testimony, in order to defeat Commonwealth, the proposed two-stage process adds all the possible votes against Commonwealth, to knock that option out in the first round. The process is obviously unfair and anti-democratic.

Question 14

This question is based on a completely false reading of both the Memorandum by the Government of the United States to the United Nations and the weight and context of the explanations of this Memorandum given by the authorized representatives of the United States before the United Nations. The Memorandum stated that there had been a "change in the constitutional position and status of Puerto Rico." The Task Force report now states that there was no change. The Memorandum highlights the differences between Puerto Rico and Hawaii, Alaska, Guam and the U.S. Virgin Islands in that Puerto Rico elected "their government through universal, secret and equal suffrage, in free and periodic elections" and which are assured freedom from undemocratic practices by the Constitution itself." If the theory of the Task Force Report were true, the U.S. Government could reverse the outcome of elections in Puerto Rico, thus the representations to the United Nations in the official Memorandum would be false.

The dichotomy between the official Memorandum and the statements of "a couple of members of the U.N. delegation" on which this question is premised and that was espoused by Mr. Marshall in his testimony is simply untrue. Accordingly, I request that a full copy of the Memorandum by the Government of the United States to the United Nations and the comments by its official representatives be included in the official record of these hearings because it is clear that there is an effort to mischaracterize these documents and statements. They clearly indicate a "change in the constitutional position of Puerto Rico."

While I agree that the position taken by the Report is not new, it is however, relatively recent, since the Justice Department changed its position in 1991. While the Report might speak to the need for mutual action, it hangs the Sword of Damocles above such mutuality by threatening it with the potential for unilateral action, including in its most repugnant form unilateral cession to another country, a position which Mr. Marshall inexplicably tried to deny in his testimony. So there can be no mutual process if the threat of possible unilateral action is always present. Of course, since we are confident that the Courts will indeed uphold the bilateral nature of the relationship we view these threats as mere sable rattling. Unfortunately it is the kind of sable rattling that can have an impact on voters, which is one of the reasons we believe the Report is designed to create an artificial majority in favor of statehood.

Question 15

I believe the best answer to your question was provided by the then future Chief Justice of the Supreme Court William Rehnquist in the 1971 OLC Memo:

> "One Congress could bind subsequent ones where is creates interests in the nature of vested rights, e.g., where it makes a grant or brings about a change in status. Thus we concluded in the early 1960's that a statute agreeing that the United States would not unilaterally change the status of Puerto Rico would bind subsequent Congresses."

Our position follows this longstanding principle. The powers of self-government vested to the people of Puerto Rico under the compact under which commonwealth was established cannot be revoked by Congress. These vested powers are irrevocable.

Ms. MCMORRIS. Thank you. The Chair now recognizes Senator Pedro Rosselló who also serves as the President of the New Progressive Party.

STATEMENT OF SENATOR PEDRO ROSSELLÓ, PRESIDENT, NEW PROGRESSIVE PARTY, SENATOR, SENATE OF PUERTO RICO

Senator ROSSELLÓ. Thank you, Madame Chairman. Good day to you and to each of the other members of the House Committee on Resources and in particular to Puerto Rico's sole Member of Congress, Luis Fortuño. For the record, my name is Pedro Rosselló. I am President of the New Progressive Party of Puerto Rico. I have been a member of the Puerto Rico Senate for the past 14 months, and I was Governor of Puerto Rico from 1993 to 2001.

Speaking officially on behalf of the New Progressive Party as well as in my personal capacity, I emphatically support the recommendations contained in the December 22, 2005, report by the President's Task Force on Puerto Rico's Status. In accordance with the Chair's instructions, my brief spoken remarks will summarize the contents of written testimony that I have submitted to the Committee.

The Task Force is predicated upon decades of experience compiled by experts representing all three branches of government and both the nation's principle political parties. The report is succinct, but it is likewise thorough and forthright and fair. The President's Task Force has accurately and articulately addressed a very old and very sensitive item of unfinished business on the agenda of American democracy.

Today, as in the past, some of the most pressing issues that confront you, as America's leaders, are issues that relate to civil and human rights. You are currently grappling with the issue of tyranny and terror as we the people of the United States strive to expand the boundaries of freedom and democracy abroad.

On the home front, you are currently endeavoring to solve, in a manner that is both compassionate and just, the problems spawned by the presence of more than 10 million undocumented immigrants. Madame Chairman, you and your committee colleagues together with our nation's other elected officials have before you what can only be described as a very full plate of urgent responsibilities.

In these decidedly trying times it must be recognized as an act of statesmanship that both the Federal government's political branches are openly acknowledging the importance of the Puerto Rico conundrum, and important it is. Puerto Rico's destiny cannot be reduced to or dismissed as a problem involving some 4 million American citizens who chronically squabble among themselves on a Caribbean island located 1,000 miles off the coast of Florida. No. This issue goes straight to the heart of what the United States of America is all about.

Let us keep firmly in mind that the union of American states had its genesis in a revolutionary reaction to colonial injustices perpetrated by the British Empire. Our nation's founders were true political pioneers in boldly undertaking the novel experiment that was Republican government within a democratic framework.

Each of you is well aware that with a single specific exception of the nation's capitol the Constitution countenances the existence of two types and only two types of political jurisdictions under U.S. sovereignty. One is states and the other is territories. From the very outset, predecessors of this committee were tasked with ensuring that American territories were managed in accordance to the dictates of the Constitution.

For more than 100 years the nation's doctrine for overseeing territories was embodied in the Northwest Ordinance of 1787. Then abruptly there occurred a paradigm shift. The nation underwent a metamorphosis. What had always been a republic was suddenly transformed into an empire.

As the 20th century dawned, the United States was on the verge of becoming a world power. There were those who openly espoused the notion that America should claim for itself the same kinds of colonial prerogatives that European empires had long been exercising with respect to their own overseas possessions. This development was steeped in irony. America had come full circle.

Today your committee and this Congress stand at a crossroads. All across the globe perennially subjugated people are at long last breathing free or at least advancing hopefully in that direction. The United States is applauding and promoting this inspiring trend yet at the same time the very law of our own land sanctions geographical discrimination against certain communities of American citizens dwelling on American soil.

Herein lies a truly national conundrum, the unfinished business of American democracy. The Puerto Rico issue obliges our nation's leaders to take a stand. The question that the Puerto Rico issue poses to our nation's leaders are these: shall America return triumphantly to its roots as a Republic or will it embarrassingly perpetuate the trappings of empire in which it has cloaked itself since 1898?

Is America devoutly committed to civic equality or is it determined indefinitely to exercise colonial hegemony over nearly four million of its own citizens? That is why I welcomed the Chairman's invitation to testify here today, because the buck stops here, right here in the halls of Congress.

The responsibility in this instance is inescapable. The Constitution so decrees in the second paragraph of Article 4, section 3 and no less unequivocal is a complimentary stipulation contained in the document that formally terminated the Spanish-American War. Article IX of the 1898 Treaty of Paris establishes that, and I quote, "The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress." In other words, what we have before us is in no way merely a local or regional issue.

Ms. MCMORRIS. We are over time so I would just ask you to summarize very quickly, and then perhaps you can get to the rest during the question and answer period.

Senator ROSSELLÓ. I will conclude then by summarizing that we have before us an unquestionable situation that demands attention at a national issue. In conclusion, therefore, I hereby reiterate my strong support for the findings and recommendations of the President's Task Force report on Puerto Rico.

[The prepared statement of Senator Rosselló follows:]

Statement of The Honorable Pedro Rosselló, President, New Progressive Party of Puerto Rico, 1991-1999; 2003- and Governor of Puerto Rico, 1993-2001, Member of the Senate of Puerto Rico, 2005-

Chairman Pombo, good day to you and to each of the other members of the House Committee on Resources.

For the record, my name is Pedro Rosselló. I am President of the New Progressive Party of Puerto Rico. I have been a member of the Puerto Rico Senate for the past 14 months, and I was Governor of Puerto Rico from 1993 until 2001.

Speaking officially, on behalf of the New Progressive Party, as well as in my personal capacity, I emphatically support the recommendations contained in the document that is the topic of this hearing: namely, the Report that was released on December 22, 2005 by The President's Task Force on Puerto Rico's Status.

The Task Force Report is predicated upon decades of experience:

- Republican experience and Democratic experience;
- Executive Branch experience, Congressional experience and Judicial Branch experience.

The Report is succinct, but it is thorough and it is forthright and it is fair.

The President's Task Force has accurately and articulately addressed a very old and very sensitive item of unfinished business on the agenda of American democracy.

"We the People of the United States' have overcome an extraordinary number of difficult obstacles in our never-ending quest to "form a more perfect union."

Little by little, over the span of more than two centuries, we have succeeded in empowering nearly all of our citizens with that most fundamental of democratic rights, the right to vote.

As we have done so, we have simultaneously sought to sow the seeds of democracy throughout much of the world.

At Gettysburg in 1863, with respect to the preservation and perfection of the Union, Abraham Lincoln proclaimed:

"It is for us the living...to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced."

In 1918, during his own era's Great War, Woodrow Wilson uttered the following words to a joint session of Congress:

"The principles to be applied are these: ...peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game...."

Lincoln's focal point was freedom on the home front; Wilson's was freedom abroad. But the principles being embraced were identical.

Today, just as in the past, some of the most pressing issues that confront you—as America's leaders—are those that relate to civil and human rights.

- You are currently grappling with the issue of tyranny and terror—in Iraq, as in Afghanistan, and elsewhere. "We the People of the United States" are paying a heavy price, and bearing a painful burden, as we strive to expand the boundaries of individual freedom and democracy abroad.
- On the home front, you are currently weighing the fate of more than 10,000,000 human beings who have come to America illegally. "We the People of the United States" are assiduously struggling to come to grips with that situation. As "a nation of immigrants," we are collectively endeavoring to solve this difficult problem in a manner that is both compassionate and just.

Those are weighty issues. These are tumultuous times.

Mister Chairman, as Members of Congress, you and your Committee colleagues—together with our Nation's other elected leaders—have before you what can only be described as "a very full plate" of urgent responsibilities. I recognize this.

In these decidedly trying times, I deem it to be an act of statesmanship that both of the Federal Government's political branches are openly acknowledging the importance of the Puerto Rico conundrum.

And important it is. Puerto Rico's destiny cannot be reduced to—or dismissed as—a problem involving some 4,000,000 American citizens, chronically squabbling among themselves on a Caribbean island located 1,000 miles off the coast of Florida.

No, this issue—this portion of American democracy's unfinished business—goes straight to the heart of what the United States of America is all about.

Let us keep firmly in mind that the union of American states had its genesis in a revolutionary reaction to colonial injustices perpetrated by the British Empire. Let us never forget that our Nation's founders were truly political pioneers in boldly undertaking the novel experiment that was republican government within a democratic framework.

It was to this novel experiment that Lincoln alluded at Gettysburg when he steadfastly resolved "that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth."

Each of you is well aware that, with the single specific exception of the Nation's Capital, the Constitution countenances the existence of two types—and only two types—of political jurisdiction under U.S. sovereignty: one is states; the other is territories.

From the very outset, predecessors of this committee were tasked with ensuring that American territories were managed in accordance with the dictates of the Constitution.

For more than 100 years, the Nation's doctrine for overseeing territories was embodied in the Northwest Ordinance of 1787.

Beginning with the Louisiana Purchase of 1803 and ending with the annexation of Hawaii in 1898, the United States consistently applied the progressive principles of the Northwest Ordinance to each of the inhabitants of the vast quantity of new terrain that the Nation acquired throughout the 19th century.

Then, abruptly, there occurred a paradigm shift.

The Nation underwent a metamorphosis.

What had always been a republic was suddenly transformed into an empire.

As the 20th century dawned, the United States was on the verge of becoming a world power. There were those who openly espoused the notion that America should claim for itself the same kinds of colonial prerogatives that European empires had long been exercising with respect to their own overseas possessions.

This development was steeped in irony. America had come full circle.

Propelled by an unquenchable thirst for justice, the peoples of 13 colonies endured immense hardship and terrible sacrifice in order free themselves from the stifling bonds of imperialism. Together, they "brought forth on this continent a new nation."

Then, a dozen decades later, that very same "new nation" found itself assuming the mantle of empire.

In order to rationalize this jarring transformation, the Nation discarded its traditional doctrine for the administration of territories. The humane principles which underscored that doctrine were turned upside down. Emerging in their place would be a wholly contradictory regime of attitudes and policies.

As a consequence of the Spanish-American War, literally hundreds of far-flung islands fell under the domain of the Stars and Stripes.

It was this freshly acquired territory that prompted the paradigm shift.

From 1898 onward, with the acquiescence of a bitterly divided Supreme Court, the Executive and Legislative Branches of the Federal Government began to practice a kind of apartheid: for the inhabitants of these former Spanish colonies, inoperative would be the Northwest Ordinance philosophy to the effect that territorial status should logically be a prelude to U.S. statehood. Instead, it was decided, Congress would rule indefinitely over those possessions—and the extension to them of the Constitution's full panoply of individual rights would indefinitely be denied. That same approach has been applied to every territory acquired after 1898. It is a paradigm that U.S. Appeals Court Judge Juan Torruella has eloquently condemned as "the doctrine of separate and unequal."

So it is that the Spanish-American War converted the Northwest Ordinance into a "dead letter." Thenceforward, its altruistic provisions—which had served the Nation so well for so long—became permanently null and void. The Founders' novel experiment was abandoned. The republic vanished. Established in its place was another in humankind's endless succession of colonial empires.

Eventually, statehood would be granted to every single territory that was acquired while the Northwest Ordinance philosophy remained in effect. By contrast, statehood has never even been offered to any territory acquired after the termination of the Spanish-American War. This stark dichotomy is no coincidence.

Today, your Committee and this Congress stand at a crossroads.

All across the globe, perennially subjugated peoples are at long last breathing free or at least are advancing hopefully in that direction.

The United States is applauding and promoting this inspiring trend.

Yet, at the same time, the very law of our own land sanctions geographical discrimination against certain communities of American citizens dwelling on American soil.

Herein lies a real conundrum—truly a national conundrum—in America's ongoing quest to form a more perfect union.

Herein lies, beyond all doubt, the unfinished business of American democracy.

The Puerto Rico issue obliges our Nation's leaders to take a stand.

The questions that the Puerto Rico issue poses to our Nation's leaders are these:

- Shall America return triumphantly to its roots as a republic, or will it embarrassingly perpetuate the trappings of empire in which it has cloaked itself since 1898?
- Is America devoutly committed to civic equality, or is it determined indefinitely to exercise colonial hegemony over nearly 4,000,000 of its own citizens?

As the President's Task Force makes clear, it is ultimately to the Congress that these questions must be directed; in its entirety, the first paragraph of the "Recommendations" section of the Report reads as follows:

"The Task Force recognizes that the authority under the U.S. Constitution to establish a permanent non-territorial status for the Commonwealth of Puerto Rico rests with Congress."

That is why I welcomed the Chairman's invitation to testify today: because the "buck" stops right here—in the halls of Congress; the responsibility, in this instance, is inescapable.

- The Constitution so decrees—in the second paragraph of Article IV, Section 3—by stipulating that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."
- And no less unequivocal is a complementary stipulation contained in the document that formally terminated the Spanish-American War, and—in the process—bestowed sovereignty over Puerto Rico upon the United States. Article IX of the 1898 Treaty of Paris establishes that "The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress."

In summary, the Report of The President's Task Force on Puerto Rico's Status earnestly and effectively targets a dilemma that for far too long has been denied the "front burner" attention that it needs and deserves. Moreover, the Report targets a dilemma that arises out of the very essence of the bedrock principles of American democracy.

In other words, what we have before us is in no way merely a local or regional issue. Rather, what we have before us is unquestionably a situation that demands attention as a national issue.

And this brings me to one of the many virtues of the Report: its even-handedness.

The Task Force underscored the need to come to terms with this item of unfinished business; yet it wisely and admirably refrained from taking sides in Puerto Rico's—and the Nation's—"destiny debate." To the extent that the Report has generated controversy, it has done so only because the Task Force diligently discharged its duty.

Among the parties most directly affected by the Report, the only individuals professing great dissatisfaction with it are persons who refuse to accept reality; that is, persons who insist upon ignoring the irrefutable fact that—as a territory—Puerto Rico does not possess now, never has possessed, and never will possess anything that authentically constitutes sovereignty.

As the Task Force Report explains in no uncertain terms, the sole alternatives to territorial status for Puerto Rico are separate sovereignty—as a discrete "country"—and shared sovereignty as a fully integrated component of the U.S.A.

Because the Report carefully and conscientiously sets forth the unvarnished truth about Puerto Rico's past and present status, the document has understandably elicited fervent denunciation from persons who are either unwilling or unable to accept that truth.

In contrast to the naysayers, Mister Chairman, I have not the slightest doubt that the American citizens of Puerto Rico—together with the members of this Committee and our fellow citizens from throughout the Nation—are fully capable of contending with the truth.

In conclusion, therefore, I hereby reiterate my strong support for the findings and recommendations of The President's Task Force on Puerto Rico's Status.

I urge that Congress adopt those recommendations by enacting legislation to implement them.

By initiating the deliberative process proposed by the Task Force, the Congress will have patriotically shouldered its constitutional obligation; and regardless of the

outcome of that process, the American people will once again have manifested their commitment to achieving an ever more perfect union.

Earlier, I quoted Abraham Lincoln and Woodrow Wilson on the principles that have made America both unique and great.

Now I leave you with an excerpt from the Second Inaugural Address of one additional President.

Just 15 months ago, on January 20, 2005, I am sure that most of the men and women here assembled were listening intently as The Honorable George W. Bush delivered this inspiring message:

"America has need of idealism and courage, because we have essential work at home—the unfinished work of American freedom. In a world moving toward liberty, we are determined to show the meaning and promise of liberty."

Mister Chairman and members of the Resources Committee:

Illuminated and enlightened by Liberty's flame, let us all collaborate; with regard to Puerto Rico, let us all collaborate on successfully completing the unfinished work of American freedom.

Thank you very much.

Ms. MCMORRIS. Thank you for your testimony. Our next panelist is Mr. Ruben Berrios, who is President of the Puerto Rican Independence Party. You know I did take Spanish, but you can all tell I did not do very well. Go ahead.

STATEMENT OF RUBEN BERRIOS, PRESIDENT, PUERTO RICAN INDEPENDENCE PARTY, FORMER SENATOR, SENATE OF PUERTO RICO

Mr. BERRIOS. Madame Chairman and members of the Committee, notwithstanding the merits of the report of the President's Task Force, if past is prologue the inclusion of the statehood option in any bill foreshadows its demise. One has to question whether Congress willing to construct a wall along its southern border is likely to authorize a referendum to allow a Latin American nation to become a state.

The President's Task Force report is an important step. For the first time, the White House report admits that we independentistas are right as we have denounced for half a century the commonwealth is just a different name for the unincorporated territory. In the 1950s, because of that hoax, there was a revolution in Puerto Rico that cost lives and bloodshed in Puerto Rico, the Blair House and in this very Congress.

The White House report furthermore proposes an initial referendum in which the Puerto Rican people will be asked whether or not it wishes to continue under a territorial relationship. If the vote favors territorial status, it recommends periodic referenda. Naturally those in Puerto Rico who in the name of free speech and democracy exalt political servitude as a right reject the White House proposal.

It is like the battered spouse syndrome. Humiliate me, but please do not leave me. Consent does not legitimize colonialism. Finally, it is necessary to underscore the reason why the White House report discards territorial commonwealth as a permanent option. The true though unnamed reason is simple. Commonwealth is an open door to statehood, and it must be shut because statehood for Puerto Rico, besides being detrimental to the island, is unacceptable to the United States.

The fundamental problem facing the U.S. with regard to Puerto Rico is not a minority civil rights issue. Puerto Ricans have a ma-

jority in our own country. The core problem is multinationalism. Is the U.S. willing to accept a distinct Latin American nation of the Caribbean as a state of the union? I think the answer is self-evident. There is no reason why the U.S. should gratuitously tread into the dangerous waters of multinationalism that other nations today experience.

The United States is not and does not aspire to become a multinational state. As time goes by, the problem posed by Puerto Rico will get more complicated. The past half century demonstrates commonwealth will only breed more statehooders. Puerto Rico's current problem is a time bomb.

I propose a simple decolonization plan. First, congressional legislation should authorize a vote. U.S. territory yes or no. The people of Puerto Rico would finally have the opportunity to reject colonial status. After all, territorial commonwealth is the problem, and cannot be the solution.

Second, any notion of a second referendum that includes statehood should be discarded. If the U.S. is not willing to consider territorial commonwealth as a legitimate option, it should not flirt with the statehood option it is not willing to grant, and third, once territorial commonwealth is rejected by the people, as I am certain it will be, a time table should be agreed upon for the Puerto Rican people to convene a real constituent assembly that will, of course, exclude a territorial formula in any way, shape or form.

The constituent convention we propose is an instrument for decolonization in the exercise of our inalienable right to self-determination and independence, not as the case with the Governor's proposal as subterfuge to perpetuate exacting subordination. The ballot options will be independence, free association as defined by the U.N. and statehood.

I have no doubt when you begin to tell the truth regarding statehood, its requirements, expectations of its possibility and when you begin to rectify the historical policy contrary to our sovereignty, Puerto Ricans will naturally lead to sovereignty options.

I cannot finish the presentation without discharging my obligation to denounce before this committee the assassination by the FBI on September 23 of last year of independence militant Filiberto Ojeda, and to demand an end to the impunity of officials responsible for this outrage. Congress has a duty to dispose of the territory of Puerto Rico, and the people of Puerto Rico have a right to convene a constituent assembly to freely determine its future and put an end to colonialism. The time is now.

[The prepared statement of Mr. Berrios follows:]

Statement of Ruben Berrios-Martinez, President, Partido Independentista Puertorriqueño (Puerto Rican Independence Party)

Mr. Chairman and Members of the Committee:

I appear before you on behalf of the Puerto Rican Independence Party, a national liberation movement that sustains the inalienable right of the Puerto Rican people to its independence, under any political status. It is necessary to confront and resolve the problem of Puerto Rico's political relationship with the United States.

Notwithstanding the President's Task Force Report on Puerto Rico's Status, if past is prologue, I am afraid that the inclusion of the "statehood" option in any bill foreshadows its legislative demise. The historical experience provided by the 1989 Johnston bills and the 1998 Young bill is the best evidence of what I have just said.

Moreover, when you consider the failure of these legislative attempts long before the recent immigration issues came to the fore, a great deal of imagination is not necessary to predict what could happen now. If Congress is willing to build a wall along its southern border, would it seriously entertain the notion of incorporating a territory made up of 4 million Latin Americans as a state of the Union? Why would this Congress authorize a referendum offering a Latin American nation of the Caribbean a statehood option it is unwilling to grant?

This has not happened up to now, and it will not happen in the foreseeable future. Accordingly, I propose that, before going any further, any bill—based on the White House Task Force Report—omit any provisions relating to the second referendum it proposes between Statehood and Independence.

Any such bill should be limited to authorize a referendum: U.S. Territory, Yes or No. This is the only way to give it a chance to be approved in both houses of Congress. The version that has informally circulated around the Senate for some time already excludes the second referendum.

Due to time constraints I will not comment on other aspects. Instead, I wish to clearly establish my position regarding a fundamental aspect of the White House Report.

This is the first time that a White House Report publicly accepts what independentistas have consistently denounced at every step of the way over more than half a century: that "commonwealth" or the so-called Estado Libre Asociado constitutes a monumental hoax; that Puerto Rico's current constitutional arrangement, by any other name is still the unincorporated territory it was before 1952.

It is ironic that, in the 1950s, because of that hoax, there was a revolution in Puerto Rico that cost lives and bloodshed "in Puerto Rico, in Blair House, and in this very Congress.*

During the Cold War years, while the United States used Puerto Rico as a military outpost, the Executive branch publicly proclaimed the alleged virtues of an imaginary "commonwealth." Now that it no longer serves U.S. security interests, it has become a cesspool of social decay and economic dependence "and a breeding ground for statehooders. Now the White House has acknowledged before the world community what the Supreme Court and this very body in the previously mentioned 1998 Young bill had already recognized: the territorial and transitory nature of Puerto Rico's existing political arrangement.

Anyone who truly believes in democracy must, as a matter of principle and morality, reject a territorial or colonial system that inherently contradicts the very essence of democratic rule. However, the White House, for the sake of consistency with the American electoral tradition, now recommends that the people of Puerto Rico be asked whether or not it wishes to continue its present territorial arrangement. Nevertheless, the underlying purpose of having Congress "dispose of the territory" shines through in the Report's recommendation of periodic referenda, if at first the people of Puerto Rico should opt to continue under a territorial arrangement.

We cannot ignore "as these hearings evidence" that there are individuals who at this stage of the 21st century boldly proclaim a right to a colonial arrangement. This is like espousing a right to subservience or political slavery "an inevitable consequence of five centuries of colonialism! They have not yet realized that in the 21st century colonialism has been proscribed as an international crime.

Although the imagined "commonwealth" invented by Puerto Rico's contented colonials does not, indeed, "fit" in the U.S. constitution, as recognized by the White House Report, there is a more powerful, albeit silent, reason for the U.S. to discard any territorial form of "commonwealth" as a permanent solution. That reason is that territorial commonwealth remains an open door to statehood, the bridge to annexation, an open invitation to a dependent people to consolidate its dependency through the political power of the presidential vote and its larger-than-most congressional representation.

This is an offer hard to refuse "for a subordinate Caribbean nation imbued with a mind set of economic dependence. No wonder statehood parties garnered around 15% of the votes in 1952 and now account for nearly 50%—not counting some unabashed supporters of territorial commonwealth in the governor's Popular Democratic Party who favor it as a statehood "lay-away."

The problem with commonwealth is not just that it is a territory or colony. The problem is, again, that it constitutes a bridge towards statehood. Territorial commonwealth is a state without congressional representation that does not vote for the President. And statehood is undesirable not just because it would thwart Puerto Rico's economic and spiritual development, but also because it is unacceptable to the United States.

The root problem of a Puerto Rican state for the U.S. is not an immigration problem, nor a multicultural or a "minorities" problem. These are problems that the

United States has coped with in the past and will yet find a way of dealing with them in the future. Your problem is that you would become multinational. And the issue is whether your nation would be willing to accept a different nation, such as Puerto Rico, as a state of the Union.

The answer is a self-evident truth. And I have explained it in greater detail elsewhere and reiterated it in a 1997 Foreign Affairs article previously made available to your staff, which I request be made part of the record.

The United States—and particularly this Congress—must face the issue squarely. Puerto Rico's unresolved status is a time bomb for the U.S. Now is the time to confront this problem and solve it—now that you face an immigration problem, now that you must devise a new policy towards Latin America for the 21st century. This is a problem that can no longer be swept under the rug where the peril of its ramifications will accumulate. The problem should be resolved now, while rationality can prevail.

The U.S. need not confront problems such as those that afflicted Yugoslavia or the Soviet Union; or those in which Spain is currently embroiled and which here, in the United States, would become even more complex due to the existence of an enormous Latin American minority within its borders. Moreover, after Puerto Rico, why not the Dominican Republic "where petition for statehood already occurred in the late 19th century? And why not Jamaica, where they already speak English?

The U.S. does not aspire to become a multinational state. Its goal with respect to Latin America could very well be economic integration, but not political integration. The Puerto Rican people must be told the truth.

I recognize that it might be too much to expect you at this point to explicitly establish the requirements necessary for Puerto Rico to become a state "that boil down to assimilation, plain and simple. I propose a decolonization plan that would enable this Congress to fulfill its duty under the Territory Clause of the U.S. constitution and "dispose" of the territory of Puerto Rico.

First, authorize a vote, U.S. territory Yes or No. After all, territorial commonwealth is the problem and cannot, therefore, be the solution. Second, for the sake of simplicity and to avoid past legislative pitfalls, eliminate any notion of a second referendum—if the U.S. is not willing to consider territorial commonwealth as a legitimate option, it should not flirt with a statehood option it is not willing to grant. And third, a time table should be agreed upon for the Puerto Rican people to convene a real constituent assembly that would, of course, exclude a territorial formula in any way, shape, or form.

(The term "constituent assembly" is the only salvageable term in the bill submitted by petition by the current governor of Puerto Rico "and even that is a concept historically proposed by the independence sectors.)

The constituent convention I propose is a real one, explicitly omitting any reference to Public Law 600 (1950) and any colonial or territorial option. The valid options it would consider would be independence, free association as defined by international law and the United Nations, and statehood.

Although you could theoretically be confronted with a statehood petition if that option were to prevail in a constituent assembly, I have no doubt that when you begin to tell the truth regarding the real requirements and expectations for statehood; when you begin to rectify your historical policy towards Puerto Rican sovereignty and send the corresponding signals with equal clarity, Puerto Ricans will naturally lean towards the options of independence and free association.

Finally, Latin America is ready for a new era of enlightened policies from its powerful Northern neighbor. The recent Montevideo Declaration of the Socialist International Committee for Latin America and the Caribbean (SICLAC) is indicative of the turn for the better that Hemispheric relations could take with the rational "disposition of the territory" of Puerto Rico in a manner similar to the one proposed. In the words of the Montevideo document:

> *[SICLAC] welcomes, along with the PIP, the historic step forward made by the formal acceptance on the part of the United States government that Puerto Rico continues to be a territorial possession subject to the full sovereign powers of the U.S. Congress. This political conclusion was made in a document issued by the White House on 22 December 2005...in which it is also recommended that Congress approve legislation which will allow the people of Puerto Rico to overcome their current colonial situation.*

I cannot finish this presentation without discharging my obligation to denounce before this committee the assassination by the FBI on September 23 of last year, of independence militant, Filiberto Ojeda Rios; and to demand an end to the impunity of officials responsible for this outrage. This is not the time to slide backwards into violent confrontations of the past.

This Congress has a duty to dispose of the territory, and the people of Puerto Rico have a right to convene a constituent assembly to freely determine its future and put an end to colonialism.

The time is now.

Ms. MCMORRIS. Thank you very much. One question for all of the witnesses. Who should be able to vote in the referenda recommended by the Task Force, the current registered voters, those who registered before the vote, those living in the continental U.S.?

Mr. DALMAU. Madame Chairman, it is the position of the Popular Democratic Party that the people of Puerto Rico, as a people, have been divided by reasons of geography, but we remain a people. So the people in the mainland are entitled to participate in this process and the different stages of the process. As of right now, the bill in Congress before your consideration has not entertained the possibility of the participation of the people on the mainland, but the Popular Democratic Party supports that position, and we are open to that position, and I know it is the position of many Members of Congress.

Senator ROSSELLÓ. Our position is contained in the Fortuño-Serrano bill that has been submitted here in the House of Representative, which in essence allows all who are eligible under Puerto Rico law to vote as in any election, adding those that do not fulfill all the requirements in one respect which is residence in Puerto Rico. So all of those that are born in Puerto Rico, even though they reside stateside, would have the right to vote in the plebiscites or referenda that are authorized by Congress.

Mr. BERRIOS. The position of the Independence Party is the following: First, we recognize that this is a delicate issue. We believe that all registered voters in Puerto Rico should vote even though we would prefer for Americans who are there in a transitory manner should not vote even though they have residency requirement of a couple of years. Americans who want to stay in Puerto Rico should vote in Puerto Rico.

Regarding Puerto Ricans who are born in the United States, but do not have a residence in Puerto Rico, we think they should vote, but they should demonstrate an intention to go back to the island, and there are ways to determine that, but not people who are being born in Puerto Rico, have lived here all their life and have no intention of going back to Puerto Rico. That is our position.

Ms. MCMORRIS. Thank you. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. John Wayne would be all right, Madame Chairman.

Ms. MCMORRIS. That is the first time I have ever tried that one.

Mr. FALEOMAVAEGA. That is all right.

Ms. MCMORRIS. Sorry. I will have to go home and practice.

Mr. FALEOMAVAEGA. That is OK. Madame Chairman, I wanted to associate myself and the comments and the statements made earlier by my distinguished colleagues whose ancestry probably hails from Puerto Rico in terms of expressing my sense of appreciation and certainly my utmost respect for the honorable gentleman representing the good people of Puerto Rico, Mr. Fortuño, and for his openness and candidness also in trying to give as much to the public and even to the members of this committee and other

Members of Congress the ability to freely express themselves, and to see that these options are still very much under consideration by all the people of Puerto Rico, and not just leaning toward one certain option, and I respect the gentleman for that.

There are Members who have already concluded in their own minds what options they want to see Puerto Rico follow, but I do follow the admonition or the statements made earlier by my good friend from Florida, Mr. Lincoln Diaz-Balart, is that this ultimately has got to be a decision made by the people of Puerto Rico.

I think procedurally this is where we find ourselves in trying to figure out what is the best mechanism to follow. I noted with interest, Mr. Dalmau, your statement that there was some criticism about the Task Force report. It did not seem to indicate some sense of appreciation of the fact that Puerto Rico or the people of Puerto Rico exercise their right of self-determination opted for a commonwealth status for somewhat 50 years now, and I think that should be respected.

I wanted to ask, Mr. Dalmau, that it seems that the Task Force report gave an indication about the certain provision in the Federal Constitution, the U.S. Constitution, about the plenary clause where the Congress is given absolute authority to exercise whatever it wants on how to administer any U.S. territory. I think this is where we find ourselves in the gray area. How do you determine is Puerto Rico a U.S. territory as defined under the provisions of the Federal Constitution? That is where we find ourselves in a mix right here in trying to determine is it a colony? Is it a U.S. territory?

I think we have also made a determination on that when we went before the United Nations to purposely delist Puerto Rico as a nonself-governing territory. Am I correct on this, Mr. Dalmau?

Mr. DALMAU. Yes, that is correct. The position of the United States in front of the United Nations and the world was that with the approval of the Constitution of Puerto Rico by the people of Puerto Rico, Puerto Rico was invested with the attributes of sovereignty, and that investment cannot be revoked otherwise there was no reason to take Puerto Rico out of the list of territories under colonial regime.

So, those representations made by the U.S. Government to the world have not been revoked by a 14-page report. What is striking about the report is that it ignores case law that is longstanding, that have not been revoked. The memorandum that I submitted for the record includes a thorough discussion of these issues, but here is the core of the problem. The issue of Puerto Rico is an issue of democracy. It should not be artificially constrained through formalistic readings of the Constitution.

We should read the Constitution based on what the Supreme Court have said, but also with a forward looking outlook with a Democratic reading of the Constitution. So, we have two readings of the Constitution. We have a formalistic, backward looking reading. That is basically Congress can do anything it wants. It can give you away to Pakistan. There is a forward looking reading of the Constitution, supported by the Supreme Court, supported by the scholarship.

Let me just quote, and this is a quote from the Supreme Court. It is said that as absurd in Carelo Torilo the purpose of Congress in 1950 and 1952 legislation was to afford to Puerto Rico the degree of autonomy and independence normally associated with states of the union. So at least, at least there is a basic modicum of sovereignty. So now, if we take that to the logical conclusion——

Mr. FALEOMAVAEGA. Mr. Dalmau, I am sorry.

Mr. DALMAU. I am sorry. I have spent my time. I apologize.

Mr. FALEOMAVAEGA. I really feel bad because I wanted to raise some additional questions——

Mr. DALMAU. It is really a complex issue.

Mr. FALEOMAVAEGA.—to Mr. Rosselló and also to Mr. Berrios, and I apologize for the time that my time is up. I am going to try hopefully maybe there may be another round, but I would suggest and ask unanimous consent that you submit that to be made a part of the record the Supreme Court decision that you have just cited.

Mr. DALMAU. Thank you.

Mr. FALEOMAVAEGA. I have to stop now because of my time. Thank you, Madame Chairman.

Ms. MCMORRIS. We should get to another round. I do have a few questions from Mr. Jones on this committee. He had to leave, but would like to include these questions in the record, and have the witnesses respond in writing. So, we are going to do that. We will get those questions to you. Mr. Fortuño.

Mr. FORTUÑO. Thank you, Madame Chairman. I want to thank the three gentlemen for being here today, and for the discussion that we are having in this committee. I will however want to clarify a couple of things before I proceed. First of all, in this country what matters is principles not the length of documents. You may not like what is written in the report, but basically this country is based on the principles of democracy and freedom, and that is what we are trying to achieve here.

Second, I should clarify that in the 1952 process Congress simply allowed the people of Puerto Rico to draft its own state Constitution for internal self-governance. No status options were presented to the voters. So, to say here that in that process that we had a possibility to choose, that has never happened. In 108 years, Congress has never provided for a process to hear the will of the people in Puerto Rico.

You mentioned, Mr. Dalmau, in your statement that there were four questions that were not answered. I do not know about you, but I was here, and I heard answers from Mr. Marshall for all four. Specifically on the fourth one, which is you are stating I believe incorrectly that the U.S. Constitution prohibits the U.S. Government from entering into a relationship based on mutual consent as the one your party espouses, is not doable. It is, but it is not permanent.

He said it over and over again. The Justice Department under three different Administrations have stated this clearly, and I believe that that should be made clear. However, I would like to devote some time to the specific proposal that this report actually dwelled on for a while, and that is the new commonwealth or developed or enhanced commonwealth. One of its proposals in Article 5 is that there will be a new annual block grant adjusted for inflation

for social assistance and infrastructure and new socioeconomic development incentives. Roughly how much money are we talking about, and how would the U.S. Treasury pay for it?

Mr. DALMAU. Thank you, Commissioner, for your question and your remarks. Let me just say that you somehow misstated my remarks in terms of the fact that there were questions that were not answered. Actually, the report answers the questions, but without any foundation, any reference to the applicable law. What I am saying is——

Mr. FORTUÑO. Do you have a copy of the appendices to the report?

Mr. DALMAU. What is that again?

Mr. FORTUÑO. Do you have a copy of the appendices of the report?

Mr. DALMAU. I do have a copy of that.

Mr. FORTUÑO. That is part of the report, is it not?

Mr. DALMAU. It is.

Mr. FORTUÑO. Do they address some of these issues?

Mr. DALMAU. I believe not. I believe they actually disregard these issues.

Mr. FORTUÑO. I would disagree on that. If I may also ask you Article 8 of your party's enhanced commonwealth proposal will enable the commonwealth laws to limit the jurisdiction of the Federal courts. How could the Federal court operate if its enforcement of Federal law could be limited at the commonwealth's will? Could you explain that?

Mr. DALMAU. Yes, absolutely. Let me just say for the benefit of other members that the problem with this report is that we do not even get to the negotiations of what kind of commonwealth you want, because it basically says you cannot have one, and that is the main problem of this report. It is using——

Mr. FORTUÑO. If I may, I have a question.

Mr. DALMAU. May I finish?

Mr. FORTUÑO. Let me have answer to it.

Mr. DALMAU. May I finish? I am sorry. Go ahead. I am sorry.

Mr. FORTUÑO. How can you actually limit the jurisdiction of the Federal courts in Puerto Rico? Is that doable under our Constitutional scheme today?

Mr. DALMAU. I have to come back to my previous point. It is that we do not get to that discussion, because really what the report does is they construe the Constitution in such an airtight way and formalistic way that you cannot really have any discussions as to what kind of relationship you want for the future. You are foreclosing that kind of conversation.

Mr. FORTUÑO. If I may, your party has specifically stated a number of—and actually presented to the voters in previous votes—that there are all these things that are doable that actually the report is saying that it is not doable. The question is and it remains unanswered, and I would like an answer to both questions when we are done here in writing if I may: How can you achieve that under our present U.S. Constitutional framework?

I just do not understand your concerns here. I believe the report has answered all your questions. I have one last answer. I am sorry the Governor is not here. The Governor served in this body for four

years. The Governor from his own party. The Legislature was controlled by your own party. Yet not at one time in those two Congresses did Governor Acevedo-Vilá propose from his station to develop commonwealth as you have espoused, and is actually even in your website. I am wondering why he never put that forth. If you could provide an answer to us, that would be very kind.

Mr. DALMAU. Yes, I can respond to that. The position of the Popular Democratic Party during the past term was that we have been 40 years trying to solve this issue, and what happens is that you come to Congress like three tribes, and you listen to us very kindly, but nothing is done. So what the Popular Democratic Party proposes let us start the process in Puerto Rico. Let us agree on the points that we can agree, and then let us go to Congress. That never happened.

Unfortunately, the partisan battle impeded that process. What we are saying now is give us a chance to have a Constitutional convention. When we come here, we know exactly what the people of Puerto Rico want.

Mr. FORTUÑO. Is it not better to ask the voters directly what they want? Thank you very much, Madame Chair. I yield back.

Ms. MCMORRIS. Mr. Inslee.

Mr. INSLEE. Thank you. Just one comment. I know how difficult this issue is or can imagine how it is. I just want to share that you are not the only people that have difficulties deciding on how to structure a plebiscite. We are trying to replace a big viaduct in Seattle, Washington, right now, and we are having this huge battle about whether the first option should be just tear down the thing and you leave it or whether we should have the option first do you build a tunnel first and then you have another vote on whether you build an off ramp.

I just want to let you know you are not the only folks that are struggling with these kind of Democratic issues about what is the best way to really figure out the will of the people. Let me ask you a more basic question, and I will probably be the only person even thinking in these terms, but is a plebiscite necessarily the best way to determine the national will or the local will when there might be gradations of commonwealth arrangements regarding treaties, if there was independence? Are there complications of this that make a plebiscite maybe not the best way?

The reason I say that, I do not know how many states had a plebiscite when they decided to seek statehood to the United States. I do not know the answer to that question, but I do not think they all did. I guess that is a general question to the whole panel.

Senator ROSSELLÓ. If I may, Mr. Congressman, I know of no better method than consulting the people directly. The question that you pose is their confusion in terms of what the decision of the people might be or might be confronted with. I think this report establishes a first step that is very simple, very clear. There is no question about what a future status could be.

The first question is do we want to remain as we are now? It is a known quantity. It is not speculative. It is a known quantity. It is under the Constitution. There are only two options that the Constitution entertains, except for the special case of the Washington,

D.C. The Constitution says that you can either be a state or a territory. There is nothing else.

Puerto Rico now is a territory under the Constitution. I do not think anybody can argue that. First, there is no clearer voice than going directly to the people. I am convinced of that. Second, there is no confusion. We are living under the territory. We know what that is. Then the question is very pertinent because it says: Do you want to continue as we are now as a so-called commonwealth or do you want a change? Do you want to consider options that are nonterritorial?

I think there is no margin for confusion, none whatsoever, and I think the people have the capacity and no other process is superior to having the people——

Mr. INSLEE. By my question, I do not mean to say that I am opposed to a plebiscite at all. I just thought it was worth discussion. The question to you gentlemen, take a crack at this one, could you describe to us who do not know a lot about Puerto Rico frankly and can be educated and I will be educated by your representative after this hearing, sort of the political context of how the people break out as to those who would like statehood, those who would like independence, those who like the current situation?

If you can describe in the broadest brush terms are there any economic, ethnic, is there any predispositions of the groups of Puerto Ricans, where they spread out on these issues?

Mr. BERRIOS. Mr. Congressman, I would comment in that vein, but I would also like to comment on your previous question. What I have proposed here is a combination which takes care of your question, of your ambivalence regarding which is the best way. First of all, we ask the people whether they want to be a territory, whether they want to continue in political subordination or not.

That is almost an offense to ask people that, but in Puerto Rico, we have many people like house slaves in the pre-Civil War times in the United States. House slaves wanted to remain slaves. So we have a number of people in Puerto Rico who out of dependence are in that line, so we give them a chance to say yes, we want to continue in political servitude. Straight out yes or no.

If they say no, then we go to the problem you posed. We go to what we consider the way to solve all those transitory measures. What we call a constituent assembly. We elect by choosing between real permanent alternatives stated: Free association as described in the U.N. and independence. Then we go to a constituent assembly, and we pose those questions, and the majority takes a proposal to the United States, and we start speaking about it.

After we agree, then we go back to the constituent assembly, until we reach a consensus. It is the combination which takes care of the problem you posed. I see total good faith in your questions. That is why I would dare to say what I am going to say. This is a novel problem for the United States. You have never had to face an issue where you deal with a different nation in the historical effective sociological point of view, Spanish, Caribbean, race, Latin American, all the issues together. You have never had to face that.

You have small pockets of different people within great conglomerates of people who were assimilated into the American main-

stream. Puerto Rico is the other way around. So you have to face a new type of issue. Therefore, it is a complicated issue.

Here statehooders from Puerto Rico would like to remain Puerto Ricans for always. They do not want to become Americans. Commonwealthers do not want to become Americans either, and suffice it to say independent does neither. Thus the issue. That is why it is difficult, complicated. It is not like Alaska. It is not like Hawaii. It is not like Texas. It is like the Dominican Republic. Like Mexico. Like Jamaica. Jamaica speaks English. We do not even speak English. Seventy-two percent of our people do not speak English fluently or not fluently. They do not speak English to understand and carry on a conversation.

That is why you asked your question because it is difficult to understand. You have to face this nation issue. If you face the Nation of Puerto Rico face-to-face, then you can come to gripes with the question and answer it correctly, but we need this process because there are many people in Puerto Rico who political servitude has affected their minds. It is 500 years of political servitude. So they want to continue being political servants.

Mr. INSLEE. Just one comment before we wrap up. That may be true what you are saying that not everyone wants to become American, but 90 percent of Puerto Ricans are watching American Idol. So you just have got to be able to carefully——

Senator ROSSELLÓ. Are watching what?

Mr. INSLEE. Thank you very much.

Senator ROSSELLÓ. Madame Chairman, all of us want to be friends with the United States. All of us.

Mr. DALMAU. Madame Chairman, I would like to just have brief remarks on the same questions. I did not have a chance to respond to it, and it was addressed to the three of us.

Ms. MCMORRIS. OK.

Mr. DALMAU. There are two fundamental issues when we talk about this report. One is substantive, and one is procedural. From a substantive point of view, I have to say that as the commonwealth was defined as a territory that you can give away, that you can basically deprive people of their citizenship, it will get zero votes. It is not true. I take issue with what the other witness just mentioned that people want to be ceded and do not want to have rights under this substantive status.

The problem, our problem is the procedural problem. Because you do not have the majority of people supporting statehood or independence, let us kill commonwealth, and let us devise a process in which you have a first round in which you join all the forces and define commonwealth the worst possible way, but not for legal reasons, but for political reasons, and that is why we oppose this report.

Mr. INSLEE. Thank you.

Senator ROSSELLÓ. Mr. Chairman, if I may address that same question. You have seen the 108-year history of debate in this issue in just a few hours here. It is a history of continuous squabbling. It is a history that allows the Members of Congress to frame this issue as something that is not pertinent to what their role here in Congress is.

What I want you to consider is that this is not an issue of three different political parties or three different ideological views. Squabbling throughout over a century. This goes to the definition of what the United States of America is. This goes to the nature of what the Nation is.

If we do not take action, action that can only be taken under the Constitution and under the Treaty of Paris that specifically under that treaty gave the responsibility and the authority to Congress, if Congress does not act then we are admitting that the model, that the paradigm for the Nation is a paradigm of imperialism. It is an imperial nation that has colonies. Colonies are defined because they do not participate in the decisions in a Democratic way.

The fundamental question here, with all due respect, is not that we get into agreement. We will never be in agreement. The fundamental question is what is Congress going to do? Are they going to assume the responsibility, their historical and Constitutional responsibility of defining the nature of the nation, not Puerto Rico, the nature of the United States?

If the answer is we will maintain or continue the current policy, then you have chosen the U.S. which is supposedly the spokes nation for democracy. You have chosen the model of imperialism. That is the question. So, I just wanted to reemphasize do not dismiss this as three squabbling individuals or three squabbling groups here because that is the history of what has happened, but it is in your side of the court. It is your responsibility undeniable. You have to take action because the Constitution and the treaties that ceded Puerto Rico and the territories so determined.

Mr. INSLEE. Thank you. Just so you know, you have come to the home of the squabbling politicians.

The CHAIRMAN. [Presiding.] Mr. Wicker.

Mr. WICKER. Thank you very much, Mr. Chairman, and I very much appreciate your invitation to nonmembers of the Committee to come and be with you today. I will try to speed along. I would like to follow up with a question by Ms. McMorris, and ask the witnesses to respond on the record because I do not have time to get a response verbally.

Her question was with regard to who would be eligible to vote in any plebiscite. I would just appreciate your responding to the record as far as the eligibility to vote in the four previous plebiscites that have been held on the status question.

Then let me agree with what Mr. Faleomavaega said with regard to whatever process might be adopted not being slanted toward one certain option over another, and I believe he quoted Mr. Diaz-Balart in saying that ultimately the decision should be made by the people of Puerto Rico, and someone in this room during the time I have been here said the process should start in Puerto Rico which I think the Duncan bill provides for.

Mr. Inslee mentioned that there may be gradations in what an assembly might do on this issue which I think is the beauty of taking that approach. It is obvious from listening to the three witnesses—and it is obvious from the time I have spent in Puerto Rico—that the parties cannot even agree on the definitions of the various choices that we have seen put forward.

I do believe that it should be instructive to Members of the Congress, Mr. Chairman, that there have been four votes on this issue during the history of Puerto Rico, and on all four occasions, the commonwealth option has prevailed. I do think it is instructive at least to the members of this committee that the past two previous Governors of Puerto Rico have been members of the commonwealth party, which leans credibility to the four votes that it had before.

My question deals with the fairness of the process that is recommended under the Fortuño bill, and Mr. Fortuño and I have agreed to cordially disagree on this issue and remain friends certainly. I have told staff, Mr. Chairman, that my question would involve using a prop, and so here is my prop. It shows the three options, and it asks the question: Fair vote?

Basically on one extreme you have the choice of statehood. In the middle ground you have the commonwealth option, and then the other option, which is I think we would have to agree at the other extreme from statehood would be independence. Now, it would seem that if you are going to have a vote you would finally get the definitions straight somehow as to what each of the parties advocating that position felt with regard to those three options, and then you would have a vote.

My objection to the legislation that is before you and my objection to the commissioned report is this: Instead of having a vote among the three options, we have this vote instead. We take statehood and independence, and we combine those two extremes into one option. The vote then is to occur between commonwealth and the statehood/independence option that has somehow been linked together.

Under the proposal, if commonwealth wins as it has won on four separate occasions, then the people of Puerto Rico would be told, thank you for your vote. We hear your vote. However, in a few years we want you to go back and we want you to try again because you did not get it right. If, however, the statehood/independence lumped together option wins, then there will be a runoff between statehood and independence, excluding the option which has prevailed in the previous four votes. Excluding the option which has been advocated by the past two Governors elected by the people of Puerto Rico.

It seems to me, Mr. Chairman and my colleagues, that this calls into question the fairness of the process that has been advocated by the commission. I understand from Mr. Berrios that he would advocate the first vote and the first vote only, and then if changing the status completely prevailed, there would be no second vote. Let me just ask all three of you to comment on the fairness of lumping two different options and two such widely different options together in one vote as opposed to voting on all the options in a plebiscite. That would be my only question, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired, but I will allow the witnesses to answer the question.

Mr. WICKER. I appreciate you accommodating.

Mr. BERRIOS. Mr. Congressman, first of all I think you misread my statement. No. I will go for another vote in Puerto Rico to elect a constituent assembly to choose among three noncolonial, nonterritorial alternatives. I would also like to point out I think you

forgot the American flag there which overpowers all the other issues. You know you should have had a big American flag on top of it, because we have asked this nation many times, statehooders, commonwealthers and independentistas for different changes, and the United States has always refused since the beginning of the 20th century to allow for our will to become a reality.

So it is not true that we do not agree. We have agreed many times. The majority has agreed many times, and this Congress has refused. I think that is very important to point out here. What you deduce is a vote to destroy democracy, colonialism, territory is the contradictory item against democracy. You cannot choose voluntarily not to have democracy. Hitler used to have such votes, and when you want to include colonial territorial status what you in fact saying is the people should remain as a colony, as a territory. Therefore, should deny themselves democracy.

What we are asking this Congress, what you are proposing to do is, what I am proposing to this Congress let us vote. Do we want a territory, a colony, yes or no? Because if you leave that up to the Puerto Rican legislature for example—many times in the past it has happened—what will happen is that they will describe commonwealth in a thousand different ways, and you will be telling the Puerto Rican people the truth. You are a territory of the United States of America.

Once the people are faced with that issue, they will vote against it, and you have to face that issue, and the rest is just a way to procrastinate not to do anything, and to let Puerto Rico become more and more statehooders everyday, and that we have to stop. You either face the statehood issue, the decolonization issue, the independent issue now or you will face it in 50 years when it will be much harder to deal with it.

Senator ROSSELLÓ. Mr. Chairman, Mr. Wicker let me first clarify that you mentioned four plebiscites. The truth of the matter is there has only been three. You cannot qualify the approval of an internal Constitution which the people of Puerto Rico approved for internal government as a plebiscite on status because that was not brought before the people. There have been three, 1967, 1993, 1998.

None of them were authorized by Congress. As a matter of fact, Congress has not authorized any in 108 years that Puerto Rico has been a U.S. territory. Those locally authorized plebiscites or referenda have given us a chance to learn, and one of the most powerful lessons that we have internalized is that if you allow the parties in Puerto Rico to define what the formula means then we end up with the same results that we have for each one of the three referenda. Nothing happens.

The definitions that we have been discussing here proposed by the Popular Party have been brought before the people. You say that commonwealth prevailed. No changes happened. So, I think a powerful lesson has to be to realize that we can write whatever we want. As a matter of fact, I told my colleagues in the Popular Party that if it was a question of writing our own definitions then I would write a definition for statehood that would have not 2 senators but 4, not 6 congressmen but 12.

That, as you know, is not consistent with either the Constitution or the U.S. policy. So, we need to have a definition, yes. We do not have to define statehood. We do not have to define independence. You have over 100 independent nations. You have 50 states.

What has to be defined is not the current commonwealth, which is a territory well-established, but the pie in the sky option that has been given to the people of Puerto Rico in writing and nothing has happened because it is Constitutionally inadmissible. I think that when you look at fairness, I think the fairness question has to be answered in giving Puerto Rico real options, not pie in the sky, real options.

The CHAIRMAN. Thank you.

Mr. DALMAU. Mr. Chairman, regarding the territorial issue, I just have to say something. What we are facing here is legislation that is based on a 14-page report issued by a Task Force. That is what we are facing here. That document does not provide the basis for any true process of self-determination basically for two reasons. Because on the substance it only proclaims, it does not explain, it does not provide arguments from a Constitutional standpoint that really enlightens the debate.

It is really reaching certain conclusions that as we know leads to a certain outcome, and then you have obviously the problem of policy issues that has been brought. The Popular Democratic Party welcomes the discussion on policy, once we have resolved the Constitutional issue. That is a threshold issue. When we talk about the particularities of each proposal, let us talk about it, but let us first determine and resolve that each party and each group has a right to participate fully and not with artificial constraints.

Mr. FORTUÑO. Mr. Chairman?

The CHAIRMAN. Mr. Fortuño, yes.

Mr. FORTUÑO. If I may, I would like to introduce to the record, sir, because I know there is a lot of confusion here going on, last year all three parties agreed on legislation. I would like to introduce that legislation for the record. Unfortunately, the Governor vetoed the legislation, but it would have provided for a local process to then come here. That is part of the reason why we are here. So, I would like to introduce that legislation if I may, as part of the record.

The CHAIRMAN. Without objection. Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman. Mr. Wicker, you know that our relationship is a very friendly one so what I am going to say is not in any way personal, but could you hold up your chart again? In Spanish slang we have a word called desparate. It usually means something that makes no sense.

Sometimes some independence voters have voted with the commonwealth candidates to keep statehooders out of power, and for 108 years, statehooders and commonwealthers have believed in the permanent union with the U.S. What you never see is a hook up between statehooders and independence. How people continue to say that this somehow brings together independence and statehooders against commonwealth is really a desperate, and that little chart shows it right there.

First of all, the commonwealth that you would like to propose, I do not know which one it is, is not even the commonwealth that

the people who support commonwealth support, because all three parties in Puerto Rico reject the present commonwealth. The statehooders are clear. They want statehood. Independence have been clear since the beginning of time. The commonwealth want to be a state in an independent nation at the same time, but neither at the same time, and it gets very confusing.

Where the commonwealth should go, and your chart would be truly complete, is if instead of commonwealth as showed free association as to the next step for the commonwealth, and then the options would be statehood, one extreme you are right, outright independence another extreme or an internationally recognized noncolonial status known as free association where we negotiate treaties, where we maintain citizenship if we choose to, where we keep the same post office or the same currency if we choose to, but at any moment we can break that relationship.

The big issue here, and I am saying this as a brother to you, is that the commonwealth has not been explained to anyone. What the commonwealth is being presented as is a wish list of what it could be, but Congress first would have to say put that on the ballot because I am willing to consider giving you that, and Congress is not going to do that for a very simple reason.

Incidentally, should after 108 years commonwealth gets whatever it wants? Absolutely. But you know something? There are 435 of us, and what is going to happen is Nydia would vote for a wish list of things for commonwealth. I would vote for it. Luis would vote it. Maybe you would. Even Luis Fortuño might. But another 400 members would say wait a minute. Why can I not get that for my district? Why can I not get that deal for my district? And it will never happen. The big question here—and thank you for the chart—I was embarrassed to say——

Mr. WICKER. I was happy to hold it the whole time.

Mr. SERRANO. Thank you so much.

Mr. WICKER. If you would yield for 10 seconds, I would appreciate it.

Mr. SERRANO. Yes, sir.

Mr. WICKER. Would not the kind of assembly envisioned by the Duncan bill allow Puerto Ricans to define the type of gradations that might elucidate someone from Mississippi.

Mr. SERRANO. That goes to what Mr. Berrios says, and that is—and I do not want to touch on this in a way that is insulting to anyone in this country or throughout the world—you cannot equate, I will not equate slavery to colonialism.

When President Lincoln sat down, he had a couple of options, do nothing or emancipate. He could not come back and say, you know I thought about it, and slavery is OK, and I am presenting it again as an option. I think it is legislatively immoral for my country to present to my birthplace a colonial option as an option for us.

Now, there are some people there who have been at it so long that they think that is the only way. That is their problem. What do you, as a Member of Congress, what do I wearing that Member of Congress hat for this moment offer to a group of people? You cannot offer a colonial status. It is not proper in everything we are doing. You cannot go back to Iraq now and say, we liberated you, whether I agree with that or not, and here is what we are going

to give you. We are going to give you another dictatorship for another 20 years, but that is different than the dictatorship you had before. You cannot do that. It is still a dictatorship.

So the issue here is: Statehood is clear. Independence is clear. Commonwealth has to give us a nonterritorial, noncolonial status, and I will be the first one to sign onto that bill.

One last point. In the bill that the commonwealth supporters present with my sister—and I am not being sarcastic. She is my sister, and I know I am her brother. I have no sisters. This is the only one I have ever had, and her mother's maiden name is Serrano. Go figure that out. But in that bill, there is no option for an associated republic. There is an option for independence, and that is right, for statehood and for commonwealth, but there is no noncolonial action.

I will go on the record. Give me a bill supported by the commonwealth party that takes out all vestiges of colonialism, and I will go on that bill as quickly as I went on the Fortuño bill.

The CHAIRMAN. The gentleman's time has expired. Ms. Velázquez.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman. I would like to take this opportunity to ask unanimous consent to put into the record my written testimony.

The CHAIRMAN. Without objection.

[The prepared statement of Ms. Velázquez follows:]

Statement of The Honorable Nydia M. Velázquez, a Representative in Congress from the State of New York

Thank you, Chairman Pombo, for holding this important hearing today, which I am sure is drawing a lot of attention in Puerto Rico and throughout Latino communities across the country. As one of the four Puerto Rican Members of Congress, I am personally invested, as well as many from my community, regarding the status of Puerto Rico. I appreciate the opportunity to be here today and provide my view on the Administration's Report regarding the political and socio-economic future of Puerto Rico.

Whenever the debate about the status of Puerto Rico occurs, it still amazes me that the same old issues keep resurfacing in this committee and in the halls of Congress. These actions defy reason.

We continue to talk about Puerto Rico, its past, present and possible future. Still, even with the endless debate, we do not seem to learn from the lessons of the previous efforts on this matter.

This is especially true if you examine these past ten years. We have discussed:

- What limits our Constitution may or may not have?
- Whether this body would pre-commit to a status decision for the people of Puerto Rico?
- Should this body define for Puerto Ricans their status options?
- How much would any status change cost?

What seems to be missing from this debate is the acknowledgment from Congress that instead of telling Puerto Ricans what they want, we should let Puerto Ricans tell us what they want.

To continue to pursue a backwards approach to resolve an extremely complex issue is not the right or proper approach. We are a society that stands for freedom, democracy and justice. We are a country that promotes and encourages people to exercise their rights through free and fair elections. This, after all, is truest expression of one's right to self determination.

So, with this in mind, please excuse my pessimism but, here we go again Mr. Chairman. In today's hearing we will listen to yet another version of the same ten year old argument. Let's tell Puerto Ricans what they want before they are actually given the ability to determine what they want. Why does Congress repeatedly try to micromanage this issue?

I am troubled and concerned with the content of this report, which is authored by a Presidential task force, but does not seem to be supported or even acknowl-

edged by the President. Mr. Chairman, considering the amount of research that has been previously undertaken on this issue regarding—the economic, legal, social and political aspects—the shortness and superficiality of this document should give all of us reason to be concerned.

In comparison to previous efforts that offered broader analysis and more thorough research on the complexity of the issue, this latest iteration falls considerably short. The US-Puerto Rico Commission on the Status of Puerto Rico of the 1960's or the 1980's hearings chaired by then U.S. Senator Bennett Johnston were examples of the type of approach that the President needed from this task force in order to have all the facts at hand.

To get an idea on the difference of these approaches, just compare the output of the 60's effort and then compare it to this report. United States government was so committed to that initiative that the members of that Commission were appointed by the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives and the political parties in Puerto Rico.

The current report seems to ignore legal interpretations, totally dismiss any economic argument and appears to speculate on issues which seem to only serve to create anxiety or even fear. The findings of this report on matters such as citizenship are extremely troubling. They extend far beyond the Puerto Rican community.

They could have huge legal ramifications for immigrants who have become citizens as well as U.S. citizens who are sons and daughters of foreign born nationals. Given the recent protests across the country to punitive immigration policy initiatives, this report sends the wrong type of message to our nation's immigrant community.

I believe that paramount to this debate is fairness. In examining these issues once again, the highest priority should be given to what the people of Puerto Rico want and not to stack the deck to reach a predetermined outcome. Our efforts must not penalize nor favor one option over the other. We should allow Puerto Ricans to express their aspirations in a democratic manner.

Mr. Chairman I appreciate the time you have granted me to share my thoughts on this important issue. This is, after all, a very sensitive and highly complicated issue that needs to be pondered seriously and competently. I look forward to working with you and the Members of the Resources Committee in providing the people of Puerto Rico a just and unbiased approach that guarantees a true expression of their self determination.

Ms. VELÁZQUEZ. Thank you. José, I know that you read English better than I do, but let me tell you that you have got to go back and read the language of this bill, of the Duncan-Velázquez bill. We do not, we do not define any of the political options. That is what we provide is a mechanism for the people of Puerto Rico to create a Constitutional convention, and for them to define their options. We are not defining our options.

You know we love to say—and on this one I agree with the Republicans—local people know better. Locality. Local governments know better. So the people in Puerto Rico they know better, and a proper way to Democratize this process is by providing the right to self-determination by providing a mechanism that would allow for everyone in Puerto Rico, all the political parties to define what option, and then to come here to Congress, but I would like to say and I know that some of the members here previously made a statement to say how disappointed they were that the Governor of Puerto Rico was not here.

Let me tell you that I am more disappointed that the co-chair of the President's Task Force representing the President is not here today because after all he is the co-chair representing the President, and to a question that I asked Mr. Marshall where I pointed out to him that this Task Force was basically making it possible for the statehood to be the formula. He said clearly that they do not support any political option for Puerto Rico.

However, I would like to enter into the record a news article that came out in Puerto Rico on July 28, 2004, that says that a White House official expressed support for statehood for Puerto Rico, at an event Tuesday in which thousands commemorated the 147th anniversary of the birth of pro-statehood leader José San Sabosa. Juan Barrales, head of the White House office of intergovernmental affairs said that he would like to see 51 stars on the U.S. flag.

That is immoral because it is the responsibility of the Task Force to be objective in their recommendations and in their research. I would love for him to see that he goes to Puerto Rico and conduct public hearings or he should not be in the business of promoting a political option for the people of Puerto Rico. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman. I think Ms. Velázquez and I can agree on this point, and that is that this has become polarized politically. She accurately pointed out that some of the people on the commission favor statehood, and that puts them in the opposing camp of the estarisdas from the populares, but the fact is the estarisdas are looked upon as being Republicans, and populares as Democrats.

I can assure you I am a Democrat, but what we are talking about here is really a definition, and if you say that you ought to let self-determination determine what we decide on, I can guarantee you as Mr. Serrano said if you put the question to my constituents in Rhode Island and said to them, they could have all the same entitlements as every other citizen in America, but they do not have to pay taxes, I can guarantee you my state would say that sounds pretty good to me, but that is not a Constitutional option. That is again under the idea of best of both worlds. I would love to have the best of both worlds, but that unfortunately is not a practical option.

If it is a matter of well this person represents this side, I mean we can both play that game. I mean Mr. Dalmau has acknowledged Mr. Cooper's report, and Mr. Cooper was a consultant for the current Governor. I am not going to impugn Mr. Cooper's reputation just because he happens to work for the Governor, and he is paid by the Governor who is a populares.

Mrs. Kirkpatrick worked on her Op-Ed with Ken Adelman, who is again a public relations counselor for the Governor. I am not going to impugn his integrity. This is not about tit for tat. You know, who is this, who is that. It is about us responding to a very simple question and that is: There are four million American citizens, and they are American citizens, whether they have the same vote on the island as they would on the mainland? The fact is, they would not.

I would ask former Governor Rosselló if he could talk a little bit more about how the politics and the polarization has colored the real question of Constitutionality.

Senator ROSSELLÓ. Thank you, Congressman Kennedy. I think you have seen here an inkling of how passionate this issue is with Puerto Ricans, and it is passionate maybe in the same sense that an issue that has been discussed here slavery was for many of the states at a different historical time.

You will recall that during that debate on slavery some of the issues that are being brought up here were brought up. For example, the theory of nullification of Federal law by states. That was brought up by South Carolina. It is contained now in the Popular Party proposal. If we look in history, we see this game being played out, and one of the things that is obvious from the specific historical thread that pertains to Puerto Rico is that for 108 years we have been discussing this when we have to agree that inevitable action has to occur by the entity that has the authority and the power.

It is not that I like it or it is not that I gave it to them or anybody in Puerto Rico gave it to them, but the Congress under the Constitution and specifically as is allowed in international law by the treaty that ceded Puerto Rico to the United States places a responsibility on Congress, and if there is one thing, one point that I want to make, is look at all the differences.

Yes, understand the passion behind them, but do not shirk your responsibility. It is squarely placed on the Congress, and so unless we are willing to go 108 years again, I urge Congress, I urge this committee to act and to finish finally what has been going on too long because Puerto Rico has the dubious honor of being the territory that has been a territory for longer than any other territory in U.S. history, surpassing Oklahoma that was a territory for 104 years. Puerto Rico is now 108 years a U.S. territory without a final decision and definition.

The CHAIRMAN. Thank you. The gentleman's time has expired. I want to thank this panel for your testimony, and for answering questions. Obviously this has I think been very educational for the members of the Committee. I am going to dismiss this panel.

Panel III is our final panel. We are fortunate to have with us today two highly esteemed leaders from Puerto Rico who know the history of this issue extremely well, and also some of the fundamental Constitutional debates that continue today. If I could have you just stand and raise your right hand.

[Witnesses sworn.]

The CHAIRMAN. Thank you very much. Let the record show that they both answered in the affirmative. I would now like to recognize Mr. Rafael Hernández Colón who is the former Governor of Puerto Rico and past President of the PDP. Mr. Colón, if you are ready, you can begin your testimony. Stand for just a second. If we can have order in the Committee, I am having a difficult time hearing up here. Thank you. Mr. Colón.

STATEMENT OF RAFAEL HERNÁNDEZ COLÓN, FORMER GOVERNOR OF PUERTO RICO, PAST PRESIDENT OF THE POPULAR DEMOCRATIC PARTY

Mr. COLÓN. Mr. Chairman, distinguished members of the Committee, the report by the President's Task Force on Puerto Rico's Status denies self-determination to the people of Puerto Rico. The strategy consists of the meaning, the dignity and Constitutional integrity of commonwealth in the report by characterizing it as a territory under the plenary powers of Congress by which Congress can deprive Puerto Rico not only of its Constitution, but even of American citizenship.

The compact through which we entered into the commonwealth relationship is debased by proclamation as a meaningless document which does not bind the Congress, and which it need not respect under the Constitution of the United States. Under this premise, the Task Force would provide for a federally sanctioned plebiscite in which the people of Puerto Rico will be asked to state whether they wish to remain a territory subject to the will of Congress or to pursue a Constitutionally viable path toward a permanent non-territorial status with the United States.

It is obvious that the Popular Democratic Party, which in 1950 led the people of Puerto Rico to accept the congressional proposal in Public Law 600 to end colonialism through a compact under which we would have the same Constitutional sovereignty as the state of the union, and which would bind the Congress to exercise its powers over Puerto Rico under the terms of the Federal Relations Act. The Popular Democratic Party cannot participate and vote in such a referendum or plebiscite.

It is obvious that the Popular Democratic Party cannot be a part of this when we consider that the party assisted the U.S. delegation in 1953 when it moved the U.N. to strike Puerto Rico from the roster of colonial peoples because it had achieved a noncolonial status through the legally binding compact of commonwealth. It is all the more obvious that the PPD, which has defended the Constitutional validity of commonwealth in every plebiscite or referendum held in Puerto Rico from 1950 to this day, that we cannot vote for a proposition which would deprive Puerto Ricans of all the political rights they acquired under the compact.

The petty political maneuver of this report is crass and repelling. You simply cannot deprive half of the people of Puerto Rico of their right to vote by defining the proposition in the plebiscite for self-determination in such a way as to make voting for it a denial of the legal and Democratic principles under which commonwealth stands.

The report is so partisan, biased, superficial and ill founded that it does a grave disservice to the United States and to Puerto Rico. In order to characterize Puerto Rico's economy under the plenary powers of Congress, it blatantly ignores Federal court decisions under local applications of Federal laws and the position of the U.S. on this matter before the United Nations in 1953.

The White House Task Force characterizing the commonwealth as a territory under the plenary powers of Congress in effect says that the United States lied to the United Nations when it moved the general assembly to accept the cessation memorandum, and because Puerto Rico had achieved the status of an autonomous political entity.

In the matter of definitions, and I believe they are very important, Mr. Chairman, and we have heard a lot of talk about here which stems from political positions as to what is a colony, and they referred to colonies and slaveries. With regards to this matter, we have one authority to which the United States it subscribed under a treaty with just the supreme law of this land, and that is the United Nations, and the United States submitted to the United Nations for determination that Puerto Rico had ceased to be a colony, and the U.N. so determined in 1953. As for definitions of colo-

nialism, we stand with the definition of the United Nations in 1953 by the proposal of the United States.

Now, if we are going to say that the United States lied then to the United Nations, then I have to say that in leaving the world as the only super power, the U.S. requires more than economic or military power. It also requires moral legitimacy. The report of the White House Task Force on Puerto Rico is a step down the slippery slope of the justification of policy through falsehoods. This report will live in infamy. Thank you, sir.

[The prepared statement of Mr. Colón follows:]

Statement of The Honorable Rafael Hernández Colón, Governor of Puerto Rico, 1973-76; 1985-92

The Report by the President's Task Force on Puerto Rico's status denies self-determination to the people of Puerto Rico. The strategy consists of demeaning the dignity and constitutional integrity of commonwealth in the report by characterizing it as a territory under the plenary powers of Congress, by which Congress can deprive Puerto Rico not only of its Constitution but even of American citizenship. The compact through which we entered into the commonwealth relationship is debased by proclamation as a meaningless document which does not bind the Congress and which it need not respect under the Constitution of the United States.

Under this premise the Task Force would provide for a Federally sanctioned plebiscite in which the people of Puerto Rico will be asked to state "whether they wish to remain a territory subject to the will of Congress or to pursue a constitutionally viable path toward a permanent non territorial status with the United States".

It is obvious that the Popular Democratic Party which in 1950 lead the people of Puerto Rico to accept a Congressional proposal—Public Law 600—to end colonialism through a compact under which we would have the same constitutional sovereignty as a state of the union and which would bind the Congress to exercise its powers over Puerto Rico under the terms of the Federal Relations act, cannot participate in such a plebiscite.

It is obvious that the PDP cannot be a part of this when we consider that the Party assisted the U.S. delegation in 1953 when it moved the U. N. to strike Puerto Rico from the roster of colonial peoples because it had achieved a non colonial status through the legally binding compact of Commonwealth.

It is all the more obvious that PDP which has defended the constitutional validity of Commonwealth in every plebiscite or referendum held in Puerto Rico from 1950 to this day, cannot vote for a proposition which would deprive Puerto Ricans of all the political rights they acquired under the compact.

The petty political maneuver of th is Report is crass and repelling. You simply cannot deprive half of the people of Puerto Rico of their right to vote by defining the proposition in the plebiscite for self-determination in such a way as to make voting for it a denial of the legal and democratic principles under which Commonwealth stands.

Just to get a sense of the monstrosity of the proposition lets analyze the statement in the report that Congress under Commonwealth may "determine the island's governmental structure by statute as it has done for Guam or the Virgin Islands". In other words that Congress can repeal the Constitution enacted by the people of Puerto Rico and provide for our governance through a new organic act. For instance a new Foraker Act such as the one it approved in 1900 where we had no U.S. citizenship, the Governor and the principal cabinet officers were appointed by the President of the United States, where the Upper House was an Executive Council appointed by the President, and only the House of Representatives was elected by the people.

Can we take this fear tactic seriously? Not only because it is politically implausible, but also because it is legally impermissible to undo the constituent act of Puerto Rican voters who framed our Constitution and because it would deprive our people of their right to elect their senators and their governor. From either point of view, such a proposition is absolutely ridiculous, absurd, and outrageous.

The Supreme Court of the United States has affirmed in *Rodríguez v. Popular Democratic Party*, 417 U.S. 1(1982), that the voting rights which Puerto Ricans enjoy to elect their Governor, Senators, and Representatives are protected by the Constitution of the United States. What kind of advise did this Presidential Task Force have which allowed them to in effect affirm that Congress can take away our voting rights?

The Report is so partisan, biased, superficial, and ill founded that it does a grave disservice to the United States and to Puerto Rico. In order to characterize Puerto Rico as a colony under the plenary powers of Congress, it blatantly ignores Federal Court decisions on the local application of federal laws and the position of the U.S. on this matter before the United Nations in 1953.

Since the early days of the Republic, the Supreme Court of the United States has distinguished between the states and the territories in the application of federal laws. In the case of states, Congress cannot legislate directly on local matters because the states are sovereign political entities. With regards to the territories, Congress can legislate directly on local matters because they are not sovereign entities. They are political creatures of Congress governed under Organic Acts approved by Congress. The Task Force proclaims that Puerto Rico is a territory and therefore "Congress could legislate directly on local matters".

So it was in Puerto Rico from 1900 to 1952. During that period we were first governed under the Foraker Act and as of 1917 under the Jones Act. We were not sovereign within the U.S. constitutional system. All of this changed when Congress entered into a compact with the people of Puerto Rico in 1952. Through this compact we, not the Congress, created the Commonwealth of Puerto Rico. The Commonwealth has been explicitly recognized as a sovereign entity like the states of the Union by the Supreme Court of the United States. In *Examining Board of Engineers, Architects and Surveyors v. Flores de Otero,* 486 U.S. 572, 597 (1976) the Supreme Court of the United States said that, under the compact: "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".

The laws of Congress do not apply locally in Puerto Rico because the Commonwealth is, within the U.S. constitutional system, a sovereign entity. There is a long line of federal cases extending back to 1953 which the Task Force has blithely ignored. These federal cases starting with *Mora v. Mejías,* 206 F 2d. 377, 387 (1st. Cir. 1953) leading up to *Romero v. United States,* 38 F 3d. 1204, 1208 (Fed. Cir. 1994), have explicitly ruled that Puerto Rico is no longer a territory and the laws of Congress are no longer locally applicable in Puerto Rico since we have to be treated as a state.

Puerto Rico's relationship by compact to the United States is a bilateral legally binding relationship protected by the U.S. Constitution. This proposition is wrongfully denied by the White House Report on the status of Puerto Rico.

The binding nature of the compact must be determined by a functional and historical analysis of the territorial power vested in Congress. This analysis bears out that Congress can divest itself of the territorial power by enabling territories to enact their own Constitution and join the Union, by granting independence to the territory, or by incorporating the territory and thus triggering the constitutional limitations on its power. And the same by compact as was the case of the Northwest territories and the Ordinance enacted by the First Congress under the U.S. Constitution in 1789.

The use of compacts was very frequent during the first century of American history. Compacts were made among the States and by the States with Congress. Indeed a congressional practice may be said to have developed qualifying admissions to statehood through compacts.

The case of *Green v. Biddle,* 8 Wh. 1, 5 L. Ed. 547, decided in 1823 is an excellent example of the use of compacts in early American history to regulate relations among sovereigns. When Virginia agreed to the formation of Kentucky from within her territory, a compact was entered between the inchoate State of Kentucky and Virginia regarding the applicability of Virginia law to interests in land in Kentucky. Kentucky passed an act inconsistent with the compact. It was challenged in the courts. To defend the action taken by Kentucky it was argued to the Supreme Court that the compact was invalid because it surrendered rights of sovereignty which were inalienable. This is the same argument used to challenge the validity of the Commonwealth compact.

The Supreme Court said that this contention "rests upon a principle, the correctness of which remains to be proved. It is practically opposed by the theory of all limited governments, and especially of those which constitute this Union. The powers of legislation granted to the Government of the United States, as well as to the several State governments, by their respective constitutions, are all limited. The article of the Constitution of the United States, involved in this very case, is one, amongst many others, of the restrictions alluded to. If it be answered that these limitations were imposed by the people in their sovereign character, it may be asked, was not the acceptance of the compact the act of the people of Kentucky in their sovereign character? If then, the principles contended for by Kentucky be a sound one, we can only say that it is one of a most alarming nature, but which, it is be-

lieved, cannot be seriously entertained by any American statesman or jurist". 5 L. Ed. 569. In a similar fashion the contention that the compact with the people of Puerto Rico is not binding is one that cannot be seriously entertained.

It also was argued to the Supreme Court that the compact did not come within the constitutional prohibition to impair the obligation of contracts. To this the Supreme Court answered: "A slight effort to prove that a compact between two States is not a case within the meaning of the Constitution, which speaks of contracts, was made by the counsel for the tenant, but was not much pressed. If we attend to the definition of a contract, which is the agreement of two or more parties, to do, or not to do, certain acts, it must be obvious that the propositions offered, and agreed to by Virginia, being accepted and ratified by Kentucky, is a contract. In fact, the terms compact and contract are synonymous; and in *Fletcher v. Peek*, the Chief Justice defines a contract to be a compact between two or more parties. The principles laid down in that case are, that the Constitution of the United States embraces all contracts, executed or executory, whether between individuals, or between a State and individuals; and that a State has no more power to impair an obligation into which she herself has entered, than she can the contracts of individuals. Kentucky, therefore, being a party to the compact which guaranteed to claimants of land lying in that State, under titles derived from Virginia, their rights as they existed under the laws of Virginia, was incompetent to violate that compact, by passing any law which rendered those rights less valid and secure". 5 L. Ed. 570.

The use of compacts during the first century of American history to regulate the relationship between Congress and territory, between Congress and States, and between States and other States bears out that the concept of compact is a hallowed institution of American constitutional heritage, firmly rooted in legislative practice and in the precedents of the courts.

The Task Forces' impudent falsehood on the juridical nature of Commonwealth is not the only infirmity of the document. The Report flies in the face of the assertions made by the United States in the Cessation Memorandum it presented to the United Nations General Assembly in 1953. Under the treaty creating the U.N., those members that have colonies must report annually to the U. N. on the advances made in the colonies towards self-government. Thus, the United States undertook through treaty to develop a full measure of self-government for Puerto Rico. Commonwealth was one way under the treaty to reach self-government. The U. N. Treaty is the supreme law of the land on the same footing of supremacy as the Constitution. The Task Force Report denies that this nation had the power to discharge its treaty obligations by entering into a binding compact for self-government for Puerto Rico. If the United Nations recognizes Commonwealth as a status of self-government it must be because the member nations have sovereign powers to affect such an association with dependent territories. Will the United States be the exception? Who so mighty that its sole power supports the entire apparatus of the United Nations and yet so weak that it cannot comply with an obligation under the charter?

The U.S. filed reports on the advancement to self government for Puerto Rico up to 1952. In 1953 it presented a Cessation Memorandum informing the General Assembly that it would cease submitting such information because Puerto Rico had become a Commonwealth.

The Cessation Memorandum noted that Public Law 600 had expressly recognized the principle of government by consent, and declaring that it was "adopted in the nature of a compact", required that it be submitted to the voters of Puerto Rico in an island-wide referendum for acceptance or rejection. The Cessation Memorandum also noted that Public Law 447, "in its preambular provisions, recalled that the [Public Law 600] 'was adopted by the Congress as a compact with the people of Puerto Rico....'".

In describing the principal features of the Constitution of the Commonwealth, the Cessation Memorandum noted that the new Constitution, as specifically approved by Congress, expressly provides that it "shall be exercised in accordance with [the people's] will, within the terms of the compact agreed upon between the people of Puerto Rico and the United States of America". The Memorandum also advised the United Nations that the Puerto Rico Legislature had been given "full legislative authority with respect to local matters".

Under the heading "Present Status of Puerto Rico", the Cessation Memorandum declared:

> By the various actions taken by the Congress and the people of Puerto Rico, Congress had 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.

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

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

Relaying on these representations made by the United States, the General Assembly approved Resolution 748, VIII, approving the cessation of information on Puerto Rico stating that:

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

The White House Task Force report characterizing the Commonwealth as a territory under the plenary powers of Congress in effect says that the United States lied to the United Nations when it moved the General Assembly to accept the cessation of information on the development of Puerto Rico towards self-government because, through the compact, we had achieved the status of an autonomous political entity.

In leading the world as the only super power, the U.S. requires more than economic or military power. It also requires moral legitimacy. The Report of White House task force on Puerto Rico is a step down the slippery slope of the justification of policy through falsehoods. This Report will live in infamy.

The CHAIRMAN. Thank you. Our final witness today is Mr. Carlos Romero-Barceló, the former Governor of Puerto Rico, and a gentleman the members will recall also served on this committee as Resident Commissioner from the 103rd through the 106th Congress. Carlos, welcome back to the Committee.

STATEMENT OF CARLOS A. ROMERO-BARCELÓ, FORMER GOVERNOR OF PUERTO RICO, FORMER MEMBER OF CONGRESS

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman. Thank you very much and thank you, Mr. Fortuño and to Mr. Kennedy and Ms. Velázquez and Mr. Serrano for being here with us today.

The stated purpose of this hearing is to consider the Report of the President's Task Force on Puerto Rico's Status. The report accurately states Federal law governing the current status of Puerto Rico as well as the options for an ultimate political status recognized under Federal law as fully Democratic, permanent and not subject to the power of Congress over territories in the United States.

Congress now should move forward with legislation to implement the recommendations of the report in the manner it deems necessary and proper. It is my hope that the Committee will be able to take up the Fortuño-Serrano bill, H.R. 4867, for consideration. Having said that, what is left for me is to respond to the desperate attempts being made to distract and confuse the public and the Congress about the Task Force report.

Those who support the existing political and economic relationship between the U.S. citizens of Puerto Rico and the rest of the Nation cannot feel comfortable when the relationship is discussed from the point of view of democracy. Why? Because the existing re-

lationship called commonwealth deprives the Puerto Ricans—or if you prefer the four million U.S. citizens who live in Puerto Rico—of their right to vote for President and Vice President. It also deprives them of our right to elect Representatives and Senators in the nation's Congress.

Pursuant to the Constitution of the United States, in order to be able to vote for President and Vice President, you can do it by voting for electorates who are apportioned among the states pursuant to a number of Representatives which the state may elect plus the two Senators which every state has a right to elect. A special Constitutional amendment was passed in order to allow U.S. citizens residing in Washington to vote for President and Vice President.

However, all U.S. citizens who reside in a territory or possession of the United States are not allowed to vote for President and Vice President. With respect to the U.S. Congress only U.S. citizens residing in the state of the union may vote to elect Senators and Representatives to Congress. There is no way in which Congress may authorize U.S. citizens in the territories or possessions to vote in congressional elections.

It is for that reason that the so-called commonwealth relationship is undemocratic. To maintain it erodes and undermines the credibility and sincerity of the expressed desires of the President and this Congress to bring freedom and democracy to all peoples in the world. How can the President and Congress express support for all efforts to bring democracy to foreign countries such as Cuba, Iraq, Afghanistan and others while it maintain a relationship with four million of its citizens in the nation's front yard in the Caribbean which denies them of their right to vote for President and to elect the representation to Congress?

To look for excuses not to put an end to such an undemocratic relationship as now exists is a disservice to the United States and country, to everything that our nation has stood for and fought for. As we speak, thousands of our men and women including Puerto Ricans are risking their lives and are dying to bring democracy to Iraq and Afghanistan.

Congress has already authorized hundreds of millions of dollars to finance the armed forces in the war against tyranny. How then can Congress look for excuses not to promote a solution to the undemocratic disenfranchisement of four million of its citizens?

Those who support commonwealth, like my fellow former Governor Hernández Colón, would have you support the continued disenfranchisement of four million U.S. citizens in Puerto Rico, yet he sits here and complains. He says that this bill or the bill that is for Senate would deprive 50 percent of the people of their right to vote, but he wants to deprive 100 percent of the people in Puerto Rico of their right to vote.

They complain and criticize the report by the President's Task Force as a permanent, fully democratic, nonterritorial status. Only statehood and independence are considered as permanent, fully Democratic, nonterritorial options. Unfortunately for those who claim they believe in and support democracy, but want to remain disenfranchised U.S. citizens, the report's recommendation accurately states the law and correctly interprets the existing relation.

If anyone believes, as commonwealth supporters believe, that the right to vote for President and for representation in the nation's Congress is not important, how can they claim to believe in democracy? Obviously they are confused or else they do not understand what democracy is all about. If they do understand, then they are lying, and trying to mislead the people.

Congress cannot allow itself to be misled into a conspiracy to lie to the U.S. citizens in Puerto Rico by pretending that commonwealth is not undemocratic. If Congress were to allow the commonwealth supporters to continue misleading Puerto Rico into believing that disenfranchisement is acceptable in our Democratic system, they would be discrediting and undermining the credibility of the United States.

As I told President Clinton in a meeting that was held with Members of Congress, his cabinet, his White House staff and U.S. Ambassadors and the different countries in North and Central America, prior to America's summit meeting in Miami, I said, Mr. President, to preach democracy throughout the world while ignoring the disenfranchisement of four million U.S. citizens in Puerto Rico is tantamount to preaching morality in your underwear.

Millions of people throughout the world have risked their lives and died and continue to risk their lives and die in order to reach U.S. soil. They are looking for better opportunities and a better life. Some risk their lives in rickety and makeshift boats on stormy seas. Others cross the desert on foot or are jammed and suffocating in trucks or trailers. Many of them disappear or die, but still they keep coming.

Do you think that they would risk their lives to come to the United States if the U.S. were not a symbol of freedom and democracy throughout the world? Do you think of those who now come would do so if we lived under a dictatorship in a fascist or communist regime? Of course not. They see our nation as a beacon of hope and opportunity. They see our nation as an escape from oppression and despair.

We are not debating as to how and when all those who are now living, working and raising their families in the United States should be allowed to become U.S. citizens or not so that they may fully enjoy the blessings of democracy. Is Congress then to look the other way or look for excuses to deny Puerto Ricans who are native born U.S. citizens since 1917 of the right to vote, and the right to representation in their nation's Congress? No. Too many Congresses and too many Presidents have looked the other way for too long. We are now in the 21st century, where businesses are being reduced ever more by faster and more efficient methods of audiovisual communication. We now know almost instantly what is happening on the other side of the globe.

The President's Task Force on Puerto Rico is a product of the concern of a Democratic President who initiated it, and the concern of a Republican President who accepted and amended the Executive Order, and appointed the members of the Task Force. It is a bipartisan effort and concern. The bill was filed by Republican Luis Fortuño and Democrat José Serrano and yet so far been cosigned by 100 Republicans and Democratic Members of Congress.

If we consider the issue of Puerto Rico's status from the point of view as to how Congress can live by its statements and strengthen its efforts to bring freedom and democracy to those that are still not enjoying its blessings, the answer is obvious, by implementing the recommendations of the President's Task Force and supporting H.R. 4867. Thank you, Mr. Chairman.

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

Statement of The Honorable Carlos Romero-Barceló, Governor of Puerto Rico 1977-1985

Mr. Chairman, thank you for inviting me to testify. With your permission I would like to submit my written statement for the record and present a brief summary at this time.

Mr. Chairman, the stated purpose of this hearing is to consider the Report of the President's Task Force on Puerto Rico's Status. In my view the report accurately states federal law governing the current status of Puerto Rico, as well as the options for an ultimate political status recognized under federal law as fully democratic, permanent, and not subject to the power of Congress over a territory of the United States.

Congress now should move forward with legislation to implement the recommendations of the report in the manner it deems necessary and proper. It is my hope the Committee will be able to take up the Fortuño-Serrano bill (H.R. 4867) for consideration.

Having said that, what is left for me is to respond to the desperate attempts being made to distract and confuse the public and the Congress about the Task Force report.

In this respect, my colleague at the witness table today, former governor Hernández Colón, did us all a service by attacking the Task Force report in a series of essays defending the commonwealth party's doctrine of separate nationhood within the American federal union.

To pierce through the murky haze of commonwealth party ideology and semantics, Congress really needs to understand what the current Governor and leaders of his party are actually saying:

- There is no territorial status under the U.S. Constitution, The constitution merely grants Congress the power to govern a territory.
- The power of Congress to govern territories is conferred by the territorial clause, in Article IV, Section 3 but they allege that Congress also can govern territories outside the scope of the territorial clause, as if that provision were not there, or were meaningless.
- That Congress can allegedly establish territorial governments by federal statute and then enter into agreements or "compacts" with those governments in which congress irrevocably cedes to the territorial government, the sovereign powers conferred to Congress by the U.S. Constitution.
- That such agreements allegedly become part of the federal constitution itself, and place the territory, the local constitution, the operations of the commonwealth government and the compact beyond the reach of a future Congress.
- That Federal law thereafter can allegedly be made applicable to the territory, only if the territory has consented in the compact, or if the territory subsequently gives its consent.
- That the Northwest Ordinance model of territorial incorporation and admission to the union allegedly establishes the precedent for a compact to establish a permanent political union under the U.S. Constitution with a territory, that will have the status of a sovereign nation-state.
- That allegedly all powers retained by the federal government under such a compact are limited to those delegated by the compact, and that all powers not delegated to the federal government, are reserved to the territorial nation-state.
- That such a compact was allegedly created in 1952 upon adoption of a local constitution approved by Congress, and therefore, Puerto Rico is allegedly no longer a territory.
- That alternatively, if the 1953 constitution did not perfect Puerto Rico's non-territory status, there is no need to make the more difficult choice between statehood and separate nationhood, because Congress still allegedly has the option of entering a permanent non-territory compact with the "nation" of Puerto Rico.

- Under the alleged "compact" the commonwealth advocates promise the people that the local government could allegedly conduct its own foreign policy and trade relations with the international community, and the U.S. would guarantee U.S. citizenship and defend the "commonwealth" in perpetuity, in a relationship where there would be dual national citizenship and first allegiance to Puerto Rico.

I could go on, but you get the point. The commonwealth party leaders are talking about a confederation with a local power of nullification. The bilateral compact they espouse is based on a legal theory under which, the allocation of powers under the Constitution to govern territories, is changed permanently by an agreement approved by statute, without going through the amendment process under Article V of our Constitution.

No member of this Committee would ever vote for such a status formula because it is unconstitutional and legally flawed. Even if it were legally feasible, it will never be accepted by Congress as a matter of federal policy. Indeed, in one from or another, it has been presented to Congress over 10 times in the last fifty years, and it has always been ignored or rejected by Congress. In 1998 it was voted down by this Committee.

Congress will never create a nation-within-a-nation; a separatist regime exempt from supremacy of federal law; with U.S. citizenship but divided allegiance; with U.S. protection, but separate foreign relations powers; with federal subsidies but exemption from federal taxation; with separatist rights instead of equal rights. In other words, confederacy instead of federalism that is—Apartheid.

That is not the solution to the current undemocratic status under which the national law which apply in Puerto Rico are made by a Congress in which the U.S. citizens of the territory are not represented. The solution to that problem is statehood or separate nationhood, not separate nationhood within the American political union.

Yet, the Governor and the commonwealth party leadership endorse a bill that has been introduced in Congress to authorize a constitutional convention, in order that the commonwealth party may present its failed status formula to Congress again. This time, at the invitation of Congress. But Congress will not pass that bill, because it is as flawed as the "bilateral compact" allegation of the commonwealth party is.

The brazen assertions of "commonwealth" advocates do not merit, but still require rebuttal. Thus, it must be repeated here that if Congress could, by statute, or agreement approved by statute, permanently enjoin one or all three branches of the federal government from exercising the powers conferred to it by the U.S. Constitution; that would effectively mean that Congress has the power to amend the Constitution by statute. And that is absurd!

It is a maxim of constitutional interpretation that no provision is without a meaning and purpose. This maxim negates the suggestion that the territorial clause was not necessary, because an alleged inherent power of Congress to govern territories not within a state, is implied.

As for the Northwest Ordinance, Clause 14 of that seminal instrument of territorial policy does employ language of compact, but that applies only to the promise of incorporation and admission to statehood, not to territorial government. However, even under the Northwest Ordinance model, incorporation remains a political question, and a statutory "compact" for admission to the union is a promise that cannot be enforced. It is a promise kept by Congress when determined to be in the national interest.

Enactment of the Northwest Ordinance by Congress did not make its articles of incorporation part of the U.S. Constitution, and language in early legal rulings cited by Governor Hernández Colón, to suggest elevation of the compact to constitutional equivalence, has been overtaken by later Supreme Court rulings. Clause 12 of the Northwest Ordinance referred to territorial governments as "temporary", by their constitutional and political nature, not parties to the articles of compact. And even the articles of compact, were subject to alteration by amendments to the Articles of Confederation and "all acts and ordinances" of Congress.

In short, Governor Hernández Colón and the leadership of his party are fabricating a revisionist theory of the constitutional nature of the Commonwealth of Puerto Rico, in a desperate last stand against the onslaught of historical truth and legal reason embodied in the Task Force report.

He cites court rulings, concerning vesting of property rights and vested legal rights under executed contracts between private parties and the federal government, as if these cases were legal precedents for vesting of political rights in the body politic of a territory, on the statutory policy question of political status.

The commonwealth advocates claim that the U.S. Constitution gives Congress "flexibility" in its governing relationship with territories, whether it is with uninhabited territory under the territorial clause, or under bilateral compacts with Puerto Rico, alleged to be a nation in union with the U.S., rather than a state.

Congress has flexibility in territorial relations only because the political status of territories is defined by statutes, and statutes can always be amended or repealed. In addition, since the U.S. Constitution does not apply of its own force in territories, Congress has flexibility to limit the rights and benefits extended to U.S. citizens in a territory, who are subject to the laws of the national government in which they are not represented.

Even if Congress by statute granted greater powers of local autonomy, it would be a statutory policy that a later Congress could alter or end. That is why commonwealth cannot be converted from a non-permanent form of local government into a permanent status. Permanent disenfranchisement and the present undemocratic status under federal supremacy is not a solution, and there is no substitute form of consent that can ever make the U.S. citizens of Puerto Rico whole, for the lack of equal voting rights and voting representation in Congress.

The former Governor and his party's leadership accuse the U.S. Department of Justice under Attorney General Thornburgh of reversing sympathetic interpretation of "mutual consent" provisions in instruments of federal territorial policy. But it was under Attorney General Reno that the U.S. Department of Justice confirmed that such provisions are unenforceable, and were being used in the territories in a way that was "illusory" and "deceptive".

Those two words pretty much sum up what needs to be said about the local commonwealth party attacks on the Task Force report, as well as the five decades of "enhanced commonwealth" ideological indoctrination, perpetrated on the U.S. citizens of Puerto Rico by the commonwealth party.

That former Governor Hernández Colón, and his party's leaders, are using illusory and deceptive legal arguments to sustain an implausible status theory is obvious. The question for the Committee is, why are they doing this?

The answer is that the commonwealth party cannot sustain its very existence and its espousal of commonwealth as a political status, unless it can convince the U.S. citizens of Puerto Rico, that a local power of consent to application of federal law, makes their lack of voting rights in national elections and voting representation in Congress, not only tolerable, but preferable to equal citizenship under statehood.

That is what is really going on here, and that is why the Task Force report so powerfully threatens the commonwealth party elite, and causes them to be so extreme and reactionary in condemning the report. Thus, the Governor of Puerto Rico has accused the Administration of threatening to end U.S. citizenship in Puerto Rico. Yet, no one has suggested a loss of U.S. citizenship in the future, except in the context of a vote by the residents of the territory favoring independence or associated republic status.

Scare tactics are all part of the reactionary politics of the commonwealth party today, They are all part of the illusory and deceptive agenda of that party. If I seem harsh, it is because the tactics being employed in commonwealth party response to the report are based on deception and outright lies.

The real problem underlying this issue is that the commonwealth party based its existence and its credibility with the people on a myth. It now must defend that myth, and to do that they must try to discredit the truth embodied in the Task Force report. The myth is that the language of "compact" in the 1950 federal statute authorizing a local constitution, means much more than it does.

The term "compact" was borrowed form early American territorial policy to add the color of solemnity to the procedure for adoption of a local constitution. Because it was not actually a Congressional compact in the full tradition of the Northwest Ordinance, it was qualified as being "in the nature of a compact".

In any event, the real issue is what the alleged compact entailed. It was simply a commitment to a process through which a local constitution would be approved in Puerto Rico and submitted to Congress for its approval. That is all, and at no point did the U.S. Congress agree that approval of the local constitution would make the local constitution unalterable, or that Puerto Rico had become a nation-state in permanent union with the U.S., subject to a local power of consent to application of federal law.

Indeed, at the time of its approval in 1952, Congress imposed amendments to the locally approved constitution that clarified the supremacy of federal law and limited amendments to the constitution. In addition, the U.S. Supreme Court and lower federal courts have upheld application of federal wiretap laws and death penalty laws that in effect amended the local constitution without local consent. The common-

wealth myth has been dispelled time and time again and there is less reason than ever for Congress to consider it further.

Finally, it is my duty to inform the Committee and the public of an even more fundamental constitutional problem presented by the tactics of the commonwealth party in response to the Task Force report. I am referring to the support by the current Governor and his party leaders in the Legislative Assembly for H.R. 4963.

This bill purports to authorize a "constitutional convention" in Puerto Rico on the status issue. However, Article VII, Section 2, of the Constitution of the Commonwealth of Puerto Rico prescribes the exclusive procedure for a constitutional convention. A 2/3's vote of the legislature and a majority approval by the voters in a referendum at the time of a general election are required to call a constitutional convention.

A federal law authorizing a constitutional convention that does not comply with Article VII would be a unilateral federal amendment of the local constitution. Yet, H.R. 4963 does not contemplate mutual consent to the amendment of the local constitution.

Since the Governor and his party leaders in the legislature took oaths of office to uphold the constitution of Puerto Rico, how can they support a federal bill that amends the local constitution and calls a constitutional convention in violation of Article VII?

They have staked their honor on the myth, that consent must be given to a federal law that amends the local constitution and the so-called compact it allegedly embodies. Yet they endorse a bill that violates their own theory of consent.

There is no bilateral compact. Commonwealth is undemocratic and Congress can unilaterally apply federal law to Puerto Rico. Thus, I oppose H.R. 4963 for the simple reason that Congress should not intervene in the local constitutional process without a compelling federal purpose, and there is no federal purpose underlying H.R. 4963.

Thus, I urge the Committee to reject H.R. 4963 and implement the Task Force report based on H.R. 4967.

The CHAIRMAN. Thank you. I thank both of you for your testimony. I am going to recognize Mr. Fortuño for his questions.

Mr. FORTUÑO. Thank you, Mr. Chairman, and I join you in welcoming these two distinguished former Governors of Puerto Rico. We are honored to have both of you here this afternoon with us.

My colleague, José Serrano, mentioned something with the previous panel having to do with actually having a third option. That option being an option that is nonterritorial, that is permanent in nature, that would not be statehood or independence, but that would be true free association granting full sovereignty to that body politics. I have tried and tried over and over again publicly and privately to get from the commonwealth party a commitment to do that, and I will be the first one to be in line to amend this legislation.

However, as in the past, since they do not like what the Justice Department has been stating about commonwealth for the last three Administrations including this one, they will refuse to move forward and would rather block anything to move along. So I just wanted to say that for the record.

Initially and I mentioned that I wanted to introduce for the record last year's legislation. The state legislature tried and reached an agreement last year to hold a direct vote on this issue. However, the Governor decided to veto it as well. If I may, I know we are running short of time, I would like to ask former Governor Hernández Colón a question.

Governor, with all due respect, since 1952 the commonwealth leaders have made more than 15 specific proposals that Congress recognize commonwealth as a bilateral compact that cannot be altered without the consent of Puerto Rico. Congress has never

accepted the concept or the defined commonwealth as a permanent or nonterritorial status.

On top of that, the Federal courts have ruled that Puerto Rico is a territory, that Federal laws supersede local law and that local powers of self-government are limited to matters not governed by Federal law, and I just cite a few cases like *U.S. v. Pinorez, U.S. v. Acostas, Martinez and PDP v. Rodríguez* in that line.

Now the Executive Branch has rejected the bilateral compact, the nonterritory doctrine of so-called commonwealth in the President's Task Force report, yet you insist again that an interminable bilateral compact and nonterritory status in the Federal system, other than statehood, is available under commonwealth.

You may disagree with Federal law and may even interpret some Federal court cases differently than the U.S. Department of Justice under three different Administrations, but you have failed to secure the status U.S. policy in all three branches of the Federal government for 50 years. It reminds me of the country western song "What Part of No Don't You Understand?"

Let me ask you: Politically, but especially legally speaking, do you think it is realistic to continue to tell the people of Puerto Rico that nonterritorial commonwealth status in the Federal union based on a bilateral compact is still feasible under the U.S. Constitution and applicable law?

Mr. COLÓN. Yes, Mr. Congressman, and I believe you are absolutely wrong in all the expressions that you have just made. First of all, I would like to refer you to Law 600 of 1950. The approval of that law by the people of Puerto Rico, their election of delegates, their creation of a Constitution under the power of the people of Puerto Rico not delegated by Congress, and Law 447 which says explicitly that the Congress is approving a compact with the people of Puerto Rico. There you have the laws.

Now, as to the case law, all case law on the local application of Federal laws in Puerto Rico since *Mora v. Mejías* have held that Federal laws are not applicable to Puerto Rico as if Puerto Rico were a territory like they would apply in the District of Columbia because we are a sovereign entity such as a state, and three of the cases that you cited *Rodríguez* which I took to the Supreme Court with some other more prominent attorneys than I, Calero, Board of Examiners, they all hold that Puerto Rico is a sovereign entity like the states.

It is not an independent country, but it is a sovereign entity because it has its own Constitution, and it has a compact. So we do not need to come to Congress to approve a compact. We have a compact, and that is what I am defending here.

Mr. FORTUÑO. I will close now, Mr. Chairman, but certainly we should be reminded that after the voters in Puerto Rico approved the state Constitution this was meant for self-rule, internal rule, Congress amended that Constitution, and as we recall, it was electorally amended. Two sections were taken out, and actually to try to solve the situation, it was taken back to the voters to try to make it appears as if indeed the voters had full sovereignty over this.

Had it not been for Congress granting and allowing us for a process to have self-rule, some measure of self-rule, that would not

have happened. For example, we can talk about that level of sovereignty that we will aspire to be like a state. I would agree with you on that one, but certainly for example right now in Puerto Rico there is discussion on the death penalty.

As you all know, there will be a case that will come up, and indeed already the U.S. Justice Department has been seeking the death penalty in a number of cases. Of course we have a system in which 12 men and women decide whether to go along or not, but that is occurring today even though our state Constitution states otherwise.

The CHAIRMAN. Time has expired. I recognize Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman. It is enormously frustrating to hear this debate because again it is all about the past. To say that something that was ruled on in 1950 is still the law of the land is saying well, the Constitution at the time of Dred Scott was the law of the land. That does not mean it is currently the law of the land.

This notion that somehow we can wish something into being is really frustrating because you can say what you interpret the current situation to be, but as the saying goes if it looks like a duck and quacks like a duck, it is a duck, and you can say whatever you would like about what you would prefer it to be, but it is what the international community has said it is. The international community I think has acknowledged that commonwealth is not a Constitutional option.

I would like to ask kind of a yes or no answer from Governor Colón, and let me begin by thanking him for endorsing my father in 1980 for President. Let me ask him whether or not Puerto Ricans are American citizens.

Mr. COLÓN. Yes, Puerto Ricans are American citizens. You can ask me another question.

Mr. KENNEDY. If Puerto Ricans are American citizens, do they not deserve the same rights and responsibilities as every other American citizen?

Mr. COLÓN. My other question relates to that which is whether Puerto Ricans are Americans. We are not Americans. We are Puerto Ricans. We are a nation unto ourselves, and when you think about the status of Puerto Rico you have to take that reality into consideration, and you also have to take into consideration economic realities. For instance, we have an income, per capita income which is less than half of Mississippi.

Now, we cannot develop an economy, Congressman, on earmarks. That is not the way you develop an economy. You develop it by creating jobs and permanent jobs. So the policy of this Congress established at the beginning of the last century of not taxing Puerto Rico has roots in that situation, and that difference between the level of economic development of the United States and the level of economic development of Puerto Rico. So it is directed toward the promotion of that growth.

Mr. KENNEDY. Thank you, Governor. I think I just heard you say that Puerto Ricans are American citizens, but Puerto Rico is a nation unto itself.

Mr. COLÓN. Yes.

Mr. KENNEDY. I just want to repeat that. You just said Puerto Ricans are American citizens, but they are a nation unto themselves.

Mr. COLÓN. That is correct.

Mr. KENNEDY. If you want to know the whole problem with commonwealth is because you are defining commonwealth as a nation unto itself but American citizens. If that is the case, then maybe Rhode Island wants to reconsider its relationship with the Federal government under the current Constitution. Should we not have that same right as Americans in Rhode Island?

Mr. COLÓN. That should have been asked of the Congress in 1917 when it granted citizenship to Puerto Rico. They were granting citizenship to a different people. That is a situation created by this Congress.

Mr. ROMERO-BARCELÓ. Mr. Kennedy, the Nation is made up of people from all over the world. People from different countries. Latin America. South America. From Europe. From Africa. From Asia. They come here as members of their nation, but eventually they stay in the United States, and they acquire residence, and become citizens. Then they are U.S. citizens. We are all U.S. citizens. Ask Mr. Hernández Colón if they are willing to renounce the American citizenship of all Puerto Ricans.

Mr. COLÓN. Of course not.

Mr. ROMERO-BARCELÓ. And benefits.

Mr. COLÓN. Of course not.

Mr. KENNEDY. If I can——

Mr. ROMERO-BARCELÓ. Can you say what commonwealth is?

Mr. KENNEDY. Let me just ask the——

Mr. ROMERO-BARCELÓ. That is the issue.

The CHAIRMAN. If we can have order.

Mr. KENNEDY. I think Romero was basically saying that people come from all over the world to be in the United States. They accept the responsibility of being citizens of the United States. They swear to uphold the oath, to follow the Constitution. I do not know how they can say that they also have the same rights and responsibilities of the country they just came from.

Mr. ROMERO-BARCELÓ. Of course not.

Mr. KENNEDY. And how can they be American citizens, and be in this sovereign nation, and yet say that well they are also Indian so they are under the Indian laws?

Mr. ROMERO-BARCELÓ. And the problem here is: How can they say that he believes in democracy? That he is concerned about the fact that this bill takes away, according to him, the right to vote of 50 percent of the people of Puerto Rico, but yet he wants to disenfranchise 100 percent of the people of Puerto Rico in the Nation of their citizenship.

The CHAIRMAN. The gentleman's time has expired.

Mr. ROMERO-BARCELÓ. Not how. Not for one incident, but forever and ever, and he wants to disenfranchise our children and our children's children, but then they want to be U.S. citizens, and they want to have all the Federal funds, and they want to have all the benefits of the common trade with the rest of the nation.

They want to have all the benefits that are related to being a part of the United States except the responsibilities. That is the

issue, and that is why we cannot have commonwealth because commonwealth is the problem, and they themselves are not happy with what they have. They want to change it, but they want to change it without renouncing their citizenship. They want to have nation's rights without denouncing citizenship, and that is what the Congress will never accept, and that is what the Nation will never accept, and it is also ridiculous.

The CHAIRMAN. The gentleman's time has expired. Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman. The first conclusion I reach in watching this distinguished panel is that the independent nation of Puerto Rico or the 51st state or the associated republic of Puerto Rico would have a very high I.Q. at any given moment. I find myself in a difficult situation, and I mean this sincerely, gentlemen, because the respect that I have for you which I think is the respect that all Puerto Ricans have for both of you is such that you have to make sure that any question you ask in no way is perceived as insulting.

Governor Hernández Colón and Governor Barceló, I have the utmost respect for both of you, and seeing you together even if you disagree momentarily, I know it is two Puerto Rican patriots who want the best for our people, and who will differ on how we get the best.

I would very much like, Governor Hernández Colón, to end my disagreement with the Popular Democratic Party on what I believe is a colonial status which you disagree with. So, my question to you is: In the conversations to competition Congress in this period or another period why do you think it has been so difficult for the populares to go with the option of an enhanced commonwealth that fits into the mold of free association, which then would allow people like me to say you know something, I now support two bills? I support the Fortuño bill that takes it this way, and I would support a Constitutional convention that takes it out of a colonial status.

But I cannot support anything that still offers the possibility of a colonial status. My question again is: Why has it always been so difficult for party populares to put forth a noncolonial status as the enhancement of the commonwealth? Then let me add something to this because you are a historian on this, and I am not trying to be cute. You are a product of that era.

Do you think that the Luhulahaman that I grew up respecting and continue to respect, notwithstanding the commonwealth issue, do you think he envisioned commonwealth to be temporary leading toward independence or do you think the envisioned commonwealth as a permanent union which could only eventually lead to a statehood?

Mr. COLÓN. I think that he eventually came to the conclusion that commonwealth should be permanent, but should grow within its own nature. At the beginning, maybe he did not hold that position, but at the end I think that is where he ended up. Now, why do we not favor associated independence or free association or whatever way you might want to call it? Well, first of all because we do have a compact with the United States, and we view the matter of the development of commonwealth as stemming from that compact upon which we want to improve.

Now, if we take that apart and just look at free association by itself, then the main problem with free association for the Popular Democratic Party is the question of citizenship because as applied to the states in the Pacific, Micronesia, they do not have American citizenship, and that is part of our vision that we should have American citizenship. That is the basic reason.

Mr. SERRANO. So the vision is—and I say this most respectfully—to continue to be citizens, but not to join the union rather than to take the chance of not. Now, do you not think that under associated republic if it was part of legislation that that would be open to a negotiation, and that people would know ahead of time? See the big difference here with this bill and other referendums you have had in the past is that if this one becomes law this is federally sponsored. Therefore, you begin to get the Federal government and the Congress in at different levels.

One of them could be, by the way, if you choose associated republic citizenship is not an option or if you choose associated republic citizenship is an option to be negotiated. Do you not think that the party could go with that?

See what I am looking for is for people like myself to say, all right. All three parties are for ending the territorial status, which you may not agree it is, or the colonial status, which I believe it is. That would accomplish it, and I know there are some within your party who are proposing that, and I think by the way incidentally if this does not get resolved soon I think that is where your party may go.

Mr. COLÓN. You see, if instead of having a plebiscite which will end up something—if you have the three alternatives—you are going to end up something like 49, 46, 4, something like that. That is inconclusive. You will not have a majority mandate. A substantial majority for change. Instead of doing that, you go to a Constitutional convention where you can have an interaction between the delegates to that convention from the different parties, and ultimately a vote and then negotiations with Congress, but with the convention that is in permanent session so that it can propose to Congress, and Congress can accept or modify or we can find out what is possible. It is a negotiating process the convention.

Mr. SERRANO. Right.

Mr. COLÓN. That is what the Congressman is pointing to can come out of such a convention.

Mr. SERRANO. Mr. Chairman, I know I am out of time, but I promise I will be very brief, and then I will keep quiet. So, why would you not accept the Independence Party proposal which takes the first Fortuño-Serrano vote and says yes or no whether you want to remain in this relationship, and then move to a Constitutional convention? What is the problem with having people ask do you want to remain a commonwealth or it is my belief that no one wants to remain in the present commonwealth?

Mr. COLÓN. You see they would define the commonwealth as a colonial relationship, and that we cannot accept.

Mr. SERRANO. What if there was a bill that never defined anything, and just said do you want to stay the way you are?

Mr. COLÓN. That is a different matter. You can just take the laws of Congress. Why do you not just put them there in the ballot?

Do not characterize them. Just say Public Law 600. Public Law 447. Concrete references to the historical record, and we can deal with that, but not calling us a colony or putting us under plenary powers of Congress. Not that.

The CHAIRMAN. The gentleman's time has expired. Ms. Velázquez.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman. Thank you to both former Governors and Puerto Ricans patriots. I have a lot of admiration for your passion and your commitment, and I know that in your heart you have the best interest of the people of Puerto Rico. We might disagree, but we have to recognize that you have done it in a very responsible way.

Not only Carlos Romero is the former Governor, he was also a former Member of Congress, and he also is an author. You wrote a book Statehood Is For The Poor in which you defined statehood in a way where it will have its own Olympic team, Spanish will be the official language.

Mr. ROMERO-BARCELÓ. No.

Ms. VELÁZQUEZ. No? That is not part of that?

Mr. ROMERO-BARCELÓ. Two languages.

Ms. VELÁZQUEZ. OK. Two languages. Spanish and English will be the official language, but Puerto Rico will have its own Olympic team, and it will have its own beauty contest. Miss Universe. I am asking this because statehood advocates tell Congress that they support statehood just like any other state, but in the island they try to sell esta hibera. Which one is it?

Mr. ROMERO-BARCELÓ. Esta hibera what it means is that we are not going to lose our personality or our traditions or our way of life because we become a state. What is the culture of a group of people or a community, a state or a nation? The culture is the relationship between the family, the relationship between neighbors, the relationship at work, the religion that they profess, the music that they like, the poetry that they like, the music they sing, the celebrations. None of that is going to change.

Ms. VELÁZQUEZ. OK.

Mr. ROMERO-BARCELÓ. We are not going to stop going to church that we go because we become a state. We are not going to start acting differently with our neighbors or with our children or with our other parents. We are not going to be singing different songs.

Ms. VELÁZQUEZ. I hear you. My follow-up question is: You know that we are engaged in such an important debate here in Congress, and that is immigration reform, and one of the things that people are saying is that immigrants have to learn English. That should be the language to conduct official business. Do you think any contradiction between that and the fact that you will have Spanish and English as an official language?

Mr. ROMERO-BARCELÓ. No, I do not. Right now in America, in our continent, whether we become independent or we become a state we have to realize that it is to the advantage of our children and our children's children if they speak Spanish and English. Anyone who is bilingual today has better opportunities. What we want to have is everyone in Puerto Rico to be fully bilingual, and to increase on the teaching of both Spanish and English.

My youngest son is a teacher right now in a bilingual school in Washington, D.C. in Oester School, and he teaches half of the class in Spanish, and then another teacher comes in and teaches the other half of the class in English.

Ms. VELÁZQUEZ. Carlos, I know all that, and that is all wonderful.

Mr. ROMERO-BARCELÓ. Right.

Ms. VELÁZQUEZ. But let me just say that there is a movement here amongst some members who want to make English the official language, and Puerto Rico will be the first state in which you will have Spanish and English as an official language.

Mr. ROMERO-BARCELÓ. Right. No. I think New Mexico also. I think New Mexico also has Spanish and English as official languages.

Ms. VELÁZQUEZ. I am not aware of that.

Mr. ROMERO-BARCELÓ. Yes.

Ms. VELÁZQUEZ. But we will make our research. Governor, would you like to make a comment?

Mr. COLÓN. Yes. There is something that should be very clear, and that is that Puerto Rico is a Spanish speaking country, and it will remain Spanish speaking no matter what we become. If we become a state, we are going to be a Spanish speaking state. There is no way that we are going to become bilingual.

Why? Take history. When Puerto Rico was a colony—and I will accept that classification from 1898 to 1952—the United States, the President appointed the Governor and appointed the commissioner of education, and the policy was to teach English in English in the public schools. The objective was to make Puerto Rico bilingual.

Now, that policy implemented with all the power of the Federal government failed in Puerto Rico. We continued to speak in Spanish. There is no way that we will become a bilingual state. Every U.S. census shows that 60 percent of Puerto Ricans speak no English at all. Twenty percent speak some English, and another 20 percent are bilingual. That is the reality that you will be faced with.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. I am going to claim my time to ask questions, and yield to Mr. Fortuño.

Mr. FORTUÑO. Thank you, Mr. Chairman. I just wanted to thank you for your leadership in having this hearing today, as well Mr. Rahall. As you can see, we have been at this issue for over a century. Our leaders are passionate about all these issues, but certainly I am convinced that this is a matter that we have to deal with. It not only will not go away, it is a legal and moral obligation of this Congress to address it.

It is true that the economy is very important and partially one of the reasons why we are suffering right now we have lost one percent of the private sector jobs in the last five years just because the system does not work any more, and that is one of the reason why we are here today because we have to solve this.

Certainly I have tried, as I mentioned earlier in this hearing, and I will continue to try to have a process that allows all Puerto Ricans the right to vote directly. I do not want my constituents to have to actually have delegates decide for them what is best for

them. I want my constituents to have the right to vote directly as many times as we have so that we can solve this issue.

The issue at the end of the day here, as has been stated, is what will be enhanced commonwealth, and certainly at least three consecutive Administrations have stated that the party is over. That we cannot have our cake and eat it too. That we have to decide, and it is either independence, statehood or free association with what that entails, and I enjoyed seeing the exchange between my colleague, José Serrano, and Governor Hernández Colón as to there is no way to see to it that it happens.

I would like to finish with two items. First of all, there has been a discussion of what it is like to be an American. Actually, a patriot of Puerto Rico said it best when he said that he was proud to be an American and proud to be a Puerto Rican, and that was Luis Muñoz Marín who was Governor in the 1950s when all this began. I must say that to be an American—and I am proud to be an American and I am proud to be a Puerto Rican—has nothing to do with the color of your skin or your sex or your language.

It has to do with shared values, and I visit on a regular basis in a very private manner to soldiers coming back from Iraq and Afghanistan, and there is one specific case who just lost his leg who was in a coma for months, and I will whisper into his ear how proud I was of the service to his country. He, thank goodness, came out of his coma, and Manuel has been the inspiration for what we are doing here today if I may say so because that young kid from Salinas is an American hero, and to say that we are not Americans, and to tell that American hero that he is not an American or that he cannot aspire to the American dream is a travesty, and that is why we are here.

We have been at it for over 100 years. We have to put an end to this for one reason because the U.S. Constitution guarantees all U.S. citizens—and we are U.S. citizens—three major rights. The right to enjoy life, liberty and the pursuit of happiness. Under the present circumstances, that is not entirely possible at the same level that our colleagues in the mainland. I encourage this committee, the Chairman and the Ranking Member to pursue this further so that we can finish this matter that certainly will never go away, and that is part and parcel of what it means to be an American. Thank you, Mr. Chairman, again.

Ms. VELÁZQUEZ. Will the gentleman yield for just one second?

The CHAIRMAN. I will yield to her.

Ms. VELÁZQUEZ. Thank you. I just would like for the record to reflect that the exchange that took place here between my colleague, José Serrano, and the former Governor of Puerto Rico, Rafael Hernández Colón, that he in no way stated anything different than what was expressed by former Governor Luis Muñoz Marín. We are Americans, but we are also Puerto Ricans, and there is no different. We fight to protect the national security of this nation. Proportionately speaking we have more Puerto Rican soldiers participating in every single war, and we are proud of that participation. Thank you.

The CHAIRMAN. Reclaiming my time. I want to thank this panel very much for your testimony. This obviously is a complicated issue and an emotional issue, and as we move forward in the Committee,

we will continue to work with all of you to hopefully come up with a solution that all Puerto Ricans and all Americans can agree on. Thank you very much for being here. I thank my colleagues for their questions, for their participation in the hearing. If there is no further business before the Committee, the Committee stands adjourned.

[Whereupon, at 1:54 p.m., the Committee meeting was adjourned.]

[Additional material submitted for the record follows:]

[A statement submitted for the record by Hon. José Aponte-Hernández, Speaker of the House of Representatives of Puerto Rico, follows:

Statement of The Honorable José F. Aponte-Hernández, Speaker of the House of Representatives of Puerto Rico

Good morning. On behalf of the nearly 4 million U.S. citizens who reside in Puerto Rico, which my fellow 50 representatives and I proudly and responsibly represent in our House of Representatives, let me recognize the importance of this hearing and the significance of the legislative process which in earnest begins today.

I commend this Committee and, particularly the unwavering resolve of Chairman Pombo in addressing the issue of Puerto Rico's self-determination. To many people, Puerto Ricans seemingly do not get their act together as to what do they want to do... the kind of relationship that we would like to have with the United States. Then, among so many pressing issues facing our Nation in an election year... immigration... social security... the war against terrorism... the fiscal deficit... budget priorities... just to name a few... and with time running out in the legislative calendar of the 109th Congress... does it make sense to spend time and effort in dealing with such a controversial issue?

Let me convey to you why it is the right thing to do.

This Congress represents the citizens of the greatest Nation in the face of this Earth. Most nations around the World look upon us... the United States of America... to provide the political, economic and moral leadership as the undisputed leader of the Free World. As such, we are the beacon of freedom and democracy.

Today this Nation has thousands of our brave men and women who serve in our Armed Services risking their lives in order to provide hope and guarantee freedom and democracy in Irak and Afghanistan. Among those everyday heroes, there are many Puerto Rican soldiers serving in the various branches of the U.S. Military who have responded to the call of duty and ably served in the military operations in this War against Terrorism; including several units and or detachments of our U.S. Army Reserves and National Guard.[1] Sadly, many have also paid the ultimate sacrifice to our Nation by giving their lives in this war effort.[2]

Yet, this should come as no surprise to anybody, as Puerto Rico is the proud home of many of our Nation's military heroes, including four recipients of the Congressional Medal of Honor.[3] Let me tell you the brief story of Captain Euripides Rubio, from Ponce, Puerto Rico, who was one of the four Congressional Medal of Honor recipients. His tremendous sacrifice occurred in November of 1966. Although he himself suffered three serious wounds as part of an intensive fire fight, he was helping to evacuate other wounded personnel when he discovered a smoke grenade had fallen too close to friendly lines. In preparation for friendly airstrikes, the smoke grenades were used to mark the Viet Cong position. Captain Rubio intended to avert an unnecessary tragedy and ran to reposition the grenade. He was immediately "struck to his knees" by enemy fire. Despite his many wounds, he grabbed the grenade, lumbering through the deadly onslaught of enemy gunfire, and made it to within 20 meters of the enemy position. Hurling the already smoking grenade into

[1] So far in the ongoing War against Terrorism, only three states have sent more servicemen and women per capita than Puerto Rico. At this moment, there are three full units active in Irak; these are: 393 Quartermaster and 432 Transportation from the U.S. Army Reserves and 246 Mortuary Services from the Puerto Rico National Guard.

[2] The current death toll stands at 51 in the ongoing War against Terrorism.

[3] Before the ongoing War against Terrorism, well over 200,000 Puerto Ricans had already served as combatants in previous military conflicts... 6,220 had been wounded... and 1,225 had been killed in the service of their Nation.

the midst of the enemy, he fell for the final time. His death made a difference. The hostile position was destroyed because the friendly air strikes were able to use the repositioned grenade as a marker.

This moving anecdote is no different from that of Fernando Luis Garcia, Carlos James Lozada, Héctor Santiago-Colón or many of the close to 1,300 Puerto Ricans who have given their lives in the service to our Nation. Probably, Gen. Douglas MacArthur put it best, when he said "I wish we had more like them."

Regretfully, I have to remind everyone of the extreme irony of the service of so many of my fellow Puerto Ricans. Our Nation... the United States of America... has allowed for the sacrifice of so many of our men and women to be somewhat in vain.

We have fought valiantly and without objection ever since we came under the American flag. Yet, this flag which stands for freedom, liberty and justice everywhere it flies does not protect my fellow Puerto Ricans from disparate and discriminatory treatment by my Nation.[4] We fight for liberty and democracy all over the World... yet we have been denied one of the most basic of human and civil rights... the right to self determination.

For example, how contrary to the values and principles that have always defined our Nation is it to have so many servicemen go to war and, sometimes even giving their lives, without having the basic fundamental right to vote for their Commander-in-Chief or for the Members of Congress who have the right to declare war. This discriminatory practice has been validated by Supreme Court decisions that incredibly are still valid today, such as *Balzac v. People of Porto Rico*[5] and more recently in *Harris v. Rosario*[6].

In the latter case, appellees claimed that the lower level of AFDC reimbursement provided to families with needy dependent children in Puerto Rico violated the equal protection guarantee of the Fifth Amendment of our Constitution. Surprisingly, the United States Supreme Court disagreed and found that Congress is empowered under the Territory Clause of the Constitution to "...treat Puerto Rico differently from States so long as there is a rational basis for its actions." In other words... **can there be a truly rational basis to discriminate with regards to the need of children who are U.S. citizens just because they happen to live in Puerto Rico**? I guess none of you would feel comfortable with such decision making. Could there be something more un-American? After all, wasn't disparate and discriminatory treatment from the British Government what led our forefathers to independence and later establishing this more perfect union?

Furthermore, the paradox and the inequity of living in the "Commonwealth" of Puerto Rico... the "unincorporated" U.S. territory[7]... the "oldest colony in the World" (as aptly described by former Chief Justice José Trías-Monge, who also happened to be the primary legal scholar involved in the forging of our current "commonwealth territorial arrangement")[8]... is such that if any of you decide to move to

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[4] Former Governor and current Senator Dr. Pedro Rosselló put it best, when he states on page x of the Introduction to his book titled The Unfinished Business of American Democracy [Public Policy Institute of the Ana G. Mendez University System, San Juan, 2005], "...a people, whose allegiance to American democracy is surpassed nowhere, finds itself as totally lacking in civic equality as it was when the Stars and Stripes first billowed forth in our tropical breezes at the end of the 19th century."

[5] 258 U.S. 298 (1922).

[6] 446 U.S. 651 (1980).

[7] An excellent description of the true implications of the "incorporation" doctrine regarding the status of U.S. territories, appears on page 160 of the book by former Governor and current Senator Dr. Pedro Rosselló titled The Unfinished Business of American Democracy when he cites from *Sanford V. Levinson's* Why the canon should be expanded to include insular cases and the saga of American expansionism, Constitutional Commentary, Summer 2000:

> The importance of the [Insular] Cases did not lie in the particular resolution of tariff policy, but, rather, in deciding whether the United States could emulate the European nations and conquer and possess colonial territories. And what it meant to be such a territory—the term that comes out of Downes is "unincorporated territory," in contrast to "incorporated territories" like, say, the Dakotas, Alaska, Hawaii, and the like—is, among other things, that there is simply no pretense that the colonized entity was being held in trust until, on the one hand, it could become independent or, on the other, until it was absorbed in to the United States as an equal member of the federal Union, with whatever "sovereign" prerogatives continued to be possessed by the states. Territories do not even possess the fictive elements of "sovereignty" retained by Indian tribes. (Emphasis supplied)

[8] Trías-Monge, José Puerto Rico: The Trials of the Oldest Colony in the World New Haven: Yale University Press, 1997. At the end of page 161, Mr. Trías-Monge explains why he concluded that Puerto Rico remains a colony of the United States:

> It can be said that Puerto Rico is still a colony of the United States for several reasons:
> - United States laws apply to the Puerto Rican people without their consent.
> - United States laws can override provisions of the Commonwealth Constitution.

Continued

Puerto Rico and maintain the desire to vote in federal elections as an absentee voter of your last state of residence, you would be denied the right to do so, as we are neither a state of the Union or the District of Columbia, nor a foreign or overseas jurisdiction under the Uniformed Overseas Citizens Absentee Voting Act of 1986. On the other hand, if you happened to be in Tehran, Iran, P'yongyang, North Korea, Havana, Cuba or any other rogue nation where there is no U.S. Embassy, you just need to go to the U.S. Interest Section of the appropriate foreign embassy in order to cast your ballot (assuming that you already filled out in advance a Federal Post Card Application for an absentee ballot). In other words, as a U.S. citizen, don't even think about moving to Puerto Rico if you wish to continue exercising the most fundamental of rights of our democracy... of any democracy... the right to vote for those who legislate and make decisions that may affect your daily lives in any way or manner.[9]

Even though we may have been blessed with many of the benefits of our citizenship... America cannot tolerate... and our flag—defended by the blood of so many of our people—cannot be put to shame by further legitimization and a continuation of the misguided policy of separate and unequal.

Do these policies make any sense to you?[10] I guess they would only makes sense to those who feel comfortable with categorizations such as those that describe

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- The President of the United States and executive appointees negotiate treaties and take other actions which affect Puerto Rico without consulting it.
- Through the unilateral grant by Congress of diversity jurisdiction, United States courts decide cases involving strictly local matters of law.
- There is no equality or comparability of rights between United States citizens residing in Puerto Rico and those domiciled in the States.
- Congress assumes that it can unilaterally exercise plenary powers over Puerto Rico under the territorial clause of the United States Constitution.
- The United States government contends that sovereignty over Puerto Rico resides solely in the United States and not in the people of Puerto Rico.
- Both Congress and the executive branch of the United States government accordingly act as if there were no compact between the United States and Puerto Rico, and some officials even argue that none is legally possible. In spite of statements to the contrary by the Supreme Court of the United States and the Court of Appeals for the First Circuit, both Congress and the executive branch of the United States treat the Commonwealth in practice as if it were no different than any other territory or possession of the United States.
- Even if the courts eventually hold that there is now a binding compact and that this compact encompasses the Federal Relations Act, the consent extended by the Puerto Rican people in 1950 when accepting Law 600 in a referendum is overbroad. Consent to the unrestricted application to Puerto Rico of all federal laws, past and future, does not thereby erase the colonial nature of such an arrangement. A slave's consent to bondage does not make him a free man. The realization of such a weakness in the Commonwealth structure has been, together with the insistence that Congress is vested with plenary powers over Puerto Rico, what has fueled Puerto Rican attempts in the past forty-odd years to enhance or improve Commonwealth status.
- Puerto Rico plays no role in the international community, either directly or indirectly as a participant in the decisions taken by the United States.
- Commonwealth status as it is at present does not meet the decolonization standards established by the United Nations.
- There is no known noncolonial relationship in the present world where one people exercises such vast, almost unbounded power over the government of another.

Those in the United States and Puerto Rico who still cling to the strange notion that Puerto Rico is nevertheless self-governing are simply out of step with the rest of the informed world. There is no question that in the Caribbean, Latin America, and the United Nations itself Puerto Rico is seen as a colony of the United States.

[9] In any society, the right to vote is probably the most basic of civil rights as it is the means whereby other rights are protected. Without it the principles of freedom and equality would be hollow concepts. Former Chief Justice Earl Warren expressed in *Reynolds v. Sims*, 377 U.S. 533, 555 (1964) that **"[t]he right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strikes at the heart of representative government."** (Emphasis supplied)

[10] Former Governor and current Senator Dr. Pedro Rosselló states on page 45 of his book titled The Unfinished Business of American Democracy that:

> By giving short shrift to the principle of governance with the consent of the governed, and by withholding full recognition of constitutional citizen rights, these federal behaviors effectively converted the noble republic into a hybrid entity that displayed characteristics eerily reminiscent of the European imperial model that the United States was supposed to have gloriously abolished in the late 18th century. In the space of approximately 125 years, a full circle had been constructed: the colonial dependencies of an empire had liberated themselves; had established an independent republic; and had then proceeded to create a new empire via the republic's acquisition of colonial possessions of its own!

As further discussed by Dr. Rosselló in his book on pages 167 and 168, this accurate criticism of our Nation's "imperialistic" policy at the turn of the 19th century was subject of

Puerto Rico... as foreign in a domestic sense... belonging to, but not a part of the United States... separate and unequal. Is it possible to have colonialism by consent?... or slavery by consent for arguments sake? That is the moral challenge before you today.

To those of you who might be somewhat confused with our political reality, let me state for the record that Puerto Rico is not a sovereign state in association with the United States. There is no compact in our case, as opposed to the Republic of the Marshall Islands, the Federated States of Micronesia and the Freely Associated State of the Republic of Palau, all of whom negotiated compacts with the United States. Neither are we recognized by any other country as being a sovereign state.

The United States is the only sovereign in Puerto Rico. In accordance with Article IV, Section 3, Clause 2 of the United States Constitution "[t]he Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."[11] That is why the people of Puerto Rico come before you time after time... because primary constitutional authority rests exclusively in the Congress.

Thus, even though the official name of our government in Spanish is "Estado Libre Asociado", we are not a free associated state (as the name of our Government in Spanish claims to be) with our Nation... but rather, **we are just the U.S. territory with the largest degree of internal self-government by virtue of an act of Congress.**[12]

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discussion in Justice John Marshall Harlan's dissenting opinion in *Downes v. Bidwell*, 182 U.S. 244 (1901). The only dissenting voice in *Plessy v. Ferguson* brought forth in Downes his most passionate concern over the redefinition of U.S. territorial policy that, to him, clearly meant a redefinition of the very nature of the Nation itself.

> In my opinion, Congress has no existence and can exercise no authority outside of the Constitution. Still less is it true that Congress can deal with new territories just as other nations have done or may do with their new territories. ... Monarchical and despotic governments, unrestrained by written constitutions, may do with newly acquired territories what this government may not do consistently with our fundamental law. To say otherwise is to concede that Congress may, by action taken outside of the Constitution, engraft upon our republican institutions a colonial system such as exists under monarchical governments. Surely such a result was never contemplated by the fathers of the Constitution. ... **The idea that this country may acquire territories anywhere upon the earth, by conquest or treaty, and hold them as mere colonies or provinces—the people inhabiting them to enjoy only such rights as Congress chooses to accord them—is wholly inconsistent with the spirit and genius, as well as with the words, of the Constitution.** (Emphasis supplied)

[11] The Treaty of Paris of December 10, 1898 (proclaimed in Washington, DC on April 11, 1899) formally put an end to the Spanish-American War and ceded Puerto Rico to the United States. Therefore, by virtue of the Treaty, Puerto Rico came under the sovereignty of the United States; nonetheless, it is significant to point out that as opposed to other treaties whereby the United States had previously acquired territory, this one stated (in the second paragraph of Article IX) that the "[t]he civil rights and political status of the native inhabitants of the territories hereby ceded to the United States **shall be determined by the Congress**." (Emphasis supplied) In other words, the foundation for an entirely new territorial management doctrine was being laid, thus providing a different dimension to the application of the Territory Clause of the U.S. Constitution.

[12] In order to understand the true implications of congressional policymaking over Puerto Rico in the early 1950's, as per Public Law 600 (which authorized the people of Puerto Rico to decide if they wanted to draft a constitution of their own with regards to local affairs), Public Law 447 (which approved the Puerto Rican Constitution as amended by Congress in order to be proclaimed as such in the Island) and the Puerto Rican Federal Relations Act (which maintained certain sections of the Jones Act of 1917 in full force and effect; such as § 1 where it is clearly stated that "the provisions of this Act shall apply to the Island of Puerto Rico and to the adjacent islands **belonging to the United States**" (Emphasis supplied) and § 9 where it establishes 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 essential to go into the legislative history of Public Law 600. During the discussion in the congressional committees of H.R. 7674 and S. 3336, then Resident Commissioner Antonio Fernos-Isern stated:

> **As already pointed out, H.R. 7674 would not change the status of the island of Puerto Rico relative to the United States. ... It would not alter the powers of sovereignty acquired by the United States over Puerto Rico under the terms of the Treaty of Paris.** (Emphasis supplied) *(Hearings Before the Committee on Public Lands, House of Representatives, on H.R. 7674 and S. 3336,* 81st Cong., 2nd Sess., p.63.)

Then Governor Luis Muñoz Marín said that:

> If the people of Puerto Rico should go crazy, Congress can always get around and legislate again. But I am confident that the Puerto Ricans will not do that, and invite congressional legislation that would take back something that was given to the people of Puerto Rico as good United States citizens. (*Hearings Before the Committee on Public Lands, House of Representatives, on H.R. 7674 and S. 3336,* 81st Cong., 2nd Sess., p.33.)

Continued

As the proud American citizen that I am, I cannot possibly be satisfied or resign myself to being less than a full-fledged citizen of our Nation. To me it would be just like if African Americans would have remained satisfied with the untenable condition of segregation... as if separate but equal could ever be right.

It is clear that your fellow citizens from Puerto Rico can no longer remain within the current arrangement. Change towards a final solution that needs to be fully democratic, non-territorial and non-colonial[13] has to take place. We cannot be denied the inalienable right to self-determination; whereby we would be able to achieve a status option that provides for full self-government, be it either under independence, free association or statehood.

This human and civil right firmly entrenched in the constitutional principles of our Nation, as well as in International Law, requires that the people of Puerto Rico be given a true and fair exercise of their right to self determination. But in order to have a real and meaningful process of self-determination, we need to know what Congress and the President of the United States understand as constitutionally viable and politically acceptable from among the possible status options.[14] If not, we would only have a futile process, just like our three locally sponsored status plebiscites that led to nothing, while further confusing our people as to what is really attainable under our three traditional status alternatives (regarding this last point I would respectfully refer you to H.R. 4751 from the 106th Congress, whereby this same committee had the opportunity to analyze the contents of the "Enhanced Commonwealth" alternative still proposed by the Popular Democratic Party[15]).

In the same manner, the position of the Executive Branch, as stated in a letter by Secretary of the Interior, Oscar L. Chapman, to the Hon. Joseph C. O'Mahoney, Chairman of the Committee on Interior and Insular Affairs, suggested no change in congressional power over Puerto Rico:

> It is important at the outset to avoid any misunderstanding as to the nature and general scope of the proposed legislation. Let me say that enactment of S. 3336 will in no way commit the Congress to the enactment of statehood legislation for Puerto Rico in the future. Nor will it in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status. The bill merely authorizes the people of Puerto Rico to adopt their own constitution and to organize a local government which, under the terms of S. 3336, would be required to be republican in form and contain the fundamental civil guaranties of a bill of rights... **The bill under consideration would not change Puerto Rico's political, social, and economic relationship to the United States.** (Emphasis supplied) (*Hearings Before the Committee on Public Lands, House of Representatives, on H.R. 7674 and S. 3336*, 81st Cong., 2nd Sess., p.33.)

Finally, the Reports in both the House and the Senate Committee on the bill clearly state that:

> The bill under consideration would not change Puerto Rico's fundamental, political, social and economic relationship to the United States... Nor will it in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status. (Emphasis supplied) (H.R. 2275, 81st Cong., 2nd Sess., p. 3. See also, S. Rep. 1779, 81st Cong., 2nd Sess., p.3)

[13] The use of the term colony or colonial should not be misinterpreted. Former Chief Justice José Trías-Monge in *Puerto Rico: The Trials of the Oldest Colony in the World* discussed the use of the term on page 194, as follows:

> The term colony is not employed here in the usual, vituperative sense applied in the past to the dependencies of the European imperial nations. Economic exploitation of Puerto Rico was never an aim of the United States government. The charge rests, rather, on the unnecessary retention of excessive power over Puerto Rico, the consequent limitations to self-government, and the lack of proper attention to the requirements of a relationship based on equality and full, specific consent, be it under any of the status formulas under discussion.

[14] This precise concern was well discussed by former Chief Justice José Trías-Monge in Puerto Rico: The Trials of the Oldest Colony in the World when, on page 4 of the Introduction he states:

> ...the policy of self-determination, in the manner that it has been used in Puerto Rico, is not a coherent policy at all and something should be done about it. **How can a people exercise the right to self-determination if they do not know what their choices are?** The United States has to realize that it is rightfully part of the equation. Is it in the interest of the United States to grant Puerto Rico statehood by return mail if Puerto Ricans just ask for it? Is it ready to increase Puerto Rico's self-governing powers within its association to the United States, and if so, to what extent? On what terms would it be willing to grant Puerto Rico independence? **The unceasing debate about the island's political status and the uncertainty about its future is sapping Puerto Rico's strength to stand on its own feet and deal with its severe economic problems.** Keeping Puerto Rico in a state of subjection does not serve any perceivable United States interest and is seriously out of line with developments in the rest of the world. (Emphasis supplied)

[15] On June 26, 2000 Congressman John Doolittle introduced H.R. 4751. This measure intended to "recognize entry of the Commonwealth of Puerto Rico into permanent union with the United States based on a delegation of government powers to the United States by the people of Puerto Rico constituted as a Nation, to guarantee irrevocable United States citizenship as a right under the United States Constitution for all persons born in Puerto Rico, and for other purposes." In order for Congress to be clear as per the terms of Puerto Rico's future relationship

In other words, without an expression by Congress and the Executive Branch, as to what is constitutionally and politically viable, everything would be a charade. For example, periodic elections in the People's Republic of China or in Cuba do not make them bastions of democracy.

That is why I commend our President, George W. Bush, for his vision and continued commitment in addressing this issue... in trying to put an end to this unfinished business of American democracy. He was firm and resolute in providing leadership on an issue that thirsts for a high moral ground.

To that end, President Bush made sure that the directive begun by former President William Jefferson Clinton, whom I also should commend as per the establishment of the President's Task Force on Puerto Rico's Status, would be successful in achieving its stated objectives. Amidst all the efforts generated by people who do not want this issue to move forward, the President did not allow the members of his Task Force to stray from the course of clearly and correctly addressing this issue. Seldom has such leadership been exercised by a President with regards to the political aspirations of your fellow citizens who reside in Puerto Rico.

On December 22, 2005, President George W. Bush's Task Force on Puerto Rico's Status made public its Report on the issue, which included a series of recommendations for the United States Congress to consider and act upon. That Report represents the final work product of a group of responsible and highly professional indi-

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with the United States under an "Enhanced Commonwealth", Section 2 of the bill establishes that: Congress recognizes Puerto Rico a nation legally and constitutionally, with a political status and relationship with the United States on the basis of the following governing provisions:

(1) The people of Puerto Rico, exercising their sovereignty, their natural right to govern themselves, and their free will as the ultimate source of their political power, may reaffirm, in accordance with this Act, the validity of the Commonwealth as established as an autonomous political body, neither colonial nor territorial, **in permanent union with the United States of America under an agreement which may not be unilaterally nullified or changed**, and may propose its further autonomous development. The relationship between Puerto Rico and the United States shall continue to be based on a common defense, market, and currency, and on the **nonrevocability of United States citizenship**, acquired by birth and protected by the Constitution of the United States.

(2) This relationship guarantees the autonomous development of Puerto Rico based on the democratic precept of government by consent of the governed and the recognition that Puerto Rico is a nation with its own history, national character, culture, and Spanish language.

(3) To achieve maximum economic progress and well-being, the people of Puerto Rico may propose to develop the Commonwealth in order to **retain all powers not delegated to the United States**. In keeping with Puerto Rico's fiscal autonomy, areas of economic development will be identified in which joint action will create jobs and other benefits for both parties, including flexibility in the use of Federal funds.

(4) This Act shall not be construed to affect programs involving direct assistance to individuals.

(5) **The Commonwealth may arrange commercial and tax agreements, as well as other agreements, with other countries and belong to regional and international organizations**, consistent with the common defense and security interests of the United States and Puerto Rico, in accordance with this Act and bilateral agreements entered into pursuant to this Act.

(6) After a petition for further development of Commonwealth has been approved by the people of Puerto Rico, a Constituent Assembly shall be convened to negotiate with the Government of the United States the terms and conditions of an agreement to implement the proposals to further develop the Commonwealth, including **a mechanism for consent to application and enforcement of laws approved by Congress**. (Emphasis supplied)

On October 4, 2000, this same Committee held a hearing with regards to this measure. Deputy Assistant Attorney General, William M. Treanor, testified on behalf of the Department of Justice reaffirming the long-standing position of the Department that an option of an "Enhanced Commonwealth", based in the sovereignty of the people of Puerto Rico, in permanent union with the United States, and guaranteeing irrevocable U.S. citizenship for those born in the Island, was clearly unconstitutional. He went even further as per the only available status options, when he stated that "[t]he constitutionally defined means of changing the political status of unincorporated territories would be through the process of incorporation, statehood, or independence." In the same hearing, this Committee had the opportunity to listen to former Attorney General Dick Thornburgh who also concluded that this measure ran counter to the Constitution. He also expressed a very somber warning to Congress regarding the proposed basis of an "Enhanced Commonwealth" arrangement when he stated that **"[a]s a result of the introduction of H.R. 4157, Congress is waking up to the fact that the proposed Commonwealth formula is nothing less than the creation of a new form of statehood under the federal system.** Instead of the union that exists between the sovereign states, this would be union between the U.S. and another nation." (Emphasis supplied) (Hearing Before the Committee on Resources, on H.R. 4751, 106th Cong., 2nd Sess., October 4, 2000)

viduals which represented most of the important agencies of the Executive Branch. In earnest, they devoted more than a year in analyzing the issue, studying documents and meeting with members of Puerto Rico's three political parties on multiple occasions. The result was a surgically precise and legally correct document that is crystal clear as to what needs to be done to resolve this issue.

Furthermore, the Report's first recommendation to Congress basically incorporates the process prescribed by the Substitute to House Bills 1014, 1054 and 1058[16], which was a truly historic achievement of our House of Representatives and Legislative Assembly in general. That measure was a product of honest and frank negotiations with fellow representatives of the three delegations in the House (thus representing the traditional status options in Puerto Rico), as well as with the Governor of Puerto Rico by means of his party's minority leaders both in the House and Senate. The result was a status bill which garnered the UNANIMOUS APPROVAL in both chambers.[17] That included not only the vote of members of the majority pro-statehood New Progressive Party; but also, those of the minority pro-independence Puerto Rican Independence Party and the pro-commonwealth Popular Democratic Party. Sadly in an unexpected move, Governor Acevedo-Vilá vetoed the measure after all of his conditional amendments were included and after his minority leaders had indicated that the Governor would sign the aforementioned measure.

As the proponent and/or defender of the status quo, it is logical to conclude that Governor Acevedo-Vilá is not truly committed in addressing this issue. He may fear the future and the inevitable consequences of change and self-determination. Could that be the reason for his absence here today? I leave that up to my fellow Puerto Ricans and to you the members of this Committee.

Three months after the President's Task Force issued its Report, on March 2, 2006, Resident Commissioner Luis Fortuño filed H.R. 4867. This measure, also known as the "Puerto Rico Democracy Act of 2006", basically incorporated all the recommendations proposed by the Task Force's Report. It is significant to point out that, in less than two months, this measure has garnered the support of 106 sponsors, including 21 members of this Committee. Because of this measure, Congress is in a much better position to address this issue in the most prompt and responsible manner while exercising its constitutional prerogatives.

At the same time, it is appropriate to point out that on March 15 of this year, Representative Duncan filed H.R. 4963. This measure supported in Puerto Rico by Governor Acevedo-Vilá and his Popular Democratic Party proposes the recognition of "the right of the Commonwealth of Puerto Rico to call a constitutional convention through which the people of Puerto Rico would exercise their right to self-determination...". I wish that this Committee may have the time and opportunity to seriously consider what is proposed by this measure. Particularly, I would like for you

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[16] The stated objective of the Substitute to House Bills 1014, 1054 and 1058 was

To authorize the holding of a referendum in which the People of Puerto Rico may express themselves to demand from the President and the Congress of the United States of America, before December 31, 2006, an expression of their commitment to respond to the claim of the People of Puerto Rico to solve their political status from among fully democratic options of a non-colonial, non-territorial nature; to create a Committee to Petition, appropriate funds, and for other purposes.

As per Section 7 of this measure, voters would have had the opportunity to vote yes/no on the following proposition:

We, the People of Puerto Rico in the exercise of our right to self-determination, demand from the President and the Congress of the United States of America, before December 31, 2006, an expression of their commitment to respond to the claim of the People of Puerto Rico to solve our political status among fully democratic options of a non-colonial and non-territorial nature. (Substitute to House Bills 1014, 1054 and 1058, Presented by the Committee on Governmental Affairs, House of Representatives of Puerto Rico, 15th Legislative Assembly, 1st Session)

[17] Even though the initial version of the Substitute Bill was the product of intense, albeit productive meetings, where the final result was a true consensus between the three ideological sectors in Puerto Rico as represented by the majority pro-statehood New Progressive Party, the pro-Commonwealth Popular Democratic Party and the Puerto Rican Independence Party, the initial vote in the House on March 17, 2005, was 35 in favor and 9 against. Those 9 votes were dissident members of the Popular Democratic Party who deviated from the directive of Governor Acevedo-Vilá as presented by their Minority Leader, Hon. Héctor Ferrer-Ríos. Nonetheless, once the measure was considered by the full Senate on March 31, 2000, and additional last minute changes by the Governor were included in the Substitute Bill in order to maintain the historic consensus, the Substitute to House Bills 1014, 1054 and 1058 garnered 27 votes in favor and none against. The following day, with a 43x0 vote, the House of Representatives concurred unanimously with the measure as approved by the Senate, thus securing its place in our Island's political history as the first status measure that was able to achieve unanimous support in both legislative chambers.

to ponder... how democratic would it be for a select group of individuals to decide the future of all Puerto Ricans as to our final status option? Therefore, wouldn't the calling of a constitutional convention run contrary to our entrenched concept of participatory democracy and the constitutional principle of one person, one vote?

As you may be fully aware, there are people, both in Puerto Rico and here in the mainland, who would rather not have this issue take center stage at the national level. One could easily denominate them as the powerful "Forces of Inertia".[18] You may have heard them talk about self determination, but their track record in torpedoing any step that may lead to the exercise of full self-government befits Dr. Kevorkian.

As all of you know, it is easier to kill an initiative than to convince others about its importance and merits. Therefore, since they are very able as to what they do in order to achieve their nefarious goal, there are three important myths that I want to dispel from your minds.

First myth... that Puerto Ricans need to get their act together first and present the federal Government with the solution to this issue.

I would begin my reply by formulating the following question... how could we get our act together if the people have been confused and misinformed for decades as to what is truly available under each of the traditional status options?[19]

The role of the Federal Government in providing for a final solution to our centuries old dilemma is essential to this process, not because we feel or act as subservient to anyone (as that would be totally un-American), but because we fully respect and adhere to the rule of law; and under the current Commonwealth territorial arrangement we do not have the power—nor the right—to change our current status or relationship with the United States in a unilateral manner. The recognition of this congressional power over those of us who reside in Puerto Rico is a legal and political reality over which we have no control. Nonetheless, that does not mean that any process undertaken by the Federal Government would preclude or inhibit continuous dialogue and negotiation by the people of Puerto Rico regarding the specifics and details of each option, the process or processes that need to be undertaken to finally enable this final choice by our people, as well as the implementation of the selected option.

For the past thirty years, the political and ideological blocks in Puerto Rico have been bogged down in a political quagmire. No side commands a solid absolute majority. Misinformation and confusion as per the future and our real status options reigns supreme. That is the reason for the results of the three plebiscites of local initiative (1967, 1993 and 1998). None have led to anything, particularly those of 1967 and 1993 where the option of "Enhanced Commonwealth" resulted as the winner (although that may also be the fault of proponents who really did not want Congress to take action with regards to their status options or to the issue in general). Why would a constitutional convention be any different?

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[18] Former Governor and current Senator Dr. Pedro Rosselló describes what he calls "colonial inertia" on page x of the Introduction to his book titled The Unfinished Business of American Democracy as:

> "colonial inertia" effectively stymies the formation of any consensus among the Puerto Rican people concerning a permanent solution to our political status dilemma. Repeatedly, for as long as anyone alive today can remember, inertia has fomented indecision. And, invariably, that inertia has been perpetuated and exacerbated by doubt and uncertainty over what exactly would be the terms under which a permanent status solution would be implemented.

[19] This concern was discussed by former Governor and current Senator Dr. Pedro Rosselló on page 239 of his book titled The Unfinished Business of American Democracy and, particularly, in a quote from Christina Duffy Burnett and Burke Marshall's Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution, Duke University Press, 2001:

> How does colonial inertia manifest itself? What mechanisms perpetuate a colonial mindset? Is there really a simple distinction between the imposition from above of an unwanted colonial regime and the inability of the colonial subjects to agree on a path toward decolonization? Can the lingering divisions among colonized people ever be fully separated from the inherent divisiveness of a regime imposed from above? Are these not at some point mutually constitutive? One might say, looking at the result of the 1998 plebiscite, that the people of Puerto Rico exercised their inalienable right to self-determination, and a majority of them—fully 50.3 percent, to be exact—chose to remain a colony. One might also say, however, that the oldest strategy for governing recalcitrant subjects—divide and conquer—was subtly at work. **A long-overdue and commendable reluctance on the part of the United States to impose an unwanted solution upon Puerto Rico's problem has become indistinguishable from a less commendable willingness to do nothing at all about the problem, now well cloaked in the unimpeachable rhetoric of noninterference with the principles of "self-determination" and the "will of the people."** This inaction rests on flawed premises: that Puerto Rico's status problem is somehow untouched by the actions and inactions of the people of the United States and their government; that this problem has no real consequences for them. (Emphasis supplied)

Therefore, it should become clear that, in order to resolve this issue once and for all, the Federal Government, and Congress in particular need to assume their constitutional prerogatives and responsibilities over the nearly four million U.S. citizens who reside in Puerto Rico. Failing to do so would only complicate the problem further.[20]

Second myth... that Puerto Ricans do not wish to change their status... why force something that they do not want?

This myth is based on pure misinformation.

Some people in the mainland may ask... haven't Puerto Ricans long favored Commonwealth in plebiscite after plebiscite? NO.

Back in the early 1950's when the Commonwealth territorial arrangement came into life, no plebiscite or referenda among options was ever held. We were only presented the question whether we wanted to follow the path to have a Constitution of our own or remain subject to an Organic Act.[21] As you see, that could never be confused with a true process of self-determination... as there was never a ballot with status choices.

In the first plebiscite ever conducted, held in 1967, almost 60% of voters favored an "Enhanced Commonwealth" option. Statehood achieved close to 40%, as the Puerto Rican Independence Party boycotted the plebiscite accounting for almost no votes in favor of Independence. As I have indicated before, there was no concerted effort undertaken by commonwealth advocates for Congress to take action on the vote.

The next plebiscite was held in 1993 and another version of "Enhanced Commonwealth" won the electoral vote; this time though, with a plurality of less than 49% of the vote. Again, the pro-commonwealth Popular Democratic Party took more than half a year to inform the House Subcommittee with jurisdiction over Puerto Rico regarding the results of the 1993 Plebiscite.[22] The result was a subcommittee hearing on October 17, 1995.

Then, in 1998, in a plebiscite where the current Commonwealth (or status quo) was an option... that option failed to garner 1% of the vote.[23] Therefore, as anyone may see... there is clearly NO mandate by the Puerto Rican electorate to maintain our current Commonwealth territorial arrangement as is.

Befitting the level of confusion and misinformation that exists among Puerto Ricans with regards to true contour of the options that would be really available... the write-in column, titled "None of the Above", garnered over 51% of the vote. It is important to point out that voter participation in these plebiscites hovered around 75 to 85% and in poll after poll, people select this issue as either the most important one that needs to be addressed. or at the very least among their top 5. Obviously, this shows the existence of a clear consensus among Puerto Ricans, overlapping ideological and party lines, yearning for a resolution to this issue.[24]

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[20] Former Governor and current Senator Dr. Pedro Rosselló quotes from former Governor Hernández-Colón's essay in Foreign Affairs in page 240 of his book titled The Unfinished Business of American Democracy that:

> ...the resolution of the status of Puerto Rico has been left hanging. **It is morally unacceptable, unfair, and harmful to Puerto Rico and the United States for Congress to relegate the issue to business as usual—that is, do nothing, wait for a Puerto Rican initiative, play with it for a while but take no action, wait for the next initiative, and repeat the cycle.** Such insensitivity undermines Puerto Rico's capacity for self-government, inflicts considerable hardship on its society, and drains the U.S. Treasury. (Emphasis supplied) (Doing Right by Puerto Rico, Foreign Affairs, July-August 1998)

[21] Public Law 600 stated in its first two sections, that "...this Act is now adopted "so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption. ... This Act shall be submitted to the qualified voters of Puerto Rico for acceptance or rejection..." (Act July 3, 1950, c. 446, 64 Stat. 314.)

[22] Statement of Ms. Celeste Benítez on behalf of the Hon. Héctor L. Acevedo, then President of the Popular Democratic Party, presented in the hearing on H.R. 4442, before the Subcommittee on Insular and International Affairs of the House Committee on Natural Resources, 103rd Congress, 2nd Session.

[23] That has been the ONLY plebiscite or referendum where the current Commonwealth territorial arrangement has been on the ballot. In each of the two occasions that "Commonwealth" resulted as the most favorite option of Puerto Rican voters (1967 and 1993), they were NOT presented with the option to vote in favor of the current Commonwealth territorial arrangement. Then... how could anyone say that voters have supported "Commonwealth" as we know it in plebiscite after plebiscite? Would it be wise and logical to conclude that, if voters have been told by Congress that the winning options of "Enhanced Commonwealth" presented to voters in 1967 and 1993 were unconstitutional and unavailable as a status choice, the results would have been the same? Therefore, please stay away from the overly elastic interpretations regarding the results of our locally sponsored plebiscites or referendums.

[24] Even those who favor an "enhancement" of the current "Commonwealth" territorial arrangement have gradually come to the same conclusion. For example, H.B. 1014 filed by Governor

Third myth... that the Report is skewed towards statehood and unfair in its treatment of Commonwealth.

This myth has two different fronts.

First... the procedural one... that the initial round was presented in order to corner the supporters of Commonwealth with the choice of rejecting "to pursue a Constitutionally viable path toward a permanent non-territorial status with the United States,"[25] while sponsoring an "artificial majority" of pro-statehood and pro-independence supporters who would obviously vote in favor of such a proposal.

This argument is completely flawed for a couple of reasons. On the one hand... on what grounds would commonwealth supporters reject the aforementioned language proposed by the President's Task Force for the first round? Don't they want to establish and clarify once-and-for-all that their "Enhanced Commonwealth" is constitutional and a permanent non-territorial status? After all, pro-commonwealth Popular Democratic Party legislators voted unanimously in favor of language that was even stronger in its stance with regards to the issue in the Substitute to House Bills 1014, 1054 and 1058.[26]

On the other hand... any coalition of voters which might favor the aforementioned language proposed by the President's Task Force for the first round do not constitute an "artificial" grouping; but rather, a true measure of the consensus in Puerto Rico that transcends ideologies and party lines with regards to the need for a final resolution to this centuries old dilemma.[27]

Second... the substantive one... that the Report contains a biased and incorrect description of the current Commonwealth territorial arrangement; and furthermore, that it is incorrect as well in not recognizing Free Association as an option in the second round proposed in its second recommendation.

With regards to the Report's description of our current Commonwealth territorial arrangement, I would just reiterate what I have stated earlier in this testimony, as well as the legally sound conclusions reached by the United States Department of Justice on this same issue as included in the Task Force's Report.[28]

As per the supposed intentional omission of Free Association, the reason for its non-inclusion is very simple. Free Association is a legitimate decolonizing option as recognized by International Law and by our own political experience with various strategic territories in the Pacific Ocean which we had previously held in "trusteeship" for several decades after the Second World War. The Report does not contradict this reality and our own experiences. On the contrary, the Report recognizes Free Association, albeit as an offshoot of separate sovereignty or independence. The reason for the position taken by the Task Force in its Report is based in constitutional, legal and political restraints of our Nation, as only Statehood and Independence can truly be permanent options. On the other hand, if Puerto Rico were to become a sovereign nation in free association with the United States, such a relationship would be based on a treaty... but everybody has to keep in mind that no treaty can unilaterally force the United States to relinquish its constitutional and political prerogatives to withdraw unilaterally whenever it may see fit.

This shows the sound legal positions taken by the members of the Task Force and their commitment in making sure that the people of Puerto Rico may understand the implications of each option in the most clear and precise manner.

Besides all the compelling arguments for Congress to address the issue of Puerto Rico's self-determination... for many of you there could be another very important reason for this issue to be resolved now... that is the cost of Puerto Rico to the American taxpayer. In a book titled "Pay to the Order of Puerto Rico: The Cost of Dependence to the American Taxpayer"[29] Alexander Odishelidze and the renowned Arthur B. Laffer concluded that our current Commonwealth territorial arrangement "is enormously costly to the American people" over the past 20 years alone, it has been a $200 billion drain on the American taxpayer. From my perspective, the worst

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Acevedo-Vilá on February 11, 2006, in the House of Representatives through his minority delegation, clearly states in the last paragraph of the Statement of Motives that:

> It is up to the people, subject of history and main agent of their future, to decide the manner in which we may best solve this pressing issue of the final status of Puerto Rico.

Furthermore, former Governor Rafael Hernández-Colón, has stated that "**[a]ll factions do agree on the need to end the present undemocratic arrangement**, whereby Puerto Rico is subject to the laws of Congress but cannot vote in it." (Emphasis supplied) (Doing Right by Puerto Rico, Foreign Affairs, July-August 1998)

[25] Report by the President's Task Force on Puerto Rico's Status, December 22, 2005, p. 10.

[26] Please refer to Footnote 16.

[27] Please refer to Footnote 24.

[28] Please refer to Footnotes 8, 12 and 15.

[29] Odishelidze, Alexander and Laffer, Arthur, Pay to the Order of Puerto Rico: The Cost of Dependence to the American Taxpayer, Fairfax: Allegiance Press, 2004.

part of it all is that it has been equally, if not more costly for the Puerto Rican people, who are taxed in ways they cannot see... by growth that has not occurred... and sound policies that cannot develop and flourish in dependency."

Today, Puerto Rico receives around $20 billion a year in federal funds,[30] although in essence, and particularly with the current misguided policies in place at the state level, we certainly need more. The failed economic policies of which Governor Acevedo-Vilá has been part, demonstrate the total bankruptcy of the current Commonwealth territorial arrangement. There is no economic model for the future well-being of our people. The only manner in which they have masked the severe limitations and failure of their model is by bloating the government payrolls and forcing outward migration to the mainland.

The economy is stagnant, if not close to becoming paralyzed. Even though our unemployment rate has been hovering between 10 and 12% for the past few years, the reality of our bleak situation can be further understood by looking at our employment participation rates. For example, according to the 2000 Census, Puerto Rico's employment participation rate was at 40.7%; well below the 63.9% of the U.S. mainland. Many of your fellow citizens who reside in Puerto Rico have just lost any hope for employment and have rather decided to live on welfare. That is why over 50% of all Puerto Ricans live below the federal poverty level.[31]

The solution of the past two pro-commonwealth administrations has been a sharp increase in the government payrolls. Puerto Rico's daily English newspaper, The San Juan Star, reported last September 6, that the previous Calderón-Acevedo Vilá Administration was responsible for increasing government payrolls by 14.37% between 2001 and 2005. Even with the fiscal crisis that we face because of the misguided policies of the past five years, Caribbean Business reported as recently as March 30th that government rolls registered a net increase of 500 employees for the month of February.

Under Commonwealth, and particularly in the last five years, migration to the mainland has increased dramatically. Researchers in Florida have indicated that every month, close to an average of 5,000 Puerto Ricans move to the Greater Orlando area. With our social and economic situation worsening year after year... what could we expect next? If there were various real concerns that were discussed after the Katrina temporary displacement of many Gulf residents... what would an exponential increase in a permanent northward migration of our people cause here in the mainland?

Worse of all, rather than being an agent of hope and of a sound economic future, the current Administration of Governor Acevedo-Vilá is intent in solving our present situation by raising taxes and trying to ram through our Legislature other revenue raising measures. They do not seem intent in following the path of fiscal reform and a commitment to real restraint and austerity measures with regards to government expenditures. Now, in order to create havoc among our populace and in order to further pressure our legislators, Governor Acevedo-Vilá is threatening a partial government shutdown beginning next Monday, May 1st.

Under those circumstances, I must remain in Puerto Rico. Nonetheless, I congratulate this Committee for deciding to hold this hearing regardless of the Governor's plea to the contrary. The real reason behind our fiscal crisis is our current Commonwealth territorial arrangement.

In many ways, your hearing today might help to the eventual fulfillment of the promise given by General Nelson Miles upon the landing of our troops in the southern town of Guánica in the Spanish American War, when he said that... "[o]ur military forces have not come to make war on the people of the Country; but on the contrary, to bring protection, promote your prosperity and bestow the immunities and blessings of our enlightenment and liberal institutions and government."

May God enlighten you to act according to what may be best for your fellow citizens who reside in Puerto Rico.

May God bless America... and in particular all my fellow Puerto Ricans who place their hopes for their future in your hands.

Thank you very much.

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[30] According to the Caribbean Business, Thursday, October 28, 2004, page 31, Puerto Rico received $19,617,536,000 in Federal funds during FY 2003.

[31] Such an untenable situation is the obvious result of decades of indifference regarding the need to resolve the status issue of your fellow citizens who reside in Puerto Rico. Neither the people of Puerto Rico, nor the taxpayers in the fifty states and the District of Columbia, benefit from the status quo. It should be self-evident that "any sort of second-class citizenship will—as an inevitable byproduct of its discriminatory nature—condemn its recipients to inferior economic and quality-of-life outcomes vis-a-vis first-class citizens."; as former Governor and current Senator Dr. Pedro Rosselló describes on page 11 of his book titled *The Unfinished Business of American Democracy*.

[A statement submitted for the record by Hon. Tom Davis, a Representative in Congress from the State of Virginia, follows:]

Statement of The Honorable Tom Davis, a Representative in Congress from the State of Virginia

For many years there has been a general consensus that Congress should respect the wishes of the U.S. citizens of Puerto Rico regarding their political status. The problem is that only Congress can define what status options it will recognize and consider.

In the absence of a Congressional policy on what status options are available to Puerto Rico, the local political parties in Puerto Rico have formulated their own definitions. This has led to confusing and inconclusive results in every local status plebiscite.

There has not been a majority vote for any status option in the most recent votes, and in the most recent vote slightly over 50% of the voters chose a "None of the Above" option.

The time has come for Congress to end its silence and make meaningful and informed self-determination possible for Puerto Rico. The political status of Puerto Rico is defined by federal law, and Congress has a responsibility to define the current status and the options for a new status.

If the U.S. citizens of Puerto Rico prefer to remain a territory with self-government under their local constitution on all matters not governed by federal law, we need to know that the current status is one to which the residents of the territory still give their consent.

Since the Commonwealth of Puerto Rico currently does not have voting representation in Congress or a vote for President, Congress needs to be able to confirm periodically that the people in the territory consent and are not disenfranchised at the national level against their freely expressed wishes.

If the people in the territory prefer a status that has the same full democratic participation in the political process at the national level as U.S. citizens in the former territories that have become states, Congress needs to determine the terms under which statehood would be granted to Puerto Rico.

Similarly, if the residents of the territory want the same full democratic participation in the political process at the national level as those territories that have become separate nations, Congress needs to determine the terms for recognition of Puerto Rico as a nation in the future.

Separate nationhood can include full independence, or a status of free association between two nations that allows for close political relations, but recognizes the right of each nation to end the association and become fully independent.

The Task Force report maps out a process for the voters to inform Congress of their aspirations regarding status options recognized by Congress. Such a process, allowing 4 million U.S. citizens a choice between basic democratic status options, is long over due. I support the report's recommendations and hope we adopt implementing legislation soon.

[A statement submitted for the record by Hon. Henry Hyde, a Representative in Congress from the State of Illinois, follows:]

Statement of The Honorable Henry J. Hyde, Chairman, House Committee on International Relations

Mr. Chairman,

Today the House Committee on Resources is holding an important hearing on "The Report by the President's Task Force on Puerto Rico's Status." Earlier this year, Representative Luis Fortuño introduced H.R. 4867, the Puerto Rico Democracy Act of 2006, of which I am an original cosponsor. H.R. 4867 is the only bill which seeks to implement the White House Task Force Report recommendations which would allow U.S. citizens residing in Puerto Rico to vote on their status preference directly for the first time in 108 years.

The President's Task Force on Puerto Rico's Status was given the mission of defining the policies that should govern political status resolution for Puerto Rico. The Task Force developed and documented a set of interagency policy findings and recommendations, then formally transmitted it to Congress and released it to the public.

In this way, the President went beyond platitudes about accepting the will of the people in Puerto Rico, and put his Administration to work to produce a definitive

policy. He mobilized the Executive Branch, and his appointed representatives did their job.

Both the Republican and Democratic platforms adopted in 2004 recommend a federally sponsored status process based on options clarified by the White House and Congress. I might add that, at its 2006 winter meeting, the Republican National Committee adopted a resolution supporting the Task Force report.

In light of all this, I consider the report a job well done. The focus now shifts to Congress, where we must meet our responsibility. The Task Force report provides a good road map, because it draws heavily on the record before Congress and the courts.

So we should not be afraid of the choices and the mechanism for self-determination recommended in the White House Task Force report. America should not hesitate to deliver on its promise of informed self-determination in Puerto Rico, and the Task Force report points the way for us to do just that.

Thank you, Mr. Chairman.

[A statement submitted for the record by Miriam J. Ramirez, M.D., Vice President, New Progressive Party of Puerto Rico, and President, Republican Women of Puerto Rico, follows:]

Statement of Miriam J. Ramirez, MD, Vice President, New Progressive Party in Puerto Rico, and President, Republican Women of Puerto Rico

Miriam J. Ramirez is presently Vice President of the New Progressive Party in Puerto Rico and President of the Republican Women of Puerto Rico. She was a state senator from 2000 to 2004 and was President and founder of Puerto Ricans in Civic Action, a nonpartisan organization working to secure political and economic equality for the four (4) million United States citizens resident on the island. Since 1982, Dr. Ramirez spearheaded the grassroots lobbying efforts of the group in the United States Congress. She was instrumental in scaling back Section 936 tax exempt benefits in the Omnibus Budget Reconciliation Act of 1993. Tax Sparing benefits have played a significant role, and influence, in the political and economic life of Puerto Rico. She was also instrumental in the introduction and passage of H.R.856, also known as the Young Bill.

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

Ms. Ramirez is retired from a gynecological medical practice in Puerto Rico.

INTRODUCTION

Honorable Richard Pombo, Chairman of the Resources Committee, Honorable Members and staff,

I had hoped to be able to present my testimony orally during the Task Force Report Hearings, but I understand the time limits available to this Honorable Committee. Therefore I respectfully request that my statement be included for the record.

Perhaps you have visited Puerto Rico, and seen the historic sights and the modern dynamic society here in the Caribbean, truly making our island its Shining Star.

All this progress has been possible with our nearly 100 year old relationship with the United States. A relationship that now must take one final step beyond territory and colonial links to one that either unites our two destinies together forever, eternally preserving our cherished American citizenship, or creates an independent Puerto Rico with its own sovereignty, nationality and distinct citizenship.

The White House Task Force's courageous efforts to resolve our mutual relationship dilemma is highly appreciated. Now it is time for Congress to exercise its responsibility under the Territorial Clause of the U.S. Constitution to define the status options available to Puerto Ricans who, through the process of self-determination, will choose a final status for Puerto Rico.

It is sad that this issue of status choices has been left to Congress rather than to the people of Puerto Rico, due in part to some of our own political leaders who have failed over the past almost 100 years to address the realities of the options available under the U.S. Constitution. It's not that we did not have appropriate guidelines to help us present the permitted choices but rather for political expediency some of our leaders opted to maintain the fiction of the status quo in order to preserve their own power.

As the President's Task Force has so eloquently stated, Puerto Rico remains an unincorporated territory of the United States. They reached this conclusion after careful research and examination of the historical records as well as your own ex-

tensive hearings including those heard in the 1980's and 1990's. At those hearings, proponents of all the status options were heard and their arguments weighed.

Through the last 20 years, we have acquired many historical documents dealing with the political relationship of Puerto Rico with the United States. A civic group, Puerto Ricans in Civic Action, which I founded and presided, delivered 350,000 individually signed petitions to Congress for statehood and worked hard with Congress to solve the status problem of Puerto Rico. We hope these historical documents and our years of research will help clarify many misconceptions regarding the present relationship of Puerto Rico and the United States.

Please see a list of historical events which will help set the record straight. (Addendums I & II)

We are hopeful that President George Bush's Task Force Report will move Congress to unravel and resolve this status question.

The Unites States Courts, Congress, the Executive branch and others have confirmed what most of us have known for years, Puerto Rico's status has not changed since 1898 regardless of how our island today may be called.

Clearly, some of our people would argue otherwise but it is self-evident that there is no place in the Constitution for an entity other than a territory, possession or a state. It is also self-evident that only a Constitutional amendment, not an act of Congress, or Puerto Rico's Popular Democratic Party "s mischievous actions, can alter that fundamental document and confer a status that does not appear therein.

Yet for over forty plus years, the PDP's commonwealth proponents have insisted that their so called Free Associated State status was legitimate under the U.S. Constitution. It is a "status" that seeks all the benefits of statehood without its burdens.

They have preached no federal taxation but full U.S. benefits, sovereignty without responsibility and American citizenship without integration into the American system. However, our local tax system is more onerous to the U.S. citizens in Puerto Rico than to any of the citizens in the fifty states when added federal taxes together.

A new law creating a sales tax is the object of a political crisis right now, as a response to the economic collapse created by the PDP governments due to extravagant government spending.

For this reason the White House Task Force was well advised to find that the commonwealth option on the 1993 plebiscite was not entitled to full credence given that these promises including guaranteed American citizenship and permanent union with the United States can only be achieved under statehood. These PDP's promises have been made but in a long line of gestures offered up without any hope of being fulfilled.

Having dismissed a status choice without constitutional bearings, Members of Congress, I presume, must have reached the same conclusion that we have come to, namely, that left to some of Puerto Rico's leaders the status issue might never be resolved in such a manner that Congress could implement. Not wanting to prolong indefinitely a process that was leading to only inconclusiveness, in the 90's, Chairman Don Young, and the Resources Committee finally took the bull by the horns and acted.

Their decision to enumerate the status choices constitutionally permissible was so courageous, that they must have known, from their close contacts with Puerto Rico over the years, it would ignite the passions of many who have clung to the unattainable. Yet there could be no other avenue to escape Congress' responsibilities under the Territorial Clause. After all, that clause and the Treaty of Paris invest Congress with plenary power over American Territories.

The choices they did make under the Young bill were the only ones comporting with both the Constitution and international law; the only ones that could definitively decolonize Puerto Rico; the only ones that people of Puerto Rico could choose from among and the only ones that Congress could act on. President Bush's Task Force Report has informed likewise.

Clearly, as a statehood advocate, I prefer that option for Puerto Rico. When Congress gives the U.S. Citizens in Puerto Rico the lawful choices and the opportunity to vote, I am sure they too will choose statehood.

OTHER STATUS OPTIONS

While I cannot talk authoritatively about either independence or free association there are some observations, nevertheless, I wish to make concerning these options, the consequences for Puerto Rico attached to each and the manner in which they are to be achieved. The Task Force Report has addressed some of these issues which have created discussion in the island.

President Bush's Task Force has recognized, rightly so, that full independence or free association carries with it certain attributes which endow specific responsibil-

ities and obligations on those who choose this path. It also carries with it changes that must affect all those who opt for separate sovereignty.

Unlike the proponents of commonwealth, the Task Force has recognized that Puerto Rico must first become an independent entity before it can hope to achieve some degree of comity with the United States. And that any relationship and any relations that come to exist between a sovereign Puerto Rico and a sovereign United States must be the product of negotiations between the two, the result of which would be memorialized in a pact between the two nations.

No such separate sovereignty ever existed between the island territory of Puerto Rico and the United States which would have legitimized the creation of a new commonwealth status. The United States Congress passed a law providing for limited local autonomy, a law which could be altered, annulled or revoked at any time by any congress, which was accepted by the nationals of the United States living here.

In past proposed legislation, independence would be first achieved and all the attributes of sovereignty trade, foreign aid, tariffs, diplomatic recognition would be subject to treaty negotiations between the two nations. Nothing promised in advance of a vote, much less guaranteed was the case with the 1993 commonwealth ballot proposal. In fact given the relative power of the United States and Puerto Rico there is no assurance, other than hoped for good will, that Puerto Rico would come off better than it is today, financially or otherwise, as an unincorporated U.S. territory.

Remember the old saying, "A bird in the hand is worth two in the bush."

Similarly, replacing the U.S. Constitution and its laws with a Puerto Rican Constitution is a given if Puerto Ricans vote for either full independence or free association. A prideful people demand that their way of life be governed in accordance with their own laws and not those of another state.

UNITED STATES CITIZENSHIP

The matter of U.S. citizenship being replaced by Puerto Rican citizenship should come as no surprise to our people or to our leaders. First, our U.S. citizenship is legislative and what one Congress can give another can take away. Of course, constitutional rights obtained under American citizenship will be protected by American courts but their decisions, years away, offer no solace now with respect to who would be retain their citizenship and who wouldn't.

Second, how could the United States allow for an independent Puerto Rico to be inhabited by nearly 4 million residents with American citizenship? How independent would Puerto Rico truly be if the United States, as it was obliged to do under the Constitution, saw fit to exercise its responsibilities to protect Americans wherever situated? If the Marines could be dispatched to save one American in Tripoli just how many would be sent to San Juan to 'free' hundreds of thousands or millions, for that matter.

Of course, it's hypocritical to say the least that independence proponents would want their Puerto Rican citizens to also be American citizens. How does such a situation comport with the idea of a separate Puerto Rican nation and nationality with its own culture and language?

This brings me to the final question on citizenship. Just what are the motives or intentions of supporters of the status quo and independence when they assert that U.S. citizenship should and can be retained by all Puerto Ricans regardless of the impermanence or permanence of the relationship of Puerto Rico with the United States?

Under any status formula that creates an autonomous or independent Puerto Rico American citizenship would be inconsistent with sovereignty. Given that American borders are freely open to national of other countries, most of which do not even require passports or visas, Puerto Rican citizenship would not inhibit our residents from visiting the United States mainland to visit relatives, friends, vacation, or conduct business.

If, on the other hand, autonomy proponents envision dual American and Puerto Rican citizenship as a means to obtain American aid and funding of federal programs here in Puerto Rico then U.S. citizenship is nothing more than a pretext to exact economic tribute. It this is, indeed, the case then it doesn't speak well for their promises, something for nothing, or casts the island's residents as little more than welfare miscreants looking for a handout.

What their use of citizenship to obtain federal funding is nothing more than an effort to use commonwealth or independence, with dual American citizenship, as a vehicle to get all the economic benefits of statehood without the corresponding obligations of paying federal taxes. Unlike these hypocrites, I do not share their mercenary view of our fellow citizens who have made the supreme sacrifice for American freedom and democracy since the First World War. Puerto Ricans, willing to shed

their blood for America, are more than willing to pay their fair share for paying its costs.

The drafters of H.R. 856 ably dealt with this issue.. They made it abundantly clear that the price of independence is, among other things, both the loss of American citizenship and the attendant federal aid and funding that such an honor bestows on citizens who must bear, in return, the price of government through federal taxation.

Since American citizenship offers an independent Puerto Rico little more than an obligatory handout, even then one that may not be forthcoming or is even guaranteed, its substitution for Puerto Rican citizenship should be of little consequence. Furthermore, ii is disingenuous to seek a separate nationality in order to preserve what supporters call a distinct culture and nation while at the same time desiring to retain the most important indicia of colonial status and subservience, the citizenship of another country, its colonial master.

If there is any way to reconcile independence or free association with retention of American citizenship I am at a loss to be told why. I am also at a loss to understand how America, or any nation for that matter, would acquiesce in the decolonization of one of its possessions while at the same time preserving their most important ties to the mother country.

Congress provided the one avenue to full self-government through self-determination that nearly ninety-five percent of all Puerto Ricans voted for in the 1993 plebiscite: statehood.

This option guarantees American citizenship and a permanent relationship between the U.S. and Puerto Rico. It is the only status option, past, present or future, which provides these two most important aspirations that all Puerto Ricans cherish. I say all because even those who favor independence will not be so fast to lose their U.S. citizenship or break fro America without first being assured that the economic benefits that follow that virtue are not lost.

PUERTO RICO'S ECONOMY

This option also satisfies the most basic objectives of any society, beyond freedom and the protection of human rights. It will allow our economy to grow at a pace that to this date has been held back by uncertainty over the island's status and the tax incentives which have delivered billions of dollars into the hands of corporate giants with little or no incremental benefit to our citizens.

If Hawaii and Alaska are any indication of the economic boost that statehood will provide then Puerto Rico's entry into the union should be welcomed by every worker and his or her family. Statehood will once and for all shatter the self-serving boast that the island territory's people are to be the wonder of Latin America, by Haitian or Guatemala standards.

Truth be told, the real measure of Puerto Rico's prosperity should not be measured against beggar economies or police states but of that arsenal of democracy and bastion of free enterprise. The status quo, fomented and fermented by politicians more interested in reelection and corporations hell bent on preserving their territorial imperatives, has been used to mercenary ends by manipulating the status issue either by threatening job losses or promising the sun, the moon and the stars.

The result? An economic system bereft of internal growth and stimulus and a population denied the American dream. Per capita income half Mississippi and unemployment rates twice the mainland.

Statehood promises not only an economic salvation that has elided our territory but also an economic future that an independent Puerto Rico would be unable to fulfill with massive infusions of foreign aid making it all the more dependent on the largesse and whim of outside powers. It would be surely an independence with an insatiable dependency.

Statehood too offers us the ultimate means to achieve our goal of dignity and self-respect through first class American citizenship. With that status Puerto Ricans will no longer have to be supplicants in Washington depending on the largesse of senators and congressmen from states with little in common or with no loyalty to the island that the discipline of constituency and reelection enforces.

In fact, much of our relationship with Washington has been subject to a form of economic imperialism in which American corporations have leveraged their political influence and campaign contributions to make sure that Puerto Rico remains an unincorporated territory of the US. How else to explain their support for commonwealth, a status that has endorsed not just the continued siphoning of billions in tax funds to the Fortune 500 but its expansion, which owes its plurality victory not to the its empty promises of more for nothing but to the overt threat that unless statehood is defeated "936" dependent jobs would vanish.

With representation our voices would be heard and heeded in Washington demanding law and drug enforcement support similar to what Florida and other states have gotten and used to fight and restrain the entry of illegal contraband into their ports. We would have leverage with the parties not only to nominate their presidential candidates but, with our votes, to help elect them as well. The president would not only listen to us but also act with for us.

As a state, our economic interests would be intertwined with national policy and international trade. American corporations would come here not to take advantage of our tax haven but to utilize our educated workforce and enjoy our modern infrastructure. Similarly our economy would be open to foreign investors lured by the certainty of our status and our entry to the mainland.

Of course, like everything else, statehood comes with a price. No more something for nothing or wishing even more for nothing. Puerto Ricans will pay federal income taxes. Not that we don't already pay federal taxes, some billions in social security and unemployment and other dollars in other taxes.

But while some estimate that our federal tax income burden will be about $4 billion our net inflow of federal funds will more than offset that along with a decrease in our local territorial taxes which have been among the highest in the United States given our need as a territory to supplement federal Medicare, Medicaid, food stamp and SSI programs.

I believe that Puerto Ricans, regardless of whether they individually come out ahead or not under statehood, will still embrace that concept. The benefits far outweigh their federal costs. There is no more ample proof of this than the unfortunate out island migration of some of our best and brightest who willingly vote for statehood with their feet and the taxes that come with whether they resettle in Orlando, Houston, New York or Pittsburgh.

And, if that was not proof enough, what of the thousands of Puerto Ricans who have made the supreme sacrifice in defense of American democracy and freedom abroad since World War I? Why have some of our political leaders sought to portray us as unwilling to pay taxes in order to fulfill our constitutional obligations when all of us have been eager to serve the American flag even if our lives depended on it, which they have so often, including those who are now serving and those who have lost their lives in Iraq and Afghanistan?

THE LANGUAGE ISSUE

Finally, it should come as no surprise that some speak to the language issue requiring Puerto Rico to adhere to the same linguistic requirements as in the several states. This is merely a restatement of American Constitutional law and the Tenth Amendment which reserves to the several states those powers not delegated to the federal government.

Since there is no official language of the United States are, to the extent constitutionally permissible, able to set parameters on the language or languages that may be used in official business. Some have proclaimed "English" only laws while still others like Louisiana continue to recognize legal agreement written in French. Spanish and English are the official languages in Puerto Rico.

There is no reason to believe that our Spanish heritage language or culture would be adversely affected by our entry into the Union. Yet, this is just what anti-statehood proponents have argued and used to frighten our voters into accepting their status options which lead not to cultural preservation but to an impoverished sovereignty bereft of our American identity.

As a state, our linguistic and cultural identity tied to our Spanish ancestry can be preserved in a society that will thrive economically and politically in partnership with our sister states. Surely, English will be one of the languages of our government just as it is today the language of our federal courts and agencies.

But those leaders from Puerto Rico who have used language to divide and separate and today cynically boast of Puerto Rico's ignorance of English to show that only autonomy or sovereignty must reign since the island can never be incorporated into America's mainstream culture are not only deceiving you but depriving us of an economic future in a world growing smaller each day. They know better. Most of them send their children to bilingual schools in Puerto Rico or schools in the several states so they learn good English..

Language is not a status issue though it has been used by our opponents to fight statehood and discredit our claim thereto in the eyes of mainlanders. We know that our proficiency in English is questioned on the mainland as a bar to becoming the fifty-first state. They play into the hands of those who take this position.

English has never been the sin qua non of statehood and it should not be now. In fact, other languages including Japanese, French and even Spanish dominated territories that became states including Hawaii, Louisiana and New Mexico, Texas

and California and Oklahoma. When those states entered the Union English either prevailed or was phased in. In some states, New Mexico for one, Spanish retained a second language ranking.

Meanwhile in every state almost every language is spoken among the various ethnic and religious groups that have migrated to American shores. Even in such remote areas as North Dakota, the New York Times recently reported, German speaking descendants of early pioneers are now learning Spanish in order to participate in our ever growing "Latinized" Western Hemisphere.

We are not as proficient in English as we should be more on that later because anti-statehood proponents relegated it to second usage in order to further their own agenda for either the status quo, commonwealth, or to pursue other autonomy goals. They believed that by keeping us ignorant of English we would be playing into the hands of mainlanders who would use this ignorance to bar our Union claims.

But Congress, and its intelligent review of history has proved them wrong. Their mischief has not gone totally unrewarded. Although reversed by the current administration, the setback to English usage here can only be viewed as an attack not only on status, statehood, but on modern Puerto Rico's ability to succeed in the globalized economy.

That economy is increasingly dominated by English speaking merchants whether they are in Moscow, Jakarta, Bombay, Quito, Beijing, Rome, Paris or Oslo. They conduct business in English and invariably write their agreements in that language and make them enforceable under the laws of either the United Kingdom or the United states, particularly the laws of the State of New York.

Status aside, it is an economic suicide to cling to a politically motivated educational agenda that denies its citizens the tools to succeed in the modern world. Puerto Ricans like their Latin neighbors and ancestral homeland must and will take on all the trappings of economic opportunity, learning and using English prominent among them.

Yet our facility in Spanish, our bilingual facility, should not be dismissed even by our detractors here and on the mainland. Like those prairie dwellers in North Dakota learning Spanish is an asset every American wherever located would be well advised to learn.

We are, after all, looking south with NAFTA where one of the largest under developed markets in the world for U.S. goods lays waiting for cultivation. Puerto Rico, sharing culture, tradition and language can guide and lead the way toward American success in this market, as Americans of Spanish ancestry, like our brothers and sisters to the south.

Similarly, preservation of our Spanish culture is not threatened by statehood. Like countless others who came to and integrated into the larger American melting pot we, too, can preserve our unique heritage.

Because we take on all the trappings, rightly earned, of statehood and participation in the broad stream of American society doesn't mean that we are any different from Italian-Americans, Irish-Americans, Anglo-Americans, Jewish-Americans, African-Americans Polish-Americans, Mexican-Americans or any other of the countless hyphenated Americans. All of whom work, play and live in and as America but also revel in and keep up their ethnic, religious and cultural ties to their roots. In fact there is hyphenation already available for our use, Spanish Americans or Hispanics!

THE TASK FORCE REPORT

After more than a century, it is time for courageous decisions by Congress and Puerto Rico. We applaud the President of the United States, George Bush, Mr. Ruben Barrales, President of the Task Force on Puerto Rico and the rest of the members of the Task Force for a splendid job in summarizing in a concise, didactic document, what has been over 100 years of status debate and discussion.

We would be foolish to throw away our future. Those who say that the Task Force Report shuts them out are merely unmasked charlatans. Every decision requires making a choice or choices. Some of them may be difficult, some not. Only when those choices are clearly and candidly presented can a decision be accurately made. That is what the Task Force has done in its final report.

That decision, for most Puerto Ricans, with your help, should be easy to make. For me, it is an easy choice. Other leaders simply don't want to allow the 4 million U.S. Citizens in Puerto Rico to have the right to vote on their choice. Doesn't it sound similar to what our soldiers are fighting for in Iraq? Ironic, no?

Mr. Chairman, please step up to the plate and act with the courage and faith needed to help us resolve the process of self-determination. Give us the opportunity to finally fulfill our destiny.

In conclusion, let me ask you, Mr. Chairman, members of this Honorable Committee, as well as the rest of the Members of Congress, to heed the President Task Force Report and recommendations

Thank you.

ADDENDUM I

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

Treaty Of Paris: December 10, 1898

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

First Organic Act of Puerto Rico—1900

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

Organic Act Of 1917, As Amended (Jones Act)

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

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

ADDENDUM II

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

Roosevelt Administration: (1933-1945)

- As a result of a personal relationship between then Senator Muñoz Marín (the "creator" of Commonwealth) and a reporter by the name of Ruby Black, and in turn through this reporter's close relationship with Mrs. Roosevelt, they convinced President Roosevelt that in the 40's, Puerto Rico was on a verge of a revolution.
- Muñoz also enlisted the support of then Secretary of Interior, Harold Ickes, who sent President Roosevelt a memo on March 3, 1943, urging him to announce the decision to order a revision of the Organic Act so as to provide for the election of a governor. He recommended Muñoz Marín as the leader of the Puerto Rican group. Finally on March 5, 1943, Pres. Roosevelt sends a letter to Congress urging the revision of the Organic Act.

Truman Administration: (1945-1952)

- 1947, Congress authorized the people of Puerto Rico to elect their own governor.
- 1949—Under President Truman, Muñoz Marín became the first elected governor of Puerto Rico. (By now Muñoz Marín is the man with good ties to Washington.) He succeeds in convincing President Truman that the people of Puerto Rico be allowed to adopt a Constitution.
- 1950—A bill, S. 3336, was introduced in Congress to authorize the people of Puerto Rico to adopt their own Constitution and to organize a local government.

Senate Report No. 1779 and the House Report No. 2275 of S. 3336

(Pgs. 2682-2683) "It is important that the nature and general scope of S. 3336 be made absolutely clear. The bill under consideration would not change Puerto Rico's fundamental, political, social and economical relationship to the United States. Those sections of the Organic Act of Puerto Rico pertaining to the political, social, and economic relationship of the United States and Puerto Rico concerning such matters as the applicability of United States laws, customs, internal revenue, Federal judicial jurisdiction in Puerto Rico, Puerto Rican representation by a Resident Commissioner, etc., would remain in force and effect, and upon enactment of S. 3336 would be referred to as the Puerto Rican Federal Relations Act. The sections of the Organic Act which section 5 of the bill would repeal are the provisions of the act concerned primarily with the organization of the local executive, legislative, and judicial branches of the government of Puerto Rico and other matters of purely local concern".

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

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

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

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

- 1952—Resolution 22:

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

- 1953—January 16: (THE UNITED NATIONS)

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

Eisenhower Administration: (1953-1960)

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

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

- January 17, 1953:

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

Among other things, the letter said:.

- "On July 25, 1952, the Commonwealth of Puerto Rico was formally installed in response to the wish of an overwhelming majority of the people of Puerto Rico pursuant to a compact between them and the Government of the United States. Puerto Rico became a Commonwealth in free and voluntary association with the United States."
  - False: The United States did not create a status in the nature of a compact with Law 600.
- "In the 1948 elections the three alternatives were fully presented to the electorate by the three main political parties". The preference of the people, expressed in an election which was as democratic as any in the world, was unmistakably expressed in favor of the third alternative: a free commonwealth associated with the United States on the basis of mutual consent.
  - False: No plebiscite on the status formulas was ever held in Puerto Rico until 1967. The 1948 election was a general election, authorized by Congress, where the people were given for the first time the opportunity to elect a governor in Puerto Rico.
- "Their choice is aptly summed up in the Spanish name for the new body politic, "Estado Libre Asociado. On July 3, 1950, the 81st. Congress enacted Public Law 600. This was in effect, an offer by the Congress to the people of Puerto Rico, which we might accept or reject, to enter into a compact defining the status of Puerto Rico and the relationship between the respective communities."

- False: The Constitutional Convention specified that Free Associated State would signify Commonwealth, not a compact of free association. No public hearings were held for Law 600, and the House and Senate Reports on Law 600 specifically say that Puerto Rico's status would not change.
- "Our status and the terms of our association with the united States cannot be changed without our full consent"
  - False: Law 600 in no way precluded a future determination by the Congress of Puerto Rico's ultimate status
- "The government of the Commonwealth of Puerto Rico will be ready at all times to cooperate with the United States in seeking to advance the purposes and principles of the United Nations."
  - False: The United States citizens in Puerto Rico do not "Cooperate with the United States" we are part of the United States and as such, have fought in all wars since World War I.

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

Kennedy Administration: (1961-1963)

Through Governor Muñoz Marín, relationship with the Democrat Party and President John Kennedy, the PDP Party pushed for a "new compact" with greater powers for Puerto Rico. When this was proposed to the Kennedy Administration, Harold F. Reiss, a member of Robert Kennedy's staff said: "If that's what you want, ask for independence and we'll favor it." (Puerto Rico "Whither Commonwealth?" J. Garcia Pasalacqua, Orbis, Vol 15 #3, 1971) According to Pasalacqua, all efforts between 1959 and 1969, to make permanent the creation of Commonwealth permanent, failed.

- 1961: THE KENNEDY MEMORANDUM

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

Johnson Administration: (1964-1968)

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

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

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

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

From that moment on, the information on Puerto Rico became very confusing, both for members of the United States Congress and for the Executive branch. This alteration of the historical facts regarding the political relationship of Puerto Rico with the United States created the turbulent atmosphere from where Congress started new discussions in 1985.

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

It is no wonder that people in Washington and in Puerto Rico are confused about the relationship between Puerto Rico and the United States. This has been a well planned process, which goes back fifty years, to attempt to by pass the U.S. Constitution and the laws of the United States, to create a unique unconstitutional sta-

tus for the territory of Puerto Rico, without the U.S. approval or the people voting for it.

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

Reagan Administration: (1981-1988)

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

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

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

William Clinton Administration: (1993-2000)

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

George W. Bush Administration: (2001-2008)

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

[A statement submitted for the record by Hon. Jerry Weller, a Representative in Congress from the State of Illinois, follows:]

Statement of The Honorable Jerry Weller, a Representative in Congress from the State of Illinois

Mr. Chairman, thank you for your leadership in holding this hearing today on an important topic, the President's Task Force report on Puerto Rico's Status. I appreciate the opportunity to share my thoughts.

Let me first say that though not the main issue here today, I support statehood for Puerto Rico. More importantly, I believe that the residents of Puerto Rico should be given the opportunity, once and for all, to permanently determine their status. To this end, it is my opinion that there should be a federally sponsored plebiscite to allow residents of Puerto Rico to hold a vote regarding their status. Whether or not they ultimately choose statehood, I believe it they should have a fair and unbiased plebiscite to decide.

In 1898, Puerto Rico became a territorial holding of the United States and today, 108 years later, Puerto Rico remains the longest standing territory in the history of the United States. In 1917, residents of Puerto Rico became citizens of the United States as they still are today. The United States Congress maintains jurisdiction over the issue of Puerto Rico's status. To this end, Congress has never sponsored a plebiscite to allow residents of Puerto Rico to choose between various options that comply with United States laws and the United States Constitution. I believe it is time for this to happen.

The Task Force which produced this report was created by Executive Orders of President Bill Clinton and President George Bush. This mission of the Task Force was to provide options for Puerto Rico's future status and relationship with the United States.

Mr. Chairman, I believe the time has come to give the people of Puerto Rico the options to choose a permanent, non-territorial status option.

Thank you for allowing me to make this statement here today.

[The response to questions submitted for the record by Mr. Marshall follows:]

Response to questions submitted for the record by U.S. Deputy Assistant Attorney General C. Kevin Marshall

Questions submitted by Congressman Richard W. Pombo, Chairman, House Committee on Resources

1. Did the Task Force consult with the Governor? Did it and others in the Administration, such as the Attorney General, receive extensive input from the Governor and his representatives, and did you seriously consider it?

Answer: The Task Force consulted with all interested parties, including Governor Acevedo-Vila. It is my understanding that my Co-Chair met with the Governor. In addition, the Task Force received extensive information from attorneys representing the New Commonwealth position, and we understood those submissions to be advocating the views of the Governor. I met with those attorneys and seriously considered their arguments.

2. Is it the Task Force's position that Puerto Rico's status should be unilaterally determined by the U.S. Government even though it has the authority to do so or is it that Puerto Rico's status should be the preference of the people of Puerto Rico from among the constitutional options?

Answer: The Task Force's Report does make clear that, legally, Puerto Rico is "subject to congressional authority, under the Constitution's Territory Clause, 'to dispose of and make all needful Rules and Regulations respecting the Territory ... belonging to the United States.'" But the Task Force's position as to how the federal Government should exercise this legal authority is, pursuant to the Executive Orders governing the Task Force, that "[t]he democratic will of the Puerto Rican people is paramount for the future status of the territory." We therefore recommend a process in which Congress will provide for ascertaining, among other things, whether the people of Puerto Rico wish to maintain their current status as a territory or to choose between the two permanent non-territorial options. In addition, as I explained in my prepared statement, "our recommended process does not preclude action by Puerto Rico itself to express its views to Congress."

3. Does the Task Force report discuss the future of U.S. citizenship of residents of the States? Does it discuss the future of citizenship of residents of Puerto Rico in any context other than in the case of Puerto Rico becoming a sovereign nation? Further, does Appendix E of the report include an extensive legal analysis by the Department of Justice that concludes citizenship cannot be taken away from Puerto Ricans as long as Puerto Rico remains a U.S. territory and that it is uncertain whether citizenship it can be taken away in the case of independence from persons alive at the time?

Answer: The Task Force Report does not discuss the future citizenship of residents of Puerto Rico in any context other than in the case of Puerto Rico becoming independent of the United States. The last paragraph of the Report's legal analysis section identifies and discusses the issues that would arise in this context. There was no need to discuss the question of citizenship if Puerto Rico chose to remain a territory, as there does not appear to be any likelihood that Congress would seek to deprive Puerto Ricans of their U.S. citizenship in such case. The Report also does not discuss the future of U.S. citizenship for Puerto Rico as a State, but if Puerto Rico were admitted as a State its citizens would necessarily be citizens of the United States.

Appendix E of the Report does contain an extensive legal analysis by the Clinton Administration Department of Justice. This analysis is in a January 2001 letter to the Chairman of the Senate Committee on Energy and Natural Resources. As I noted in my prepared statement, this letter also was sent to the House Committee on Resources. In discussing "the New Commonwealth proposal," the letter states (p. 11) that, if this proposal "is understood to maintain United States sovereignty over Puerto Rico, then we think Congress could not revoke the United States citizenship of persons who already possess that citizenship by virtue of their birth in Puerto Rico." The letter took the view that there was "an underlying constitutional requirement that such citizenship not be revoked once it is granted." The letter adds

(p. 10) that "the answer is less clear" on the question whether Congress may deny citizenship to persons born in Puerto Rico in the future.

In the context of a proposal for independence, the letter notes (p. 4) that both "case law dating from the early republic" and an accepted rule of international law "support[ ] the proposition that nationality follows sovereignty." The letter also identifies, however, an argument based on a 1967 Supreme Court case, *Afroyim v. Rusk*, 387 U.S. 253, that "individuals possessing United States citizenship would have a constitutional right to retain that citizenship, even if they continue to reside in Puerto Rico after independence." The letter declines to opine on that argument, while noting that Attorney General Thornburgh in his 1991 congressional testimony took the view that the proposition of nationality following sovereignty would govern.

4. Does the Task Force report say that the current status should continue if Puerto Ricans vote for it?

Answer: The Task Force Report recommends that the people of Puerto Rico be given an opportunity, through a federally sanctioned plebiscite, to express their views on whether they wish to maintain the current status or to establish a permanent non-territorial status. If the people elect to remain as a territory, then the Task Force Report recommends, consistent with a 1992 memorandum of President Bush, that a plebiscite occur periodically, as long as that status continues, to keep Congress informed of the people's wishes.

5. Did the State Department representative agree to the Task Force report?

Answer: The entire Task Force concurred in the Report.

6. The Governor has proposed a "Development of the New Commonwealth." Can this proposal be a possible status option?

Answer: The Task Force Report describes and discusses at some length a proposal for "New Commonwealth" status, but does not include it among the available status options because it is not permitted by the Constitution. The only status options now available under the Constitution are territory, State, or independent nation.

7. Does the Task Force favor statehood, or did it objectively analyze Puerto Rico's status proposals and options?

Answer: The mission of the Task Force, in accordance with Executive Order 13183, was "to consider and develop positions on proposals, without preference among the options, for the Commonwealth's future status" and "to clarify the options to enable Puerto Ricans to determine their preference among options for the islands' future status that are not incompatible with the Constitution and basic laws and policies of the United States." The Task Force analyzed all options objectively, without preference for any of the options that are available under the Constitution. Under the Task Force's recommended procedure, statehood would not become an option unless and until a majority of Puerto Ricans voted against maintaining their current territorial status.

8. The Governor has sought legislation supporting the holding of a convention in Puerto Rico to choose whether Puerto Rico would propose statehood, independence, or a new or amended form of what it calls the current governing arrangement. Would the Task Force see such a convention as a supportable alternative to the plebiscites it has recommended?

Answer: The Report recommends a two-stage plebiscite to determine whether the Puerto Rican people wish to retain the status quo, and, if not, which of the two available permanent status options they prefer. As I explained in my prepared statement, "we sought to ascertain [the popular] will in a way that, as the report puts it, 'provides clear guidance for future action by Congress.'" We believe that our recommended approach would provide clearer guidance for Congress than a convention in which it is possible that none of the available options would win a majority of votes. As I explained in my prepared statement, however, "our recommended process does not preclude action by Puerto Rico itself to express its views to Congress."

Would adoption of the Governor's "Development of the New Commonwealth" proposal by a majority in a convention make the proposal acceptable to the Task Force if the proposal were said to represent the self determination will of Puerto Ricans?

Answer: The fact that a "New Commonwealth" proposal, such as the one described in the Task Force Report, were adopted by a majority in a convention and

could be said to represent the will of the Puerto Rican people would not make it more acceptable under the Constitution. The goal of the Task Force was to determine what status options are available under the Constitution. We concluded, consistent with Justice Department views over the past three Administrations, that it "is not possible, absent a constitutional amendment, to bind future Congresses to any particular arrangement for Puerto Rico as a Commonwealth" under the sovereignty of the United States (p. 6), and, similarly, that an arrangement involving freely associated status is in fact "a form of independence from the United States and cannot (absent an amendment of the U.S. Constitution) be made immune from the possibility of unilateral termination by the United States" (p. 9).

Would such a convention or the plebiscites be a more democratic process of determining Puerto Rico's status choice?

Answer: A plebiscite is a fully democratic method for determining the will of the people because it allows all Puerto Rican citizens to vote directly on the status options. Without knowing more details, I am unable to express a view on a convention process. But as I explained in my prepared statement, "our recommended process does not preclude action by Puerto Rico itself to express its views to Congress."

9. Does the Department of Justice agree with the Supreme Court, this House, the Senate committee of jurisdiction, the Department of State, past presidents, the Government Accountability Office, and the Congressional Research Service, and the legislative history of the laws providing for the Constitution of the Commonwealth of Puerto Rico and the Puerto Rican Federal Relations Act that Puerto Rico remains subject to federal powers under the Constitution's Territory Clause?

Answer: The Department of Justice does believe that Puerto Rico remains subject to federal powers under the Constitution's Territory Clause. The Task Force Report describes and reiterates that view.

10. Some associates of the Governor claim that the Congress can partially dispose of its Territory Clause power over a territory, ceding some, but not all, of the power to the territory, without making the territory a State or a nation, and limiting the Territory Clause power of future Congresses regarding the territory. Do you agree?

Answer: No, I do not agree. The Territory Clause gives Congress authority "to dispose of and make all needful Rules and Regulations respecting the Territory ... belonging to the United States." As long as Puerto Rico remains a U.S. territory, it is subject to that plenary congressional authority. Moreover, as the Report explains, one Congress cannot "restrict a future Congress from revising a delegation to a territory of powers of self-government."

11. The Governor claims that there is an irrevocable compact between the U.S. and Puerto Ricans. The compact entered into by federal and Puerto Rican actions from 1950 to '52 provided for Puerto Ricans to draft a constitution for the local government to replace the local government organization provisions of federal law and for the continuation of certain other provisions of federal law regarding the territory as the Puerto Rican Federal Relations Act. The compact did not say that its provisions could not be changed by the federal government and, indeed, provisions such as a ban on the death penalty in the constitution and the grant of all revenue derived from Puerto Rico have been superseded by Congresses, Presidents, and the Supreme Court. Is there such a compact and can the federal government change policies regarding the relationship?

Answer: As noted in the Task Force Report, the Department of Justice concluded in 1959 that, despite the enactment of Public Law 600 and the subsequent adoption of a Puerto Rico constitution, Puerto Rico remained a territory within the meaning of the Territory Clause. Thus, no irrevocable compact between the United States and Puerto Rico now exists, and, as the Report explains, "Congress may continue the present system indefinitely, but it also may revise or revoke it any time." In addition, as the Report explains, such an irrevocable compact is not, in any event, now permitted under the Constitution.

12. Does the report conflict with the *Rodríguez v. PDP* ruling? Or is the report consistent in its recognition that Puerto Rico currently exercises self-government on local matters?

Answer: The Report does not conflict with the ruling in *Rodríguez v. PDP*. In *Rodríguez*, the Supreme Court stated, in the context of a challenge to a Puerto Rico

statute governing participation in a by-election for a seat in the Puerto Rico House of Representatives, that "Puerto Rico, like a state, is an autonomous political entity, sovereign over matters not ruled by the Constitution," and therefore "[t]he 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." The Report recognizes that Congress has given Puerto Rico self-government authority with respect to its internal affairs and administration.

Do you agree that there is no conflict between *Rodríguez v. PDP* **and the Supreme Court rulings that the Territory Clause continues to apply to Puerto Rico because the Territory Clause is a source of federal authority over Puerto Rico and** *Rodríguez v. PDP* **only says that Puerto Rico has authority over matters when the federal government does not exercise its authority over Puerto Rico?**

Answer: *Rodríguez* says nothing about the application of the Territory Clause to Puerto Rico, and in fact cites other cases that assume Puerto Rico's continuing territorial status under the Territory Clause.

13. Does Puerto Rico have a democratic form of government at the national government level? Isn't a basic standard of democracy that people have equal voting representation in their government?

Answer: As noted above and explained in the Task Force Report, Puerto Ricans have since the 1950's exercised democratic control over their own government and internal affairs. They also have a non-voting representative in the House of Representatives. It is true that Puerto Rico, like other U.S. territories, does not have voting representation at the national level in Congress and does not vote for President. With regard to your second question, it is the policy of the Executive Branch, as established by President Clinton in Executive Order 13183 and continued by President Bush in his amendments to that Order, "to implement" one of the constitutionally permissible options for the islands' future status "if chosen by a majority, including helping Puerto Ricans to obtain a governing arrangement under which they would vote for national government officials, if they choose such a status."

Questions submitted by Congressman Nick J. Rahall II, Ranking Democrat, House Committee on Resources

(1) It has been widely complained that the Task Force reported the U.S. could cede Puerto Rico to another nation without consulting Puerto Ricans. In 1999, however, the Committee's then Chairman, Don Young, and Senior Democratic Member, George Miller, reported that, "Congress retains the plenary authority under article IV, section 3, clause 2 of the United States Constitution, the Territory Clause, to determine the ultimate disposition of the political status of Puerto Rico".

Is it the Task Force's position that Puerto Rico's status should be unilaterally determined by the U.S. Government—even though it has the authority to do so—or is it that Puerto Rico's status should be the preference of the people of Puerto Rico from among the constitutional options?

Answer: The Task Force's Report does make clear that, legally, Puerto Rico is "subject to congressional authority, under the Constitution's Territory Clause, 'to dispose of and make all needful Rules and Regulations respecting the Territory ... belonging to the United States.'" But the Task Force's position as to how the federal Government should exercise this legal authority is, pursuant to the Executive Orders governing the Task Force, that "[t]he democratic will of the Puerto Rican people is paramount for the future status of the territory." We therefore recommend a process in which Congress will provide for ascertaining, among other things, whether the people of Puerto Rico wish to maintain their current status as a territory or to choose between the two permanent non-territorial options. In addition, as I explained in my prepared statement, "our recommended process does not preclude action by Puerto Rico itself to express its views to Congress."

(2) Opponents to the Report criticize the Task Force for stating that the U.S. Government could take away the U.S. citizenship of Puerto Ricans at will, whether they live in the islands or the States.

Does the Task Force report discuss the future of U.S. citizenship for Puerto Rico as a State? And does it discuss the future of citizenship of residents of Puerto Rico in any context other than in the case of Puerto Rico becoming a sovereign nation? Further, does Appendix E of the report include an extensive legal analysis by the Department of Justice that concludes citizenship cannot be taken away from Puerto Ricans as long as Puerto Rico remains U.S. territory and that it is uncertain whether citizenship it can be taken away in the case of independence from persons alive at the time?

Answer: (a) The Task Force Report does not discuss the future of U.S. citizenship for Puerto Rico as a State, but if Puerto Rico were admitted as a State its citizens would necessarily be citizens of the United States.

(b) The Task Force Report does not discuss the future of citizenship of residents of Puerto Rico in any context other than in the case of Puerto Rico becoming independent of the United States. The last paragraph of the Report's Legal Analysis section identifies and discusses the issue that would arise in this context. There was no need to discuss the question of citizenship if Puerto Rico chose to remain a territory, as there does not appear to be any likelihood that Congress would seek to deprive Puerto Ricans of their U.S. citizenship in such case.

(c) Appendix E of the Report does contains an extensive legal analysis by the Clinton Administration Department of Justice. This analysis is in a January 2001 letter to the Chairman of the Senate Committee on Energy and Natural Resources. As I noted in my prepared statement, this letter also was sent to the House Committee on Resources. In discussing "the New Commonwealth proposal," the letter states (p. 11) that, if this proposal "is understood to maintain United States sovereignty over Puerto Rico, then we think Congress could not revoke the United States citizenship of persons who already possess that citizenship by virtue of their birth in Puerto Rico." The letter took the view that there was "an underlying constitutional requirement that such citizenship not be revoked once it is granted." The letter adds (p. 10) that "the answer is less clear" on the question whether Congress may deny citizenship to persons born in Puerto Rico in the future.

In the context of a proposal for independence, the letter notes (p. 4) that both "case law dating from the early republic" and an accepted rule of international law "support[ ] the proposition that nationality follows sovereignty." The letter also identifies, however, an argument based on a 1967 Supreme Court case, *Afroyim v. Rusk,* 387 U.S. 253, that "individuals possessing United States citizenship would have a constitutional right to retain that citizenship, even if they continue to reside in Puerto Rico after independence." The letter declines to opine on that argument, while noting that Attorney General Thornburgh in his 1991 congressional testimony took the view that the proposition of nationality following sovereignty would govern.

(3) Please explain claims that the Report contradicts statements made by some U.S. representatives in a U.N. debate in 1953. Please confirm for the Committee that the State Department is represented on the Task Force.

Was the Task Force aware of the aforementioned representations in 1953? Was this issue discussed and did the State Department agree with the findings of this Report?

Answer: From 1946 until 1953, the United States submitted reports to the United Nations pursuant to Article 73(e) of the U.N. Charter, which requires countries to report on non-self-governing territories. After Congress gave Puerto Rico broad self-governing authority in internal matters by approving Puerto Rico's popularly adopted constitution, the Governor of Puerto Rico asked the President to cease transmitting these reports. In its official request to the U.N. to permit the United States to cease reporting, the United States stated that Congress had given Puerto Rico the freedom to conduct its own internal government subject only to compliance with federal law and the U.S. Constitution.

The official request did not state that Congress could make no changes in Puerto Rico's status without its consent. It is true that, prior to the submission of this official request, the U.S. representative to the U.N. General Assembly indicated before the General Assembly that common consent would be needed to changes in the relationship between Puerto Rico and the United States. Notwithstanding this statement, the Department of Justice, as noted in the Task Force Report, concluded in

1959 that Puerto Rico remained a territory within the meaning of the Territory Clause.

The internal discussions of the Task Force are confidential and privileged, but I can confirm that, as the Report's list of that Task Force's members indicates, the State Department was represented on the Task Force. Among other things, this inclusion was mandated by Executive Order 13183, which required all members of the President's cabinet to designate a representative. The entire Task Force concurred in the Report.

(4) Competing measures have been introduced in the House of Representatives suggesting ways to resolve Puerto Rico's political status. One of the bills advances an approach to convene a convention in Puerto Rico to choose whether Puerto Rico would propose statehood, independence, or a new or amended form of what it calls the current governing arrangement. It's widely believed that the new governing arrangement proposes that Puerto Rico be recognized as a nation in a permanently binding relationship with the U.S. under which the Commonwealth could determine the application of federal laws and federal court jurisdiction and enter into foreign trade, tax, and other agreements and the U.S. would continue to grant citizenship, all current aid to Puerto Ricans, and totally free entry to products shipped from Puerto Rico and grant a new annual subsidy to the insular government. A majority of votes in the convention would determine Puerto Rico's status proposal to the U.S., even if the majority included some delegates who were elected favoring independence or statehood.

Would adoption of such a new governing arrangement by a majority in a convention make the proposal acceptable to the Task Force if the proposal were said to represent the self-determination will of Puerto Ricans?

Answer: The fact that such a "new governing arrangement" could be said to represent the will of the Puerto Rican people would not make it more acceptable under the Constitution. The goal of the Task Force was to determine what status options are available under the Constitution. We concluded, consistent with Justice Department views over the past three Administrations, that it "is not possible, absent a constitutional amendment, to bind future Congresses to any particular arrangement for Puerto Rico as a Commonwealth" under the sovereignty of the United States (p. 6), and, similarly, that an arrangement involving freely associated status is in fact "a form of independence from the United States and cannot (absent an amendment of the U.S. Constitution) be made immune from the possibility of unilateral termination by the United States" (p. 9).

Would such a convention or the plebiscites, as recommended by the Task Force, be a more democratic process of determining Puerto Rico's status choice?

Answer: The Report recommends a two-stage plebiscite to determine whether the Puerto Rican people wish to retain the status quo, and, if not, which of the two available permanent status options they prefer. As I explained in my prepared statement, "we sought to ascertain [the popular] will in a way that, as the report puts it, 'provides clear guidance for future action by Congress.'" We believe that our recommended approach would provide clearer guidance for Congress than a convention in which it is possible that none of the available options would win a majority of votes. As I explained in my prepared statement, however, "our recommended process does not preclude action by Puerto Rico itself to express its views to Congress."

(5) Some argue that Congress can partially dispose of its Territory Clause power over a territory, ceding some, but not all, of the power to the territory, without making the territory a State or a nation, and limiting the Territory Clause power of future Congresses regarding the territory.

Do you agree?

Answer: No. The Territory Clause gives Congress authority "to dispose of and make all needful Rules and Regulations respecting the Territory ... belonging to the United States." As long as Puerto Rico remains a U.S. territory, it is subject to that plenary congressional authority. Moreover, as the Report explains, one Congress cannot "restrict a future Congress from revising a delegation to a territory of powers of self-government."

(6) Puerto Rico Governor Anibal Acevedo-Vila argues that the report ignores jurisprudence, in particular noting the Supreme Court statement in *Rodríguez v. PDP* to the effect that Puerto Rico has authority over matters not ruled by the federal government.

Does the report conflict with that ruling? Or is the report consistent in its recognition that Puerto Rico currently exercises self-government on local matters?

Answer: The Report does not conflict with the ruling in *Rodríguez*. In *Rodríguez*, the Supreme Court stated, in the context of a challenge to a Puerto Rico statute governing participation in a by-election for a seat in the Puerto Rico House of Representatives, that "Puerto Rico, like a state, is an autonomous political entity, sovereign over matters not ruled by the Constitution," and therefore "[t]he 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." The Report recognizes that Congress has given Puerto Rico self-government authority with respect to its internal affairs and administration.

Does *Rodríguez v. PDP* conflict with the Supreme Court's rulings that the Territory Clause continues to apply to Puerto Rico?

Answer: No. *Rodríguez* says nothing about the application of the Territory Clause to Puerto Rico, and in fact cites other cases that assume Puerto Rico's territorial status.

(7) Congress, the President, and the Supreme Court determine Puerto Rico's national laws and foreign relations. Puerto Ricans do not have voting representation in the Congress or the election of the President.

Does Puerto Rico have a democratic form of government at the national government level?

As noted above and explained in the Task Force Report, Puerto Ricans have since the 1950's exercised democratic control over their own government and internal affairs. They also have a non-voting representative in the House of Representatives. It is true that Puerto Rico, like other U.S. territories, does not have voting representation in Congress and does not vote for President.

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