Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Hearings on H.R. 900 and H.R. 1230
March 22, 2007

Luis E. Gonzalez Vales
Official Historian of Puerto Rico

I am speaking as the Official Historian, a position created by the Legislature in 1903, with tenure for life and not subject to recall by any party. I am not advocating any status or side. The only consideration that has prompted me to appear before the Committee is my feeling that this may be a historic moment in the possible solution the Island's long standing status controversy.

There is unanimity among all leaders and political groups that after 109 years of US sovereignty over Puerto Rico is time to find a solution that provides a democratic form of government at the national government level.

I am confident that from a historical perspective the Puerto Rico Democracy Act, H.R. 900, would provide a process could resolve this central question –the ultimate solution to the status issue –whereas H.R. 1230 might not. In my judgment it is more democratic for it places the decision directly in the hands of all Puerto Rican voters. In addition it provides, at each stage clearly-defined –and real status-- alternatives to choose from.

Beginning in 1967, the Commonwealth has held a three (3) status referendums which have been inconclusive because the status options have been proposed without considering their constitutionality. It is the Government of the United States who has to act to change Puerto Rico's status, so the federal positions on local status proposals are needed to ensure a meaningful choice.

The fundamental flaw of H.R. 1230 is the inclusion of a "new or modified Commonwealth status" not subject to federal territory governing powers as an option for Puerto Rico's future status (that could be chosen by what is called a "constitutional convention" even thought it would not draft a constitution).

Puerto Rico is an unincorporated territory of the United States. "Commonwealth" is a word in the formal name of its local government adopted with the adoption of the territorial constitution; it is not now a status in the sense that territory, State of the United States, and nation are statuses. Puerto Rico's representatives in the U.S. legislative process that authorized and approved the local constitution, Governor Munoz and Resident Commissioner Fernos, agreed with the U.S. representatives of both houses of Congress – including this Subcommittee's predecessor – and the President's administration that federal powers regarding the territory were not being relinquished. That Puerto Rico remains subject to U.S. Government powers under the Territory Clause

has been the conclusion of the Supreme Court, the Justice and State Departments, successive Presidents, the Congress, Government Accountability Office and Library of the Congress, the House of Representatives, and the Senate committee.

Puerto Rican proposals for a "Commonwealth" status have been rejected by the U.S. Government repeatedly since soon after the local constitution was adopted in 1952. Past proposals were made in: legislation in the 1950's; negotiations between Gov. Munoz and the Kennedy White House; legislation in the 1960's; legislation in the 1970's based upon the results of a referendum in 1967 that result in a majority for a "Commonwealth" with some national government powers with continued U.S. jurisdiction benefits; legislation between 1989 and '91; a referendum in 1993 that resulted in a plurality – not a majority – for a "Commonwealth" immune from federal tax and other laws and for restoration of tax exemptions for the Puerto Rico income of companies based in the States that had just been cut by the President and Congress, trade protection for Puerto Rican products that contradicted NAFTA and GATT, and $1.5 billion a year in additional social programs funding; legislation that passed the U.S. House in 1998; and unsuccessfully arguing before the federal court that the definition of the current status on a 1998 referendum ballot was erroneous.

In my estimation there would be a significant difference between the constitutional convention proposed in H.R. 1230 and the 1950 convention that resulted in the drafting of the Commonwealth of Puerto Rico Constitution under which our Government has functioned during the past fifty five years. Public Law 81-600 included specific parameters to guide the work of the Convention. Then a consensus was reached among all convention delegates regardless of their political affiliation as to how the local government should be organized and unanimity was nearly achieved. Today, with the present polarization among the major political parties there is a strong possibility that a convention may end deadlock making the solution to the status question nearly impossible. And this "constitutional convention", unlike de 1950-2 convention would not have the purpose of writing a constitution for an already-determined status; it would have the purpose of choosing a status from among proposals that cannot be reconciled – a choice that should be made by the people directly.

H.R. 1230 also excludes on of Puerto Rico's status options: nationhood in a true free association with the United States, which has been recognized by President Clinton, the President's Task Force on Puerto Rico's status; and H.R. 900.

H.R. 1230 would, additionally, define the "People of Puerto Rico" differently than the reference in the local Constitution of Puerto Rico approved by U.S. Public Law 82-447. The bill includes individuals who do not live in Puerto Rico who were born in the island or who had one parent born in the island. And it would provide for these "non-resident Puerto Ricans" to vote in the determination of the future status of Puerto Rico even if they had no other connection with the island, diluting and skewing the vote of the actual people of Puerto Rico. There is no precedent in the U.S. law for persons resident in one U.S. jurisdiction to vote in another U.S. jurisdiction.

H.R. 1230 would, further, recognize an "inherent authority" of "the People of Puerto Rico" to call a "Constitutional Convention" in the territory. The authority for Puerto Rico to call a constitutional convention is provided by U.S. Public Law 81-600.

The one questionable provision of H.R. 900 would enfranchise individuals who are not residents of Puerto Rico but who were born in the island to vote in the determination of Puerto Rico's status preference.

H.R. 900 otherwise would provide a good process for determining Puerto Rico's status preference, the process recommended by the President's Task Force on Puerto Rico's Status established by President Clinton through Executive Order 13183 and comprised of senior appointees of President Bush.

It includes all of the options for Puerto Rico recognized to date –continued territory status, U.S. statehood, and nationhood, although it could be argued based on U.N. General Assembly Resolution 1541 that the nationhood option should be separated into separate independent and free association options.

It provides for the current status to continue if -- and for as long as -- the voters want it.

It provides a process for the issue to be resolved in the future if there is not a majority for seeking the territory's ultimate, democratic status in an initial or subsequent vote on whether to seek a not-territory status.

Finally it is my opinion that Congress, after more than a century of being entrusted with the responsibility by Article IX of the Treaty of Paris of 1898, must act to provide a viable solution to this long standing issue which has consumed a lot of energies that could be better spent addressing the island's socials and economic problems. I have appeared before you for I strongly belief that is time that Puerto Rico ceases to be "Foreign in a domestic Sense". Thank you.