

POLITICAL STATUS OF PUERTO RICO

HEARINGS
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED FIRST CONGRESS
FIRST SESSION
ON
S. 710, S. 711, AND S. 712
TO PROVIDE FOR A REFERENDUM ON THE POLITICAL STATUS OF
PUERTO RICO

JUNE 1 AND 2, 1989

PART 1



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CONTENTS

Hearings:	Page
June 1, 1989.....	1
June 2, 1989.....	255
S. 710.....	4
S. 711.....	7
S. 712.....	31

THURSDAY, JUNE 1, 1989

STATEMENTS

Berrios Martinez, Senator Ruben, president, Puerto Rican Independence Party.....	143
Burns, Hon. Conrad, U.S. Senator from Montana.....	112
Domenici, Hon. Pete V., U.S. Senator from New Mexico.....	111
Ferre, Dr. Luis A., Statehood Party.....	113
Hernandez-Colon, Hon. Rafael, Governor of the Commonwealth of Puerto Rico,	158, 190
Johnston, Hon. J. Bennett, U.S. Senator from Louisiana.....	1
Jones, Earl E., Commissioner, Federal Property Resources Service, General Services Administration.....	104
McClure, Hon. James A., U.S. Senator from Idaho.....	109
Romero Barcelo, Gov. Carlos, president, New Progressive Party (Statehood), accompanied by Dr. Luis A. Ferre and Dr. Pedro Rossello.....	113

FRIDAY, JUNE 2, 1989

STATEMENTS

Berrios Martinez, Senator Ruben, president, Puerto Rican Independence Party, accompanied by Erick Negron, Prof. Pedro Parrilla, Senator Fernando Martin, Representative David Noriega, Prof. Manuel Rodriguez, and Prof. Carlos Gorrin	255
Gewirtz, Paul, professor of law, Yale Law School.....	313
Johnston, Hon. J. Bennett, U.S. Senator from Louisiana.....	255
Romero Barcelo, Gov. Carlos, president, New Progressive Party (Statehood), accompanied by Nelson Soto, Nelson Famadas, Dr. Pedro Rossello, Paul Gewirtz, Benny Frankie Cerezo, Gov. Luis A. Ferre, Harry McPherson, and Gerardo Carlo	288

POLITICAL STATUS OF PUERTO RICO

THURSDAY, JUNE 1, 1989

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:37 a.m., in room SH-216, Hart Senate Office Building, Hon. J. Bennett Johnston, chairman, presiding.

OPENING STATEMENT OF HON. J. BENNETT JOHNSTON, U.S. SENATOR FROM LOUISIANA

The CHAIRMAN. The hearing will come to order.

We are here this morning to begin the process of legislating on the political status of Puerto Rico. We do so because it is right that the people of Puerto Rico have a choice in determining their political future.

We do so also at the request of the three principal political parties of Puerto Rico, Commonwealth, Statehood, and Independence, and we do so at the invitation of the President of the United States who announced his support of status legislation in the State of the Union.

There have been referendums on status in Puerto Rico in the past. In 1952 the people were given the opportunity to approve the Constitution implementing commonwealth status. Their answer was yes.

In 1967 the people were asked to state their preference between statehood, independence, and commonwealth status. They chose commonwealth.

Those referendums were criticized, however, as being inequitable and misleading.

In 1952 the opportunity to vote for alternatives to commonwealth was not given. In 1967 the three options were named but not described leaving a vast sea of doubt and ambiguity as to what any of the three meant.

In addition, Congress did not indicate whether it would accept a change in status or under what conditions it might accept that change.

The process we begin today is designed to give the people of Puerto Rico realistic options from which they can choose and expect that an option will be implemented. The process has been designed in close consultation with each of the parties, and I think it is safe to say that the process, at least thus far, and I hope throughout the process, has been endorsed by all three parties.

Senator McClure and I have introduced three bills to provide for referendums in Puerto Rico on future status. The introduction of three separate bills reflects our uncertainty about the level of detail which Congress would be able to achieve during its consideration.

S. 710 has a very brief, virtually one or two-word description of the three statuses. S. 711 has a general description of the three status relationships, and S. 712 has the full description. S. 712 is designed to be fully implementing, self-executing, when and if finally approved by the people of Puerto Rico. S. 712 is designed by the final vote of the people of Puerto Rico to go into full force and effect.

I believe that we all agree that S. 712 is the preferred approach. S. 712 would provide that the status option selected in a referendum by the people of Puerto Rico would go into effect according to the terms of legislation at that time already enacted by Congress. It would thus avoid the need and the uncertainty of having to return to Congress after an initial referendum to negotiate further legislation on the details of implementation and transition.

Each of these status options is a separate proposal with its own advantages and disadvantages. For example, statehood has the advantage in that all federal programs would apply immediately.

On the other hand, it would have the disadvantage in that there would be certain obligations which do not now apply, such as the payment of taxes. The people of Puerto Rico must weigh these factors and decide for themselves which is the preferred option.

Before these options are put before the people, however, Congress must decide what is feasible under each status.

I can assure you that Congress will make substantial changes in all three definitions, and I fully expect that the advantage of each option will be reduced from what the parties have proposed.

I might say to my colleagues S. 712 is what we call a star print. It is taking the original bill as introduced by Senator McClure and I, and which simply left a blank in the definition of each of the three statuses. And what we have done is taken the proposed version of the status from each of the three parties and inserted that verbatim into this star print.

Obviously it does not mean that that will be the form in which the committee will finally pass the bill out, if we do finally. And I hope we do approve legislation out of this committee. But it is an easy way for us to have before us in one document, that is the star print of S. 712, the preferred status of each of the three parties.

One of the reasons for this reduction of the benefits and the proposals is the harsh fiscal reality facing Congress. It is certain that if a definition includes an increased benefit, then Congress will be looking for a way to offset the cost of that benefit.

For example, if there is a proposal to delay the imposition of taxes, then members will argue that you should be willing to delay participation in new programs. In other words, we're going to try to make—I think our goal will be try to make this legislation deficit neutral.

With the federal budget deficit as large as it is and with the tremendous sensitivity to expenditures that currently exist in Wash-

ington, Congress will have a very high priority on budget neutrality.

I would like to emphasize three elements in this process. First, it is our intention to produce legislation in this Congress in order to provide for a referendum in Puerto Rico during 1992.

Second, this is a task that will take a tremendous amount of work, cooperation, and coordination among members of the committee, other committees, the three political parties in Puerto Rico, and the administration. There are an enormous number of issues to be considered and resolved.

Finally, this issue was important enough to be included in the President's State of the Union Address. Its implications are substantial and merit the highest priority, and the maximum effort from all of us.

Puerto Rico is vitally important to the United States. It contributes to the nation through its rich culture and its history. It is an important and integral contributor to the nation's trade, to its defense, and Puerto Rico is the home of three and a half million American citizens.

This legislation will determine the most basic and fundamental rights and relationships of those citizens. At issue is the future of Puerto Rico and its people.

[The texts of the bills and a statement from GSA follow:]

101ST CONGRESS
1ST SESSION

S. 710

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself and Mr. MCCLURE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for a referendum on the political status of Puerto Rico.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That this Act may be referred to as the

4 **SEC. 2. REFERENDUM.**

5 (a) **IN GENERAL.**—An islandwide referendum shall be
6 held in Puerto Rico in which qualified voters of the Common-
7 wealth of Puerto Rico shall be presented a choice of selecting
8 and negotiating one of three status options for Puerto Rico as
9 follows:

1 **SEC. 3. NEGOTIATIONS TO DEVELOP LEGISLATION BASED ON**
2 **REFERENDUM.**

3 (a) **NEGOTIATIONS.**—Following certification by the
4 Governor as provided in section 2(c), then the process, in-
5 volving representatives of the principal political party repre-
6 senting the status option selected, and in full consultation
7 with the other two principal political parties, shall begin to
8 develop implementing legislation in consultation with the
9 Committee on Energy and Natural Resources of the United
10 States Senate and the appropriate committees of jurisdiction
11 in the United States House of Representatives. Such legisla-
12 tion shall, upon enactment, authorize a further referendum of
13 the people of Puerto Rico to approve or disapprove the se-
14 lected status as defined in the legislation. A change of status
15 shall not be effective unless or until approved in such a refer-
16 endum.

17 (b) **TIME LIMIT.**—The second referendum to approve or
18 disapprove the selected status as defined in the legislation
19 developed under this section shall occur no later than the end
20 of the Congress which is in session on the fourth anniversary
21 of the date of the Governor's certification provided for
22 under section 2(c), or as may be otherwise provided in such
23 legislation.

○

101ST CONGRESS
1ST SESSION

S. 711

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself, Mr. MCCLURE, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for a referendum on the political status of Puerto Rico.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That—

4 (1) the United States of America recognizes the
5 principles of international law with respect to its rela-
6 tionship with Puerto Rico; and

7 (2) the United States is committed to a process of
8 consultation and negotiation with the people of Puerto
9 Rico leading to a referendum on the issue of political
10 status to be conducted in a fair and equitable manner.

★(Star Print)

1 **SEC. 2. REFERENDUM.**

2 (a) **IN GENERAL.**—An islandwide referendum shall be
3 held in Puerto Rico in which qualified voters of the Common-
4 wealth of Puerto Rico shall be presented a choice of negotiat-
5 ing one of three status options for Puerto Rico as follows:

6 (1) Statehood;

7 (2) Independence; or

8 (3) Commonwealth.

9 For the purpose of these negotiations it is understood that the
10 initial position of the people of the Commonwealth of Puerto
11 Rico and of the Congress of the United States is that the
12 terms shall be as follows;

13 (b) **INITIAL DEFINITIONS.**—

14 (1) Statehood: Upon admission as a state, Puerto Rico
15 would cease being a territory of the United States. The Com-
16 monwealth of Puerto Rico would be admitted as a sovereign
17 State of the Union, with its current Constitution, on an equal
18 footing and in true permanent union with the other fifty
19 States.

20 The new State of Puerto Rico shall be known as The
21 Commonwealth of Puerto Rico. In Spanish it shall be known
22 as “Estado Soberano de Puerto Rico”.

23 Admission to the Union has historically been a flexible
24 and varied process which has been adapted to the individual
25 circumstances of each new state. Congress, which has the
26 constitutional power to facilitate the admission of new States,

1 would provide for a smooth process of adjustment from the
2 tax structure of the territorial status to the Federal fiscal
3 system.

4 The Commonwealth of Puerto Rico would be assured of
5 its reserved state right under the Constitution to continue to
6 maintain both Spanish and English as its official languages,
7 as well as of its right to preserve and enhance its particular
8 cultural characteristics.

9 Statehood creates the only permanent union with the
10 United States that is consistent with the "more perfect
11 union" of equal states established by the United States
12 Constitution.

13 Statehood would entail fundamental political and eco-
14 nomic betterment for the Commonwealth of Puerto Rico.

15 Statehood means economic self-reliance and social jus-
16 tice, including parity for its residents in those aspects of fed-
17 eral legislation that cover the residents of the several states
18 at the time of admission and in the future.

19 Statehood means political equality, and specifically, the
20 right to participate in the process of election of the President
21 and Vice-President of the United States as well as the right
22 to elect two (2) U.S. Senators and the corresponding number
23 of members of the U.S. House of Representatives.

24 Statehood means that all benefits and protections of the
25 United States Constitution would be fully bestowed on the

1 People of the Commonwealth of Puerto Rico together with
2 the guarantee of full protection by the Federal judicial
3 system.

4 Statehood entails the immediate full extension of federal
5 entitlements and legislation providing parity for the residents
6 of Puerto Rico in all Federal programs. The Commonwealth
7 will assume all responsibilities of a State of the Union.

8 Statehood is a political formula recognized by the inter-
9 national community through Resolution 1541 (XV) of the
10 General Assembly of the United Nations and through Resolu-
11 tion 1469 (XIV) of that body, which was adopted upon the
12 admission of the new States of Alaska and Hawaii.

13 Statehood embodies the highest degree of autonomy and
14 sovereignty in true permanent union with the several States.

15 (2) INDEPENDENCE: (A) In order to ensure the legiti-
16 mate interests of Puerto Rico and the United States, to
17 strengthen bonds of friendship and cooperation, and to pro-
18 vide for equitable economic relations between both nations,
19 the United States shall recognize the independence of Puerto
20 Rico in accordance with the principles set forth below, thus
21 guaranteeing the necessary conditions for a rational and mu-
22 tually advantageous transition before and after the proclama-
23 tion of Puerto Rico's independence.

1 (B) The following shall constitute the Principles under
2 which the Congress shall recognize Puerto Rico's independ-
3 ence in accordance with the provisions of section 3:

4 (I) HUMAN RIGHTS. The people of Puerto Rico
5 shall, through a Constitutional Convention, establish a
6 republican form of government which shall guarantee
7 the full protection of fundamental human rights.

8 (II) CITIZENSHIP. The Republic of Puerto Rico
9 shall establish its own citizenship, and there shall be
10 agreements between the United States and the Repub-
11 lic of Puerto Rico to ensure the compatibility between
12 the citizenships of both nations.

13 (III) DEFENSE. The United States and the Re-
14 public of Puerto Rico shall enter into agreements that
15 will make possible the ultimate demilitarization of the
16 Republic of Puerto Rico.

17 (IV) TRADE. The United States shall allow free
18 access into its market to all imports of goods and serv-
19 ices originating in the Republic of Puerto Rico for a
20 period of twenty years after the proclamation of inde-
21 pendence.

22 (V) TAXATION. The United States shall guaran-
23 tee that the tax credit currently allowed under section
24 936 of the Internal Revenue Code shall remain in full
25 effect upon the proclamation of Puerto Rico's inde-

1 pence and during the fifteen years immediately
2 thereafter.

3 (VI) PUBLIC DEBT. The Republic of Puerto Rico
4 shall assume the outstanding debts and obligations of
5 the Commonwealth of Puerto Rico, its instrumental-
6 ities and municipalities, and the United States shall for
7 a period of twenty-five years maintain the income tax
8 exemption currently provided by law on interest pay-
9 ments derived from debts and obligations incurred into
10 before or after the proclamation of independence.

11 (VII) VESTED RIGHTS. The United States shall
12 guarantee all vested rights and benefits accruing to
13 residents of Puerto Rico under the laws of the United
14 States from past services or contributions, such as ben-
15 efits for Veterans of the Armed Forces of the United
16 States and their relatives, benefits for retired govern-
17 ment employees, and old age and/or disability pay-
18 ments under the Social Security Act, until their extinc-
19 tion under the applicable laws of the United States;
20 and contributions made to the Social Security System
21 by those not yet eligible for benefits at the time of the
22 proclamation of independence shall be transferred for
23 administration by the Republic of Puerto Rico.

24 (VIII) ECONOMIC ASSISTANCE. The United
25 States shall guarantee the continuation of transfer pay-

1 ments to individuals, and to the Government of Puerto
2 Rico, its instrumentalities and municipalities, at cur-
3 rent-level funding in the form of block grants for the
4 discretionary use of the government of the Republic of
5 Puerto Rico for ten years after the proclamation of in-
6 dependence, and thereafter for ten additional years on
7 a decreasing basis.

8 (IX) CURRENCY. The Republic of Puerto Rico
9 may establish its own monetary system, provided that
10 during the ten years following the proclamation of in-
11 dependence both the United States dollar and Puerto
12 Rican currency shall be accepted as legal tender in all
13 transactions in Puerto Rico.

14 (X) FRIENDSHIP AND COOPERATION. To ensure
15 the effectiveness of the purposes of this Act after the
16 proclamation of the independence of Puerto Rico, the
17 United States and the Republic of Puerto Rico shall
18 set forth the details of their bilateral relations in a
19 Treaty of Friendship and Cooperation.

20 (3) Enhanced Commonwealth:

21 **SUBPART 1. STATEMENT OF PURPOSES.**

22 In 1952 the Congress of the United States, fully recog-
23 nizing the principle of government by consent, and the
24 People of Puerto Rico, in the exercise of their right of self-
25 determination, entered upon a compact which established a

1 Commonwealth relationship between Puerto Rico and the
2 United States.

3 Under the compact the People of Puerto Rico adopted
4 in their own sovereign right their own Constitution and
5 formed an autonomous political community in permanent
6 union with the United States of America based on the irre-
7 versible bond of American citizenship.

8 In 1953 the General Assembly of the United Nations
9 recognized the creation of the Commonwealth and removed
10 Puerto Rico from the list of nonself-governing territories.

11 This association has enabled the People of Puerto Rico
12 to advance their economic and social development and to pre-
13 serve their distinct historical heritage and cultural person-
14 ality.

15 As inherent in all political relationships freely entered
16 upon, it was based on the understanding that it would evolve
17 and develop within its particular political nature upon mutu-
18 ally agreeable terms.

19 It is the purpose of section 2(b)(3) to provide for the
20 enhancement of the Commonwealth relationship by enlarging
21 the scope of self-government of the Puerto Rican people upon
22 the approval of a proposition to that effect by a majority of
23 the eligible voters of the Commonwealth of Puerto Rico.

1 **SUBPART 2. REFERENDUM PROPOSITION:**

2 **COMMONWEALTH**

3 The referendum proposition regarding Commonwealth,
4 to be presented to, and voted upon, by the People of Puerto
5 Rico shall be as follows:

6 “The Commonwealth association with the United
7 States shall be enhanced to enable the People of
8 Puerto Rico to accelerate their economic and social de-
9 velopment and attain maximum cultural and political
10 autonomy within permanent union with the United
11 States based on the irreversible bond of American citi-
12 zenship, a common defense, a common market, and a
13 common currency.”.

14 The proposition will appear in the ballot, in Spanish, as
15 follows:

16 “El Estado Libre Asociado se fortalecerá para acelerar
17 el desarrollo económico y social y alcanzar la máxima
18 autonomía cultural y política del pueblo de Puerto Rico
19 en su unión permanente con los Estados Unidos sobre
20 los pilares de común defensa, común mercado, común
21 moneda, y el vínculo indisoluble de la ciudadanía amer-
22 icana.”.

23 **SUBPART 3. PRINCIPLES OF COMMONWEALTH**

24 When the Governor certifies to the President and to the
25 Congress of the United States in accordance with section 2(d)
26 that the decision of the People of Puerto Rico which received

1 the majority of the votes cast favors the proposition of en-
2 hanced Commonwealth in permanent union with the United
3 States, as set forth in subpart 2, above, section 1 of the
4 Puerto Rico Federal Relations Act, 39 Stat. 954, as amend-
5 ed, 48 U.S.C. section 731, shall be repealed, and replaced by
6 the following:

7 “(1) The provisions of this Act shall apply to the
8 Commonwealth of Puerto Rico, an autonomous body
9 politic joined in permanent union with the United
10 States on the basis of common citizenship, common de-
11 fense, common market and common currency.

12 “(2) The policy of the United States shall be to
13 enhance the Commonwealth relationship enjoyed by
14 the Commonwealth of Puerto Rico and the United
15 States to enable the People of Puerto Rico to acceler-
16 ate their economic and social development and attain
17 maximum cultural and political autonomy within per-
18 manent union with the United States, to secure more
19 equitable participation for the People of the Common-
20 wealth of Puerto Rico in all federal programs that pro-
21 vide grants or services to citizens of the United States
22 as individuals, to secure increased participation by the
23 People of Puerto Rico in U.S. governmental decisions
24 affecting them, to safeguard the distinct cultural identi-
25 ty of the People of Puerto Rico, and to protect the bi-

1 lateral nature of the relationship between the Common-
 2 wealth of Puerto Rico and the United States.”.

3 **SUBPART 4. IMPLEMENTATION OF FEDERAL**
 4 **POLICY**

5 When the new federal policy is established in accord-
 6 ance with subpart 3, then section 9 of the Federal Relations
 7 Act, 39 Stat. 954, as amended, 48 U.S.C. section 734, is
 8 amended by inserting at the beginning thereof the term “(a)”
 9 and by adding at the end thereof the following:

10 “(b) A federal statutory law, or provision of such law, is
 11 locally inapplicable unless it is consistent with the policy es-
 12 tablished under subpart 3 and unless such federal statutory
 13 law has proper regard for the economic, cultural, ecological,
 14 geographic, demographic and other local conditions of the
 15 Commonwealth of Puerto Rico. This subsection shall not
 16 apply to—

17 “(i) any Federal statutory law in which the Con-
 18 gress makes a specific finding that there is an overrid-
 19 ing national interest that such law should apply to the
 20 Commonwealth of Puerto Rico, or

21 “(ii) any Federal statutory law, or provision there-
 22 of, establishing directly or indirectly grants and/or
 23 services to citizens of the United States as individuals,
 24 or

1 “(iii) any Federal statutory law or provision there-
2 of relating to citizenship, or

3 “(iv) any Federal statutory law or provision there-
4 of pertaining to the foreign relations, defense or nation-
5 al security of the United States that requires uniform
6 applicability throughout the United States, including
7 the Commonwealth of Puerto Rico, to achieve its in-
8 tended purposes.

9 “(c) In addition to judicial determinations of the inappli-
10 cability of Federal laws under subsection (b), the Governor of
11 the Commonwealth of Puerto Rico may certify from time to
12 time to the Speaker of the House of Representatives, the
13 President of the Senate, and the President of the United
14 States, that a Federal statutory law or provision thereof,
15 other than one excluded from the operation of subsection (b),
16 is inconsistent with a Puerto Rican statute and the policy
17 established under subsection (b). Unless, within 60 days of
18 the receipt of such certification, a statute is enacted embody-
19 ing the finding required under subsection (b)(i), the President
20 shall issue a proclamation that such Federal statutory law or
21 provision thereof identified in the Governor’s certification is
22 not applicable in Puerto Rico.

23 “(d)(i) The Commonwealth of Puerto Rico may continue
24 to enter in its own right into international cultural, commer-

1 cial, educational and sports agreements, and other agree-
2 ments of like nature.

3 “(ii) In addition, the Governor of the Commonwealth of
4 Puerto Rico may take any official action to promote the
5 international interests of Puerto Rico that requires the con-
6 sent of the United States Government and is not expressly
7 prohibited by law. The Governor of the Commonwealth of
8 Puerto Rico shall provide written notice to the President of
9 the United States of any official action he contemplates
10 taking pursuant to the authorization of this part of this sub-
11 section and not pursuant to any other authorization or con-
12 sent. The President may, within 30 days of his receipt of
13 such notice, sign and transmit to the Governor of the Com-
14 monwealth of Puerto Rico a document expressing his deter-
15 mination that the contemplated official action would imperil
16 the foreign relations or national defense of the United States,
17 in which case the authorization hereby granted shall be with-
18 drawn as regards such contemplated official action.

19 “(e) All departments and agencies of the Government of
20 the United States shall be guided by the policy stated in sub-
21 part 3 when carrying out their duties under Federal statutory
22 laws and Federal regulations applicable in or affecting the
23 Commonwealth of Puerto Rico. Every such department or
24 agency shall, before taking any major Federal action applica-
25 ble in or affecting the Commonwealth of Puerto Rico, sepa-

1 rarely evaluate the consistency of such action with such
2 policy and shall state, in a document accompanying the major
3 Federal action, the extent, nature and result of its consider-
4 ation.

5 “(f) Any rule, as defined in section 551(4) of title 5,
6 United States Code, issued by an agency, as defined in sec-
7 tion 551(1) of title 5, United States Code, shall apply in the
8 Commonwealth of Puerto Rico only to the extent that it is
9 consistent with the policy set forth in subsection (b). After the
10 effective date of this amendment, when any such rule, other
11 than a rule issued after notice and hearing required by stat-
12 ute, that does not in terms provide that it is inapplicable in
13 the Commonwealth of Puerto Rico is published in the Feder-
14 al Register, the Governor of the Commonwealth of Puerto
15 Rico may submit to the agency within 30 days in writing (or
16 such longer period as the agency may have prescribed as the
17 period between publication of the rule and its effectiveness)
18 the Governor’s determination that such rule is inconsistent
19 with the policy stated in subsection (b). Thereupon, the
20 agency shall reconsider the question of consistency of the rule
21 with the policy stated in subsection (b) and shall, within 45
22 days of its receipt of the Governor’s determination, publish in
23 the Federal Register its finding either that there is an over-
24 riding national interest that the rule be applicable in the
25 Commonwealth of Puerto Rico, in which case the rule,

1 whether or not previously applicable in the Commonwealth of
2 Puerto Rico, shall thereafter be so applicable, or that the rule
3 is not compatible with such policy, in which event such rule,
4 whether or not previously applicable in the Commonwealth of
5 Puerto Rico, shall not be so applicable. Unless the agency for
6 good cause finds that a rule that is the subject of such deter-
7 mination by the Governor of Puerto Rico as is described in
8 this subsection shall be applicable to the Commonwealth of
9 Puerto Rico pending its consideration of such determination,
10 and publishes such finding in the Federal Register, such rule,
11 whether or not previously applicable in the Commonwealth of
12 Puerto Rico, shall not be so applicable pending such consid-
13 eration. An agency's decision to make a rule applicable or
14 inapplicable in Puerto Rico shall be subject to judicial review.

15 “(g) The laws, rules and regulations of the United
16 States applicable in the Commonwealth of Puerto Rico when
17 the new federal policy is established in accordance with sub-
18 part 3 shall continue in effect except to the extent repealed or
19 modified by this Act, or inconsistent with it, and except as
20 hereafter modified, suspended or repealed in accordance with
21 law.”.

22 **SUBPART 5. SUBSTANTIVE AREAS OF**
23 **ENHANCEMENT**

24 In the event the status option of enhanced Common-
25 wealth in permanent union with the United States receives a

1 majority of the votes cast in the referendum, the negotiations
2 contemplated in section 3 hereof shall develop implementing
3 legislation to enhance the Commonwealth relationship in the
4 following areas, as hereafter established:

5 1. AVIATION.

6 Amend the Federal Aviation Act to authorize the Com-
7 monwealth of Puerto Rico to seek on its own behalf bilateral
8 air transportation agreements governing the operation of air
9 services by United States and foreign air carriers between
10 the Commonwealth and foreign points, and between the
11 Commonwealth and the United States for foreign air carriers.

12 2. DEVELOPMENT OF TOURISM.

13 Amend the Coastal Barrier Resource Act to clarify con-
14 gressional intent to exclude the Commonwealth of Puerto
15 Rico from the application of this federal statute that never
16 was intended to apply to a Caribbean island, thus enhancing
17 the autonomy of the Commonwealth to decide for itself how
18 best to develop its coastal zone, including the promotion of
19 tourism that is so important to the economic well-being of
20 Puerto Rico.

21 3. INTERNATIONAL TRADE.

22 (a) TARIFF AUTHORITY. Enable the Commonwealth of
23 Puerto Rico to impose tariff duties on foreign origin products
24 imported into Puerto Rico to the extent it can do so consist-
25 ent with the international obligations of the United States.

1 (b) **GENERALIZED SYSTEM OF TRADE PREFERENCES.**

2 Secure enactment of a policy statement by the United States
3 encouraging other countries to consider Puerto Rico as a de-
4 veloping territory for purposes of their respective general or
5 regional systems of trade preferences.

6 (c) **CONSULTATION ROLE IN THE NEGOTIATION OF**
7 **TRADE AGREEMENTS.** Establish arrangements to assure that
8 the President consults with the Governor of the Common-
9 wealth of Puerto Rico concerning the potential impact of any
10 proposed tariff rate reductions on the economy of Puerto Rico
11 before the President concludes any such trade agreements
12 under section 1102 of the Omnibus Trade and Competitive-
13 ness Act of 1988. Arrangements shall also be sought to pro-
14 vide for appropriate participation by the Commonwealth of
15 Puerto Rico, at its request, in the negotiations of trade agree-
16 ments affecting them.

17 **4. MARITIME.**

18 Enable the Commonwealth of Puerto Rico to establish
19 its own maritime authority, which will exercise exclusive ju-
20 risdiction to establish and enforce uniform and non-discrimi-
21 natory rates for trade between ports in the United States and
22 ports in Puerto Rico to assure Puerto Rico the lowest possi-
23 ble rates.

24 **5. MARITIME RESOURCES.**

1 Amend Federal law to enable the Commonwealth of
 2 Puerto Rico to acquire jurisdiction over the territorial waters,
 3 seabed and submerged lands surrounding Puerto Rico and
 4 presently under the jurisdiction of the United States. Amend
 5 Federal law to exclude the Commonwealth from the cover-
 6 age of the Magnuson Act and permit the Commonwealth to
 7 receive financial benefits from countries other than the
 8 United States for maritime resources to which the Common-
 9 wealth may lay claim.

10 **6. INTELLECTUAL PROPERTY.**

11 Looking to the future and the critical importance of in-
 12 formation in the economic development that will occur in the
 13 next century, secure new means of encouraging such infor-
 14 mation-related economic development in Puerto Rico, includ-
 15 ing new forms of intellectual property protection for comput-
 16 er chip manufacturers and industrial designers.

17 **7. FEDERAL FUNDS AND PROGRAMS.**

18 **(a) CONSOLIDATION OF GRANT-IN-AID PROGRAMS.**

19 Amend federal law to authorize the Commonwealth of
 20 Puerto Rico to consolidate any or all Federal grant-in-aid
 21 programs, except those that directly or indirectly provide
 22 payments or services to persons as individuals for any fiscal
 23 year or years.

24 **(b) EQUITABLE TREATMENT IN SOCIAL PROGRAMS.**

25 Achieve equitable allocations to Puerto Rico with the goal of

1 achieving full parity with the states over a period no longer
2 than four years in the following programs: Nutrition Assist-
3 ance Program (NAP), Aid to Families with Dependent Chil-
4 dren (AFDC), and Medicaid, and over a period no longer
5 than eight years in the Supplemental Security Income Pro-
6 gram (SSD), as is currently enjoyed with regard to other Fed-
7 eral programs.

8 **8. PROTECTION OF WORKERS.**

9 Delegate to the Labor Relations Board of Puerto Rico
10 all the functions presently exercised by the National Labor
11 Relations Board, regarding labor relations in the Common-
12 wealth of Puerto Rico.

13 Puerto Rico shall continue to have exclusive jurisdiction
14 to legislate employee benefits, including but not limited to
15 Christmas bonuses, sick and vacation pay, and workman's
16 compensation, excluding the federal minimum wage and
17 overtime pay legislation which shall continue to apply.

18 **9. PUERTO RICAN PARTICIPATION IN FEDERAL**
19 **APPOINTMENTS.**

20 Assure the participation of Puerto Rico in designating
21 candidates for the highest ranking Federal appointments
22 serving in Puerto Rico, including Presidential appointments
23 subject to Senate confirmation.

24 **10. REPRESENTATION IN THE SENATE.**

1 Secure representation of Puerto Rico's interest in the
2 United States Senate by a second Resident Commissioner.

3 11. FEDERAL JUDICIARY

4 (a) PRIMARY JURISDICTION OF PUERTO RICO
5 COURTS.—Assure that Federal courts abstain from constru-
6 ing an uncontrued Puerto Rico statute or regulation or de-
7 ciding an undecided point of substantive Puerto Rico non-
8 statutory law without first giving the courts of Puerto Rico
9 an opportunity to construe such statute or regulation or to
10 rule upon such point of Puerto Rico law, which constructions
11 shall be binding on the Federal courts.

12 (b) USE OF SPANISH LANGUAGE. Enact legislation re-
13 quiring the United States District Court for Puerto Rico to
14 conduct its proceedings in the Spanish language, upon the
15 request of any party to the proceeding.

16 (c) Enact a statutory provision for the certification to
17 the District of Columbia Court of Appeals of the actions or
18 controversies arising under, and involving the Puerto Rico
19 Federal Relations Act, as amended by this Act, and for the
20 transfer by the Commonwealth of Puerto Rico, its depart-
21 ments, agencies and instrumentalities, as well as officials and
22 agents, in both their official and personal capacity, of any
23 action brought against them from the District Court for
24 Puerto Rico to the District Court for the District of
25 Columbia.

1 12. PASSPORTS.

2 (a) RESTORING PUERTO RICO'S ISSUANCE OF U.S.
3 PASSPORTS. Restore Puerto Rico's authority to issue U.S.
4 passports.

5 (b) SPECIAL TEMPORARY VISIT VISAS. Consistent
6 with prohibitions imposed by the President on the entry of
7 aliens from specified countries, authorize the Government of
8 Puerto Rico to secure Puerto Rico-only temporary visas, for
9 a period not to exceed thirty days, for nonresident aliens in-
10 vited by the Government of the Commonwealth of Puerto
11 Rico. The District Office for Puerto Rico of the Immigration
12 and Naturalization Service shall issue these special tempo-
13 rary visit visas, as well as other entry visas.

14 (c) The District Office for Puerto Rico of the Immigra-
15 tion and Nationality Service shall issue the special temporary
16 visit visas, as well as other entry visas.

17 13. LAW ENFORCEMENT.

18 Amend Federal law to authorize the Commonwealth to
19 supplement United States efforts to patrol Puerto Rico's
20 borders and make them secure against illegal traffic in drugs
21 and aliens, including joint enforcement of relevant Federal
22 laws.

23 14. HISTORIC SITES AND CONSERVATION LANDS

24 Title to lands and properties acquired by the United
25 States under the cession of Spain in the Treaty of Paris en-

1 tered into on December 10, 1898, as well as of ownership of
2 the Caribbean National Forest, shall be transferred to the
3 Commonwealth of Puerto Rico. Continued use and adminis-
4 tration by the Federal Government of these lands and proper-
5 ties may be negotiated with the Commonwealth of Puerto
6 Rico.

7 15. COMMUNITY VALUES.

8 Authorize the Governor of the Commonwealth of
9 Puerto Rico to grant antitrust exemptions for voluntary joint
10 efforts by broadcasters to foster local programming and to
11 foster community and cultural values, including the possible
12 adoption of codes limiting the violence, pornography, and
13 substance-abuse depicted in broadcast programming.

14 16. ASSUMPTION OF BUDGETARY RESPONSIBIL-
15 ITIES AND TRANSFER OF FEDERAL FUNCTIONS.

16 The Commonwealth of Puerto Rico shall assume the
17 expenses inherent in all governmental authority transferred
18 pursuant to this Act. The Government of the United States,
19 or any agency thereof, may from time to time delegate to the
20 Commonwealth of Puerto Rico the total or partial perform-
21 ance of functions vested in the United States, including the
22 administration of such Federal laws and programs on the
23 island, as may be mutually agreed.

1 **SUBPART 6. FUTURE ENHANCEMENTS.**

2 The enhancements to the Commonwealth relationship
3 resulting from this Act shall form part of the Compact en-
4 tered upon the Congress and the People of Puerto Rico in
5 1952. It may be amended in the same manner as entered
6 upon in order to provide for the continuing enhancement of
7 the Commonwealth relationship.

8 (c) **DATE OF REFERENDUM.**—The first referendum
9 shall occur upon the call of the Governor, and during calen-
10 dar year 1991.

11 (d) **RETURNS OF REFERENDUM.**—The returns of the
12 referendum held under this Act shall be made to the Gover-
13 nor of Puerto Rico, who shall cause them to be canvassed in
14 the manner provided by law for the canvass of votes cast in
15 general elections in the Commonwealth of Puerto Rico. If
16 there is not a majority in favor of one of the three options,
17 then there shall be, upon the call of the Governor, and during
18 calendar year 1991, a runoff referendum between the two
19 status options which had received the largest number of
20 votes. The Governor shall certify to the President and to the
21 Congress of the United States that decision of the people of
22 Puerto Rico which received a majority of the votes cast.

23 (e) **APPLICABLE ELECTION LAWS.**—The election laws
24 of the Commonwealth of Puerto Rico shall apply to the refer-
25 endum held under this Act.

1 **SEC. 3. NEGOTIATIONS TO DEVELOP LEGISLATION BASED ON**
2 **REFERENDUM.**

3 (a) **NEGOTIATIONS.**—Following certification by the
4 Governor as provided in section 2(d), then the process, in-
5 volving representatives of the principal political party repre-
6 senting the status option selected, and in full consultation
7 with the other two principal political parties, shall begin to
8 develop implementing legislation encompassed within the
9 principles as set forth in section 2(b), and in consultation with
10 the Committee on Energy and Natural Resources of the
11 United States Senate and the appropriate committees of ju-
12 risdiction in the United States House of Representatives.
13 Such legislation shall, upon enactment, authorize a further
14 referendum of the people of Puerto Rico to approve or disap-
15 prove the selected status as defined in the legislation. A
16 change of status shall not be effective unless or until ap-
17 proved in such a referendum.

18 (b) **TIME LIMIT.**—The second referendum to approve or
19 disapprove the selected status as defined in the legislation
20 developed under this section shall occur no later than the end
21 of the Congress which is in session on the fourth anniversary
22 of the date of the Governor's certification provided for
23 under section 2(d), or as may be otherwise provided in such
24 legislation.

○

101ST CONGRESS
1ST SESSION

S. 712

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself, Mr. McCLUBE, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for a referendum on the political status of Puerto Rico.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That—

4 (1) the United States of America recognizes the
5 principle of self-determination and other applicable
6 principles of international law with respect to Puerto
7 Rico; and

8 (2) the United States is committed to a process of
9 consultation and negotiation with the people of Puerto

1 Rico leading to a referendum on the issue of political
 2 status to be conducted in a fair and equitable manner.

3 **TITLE I**

4 **SEC. 2. REFERENDUM.**

5 (a) **IN GENERAL.**—An island-wide referendum shall be
 6 held in Puerto Rico in which qualified voters of the Common-
 7 wealth of Puerto Rico shall be presented a choice of three
 8 status options for Puerto Rico as follows:

- 9 (1) statehood;
 10 (2) independence; or
 11 (3) commonwealth

12 as set forth in titles II, III, and IV of this Act.

13 (b) **DATE OF REFERENDUM.**—The first referendum
 14 shall occur on _____, 1991, or on a date as may be
 15 mutually agreed by the three principal political parties, and
 16 during the summer of calendar year 1991.

17 (c) **RETURNS OF REFERENDUM.**—The returns of the
 18 referendum held under this Act shall be made to the Gover-
 19 nor of Puerto Rico, who shall cause them to be canvassed in
 20 the manner provided by law for the canvass of votes cast in
 21 general elections in the Commonwealth of Puerto Rico. If
 22 there is not a majority in favor of one of the three options,
 23 then there shall be, on _____, 1991, or on a date as
 24 may be mutually agreed by the three principal political par-
 25 ties, and during the summer of calendar year 1991, a runoff

1 referendum between the two status options which had re-
2 ceived the largest number of votes. Such referendum shall
3 also include an option of "None of the Above". The Gover-
4 nor shall certify to the President and to the Congress of the
5 United States that decision of the people of Puerto Rico
6 which received a majority of the votes cast, if a majority is
7 obtained.

8 (d) APPLICABLE ELECTION LAWS.—The election laws
9 of the Commonwealth of Puerto Rico shall apply to the refer-
10 endum held under this Act.

11 (e) Upon the effective date of this Act, the status option
12 which has been certified by the Governor pursuant to subsec-
13 tion (c), shall go into effect in accordance with the appropri-
14 ate title of this Act.

15 TITLE II—STATEHOOD

16 Whereas: Upon admission as a State, Puerto Rico
17 would cease being a territory of the United States.

18 Whereas: The Commonwealth of Puerto Rico would be
19 admitted as a sovereign State of the Union, with its current
20 Constitution, on an equal footing and in true permanent
21 union with the other fifty States.

22 Whereas: The new State of Puerto Rico shall be known
23 as the Commonwealth of Puerto Rico; in Spanish it shall be
24 known as "Estado Soberano de Puerto Rico".

1 Whereas: Admission to the Union has historically been
2 a flexible and varied process which has been adapted to the
3 individual circumstances of each new State.

4 Whereas: Congress, has the constitutional power to fa-
5 cilitate the admission of new States.

6 Whereas Congress is willing to provide for a smooth
7 process of adjustment from the tax structure of the territorial
8 status to the Federal fiscal system.

9 Whereas: The Commonwealth of Puerto Rico assured of
10 its reserved state right under the Constitution to continue to
11 maintain both Spanish and English as its official languages,
12 as well as of its right to preserve and enhance its particular
13 cultural characteristics.

14 Whereas: Statehood creates the only permanent union
15 with the United States that is consistent with the "more per-
16 fect union" of equal States established by the United States
17 Constitution.

18 Whereas: Statehood entails fundamental political and
19 economic betterment for the Commonwealth of Puerto Rico.

20 Whereas: Statehood entails economic self-reliance and
21 social justice, including parity for its residents in those as-
22 pects of Federal legislation that cover the residents of the
23 several States.

24 Whereas: Statehood means political equality, and, spe-
25 cifically, the right to participate in the process of election of

1 the President and Vice-President of the United States as well
2 as the right to elect two United States Senators and the cor-
3 responding number of Members of the United States House of
4 Representatives.

5 Whereas: Statehood means that all benefits and protec-
6 tions of the United States Constitution would be fully be-
7 stowed on the People of the Commonwealth of Puerto Rico
8 together with the guarantee of full protection by the Federal
9 judicial system.

10 Whereas: Statehood entails the immediate full extension
11 of Federal entitlements and legislation providing parity for
12 the residents of Puerto Rico in all Federal programs.

13 Whereas: The Commonwealth will assume all responsi-
14 bilities of a State of the Union.

15 Whereas: Statehood is a political formula recognized by
16 the international community through Resolution 1541 (XV)
17 of the General Assembly of the United Nations and through
18 Resolution 1469 (XIV) of that body, which was adopted
19 upon the admission of the new States of Alaska and Hawaii.

20 Whereas: Statehood embodies the highest degree of au-
21 tonomy and sovereignty in a true permanent union with the
22 several States.

23 Therefore: *Be it resolved:*

24 SEC. 2. Subject to the provisions of this Act, and upon
25 issuance of the proclamation required by section 7 of this

1 Act, the Commonwealth of Puerto Rico (hereinafter referred
2 to also as "the State") is declared to be a State of the United
3 States of America, is declared admitted into the Union on an
4 equal footing with the other States in all respects whatever,
5 in compliance with the democratic mandate of the plebiscite
6 held on _____ for the resolution of Puerto Rico's final
7 political status. The Constitution adopted by a vote of the
8 People of Puerto Rico in the election held on June 4, 1951,
9 has been found by Congress to be republican in form and in
10 conformity with the Constitution of the United States and the
11 principles of the Declaration of Independence, and was ac-
12 cepted, ratified, and confirmed, through Public Law 447 of
13 the 82nd Congress, March 3, 1952.

14 **CONSTITUTION**

15 **SEC. 3.** The Constitution of the Commonwealth of
16 Puerto Rico shall always be republican in form and shall not
17 be repugnant to the Constitution of the United States and the
18 principles of the Declaration of Independence. The current
19 Constitution of the Commonwealth of Puerto Rico is hereby
20 accepted as the constitution of the State.

21 **TERRITORY AND BOUNDARIES**

22 **SEC. 4.** Subject to the provisions of this section, the
23 State shall consist of all of the territory, together with the
24 territorial waters, of the Commonwealth of Puerto Rico.

1 STATE TITLE TO LANDS AND PROPERTY

2 SEC. 5. (a) The State and its political subdivisions shall
3 have and retain title to all property, real and personal, which
4 it currently holds.

5 (b) Any lands and other properties that, as of the date of
6 admission of Puerto Rico into the Union, are set aside pursu-
7 ant to law for the use of the United States under any (A) Act
8 of Congress, (B) Executive order, (C) proclamation of the
9 President, or (D) proclamation of the Governor of the Com-
10 monwealth of Puerto Rico, shall remain the property of the
11 United States; except that the Commonwealth of Puerto Rico
12 (the State) shall have the exclusive right to explore, exploit,
13 lease, possess and use all seabed, natural, and mineral re-
14 sources lying within the two hundred mile economic zone
15 continental shelf boundary around the waters of the Archipel-
16 ago of Puerto Rico; however, all other rights of sovereignty
17 in regards to the continental shelf and waters, shall belong to
18 the United States except those already vested in Puerto
19 Rico.

20 (c) Not later than five years after the date of admission
21 of the Commonwealth of Puerto Rico as a State of the
22 Union, each Federal agency having control over any land or
23 property that is retained by the United States pursuant to
24 this section shall submit a report to the President and the
25 Congress concerning the need for such land or property. If

1 the President determines that any such land or property is no
2 longer needed by the Federal Government, it shall be forth-
3 with conveyed to the Commonwealth of Puerto Rico.

4 (d) All laws of the United States reserving to the United
5 States the free use or enjoyment of property which vests in
6 or is conveyed to the Commonwealth of Puerto Rico or its
7 political subdivisions pursuant to this section or reserving the
8 right to alter, amend, or repeal laws relating thereto, shall
9 cease to be effective upon the admission of the State into the
10 Union.

11 COMPACT WITH THE UNITED STATES: CLAIMS TO

12 FEDERAL LANDS AND PROPERTY

13 SEC. 6. (a) As a compact with the United States, the
14 Commonwealth and its people recognize all rights and titles
15 to any lands or other property not granted or conferred to the
16 Commonwealth or its political subdivisions by or under the
17 authority of this Act, the right or title to which is now held
18 by the United States or subject to disposition by the United
19 States.

20 (b)(1) Nothing contained in this Act shall recognize,
21 deny, enlarge, impair, or otherwise affect any claim against
22 the United States, and any such claim shall be governed by
23 applicable laws of the United States.

24 (2) Nothing in this Act is intended or shall be construed
25 as a finding, interpretation, or construction by the Congress
26 that any applicable law authorizes, establishes, recognizes, or

1 confirms the validity or invalidity of any such claim, and the
2 determination of the applicability of any law to any such
3 claim shall be unaffected by anything in this Act.

4 (c) No taxes shall be imposed by the State upon any
5 lands or other property now owned or hereafter acquired by
6 the United States.

7 (d) Notwithstanding any other provisions of this Act or
8 any other provision of law, in compensation for the lands now
9 held by the United States, the Congress shall appropriate
10 Federal payments to be assigned to the Commonwealth of
11 Puerto Rico, in the amount of _____ annually,
12 during the next _____ years, for the sole purpose of assist-
13 ing the State in the payment of its present public debt and
14 liabilities.

15 **ELECTIONS AND ADMISSION REFERENDUM**

16 **SEC. 7. (a)(1)** Not more than sixty days after the date of
17 certification by the Governor of the Commonwealth of Puerto
18 Rico as provided by this Act, the President of the United
19 States shall certify the admission of Puerto Rico into the
20 Union to the Governor of the Commonwealth of Puerto Rico.
21 Not more than thirty days after such certification, the Gover-
22 nor of the Commonwealth of Puerto Rico shall issue a procla-
23 mation for the election of two United States Senators and the
24 corresponding number of the United States Representatives
25 in Congress as provided in this Act. The Governor of the
26 State shall certify the election of the Senators and Repre-

1 representatives in the manner required by law. The Senators and
2 Representatives elected shall be entitled to be admitted to
3 seats in Congress and to all the rights and privileges of Sena-
4 tors and Representatives of the other States in the Congress
5 of the United States. The office of Resident Commissioner
6 shall cease to exist upon the swearing in of the first Member
7 of the House so elected.

8 (2) In the first election of Senators from the State (pur-
9 suant to section 7(a)(1)) the two senatorial offices shall be
10 separately identified and designated, and no person may be a
11 candidate for both offices. No such identification or designa-
12 tion of either of the two senatorial officers shall refer to or be
13 taken to refer to the terms of such offices, or in any way
14 impair the privilege of the Senate to determine the class to
15 which each of the Senators elected shall be assigned.

16 (b) Election returns shall be made and certified in such
17 manner as provided by the electoral laws of Puerto Rico and
18 in such a manner as the Commonwealth of Puerto Rico may
19 prescribe. The Governor of the Commonwealth of Puerto
20 Rico shall certify the results of such elections to the Presi-
21 dent of the United States.

22 (2) The constitution of the Commonwealth of Puerto
23 Rico, ratified by the people at the referendum held on June
24 4, 1951, shall become the Constitution of the State of Puerto

1 Rico. The new State of Puerto Rico shall be known as The
2 Commonwealth of Puerto Rico.

3 (3) Any legal dispute or controversy arising out of the
4 electoral processes conducted under this act shall be adjudi-
5 cated by the United States District Court for the District of
6 Puerto Rico, and the Appellate Federal Court System. The
7 Courts of the Commonwealth of Puerto Rico shall not have
8 jurisdiction to entertain any suit, appeal, writ of revision or
9 legal action, arising out of these elections, plebiscites and
10 referendums.

11 (4) The individuals holding legislative, executive, and
12 judicial offices of the Commonwealth of Puerto Rico, shall
13 continue to discharge the duties of their respective offices.
14 Upon the issuance of the proclamation by the President of
15 the United States and the admission of the Commonwealth of
16 Puerto Rico as a State of the Union, the officers elected or
17 appointed under the provisions of the constitution and laws of
18 the Commonwealth shall proceed to exercise all the functions
19 pertaining to their offices in, under, or by authority of the
20 government of the States, as provided by the constitution and
21 laws of the State.

22 SEC. 8. The Commonwealth of Puerto Rico upon its
23 admission into the Union shall be entitled to Representa-
24 tives, until the taking effect of the next reapportionment, and

1 such Representatives shall be in addition to the membership
2 of the House of Representatives as now prescribed by law.

3

LAWS IN EFFECT

4 SEC. 9. Upon admission of the Commonwealth of
5 Puerto Rico into the Union, all of the territorial laws then in
6 force in the Commonwealth of Puerto Rico shall be and con-
7 tinue in force and effect throughout the State, until amended,
8 modified or repealed by the Commonwealth. All of the laws
9 of the United States shall have the same force and effect
10 within the State as elsewhere in the United States.

11

CONTINUATION OF SUITS

12 SEC. 10. (a) No writ, action, indictment, cause, or pro-
13 ceeding pending in any court of the Commonwealth of Puerto
14 Rico, shall abate by reason of the admission of the Common-
15 wealth of Puerto Rico into the Union, but shall proceed
16 within such appropriate State courts as are now established
17 under the Constitution of the Commonwealth, or shall contin-
18 ue in the United States District Court for the District of
19 Puerto Rico, as the nature of the case may require.

20

(b) All civil causes of action and all criminal offenses,
21 which shall have arisen or been committed prior to the ad-
22 mission of the Commonwealth, but as to which no writ,
23 action, indictment, or proceeding shall be pending at the date
24 of such admission, shall be subject to prosecution in the ap-
25 propriate State courts or in the United States District Court
26 for the District of Puerto Rico in like manner, to the same

1 extent, and with like right of appellate review, as if such
2 State had been created and such State courts had been estab-
3 lished prior to the accrual of such causes of action or the
4 commission of such offenses. The admission of the State shall
5 effect no change in the procedural or substantive laws gov-
6 erning causes of action and criminal offenses which shall have
7 arisen or been committed, and any such criminal offenses as
8 shall have been committed against the laws of the Common-
9 wealth of Puerto Rico, shall be tried and punished by the
10 appropriate courts of the State, and any such criminal of-
11 fenses as shall have been committed against the laws of the United
12 States shall be tried and punished in the United States Dis-
13 trict Court for the District of Puerto Rico.

14

APPEALS

15 SEC. 11. Parties shall have the same rights of judicial
16 review of final decisions of the United States District Court
17 for the District of Puerto Rico or the Supreme Court of the
18 Commonwealth of Puerto Rico, in any case finally decided
19 prior to the admission of the State of Puerto Rico into the
20 Union, whether or not an appeal therefrom shall have been
21 perfected prior to such admission. The United States Court of
22 Appeals for the First Circuit and the Supreme Court of the
23 United States, shall have the same jurisdiction in such cases
24 as by law provided prior to the admission of the State into
25 the Union. Any mandate issued subsequent to the admission
26 of the State, shall be to the United States District Court for

1 the District of Puerto Rico or a court of the State, as appro-
2 priate. Parties shall have the same rights of appeal from and
3 appellate review of all orders, judgments, and decrees of the
4 United States District Court for the District of Puerto Rico
5 and of the Supreme Court of Puerto Rico, in any case pend-
6 ing at the time of admission of the State into the Union, and
7 the Supreme Court of the Commonwealth of Puerto Rico and
8 the Supreme Court of the United States shall have the same
9 jurisdiction therein, as by law provided in any case arising
10 subsequent to the admission of the State into the Union.

11

MILITARY LANDS

12 SEC. 12. (a) Subject to the subsection (b) and notwith-
13 standing the admission of the Commonwealth of Puerto Rico
14 into the Union, authority is reserved in the United States for
15 the exercise by the Congress of the United States of the
16 power of exclusive legislation, as provided by article I, sec-
17 tion 8, clause 17, of the Constitution of the United States, in
18 all cases whatsoever over such tracts or parcels of lands as,
19 immediately prior to the admission of the State, are con-
20 trolled or owned by the United States and held for defense or
21 Coast Guard purposes.

22 (b)(1) The Commonwealth of Puerto Rico shall always
23 have the right to serve civil or criminal process within such
24 tracts or parcels of land in suits or prosecutions for or on
25 account of rights acquired, obligations incurred, or crimes

1 committed within the State but outside of such tracts or par-
2 cels of land.

3 (2) The reservation of authority in the United States for
4 the exercise by the Congress of the United States of the
5 power of exclusive legislation over such lands shall not oper-
6 ate to prevent such lands from being a part of the Common-
7 wealth of Puerto Rico, or to prevent the State from exercis-
8 ing over or upon such lands, concurrently with the Federal
9 Government, any jurisdiction which it would have in the ab-
10 sence of such reservation of authority and which is consistent
11 with the laws hereafter enacted by the Congress pursuant to
12 such reservation or authority.

13 (3) The power of exclusive legislation shall vest and
14 remain in the United States only so long as the particular
15 tract or parcel of land involved is controlled or owned by the
16 United States and used for defense on Coast Guard purposes,
17 except that the United States shall continue to have sole and
18 exclusive jurisdiction over such military installations as have
19 been or may be determined to be critical areas as designated
20 by the President of the United States or the Secretary of
21 Defense.

22 UNITED STATES NATIONALITY

23 SEC. 13. No provision of this Act shall operate to confer
24 United States nationality, to terminate nationality lawfully
25 acquired, or to restore nationality terminated or lost under

1 any law of the United States or under any treaty to which
2 the United States is or was a party.

3 REPEAL AND AMENDMENT OF INCONSISTENT LAWS

4 SEC. 14. All Acts or parts of Acts in conflict with the
5 provisions of this Act, whether passed by the Legislature of
6 the Commonwealth of Puerto Rico or by Congress, are
7 hereby repealed or amended to conform with the provisions of
8 this Act.

9 NATIONAL FEDERAL LANDS AREA

10 SEC. 15. (a) The Federal Lands reserved for the United
11 States Government referred to in section 4 are those now
12 held by the Federal Government.

13 ECONOMIC ADJUSTMENT FROM TERRITORY TO STATE

14 SEC. 16. Congress adopts the following economic provi-
15 sions to expedite the adjustment of the Commonwealth of
16 Puerto Rico from the tax structure of the territory to the
17 fiscal and economic system of the State.

18 (a) Provisions of the Internal Revenue Code con-
19 cerning Federal Income Taxes shall immediately apply
20 to Puerto Rico, provided that the proceeds of said
21 taxes shall be transferred to the Treasury of Puerto
22 Rico in an amount to be diminished by percent of
23 the monies collected each year for a year period.
24 Existing income tax laws of the Commonwealth shall
25 stand repealed upon admission of the State.

1 (b) Provision shall be made by Congress so that
2 economic and fiscal exceptions of the Internal Revenue
3 Code, already granted, such as those allowed under
4 section 936 of said code, shall remain in full effect for
5 years and will be smoothly and gradually phased
6 out thereafter, in such a way as to eliminate the preva-
7 lent uncertainty which impairs an orderly planning and
8 which impedes the fulfillment of the job creation re-
9 quirements for such credit, thus promoting investments
10 and higher rate of employment, which will in turn
11 reduce governmental and individual dependence while
12 enhancing the economy of the State and the fiscal
13 soundness of its government.

14 (c) Pursuant to Congress, powers under the Con-
15 stitution, an omnibus act with multiple provisions shall
16 be enacted to ensure that the people of Puerto Rico
17 attain equal social and economic opportunities with the
18 residents of the several States. Said omnibus act shall
19 also provide for measures necessary to assure appropri-
20 ate continuity in the treatment given to Puerto Rico as
21 a principal coffee producer and in the treatment of al-
22 cohol excise taxes; and shall also continue to provide
23 for the transfer to the Treasury of Puerto Rico, for a
24 period of years, of the proceeds of Federal cus-

1 provisions of paragraph 1 section 2 of article IV of the Con-
2 stitution of the United States.

3 TITLE III—INDEPENDENCE

4 SUBTITLE 1—STATEMENT OF PURPOSES

5 First: The United States hereby recognizes that Puerto
6 Rico is historically, socially and culturally a Latin American
7 nation which has been under the sovereignty of the United
8 States since 1898.

9 Second: The United States recognizes Puerto Rico's in-
10 alienable right to independence.

11 Third: In order to best promote Puerto Rico's develop-
12 ment according to its needs and resources and within the
13 framework of present day interdependence, the United States
14 recognizes Puerto Rico's sovereignty as a means to provide
15 Puerto Rico with the political powers and the flexibility nec-
16 essary to achieve this objective.

17 Fourth: In order to insure lasting friendship, equitable
18 economic relations, and the gradual elimination of the burden
19 which Puerto Rico's extreme economic dependence repre-
20 sents for both nations, the United States declares its intention
21 to guarantee all necessary conditions for a rational and mutu-
22 ally advantageous transition before and after independence.

23 Fifth: It is the purpose of this title to recognize the inde-
24 pendence of Puerto Rico as a sovereign and democratic
25 nation, to provide the conditions necessary for an orderly

1 transition from the present status to independence, and to
2 guarantee the legitimate interests of both Puerto Rico and
3 the United States.

4 SUBTITLE 2—TRANSITION PROCESS PRIOR TO
5 PROCLAMATION OF INDEPENDENCE

6 SEC. 2.1. CONSTITUTIONAL CONVENTION.

7 (a) Should the results of the referendum provided for in
8 title I of this Act favor independence as a status alternative
9 for Puerto Rico, the Legislative Assembly of the Common-
10 wealth of Puerto Rico shall provide for the election of dele-
11 gates to a Constitutional Convention to formulate and draft a
12 Constitution for the Republic of Puerto Rico. The election of
13 delegates must be held within six months after the celebra-
14 tion of the aforementioned referendum.

15 (b) Those qualified to vote in the election of delegates to
16 the Constitutional Convention shall be: (1) all persons born
17 and residing in Puerto Rico; (2) all persons residing in Puerto
18 Rico and one of whose parents was born in Puerto Rico; (3)
19 all persons who at the time of the adoption of this Act shall
20 have resided in Puerto Rico for a period of twenty years or
21 more; and (4) all persons who established their residence in
22 Puerto Rico prior to attaining voting age and still reside in
23 Puerto Rico; and (5) spouses of all persons included in (1),
24 (2), (3), and (4) above.

1 (c) The laws of the Commonwealth of Puerto Rico relat-
2 ing to additional voter qualifications and the electoral process
3 shall apply to this election.

4 (d) The Constitutional Convention shall meet within
5 three months of the election of delegates at such time and
6 place as the Legislative Assembly of the Commonwealth of
7 Puerto Rico shall determine.

8 (e) The Constitutional Convention shall exercise juris-
9 diction over all of the territory of Puerto Rico ceded to the
10 United States by Spain by virtue of the Treaty of Paris the
11 10th day of December 1898.

12 **SEC. 2.2. CHARACTER OF THE CONSTITUTION.**

13 (a) The Constitutional Convention mandated under the
14 previous section shall formulate and draft a Constitution es-
15 tablishing a republican form of government which shall guar-
16 antee the protection of fundamental human rights.

17 (b) The fundamental human rights guaranteed by the
18 aforementioned Constitution shall include such rights as due
19 process and equal protection under the law, freedom of
20 speech, press, assembly, association, and religion, as well as
21 the rights of the accused, and economic, social and cultural
22 rights such as the right to education, adequate nutrition,
23 health services, adequate housing, and work or employment.

1 **SEC. 2.3. RATIFICATION OF THE CONSTITUTION.**

2 (a) The Constitution elaborated by the Constitutional
3 Convention shall be submitted to the people of Puerto Rico for
4 its ratification or rejection.

5 (b) The Legislative Assembly of the Commonwealth of
6 Puerto Rico shall call for a special election for such ratifica-
7 tion or rejection, to be held within three months of the adop-
8 tion of the Constitution elaborated by the Constitutional
9 Convention.

10 (c) The special election providing all qualified voters the
11 opportunity to cast a vote for or against the proposed Consti-
12 tution shall be held in the manner prescribed by the Legisla-
13 tive Assembly of the Commonwealth of Puerto Rico.

14 (d) Those qualified to vote in this election shall be those
15 possessing the qualifications established in section 2.1 of this
16 title.

17 **SEC. 2.4. ELECTION OF OFFICERS OF THE REPUBLIC.**

18 (a) Within thirty days of the ratification of the Constitu-
19 tion as provided for by section 1.3 of this title, the Governor
20 of the Commonwealth of Puerto Rico shall issue a proclama-
21 tion calling for the election of such officers of the Republic of
22 Puerto Rico as may be required by the ratified Constitution.

23 (b) The election of officers of the Republic shall be held
24 not later than six months after the date of ratification of the
25 Constitution.

1 (c) The aforesaid election shall be held in accordance
2 with the procedures and requirements established in the Con-
3 stitution of the Republic of Puerto Rico.

4 (d) The Governor of the Commonwealth of Puerto Rico
5 shall certify the results of the election to the President of the
6 United States.

7 **SEC. 2.5. JOINT TRANSITION COMMISSION.**

8 (a) A Joint Transition Commission shall be appointed in
9 equal numbers by the President of the United States and the
10 Constitutional Convention of Puerto Rico as soon as the fa-
11 vorable results for the independence option in the referendum
12 provided for in title I of this Act are announced.

13 (b) The Joint Transition Commission shall be responsi-
14 ble for expediting the orderly transfer of all functions current-
15 ly exercised by the Government of the United States in
16 Puerto Rico, or in relation to Puerto Rico; including the
17 recommendation of appropriate legislation.

18 (c) Any necessary task forces under the aegis of the
19 Joint Transition Commission shall be constituted in the same
20 manner as the Commission.

21 (d) The Government of the Commonwealth of Puerto
22 Rico and the agencies of the Government of the United
23 States shall collaborate with the Joint Transition Commis-
24 sion and subsequently with the new officers of the Republic

1 of Puerto Rico, to provide for the orderly transfer of the func-
2 tions of government.

3 (e) All members representing the Puerto Rican side on
4 the Joint Transition Commission or on any task force shall be
5 bona-fide supporters of Puerto Rican independence.

6 **SEC. 2.6 RESOLUTION OF CONTROVERSIES PRIOR TO INDE-**
7 **PENDENCE.**

8 (a) From the date of the referendum provided for in title
9 I of this Act, and until the date of proclamation of independ-
10 ence, the Supreme Court and all inferior courts of the United
11 States shall have no jurisdiction over any case or controversy
12 arising from the operation of this Act.

13 (b) Any question arising from the operation of this Act
14 shall be referred to the Joint Transition Commission estab-
15 lished in section 2.5 for disposition through negotiation.
16 Should the Commission be unable to reach a negotiated solu-
17 tion to a question, it shall submit all points in question to
18 international arbitration.

19 **SUBTITLE 3—PROCLAMATION OF INDEPENDENCE**

20 **SEC. 3.1. PROCLAMATIONS BY THE PRESIDENT OF THE**
21 **UNITED STATES AND THE HEAD OF STATE OF**
22 **THE REPUBLIC OF PUERTO RICO.**

23 (a) Not later than one month after the official certifica-
24 tion of the elected officers of the Republic of Puerto Rico
25 under section 2.4, the President of the United States shall by

1 proclamation withdraw and surrender all rights of possession,
2 supervision, jurisdiction, control or sovereignty then existing
3 and exercised by the United States over the territory and
4 people of Puerto Rico, and shall furthermore recognize on
5 behalf of the United States of America the independence of
6 the Republic of Puerto Rico and the authority of the govern-
7 ment instituted by the People of Puerto Rico under the Con-
8 stitution of their own adoption. The proclamation shall state
9 that the effective date of withdrawal of the sovereignty of the
10 United States and recognition of independence shall be the
11 same as the date of the proclamation of independence, as
12 provided in subsection (c).

13 (b) The President of the United States shall forward a
14 copy of the proclamation issued by him to the presiding offi-
15 cer of the Constitutional Convention of Puerto Rico within a
16 week after signature.

17 (c) Within one week after receiving the presidential
18 proclamation and with the advice of the officer elected as
19 head of state of the Republic, the presiding officer of the
20 Constitutional Convention shall determine the date in which
21 the Government of the Republic shall take office, and shall so
22 notify the Governor of the Commonwealth of Puerto Rico
23 and the President of the United States.

24 (d) Upon taking office, the head of state of the Republic
25 of Puerto Rico shall immediately issue a proclamation declar-

1 the proclamation of independence shall no longer apply
2 in the Republic of Puerto Rico; and

3 (3) all laws and regulations of the Commonwealth
4 of Puerto Rico in force immediately before the procla-
5 mation of independence shall continue in force and
6 shall be read with such modifications, adaptations, quali-
7 fications and exceptions as may be necessary to bring
8 them into conformity with the Constitution of the Re-
9 public of Puerto Rico until such time as they shall be
10 replaced with the new legislation: *Provided*, That any
11 provisions that may be incompatible with the sover-
12 eignty of the Republic of Puerto Rico shall be deemed
13 invalid.

14 **SEC. 4.2. ON JUDICIAL PRONOUNCEMENTS.**

15 (a) The Republic of Puerto Rico shall recognize and
16 give effect to all orders and judgments rendered by United
17 States or Commonwealth courts prior to the proclamation of
18 independence pursuant to the laws of the United States then
19 applicable to the Commonwealth of Puerto Rico.

20 (b) All judicial proceedings pending in the courts of the
21 Commonwealth of Puerto Rico prior to the proclamation of
22 independence shall be continued in the corresponding courts
23 under the Constitution of the Republic of Puerto Rico.

24 (c) Upon the proclamation of independence, the judicial
25 power of the United States shall no longer extend to Puerto

1 Rico. All proceedings pending in the United States District
2 Court for the District of Puerto Rico shall be transferred to
3 the corresponding Puerto Rican courts of competence under
4 the Constitution of the Republic of Puerto Rico for disposi-
5 tion in conformity with laws applicable at the time when the
6 controversy in process arose. All proceedings pending in the
7 United States Court of Appeals for the First Circuit, or in the
8 Supreme Court of the United States, which may have initiat-
9 ed in the courts of the Commonwealth or in the United
10 States District Court for the District of Puerto Rico shall
11 continue until their final disposition and shall be submitted to
12 the competent authority of the Republic of Puerto Rico for
13 proper execution: *Provided*, That neither the United States
14 nor any of its officers is a party, in which case any final
15 judgment shall be properly executed by the competent au-
16 thority of the United States.

17 SUBTITLE 5—TRANSITION ASPECTS SUBSEQUENT TO
18 PROCLAMATION OF INDEPENDENCE

19 SEC. 5.1. CITIZENSHIP AND MIGRATION.

20 (a) Every person who, having been born in Puerto Rico,
21 is on proclamation of independence a citizen of the United
22 States and a resident of Puerto Rico, shall become a citizen
23 of the Republic of Puerto Rico on that date.

1 (b) Every person born in Puerto Rico after proclamation
2 of independence, and subject to the jurisdiction thereof, shall
3 be a citizen of the Republic of Puerto Rico.

4 (c) Every person born in Puerto Rico but not a resident
5 thereof on proclamation of independence shall become a citi-
6 zen of the Republic of Puerto Rico upon residing for six
7 months and taking the oath of allegiance.

8 (d) Every person not born in Puerto Rico before or after
9 proclamation of independence, and residing therein, shall
10 become a citizen of the Republic of Puerto Rico if either of
11 his parents becomes a citizen of the Republic of Puerto Rico
12 pursuant to subsections (a), (b), and (c).

13 (e) Every person not born in Puerto Rico but married to
14 a citizen of the Republic of Puerto Rico before or after proc-
15 lamation of independence shall become a citizen of the Re-
16 public upon residing in Puerto Rico for six months and taking
17 the oath of allegiance.

18 (f) All other persons not specified in subsections (a), (b),
19 (c), (d), and (e) but residing in Puerto Rico shall be granted
20 citizenship in accordance with the Constitution and laws of
21 the Republic.

22 (g)(1) Every person who is a citizen of the United States
23 and a citizen of the Republic of Puerto Rico in accordance
24 with subsections (a), (b), (c), (d), (e), and (f) shall retain his
25 United States citizenship and all rights, privileges, benefits

1 and obligations pertaining thereto in an equal footing with all
2 other United States citizens: *Provided*, That while residing in
3 Puerto Rico that person shall not be subject under United
4 States laws to compulsory military registration and service or
5 to any other condition or obligation contrary to the sover-
6 eignty of the Republic of Puerto Rico.

7 (2) Every person specified in subsection (g)(1) shall
8 retain his Puerto Rican citizenship and all rights, privileges
9 and benefits pertaining thereto in an equal footing with all
10 other Puerto Rican citizens, and shall retain all of his obliga-
11 tions as a Puerto Rican citizen, except that while residing in
12 the United States that person shall not be subject under
13 Puerto Rican laws to compulsory military registration and
14 service or to any other condition or obligation contrary to the
15 sovereignty of the United States.

16 (h) Every citizen of the United States who becomes a
17 citizen of the Republic of Puerto Rico in accordance with
18 subsections (a), (b), (c), (d), (e), and (f), can elect: (1) to relin-
19 quish his United States citizenship in accordance with United
20 States laws; or (2) to relinquish his Puerto Rican citizenship
21 in accordance with the laws of the Republic.

22 (i) United States citizens residing in Puerto Rico, but
23 not citizens thereof shall be entitled to the fundamental rights
24 and freedoms accorded to all persons in Puerto Rico but shall
25 not be eligible for political office and shall not be entitled to

1 vote. They shall also be entitled to be naturalized as citizens
2 of the Republic in accordance with nondiscriminatory laws of
3 the Republic.

4 (j) Citizens of the Republic of Puerto Rico residing in
5 the United States but not citizens thereof shall be entitled to
6 the fundamental rights and freedoms accorded to all persons
7 in the United States but shall not be eligible for political
8 office and shall not be entitled to vote in the United States.
9 They shall also be entitled to be naturalized as citizens of the
10 United States in accordance with nondiscriminatory laws of
11 the United States.

12 (k) Citizens of the Republic of Puerto Rico who are not
13 United States citizens may, for a period of twenty-five years
14 after proclamation of independence, enter into, lawfully
15 engage in occupations, and establish residence as immigrants
16 in the United States. These immigrants may be subject to
17 nondiscriminatory limitations as provided for by laws and
18 regulations of the United States.

19 (l) Every resident of the United States born in Puerto
20 Rico but not a citizen thereof, and his sons and daughters,
21 may enter into, lawfully engage in occupations, and establish
22 residence as immigrants in Puerto Rico subject to nondis-
23 criminatory laws and regulations of the Republic.

24 (m) Every person lawfully admitted for permanent resi-
25 dence within the United States and who is a resident of

1 Puerto Rico on proclamation of independence shall continue
2 as resident and shall be entitled to be naturalized as citizen of
3 the Republic of Puerto Rico in accordance with nondiscrim-
4 inatory laws of the Republic.

5 **SEC. 5.2. DEFENSE.**

6 (a) The United States shall collaborate with the Republic
7 of Puerto Rico toward the ultimate goal of disarmament,
8 peace, and international relations based on the principles of
9 equality, mutual respect and interdependence. Furthermore,
10 the United States recognizes the right of the People of
11 Puerto Rico to strive toward the total demilitarization of its
12 territory, with the purpose of gearing all its efforts and re-
13 sources to the goals of economic and social development.

14 (b) The Republic of Puerto Rico shall be closed to any
15 and all military forces of foreign nations. In furtherance of
16 this policy, and to expedite the orderly and gradual transfer
17 of properties presently under the control of the United States
18 for military purposes in Puerto Rico, the Governments of the
19 United States and the Republic of Puerto Rico shall sub-
20 scribe a separate agreement for a reasonable and mutually
21 convenient period of transition.

22 (c) Negotiations leading to the eventual agreement pro-
23 vided in paragraph (b) shall begin in a special task force des-
24 igned for such purposes by the President of the United
25 States and the Constitutional Convention of Puerto Rico pur-

1 suant to section 2.5 of this title. Should this special task,
2 force be unable to reach an agreement prior to the proclama-
3 tion of independence, the negotiations shall continue between
4 representatives appointed by the United States and the Re-
5 public of Puerto Rico, until such time as an agreement may
6 be reached.

7 (d) The Republic of Puerto Rico shall be a nuclear free
8 zone. The United States and the Republic of Puerto Rico
9 shall adhere and fully comply with the provisions of the
10 Treaty for the Proscription of Nuclear Weapons in Latin
11 America of 1967 (Treaty of Tlatelolco).

12 (e) The Government of the Republic of Puerto Rico
13 shall, as soon as may be practicable, seek integration into the
14 Inter-American defense system by subscribing the provisions
15 of the Treaty of Mutual Defense of 1948 (Treaty of Rio de
16 Janeiro).

17 **SEC. 5.3. TRADE RELATIONS.**

18 (a) Until proclamation of independence: (1) no trade bar-
19 riers or quotas of any kind shall be imposed on merchandise
20 and articles going into Puerto Rico from the United States or
21 coming into the United States from Puerto Rico; and (2)
22 trade relations shall be as currently provided by law.

23 (b) during the twenty years following the proclamation
24 of independence, the United States shall not impose trade
25 barriers or quotas of any kind on merchandise and articles

1 coming into the United States from the Republic of Puerto
2 Rico.

3 **SEC. 5.4. TAXATION.**

4 (a) The tax credit currently allowed under section 936
5 of the United States Internal Revenue Code shall remain in
6 full effect upon proclamation of independence and during the
7 fifteen years thereafter with respect to income derived by
8 corporations that begin to fulfill or continue to fulfill the cur-
9 rent requirements for such credit.

10 (b) On the tenth year after proclamation of independ-
11 ence, a Joint Commission on Taxation shall be appointed in
12 equal numbers by the President of the United States and the
13 head of state of the Republic of Puerto Rico to study and
14 report on changes to be made, if any, to the tax credit al-
15 lowed under subsection (a) at the expiration of the fifteen-
16 year period. If no agreement is reached with respect to such
17 changes, then all earning repatriations received by residents
18 of the United States shall be subject to taxation by the
19 United States, beginning on the sixteenth year after the pro-
20 clamation of independence, at a rate that shall increase on a
21 straight-line basis by 10 percent of the regular United States
22 corporate tax rate each year until it reaches 100 percent of
23 said regular rate in the twenty-fifth year after the proclama-
24 tion of independence, provided that a tax credit will be al-
25 lowed on such earning repatriations pursuant to subsection

1 (e). If the regular corporate tax rate of the United States is
2 changed before said twenty-fifth year, the difference between
3 the rate to which the earning repatriations are subject during
4 the year of said change and the new regular rate shall be
5 divided, if the latter is higher, by the number of years re-
6 maining from the year which follows the year of said change
7 until said twenty-fifth year, and the result of such division
8 shall constitute the extent to which the rate applicable to the
9 dividends shall increase every year from the year which fol-
10 lows the year of said change until said twenty-fifth year. If
11 the new regular United States corporate tax rate is lower
12 than the rate to which the earning repatriations are subject
13 during the year of said change, then the new lower rate shall
14 immediately apply to such repatriations. No other change
15 shall occur before the expiration of said twenty-fifth year
16 with respect to income derived by companies subject to this
17 subsection.

18 (c) With respect to income not subject to subsections (a)
19 or (b), the profits of an enterprise of either nation shall be
20 taxable only on the nation of residence of said enterprise,
21 unless the enterprise carries on business in the other nation
22 through a permanent establishment situated therein. If the
23 enterprise carries on business as aforesaid, the profits of the
24 enterprise may be taxed in the other nation but only so much
25 of them as is attributable to that permanent establishment.

1 (d) Each nation shall have taxing jurisdiction over
2 income earned by individuals who are residents of either
3 nation from sources within its territorial jurisdiction, property
4 situated therein, including transfers of such property by gift
5 or at death, and products consumed therein.

6 (e) Where a resident of either nation derives income
7 from the other nation, the amount of tax payable in that
8 other nation in respect to that income pursuant subsections
9 (c) and (d), and the amount of tax payable in the Republic of
10 Puerto Rico that does not exceed for any specific year the
11 amount of tax payable in the United States for that same
12 year pursuant to subsection (b), shall be allowed as a credit
13 against the tax payable in respect to that income in the
14 nation of residence of the taxpayer. A withholding tax on
15 dividends shall be considered a tax on income for these pur-
16 poses. If the United States amend its laws concerning the
17 provision of tax sparing credits or if the United States
18 reaches an agreement on the provision of a tax sparing credit
19 with any other nation, Puerto Rico shall ipso facto be grant-
20 ed the most favorable degree of tax sparing credit allowed
21 under such amended laws or under such agreement or agree-
22 ments.

23 (f) The determination under this section of the residence
24 of any taxpayer, the source of any income, the situs of any
25 property or any other necessary definitions shall be made ac-

1 cording to the terms of a joint treaty for the avoidance of
2 double taxation to be entered into by both nations promptly
3 upon the proclamation of the Republic of Puerto Rico. Nego-
4 tiations leading to such treaty shall be initiated by a special
5 task force designated pursuant to section 2.5 of this title.
6 Until such treaty is executed, such determination shall be
7 made according to the current tax laws of the United States
8 and the Commonwealth of Puerto Rico.

9 **SEC. 5.5 CURRENCY AND FINANCE.**

10 (a) After proclamation of independence, the Republic of
11 Puerto Rico shall have all powers concerning the issuance
12 and control of currency and all powers concerning monetary
13 and financial matters, provided that during the ten years fol-
14 lowing the proclamation of independence both United States
15 currency and Puerto Rican currency shall be accepted as
16 legal tender in all transactions in Puerto Rico.

17 (b) The current value of all stock bought by Puerto
18 Rican banks in the Federal Reserve System, Federal Deposit
19 Insurance Corporation and the Federal Home Loan Bank
20 System will be transferred to the Republic of Puerto Rico,
21 including the proportion held by United States national,
22 Spanish and Canadian banks that correspond to the level of
23 their activities of its branches operating in Puerto Rico
24 during the year immediately prior to the proclamation of
25 independence.

1 (c) The monetary authority of the Republic of Puerto
2 Rico shall establish an integrated system of insurance for de-
3 posits in Puerto Rico's financial institutions similar to the
4 Federal Deposit Insurance Corporation. Negotiations will be
5 undertaken with United States monetary authorities to obtain
6 their assistance in the design and establishment of the insur-
7 ance system, and to determine the extent of financial support
8 to be provided for the system by United States insurance
9 organizations in which Puerto Rico's financial institutions
10 currently participate.

11 (d)(1) The guarantees provided by the Government of
12 the United States to investors in the secondary market for
13 loans, particularly mortgage loans guaranteed by the Govern-
14 ment National Mortgage Association (G.N.M.A.), the Federal
15 National Mortgage Association (F.N.M.A.), the Federal
16 Home Loan Mortgage Corporation (F.H.L.M.) and other
17 United States Government instrumentalities, shall be main-
18 tained for Puerto Rico-originated loans until maturity.

19 (2) Negotiations shall be carried out to ensure that after
20 proclamation of independence Puerto Rico-originated loans,
21 particularly housing mortgage loans, can continue to be guar-
22 anteed by G.N.M.A., F.N.M.A., F.H.L.M. and other United
23 States Government instrumentalities and can continue to be
24 sold to investors in the United States secondary markets.

1 **SEC. 5.6. PUBLIC DEBT.**

2 (a) The debts, liabilities, and obligations of the Common-
3 wealth of Puerto Rico, its municipalities and instrumental-
4 ities, valid and outstanding upon proclamation of independ-
5 ence, shall be assumed by the Republic of Puerto Rico.

6 (b) After proclamation of independence the United
7 States shall maintain full income tax exemption, as currently
8 provided by law, on interest payments derived from debts of
9 the Commonwealth of Puerto Rico assumed by the Republic,
10 as specified in subsection (a).

11 (c) During the twenty-five years following the proclama-
12 tion of independence, the United States shall extend full
13 income tax exemption, as currently provided by law, to inter-
14 est payments derived from debts of the Republic of Puerto
15 Rico.

16 **SEC. 5.7. INDIVIDUAL RIGHTS TO ECONOMIC BENEFITS AND**
17 **GRANTS TO THE REPUBLIC OF PUERTO RICO.**

18 (a) All vested rights and benefits which accrue to resi-
19 dents of the Commonwealth of Puerto Rico under the laws of
20 the United States from past services or contributions, such as
21 rights and benefits for veterans or relatives of veterans of the
22 Armed Forces of the United States, retired Government em-
23 ployees, or beneficiaries of old age, disability of survivors'
24 insurance benefits under the Social Security Act, shall not be
25 interrupted after the proclamation of independence but will
26 continue until such time as said rights and benefits are com-

1 pletely extinguished according to the applicable laws of the
2 United States. All services which must be rendered as part of
3 these rights and benefits shall be made available through the
4 Government of the Republic of Puerto Rico in accordance
5 with agreements reached by the two nations.

6 (b) Notwithstanding the provisions in subsection (a), all
7 contributions made by employees and employers in Puerto
8 Rico to the Social Security System with respect to persons
9 who, upon the proclamation of independence, are residents of
10 the Republic of Puerto Rico and are not yet eligible for old
11 age, disability, or survivors' insurance benefits under the
12 system, shall be transferred to the Government of the Repub-
13 lic of Puerto Rico once said Government establishes its own
14 social security system. The Government of the Republic of
15 Puerto Rico may not use these funds for any purpose other
16 than the establishment and operation of a social security
17 system. Upon the transfer described herein, the obligations of
18 the United States Government under the Social Security Act
19 with respect to such residents of the Republic of Puerto Rico
20 shall cease.

21 (c) All other Federal transfer payments to individuals
22 and to the Government of the Commonwealth of Puerto Rico
23 shall be maintained in the form of annual block grants to be
24 used discretionally by the Government of the Republic of
25 Puerto Rico—

1 (1) During the ten fiscal years following the pro-
2 clamation of independence, the annual block grants shall
3 amount to the annual aggregate funding of all pro-
4 grams which currently extend to the Commonwealth of
5 Puerto Rico, or of all programs which shall have been
6 extended to the Commonwealth of Puerto Rico during
7 the fiscal year immediately prior to the proclamation of
8 independence, whichever shall be greater.

9 (2) The annual block grants shall decrease there-
10 after on a straight-line basis, at the rate of ten percent
11 each year, beginning on the eleventh fiscal year after
12 the proclamation of independence. At any time during
13 the aforementioned transition period the terms of this
14 subsection may be modified by agreement between the
15 United States and the Republic of Puerto Rico.

16 **SUBTITLE 6—RELATIONS BETWEEN THE UNITED**
17 **STATES AND THE REPUBLIC OF PUERTO RICO**

18 **SEC. 6.1. TREATY OF FRIENDSHIP AND COOPERATION.**

19 To insure that all provisions of this title which shall
20 have effect after the proclamation of independence will in
21 effect be binding, the United States and the Republic of
22 Puerto Rico shall embody said provisions in a treaty of
23 friendship and cooperation.

1 **TITLE IV—COMMONWEALTH**2 **SUBPART 1. STATEMENT OF PURPOSES**

3 In 1952 the Congress of the United States, fully recog-
4 nizing the principle of government by consent, and the
5 People of Puerto Rico, in the exercise of their right to self-
6 determination, entered upon a compact which established a
7 Commonwealth relationship between Puerto Rico and the
8 United States.

9 Under the compact the People of Puerto Rico adopted
10 in their own sovereign right their own Constitution and
11 formed an autonomous political community in permanent
12 union with the United States of America based on the irre-
13 versible bond of American citizenship.

14 In 1953 the General Assembly of the United Nations
15 recognized the creation of the Commonwealth and removed
16 Puerto Rico from the list of non-self-governing territories.
17 This association has enabled the People of Puerto Rico to
18 advance their economic and social development and to pre-
19 serve their distinct historical heritage and cultural person-
20 ality.

21 As inherent in all political relationships freely entered
22 upon, it was based on the understanding that it would evolve
23 and develop within its particular political nature upon mutu-
24 ally agreeable terms.

1 It is the purpose of this Act to provide for the enhance-
 2 ment of the Commonwealth relationship by enlarging the
 3 scope of self-government of the Puerto Rican people upon the
 4 approval of a proposition to that effect by a majority of the
 5 eligible voters of the Commonwealth of Puerto Rico.

6 **SUBPART 2. REFERENDUM PROPOSITION:**

7 **COMMONWEALTH**

8 The referendum proposition regarding Commonwealth,
 9 to be presented to, and voted upon, by the People of Puerto
 10 Rico shall be as follows:

11 “The Commonwealth association with the United
 12 States shall be enhanced to enable the People of
 13 Puerto Rico to accelerate their economic and social de-
 14 velopment and attain maximum cultural and political
 15 autonomy within permanent union with the United
 16 States based on the irreversible bond of American citi-
 17 zenship, a common defense, a common market, and a
 18 common currency.”

19 The proposition will appear in the ballot, in Spanish, as
 20 follows:

21 “El Estado Libre Asociado se fortalecerá para
 22 acelerar el desarrollo económico y social y alcanzar la
 23 máxima autonomía cultural y política del pueblo de
 24 Puerto Rico en su unión permanente con los Estados
 25 Unidos sobre los pilares de común defensa, común mer-

1 cado, común moneda, y el vínculo indisoluble de la ciu-
2 dadanía americana.”

3 **SUBPART 3. PRINCIPLES OF COMMONWEALTH**

4 Section 1 of the Puerto Rico Federal Relations Act, 39
5 Stat. 954, as amended, 48 U.S.C. section 731, shall be re-
6 pealed, and replaced by the following:

7 “(1) The provisions of this Act shall apply to the
8 Commonwealth of Puerto Rico, an autonomous body
9 politic joined in permanent union with the United
10 States on the basis of common citizenship, common de-
11 fense, common market and common currency.

12 (2) The policy of the United States shall be to en-
13 hance the Commonwealth relationship enjoyed by the
14 Commonwealth of Puerto Rico and the United States
15 to enable the People of Puerto Rico to accelerate their
16 economic and social development and attain maximum
17 cultural and political autonomy within permanent union
18 with the United States, to secure more equitable par-
19 ticipation for the People of the Commonwealth of
20 Puerto Rico in all Federal programs that provide
21 grants or services to citizens of the United States as
22 individuals, to secure increased participation by the
23 People of Puerto Rico in United States governmental
24 decisions affecting them, to safeguard the distinct cul-
25 tural identity of the People of Puerto Rico, and to pro-

1 tect the bilateral nature of the relationship between the
2 Commonwealth of Puerto Rico and the United States.

3 **SUBPART 4. IMPLEMENTATION OF FEDERAL**
4 **POLICY**

5 Section 9 of the Federal Relations Act, 39 Stat. 954, as
6 amended, 48 U.S.C. section 734, is amended by inserting at
7 the beginning thereof the term “(a)” and by adding at the end
8 thereof the following:

9 “(b) A Federal statutory law, or provision of such law,
10 is locally inapplicable unless it is consistent with the policy
11 established under subpart 3 and unless such Federal statuto-
12 ry law has proper regard for the economic, cultural, ecologi-
13 cal, geographic, demographic and other local conditions of
14 the Commonwealth of Puerto Rico. This subsection shall not
15 apply to:

16 (i) any Federal statutory law in which the Con-
17 gress makes a specific finding that there is an overrid-
18 ing national interest that such law should apply to the
19 Commonwealth of Puerto Rico, or

20 (ii) any Federal satutory law, or provision thereof,
21 establishing directly or indirectly grants and/or serv-
22 ices to civilizen of the United States as individuals, or

23 (iii) any Federal statutory law or provision thereof
24 relating to citizenship, or

1 (iv) any Federal statutory law or provision thereof
2 pertaining to the foreign relations, defense or national
3 security of the United States that requires uniform ap-
4 plicability throughout the United States, including the
5 Commonwealth of Puerto Rico, to achieve its intended
6 purposes.

7 (c) In addition to judicial determinations of the inappli-
8 cability of Federal laws under subsection (b), the Governor of
9 the Commonwealth of Puerto Rico may certify from time to
10 time to the Speaker of the House of Representatives, the
11 President of the Senate, and the President of the United
12 States, that a Federal statutory law or provision thereof,
13 other than one excluded from the operation of subsection (b),
14 is inconsistent with a Puerto Rican statute and the policy
15 established under subsection (b). Unless within sixty days of
16 the receipt of such certification, a statute is enacted embody-
17 ing the finding required under subsection (b)(i), the President
18 shall issue a proclamation that such Federal statutory law or
19 provision thereof identified in the Governor's certification is
20 not applicable in Puerto Rico.

21 (d)(i) The Commonwealth of Puerto Rico may continue
22 to enter in its own name into international cultural, commer-
23 cial, educational and sports agreements, and other agree-
24 ments of like nature.

1 (ii) In addition, the Governor of the Commonwealth of
2 Puerto Rico may take any official action to promote the
3 international interests of Puerto Rico that requires the con-
4 sent of the United States Government and is not expressly
5 prohibited by law. The Governor of the Commonwealth of
6 Puerto Rico shall provide written notice to the President of
7 the United States of any official action he contemplates
8 taking pursuant to the authorization of this part of this sub-
9 section and not pursuant to any other authorization of con-
10 sent. The President may, within thirty days of his receipt of
11 such notice, sign and transmit to the Governor of the Com-
12 monwealth of Puerto Rico a document expressing his deter-
13 mination that the contemplated official action would imperil
14 the foreign relations or national defense of the United States,
15 in which case the authorization hereby granted shall be with-
16 drawn as regards such contemplated official action.

17 (e) All departments and agencies of the Government of
18 the United States shall be guided by the policy stated in sub-
19 part 3 when carrying out their duties under Federal statutory
20 laws and Federal regulations applicable in or affecting the
21 Commonwealth of Puerto Rico. Every such department or
22 agency shall, before taking any major Federal action applica-
23 ble in or affecting the Commonwealth of Puerto Rico, sepa-
24 rately evaluate the consistency of such action with such
25 policy and shall state, in a document accompanying the major

1 Federal action, the extent, nature, and result of its consider-
2 ation.

3 (f) Any rule, as defined in 5 U.S.C. section 551(4),
4 issued by an agency, as defined in 5 U.S.C. section 551(1),
5 shall apply in the Commonwealth of Puerto Rico only to the
6 extent that it is consistent with the policy set forth in subsec-
7 tion (b). After the effective date of this amendment, when any
8 such rule, other than a rule issued after notice and hearing
9 required by statute, that does not in terms provide that it is
10 inapplicable in the Commonwealth of Puerto Rico is pub-
11 lished in the Federal Register, the Governor of the Common-
12 wealth of Puerto Rico may submit to the agency within thirty
13 days in writing (or such longer period as the agency may
14 have prescribed as the period between publication of the rule
15 and its effectiveness) the Governor's determination that such
16 rule is inconsistent with the policy stated in subsection (b).
17 Thereupon, the agency shall reconsider the question of con-
18 sistency of the rule with the policy stated in subsection (b)
19 and shall, within forty-five days of its receipt of the Gover-
20 nor's determination, publish in the Federal Register its find-
21 ing either that there is an overriding national interest that
22 the rule be applicable in the Commonwealth of Puerto Rico,
23 in which case the rule, whether or not previously applicable
24 in the Commonwealth of Puerto Rico, shall thereafter be so
25 applicable, or that the rule is not compatible with such policy,

1 in which event such rule, whether or not previously applica-
2 ble in the Commonwealth of Puerto Rico, shall not be so
3 applicable. Unless the agency for good cause finds that a rule
4 that is the subject of such determination by the Governor of
5 Puerto Rico as is described in this subsection shall be appli-
6 cable to the Commonwealth of Puerto Rico pending its con-
7 sideration of such determination, and publishes such finding
8 in the Federal Register, such rule, whether or not previously
9 applicable in the Commonwealth of Puerto Rico, shall not be
10 so applicable pending such consideration. An agency's deci-
11 sion to make a rule applicable or inapplicable in Puerto Rico
12 shall be subject to judicial review.

13 (g) The laws, rules and regulations of the United States
14 applicable in the Commonwealth of Puerto Rico when the
15 new Federal policy is established in accordance with subpart
16 3 shall continue in effect except to the extent repealed or
17 modified by this Act, or inconsistent with it, and except as
18 hereafter modified, suspended or repealed in accordance with
19 law.

20 **SUBPART 5. AVIATION**

21 Section 1102 of the Federal Aviation Act is amended by
22 adding a new section (e) to read as follows:

23 "(e)(i) The Government of the Commonwealth of Puerto
24 Rico shall have authority to negotiate on its own behalf bilat-
25 eral air transportation agreements governing the operation of

1 air services by United States and foreign air carriers between
2 the Commonwealth and foreign points. Such agreements may
3 also include authorization of service by United States and
4 foreign air carriers to use any point in the Commonwealth as
5 an intermediate or beyond point on routes between points in
6 the United States and foreign nations for which the carrier
7 holds certificate or foreign air carrier operating authority
8 from the Department of Transportation. Such agreements
9 may authorize such carriers to engage in common carriage of
10 persons and property between such authorized points in the
11 United States and the Commonwealth, notwithstanding the
12 provisions of sections 416(6)(7) and 1108 of this Act.

13 “(ii) Operating rights contained in Commonwealth bilat-
14 eral air transportation agreements shall be subject to the
15 grant of necessary operating authority by the Department of
16 Transportation and the Administrator. The responsibilities of
17 the Department and the Administrator under subsection (a) of
18 this section shall extend to such bilateral agreements.

19 “(iii) Operating authority issued by the Department of
20 Transportation in implementation of bilateral agreements ne-
21 gotiated by the Government of the Commonwealth of Puerto
22 Rico shall be subject to the President’s right of disapproval
23 as contained in section 801(a) of this Act.

24 “(iv) The officials of the Federal Aviation Administra-
25 tion of the United States are directed to assist and cooperate

1 with the appropriate officials of the Commonwealth of Puerto
 2 Rico in the implementation of any air transportation agree-
 3 ment entered into pursuant to the authority herein estab-
 4 lished.”.

5 **SUBPART 6. DEVELOPMENT OF TOURISM**

6 Section 4a(l) of the Coastal Barrier Resources Act of
 7 1982, 16 U.S.C. section 3503(a)(l), is amended by adding to
 8 the end of the subsection: “Notwithstanding the foregoing, no
 9 area within the Commonwealth of Puerto Rico shall be in-
 10 cluded within the Coastal Barrier Resources System.”.

11 **SUBPART 7. INTERNATIONAL TRADE**

12 (a) Section 2 of the Act of April 12, 1900, 48 U.S.C.
 13 739, is amended by inserting the following subsection.

14 “1. To the extent consistent with the interna-
 15 tional obligations of the United States, the Common-
 16 wealth of Puerto Rico is authorized to impose tariff
 17 duties on foreign origin products imported into Puerto
 18 Rico. Such tariff duties shall be in addition to the gen-
 19 eral tariff duties applicable to products imported into
 20 the customs territory of the United States.”.

21 (b) Section 1102 of the Omnibus Trade and Competi-
 22 tiveness Act of 1988, 19 U.S.C. 2902, is amended by adding
 23 a new subsection (e) as follows:

24 “(e) During the negotiation of any trade agreement af-
 25 fecting Puerto Rico under subsections (a), (b), and (c), the

1 President shall seek the participation of the Commonwealth
2 of Puerto Rico in the negotiation process, and shall consult
3 with the Governor of the Commonwealth of Puerto Rico con-
4 cerning the potential impact of any proposed tariff rate
5 change on the economy of Puerto Rico.

6 The Government of the United States shall seek to
7 obtain favorable treatment from foreign countries for exports
8 from the Commonwealth of Puerto Rico and shall encourage
9 other countries to consider Puerto Rico as a developing area
10 for purposes of their respective General Systems of Trade
11 Preferences, and any such regional systems of trade prefer-
12 ences.”.

13

SUBPART 8. MARITIME

14 (a) Section 9 of the Puerto Rican Federal Relations Act,
15 48 U.S.C. section 744, is amended to add at the end of the
16 provision: “except that those provisions of the Shipping Act,
17 1916, administered by the Federal Maritime Commission
18 shall not be applicable to the trade between Puerto Rico and
19 the States of the United States. The Commonwealth of
20 Puerto Rico is authorized to establish its own maritime com-
21 mission which, when established in accordance with Puerto
22 Rico law shall exercise exclusive jurisdiction over service,
23 rates, fares, and practices governing the trade between
24 Puerto Rico and the states of the United States.”

1 (b) Section 1 of the Shipping Act, 1916, as amended, 46
 2 U.S.C. App. section 801, is amended by inserting after the
 3 second "possession of the United States" and at the end of
 4 the provision, the following phrase: "not including the Com-
 5 monwealth of Puerto Rico."

6 **SUBPART 9. JURISDICTION OVER MARITIME**

7 **RESOURCES**

8 (a) Amend section 3(21) of the Magnuson Fishery Con-
 9 servation and Management Act, as amended, 16 U.S.C.
 10 1802(21) to read as follows:

11 "(21) The term 'State' means each of the several
 12 States, the District of Columbia, American Samoa, the
 13 Virgin Islands, Guam, and any other territory or possession
 14 of the United States, but does not include the commonwealth
 15 of Puerto Rico."

16 (b) Amend the first sentence of section 2(6) of the Mag-
 17 nuson Fishery Conservation and Management Act, as amend-
 18 ed, 16 U.S.C. 1802(6) to read as follows: "The term 'exclu-
 19 sive economic zone' means the zone established by Proclama-
 20 tion Numbered 5030, dated March 10, 1983, except that
 21 such zone shall not include zones contiguous to the territorial
 22 sea of the Commonwealth of Puerto Rico, provided that the
 23 Commonwealth of Puerto Rico shall take no action that
 24 would purport to restrict or charge fees to vessels of the
 25 United States for the right to fish for highly migratory spe-

1 cies of fish within any fishing jurisdiction the 'Commonwealth
2 of Puerto Rico may establish beyond its territorial waters.'".

3 **SUBPART 10. INTELLECTUAL PROPERTY**

4 (a) Section 101 of title 17 of the United States Code is
5 amended as follows:

6 (1) By inserting the following new definitions in
7 alphabetical order:

8 "The 'design of a useful article,' hereinafter
9 referred to in this Title as a 'design,' consists of
10 those aspects or elements of the article, including
11 its two dimensional or three dimensional features
12 of shape and surface, which make up the appear-
13 ance of the article, and shall include a 'typeface'
14 as herein defined.

15 "A design is 'of Puerto Rican origin' (a) if
16 more than 50 percent of its development costs
17 have been incurred within the Commonwealth of
18 Puerto Rico, irrespective of whether such design
19 is fixed in a useful article in the Commonwealth
20 of Puerto Rico; or (B) if it is first fixed in the
21 Commonwealth of Puerto Rico in a useful article
22 intended to be distributed to the public for com-
23 mercial purposes.

24 "A 'typeface' consists of a set of letters,
25 numbers, or other symbolic characters, whose

1 forms are related by repeating design elements
2 consistently applied in a national system, to the
3 extent that the repeating design elements in the
4 combination employed in a notational system are
5 (A) original, (B) distinct, and (C) incorporated in a
6 useful article whose normal use is in composing
7 text or other cognizable combination of charac-
8 ters.”.

9 (2) By adding, after the semicolon in the second
10 sentence of the definition of “Pictorial, graphic, and
11 sculptural works,” the following: “except where a
12 design of Puerto Rican origin is involved,”.

13 (b) Section 102 of title 17 of the United States Code is
14 amended by adding a new subsection 102 (a)(8) as follows:

15 “(8) designs of useful articles, where such designs
16 are of Puerto Rican origin.”.

17 (c) Section 113 of title 17 of the United States Code is
18 amended by adding a new subsection (d) as follows:

19 “(d) In the case of a design of Puerto Rican origin, the
20 scope of exclusive rights in a copyrighted work does not
21 extend to a design that is (i) staple or commonplace, such as
22 a standard geometric figure, familiar symbol, emblem, or
23 motif, or other shape, pattern, or configuration which has
24 become common, prevalent, or ordinary; (ii) different from a
25 design excluded by (i) hereof only in insignificant details or in

1 elements which are variants commonly used in the relevant
2 trades; (iii) dictated primarily by a utilitarian function of the
3 article in which it is fixed, (iv) composed of three-dimensional
4 features of shape and surface with respect to men's,
5 women's, and children's apparel; or (v) fixed in a semiconduc-
6 tor chip product that is protected under chapter 9 of this title.
7 Notwithstanding the foregoing, the scope of exclusive rights
8 shall not be limited by the employment in the design of sub-
9 ject matter excluded under (i) through (iii) hereof, if the
10 design is a substantial revision, adaptation, or rearrangement
11 of said subject matter: *Provided, however,* That such exclu-
12 sive rights shall be available for a design employing subject
13 matter protected under chapters 1 through 8 of this title or
14 title 35 of the United States Code, only if such protected
15 subject matter is employed with the consent of the proprietor
16 thereof. Such protection shall be independent of any subsist-
17 ing protection in subject matter employed in the design, and
18 shall not be construed as securing any rights to subject
19 matter excluded from protection or as extending any subsist-
20 ing protection."

21 (d) Chapter 3 of title 17 of the United States Code is
22 amended by the addition of a new section 306 as follows:

1 **“§ 306. Designs of Puerto Rican origin**

2 (a) The provisions of section 302 through 305 of this
3 chapter shall not apply to copyrights in designs of Puerto
4 Rican origin.

5 (b) Copyright in a design of Puerto Rican origin subsists
6 from its creation and endures for a period of ten years.

7 (c) A term of copyright provided by this section shall run
8 to the end of the calendar year in which it would otherwise
9 expire.”.

10 (e) Section 407 of title 17 of the United States Code is
11 amended by adding the following language before the semi-
12 colon in section 401(b)(1): “, or, in the case of a design of
13 Puerto Rican origin, the symbol D (the letter D in a circle),
14 or the words ‘Design Copyright,’ or the abbreviation ‘Des.
15 Copr.’”.

16 (f) Section 407 of title 17 of the United States Code is
17 amended by striking the period at the end of section 407 (c) and
18 adding the following language: “, or the work is a design of
19 Puerto Rican origin.”.

20 (g) Section 901 (a) of title 17 of the United States Code
21 is amended by adding a new subsection (10) as follows:

22 “(10) a mask work is ‘of Puerto Rican origin’ (a)
23 if more than 50 percent of its development costs have
24 been incurred within the Commonwealth of Puerto
25 Rico, irrespective of whether such mask work is fixed
26 in a computer chip in the Commonwealth of Puerto

1 Rico; or (B) if it is first fixed in the Commonwealth of
 2 Puerto Rico in a computer chip intended to be distrib-
 3 uted to the public for commercial purposes.”.

4 (h) Section 906 of title 17 of the United States Code is
 5 amended by adding at the end thereof the following:

6 “(c) The limitations on exclusive rights provided under
 7 subsections (a) and (b) of this section shall not apply to mask
 8 works of Puerto Rican origin.”.

9 (i) The foregoing sections (a) through (h) shall apply
 10 after the date of enactment to all acts of manufacture or dis-
 11 tribution that occur in the United States after such date, to
 12 all acts of importation into the United States that occur after
 13 such date, and to all violations of the exclusive rights of the
 14 copyright’s owner under of title 17, United States Code that
 15 occur after such date.

16 **SUBPART 11 FEDERAL PROGRAMS**

17 (a) **CONSOLIDATION OF GRANT-IN-AID PROGRAMS.—**
 18 The Puerto Rico Federal Relations Act is amended by insert-
 19 ing a new section 59, as follows:

20 **SECTION 59.**

21 In order to minimize the burden caused by existing ap-
 22 plication and reporting procedures for grant-in-aid programs
 23 available to the Commonwealth of Puerto Rico it is hereby
 24 declared to be the policy of the Congress, notwithstanding
 25 any provision of law to the contrary, that:

1 “(a) At the request of the Governor of the Common-
2 wealth, any department or agency of the Government of the
3 United States which administers any Act of Congress which
4 specifically provides for making grants to the Commonwealth
5 under which payments received may be used by the Com-
6 monwealth only for certain specified purposes (other than
7 direct payments to classes of individuals, including, but not
8 limited to, Aid to Families with Dependent Children, title
9 IV-A of the Social Security Act, 42 U.S.C. 601; Medicaid,
10 title XIX of the Social Security Act, 42 U.S.C. 2396; Sup-
11 plemental Security Income, title XVI of the Social Security
12 Act, 42 U.S.C. 1381; Foster Care, title IV-E of the Social
13 Security Act, 42 U.S.C. 670; and Nutrition Assistance Pro-
14 gram, 7 U.S.C. 2028) shall, acting through appropriate ad-
15 ministrative authorities of such department of agency, consol-
16 idate any or all grants made to the Commonwealth for any
17 fiscal year or years.

18 “(b) Any consolidated grant for the Commonwealth
19 shall not be less than the sum of all grants which the Com-
20 monwealth would otherwise be entitled to receive for such
21 year.

22 “(c) The funds received under a consolidated grant shall
23 be expended in furtherance of the programs and purposes au-
24 thorized for any of the grants which are being consolidated,
25 which are authorized under any of the Acts administered by

1 the department or agency making the grant, and which
2 would be applicable to grants for such programs and purposes
3 in the absence of the consolidation, but the Commonwealth
4 shall determine the proportion of the funds granted which
5 shall be allocated to such programs and purposes.

6 “(d) Each department or agency making grants-in-aid
7 shall, by regulations published in the Federal Register, pro-
8 vide the method by which the Commonwealth may submit: (i)
9 a single application for a consolidated grant for any fiscal
10 year period, but not more than one such application for a
11 consolidated grant shall be required by any department or
12 agency unless notice of such requirement is transmitted to
13 the appropriate committees of the United States Congress to-
14 gether with a complete explanation of the necessity for re-
15 quiring such additional applications, and (ii) a single report to
16 such department or agency with respect to each such consoli-
17 dated grant: *Provided*, That nothing in this paragraph shall
18 preclude such department or agency from providing adequate
19 procedures for accounting, auditing, evaluating, and review-
20 ing any programs or activities receiving benefits from any
21 consolidated grant. The administering authority of any de-
22 partment or agency, in its discretion, may (i) waive any re-
23 quirement for matching funds otherwise required by law to be
24 provided by the Commonwealth and (ii) waive the require-

1 ment that the Commonwealth submit an application or report
2 in writing with respect to any consolidated grant.

3 (b) **EQUITABLE TREATMENT IN SOCIAL PROGRAMS.**—
4 The Puerto Rican Federal Relations Act is amended by in-
5 serting a new section 60 as follows:

6 “SECTION 60.

7 “(a) It is the policy of the United States that the alloca-
8 tions to the Commonwealth of Puerto Rico of the following
9 programs shall achieve full parity with the States of the
10 Union as soon as possible but in no event later than the fifth
11 anniversary of the date of enactment hereof with allocations
12 to States of the Union in the following programs or their
13 successor thereof: Nutrition Assistance Program (NAP); Aid
14 to Families with Dependent Children (AFDC); and Medicaid;
15 and in no event later than the ninth anniversary of the date
16 of enactment hereof with allocations to States of the Union
17 for the Supplemental Security Income (SSI) program, or its
18 successor.”.

19 **SUBPART 12. PROTECTION OF WORKERS**

20 (a) Amend section 3 of the Labor Management Act, as
21 amended, (29 U.S.C. 153(b)), by adding after the first sen-
22 tence: “; with the exception of cases arising under the juris-
23 diction of the Commonwealth of Puerto Rico which are
24 hereby exclusively delegated to the Labor Relations Board of
25 Puerto Rico. Decisions of the Labor Relations Board of

1 Puerto Rico may be appealed to the Federal Court of Ap-
2 peals for the First Circuit.”.

3 (b) The Puerto Rican Federal Relations Act is amended
4 by adding a new section 61, as follows:

5 “Puerto Rico shall maintain exclusive jurisdiction over
6 employee benefits, other than the benefits currently covered
7 under the Fair Labor Standards Act, the Employee Retire-
8 ment Income Security Act, and the Occupational Safety and
9 Health Act. Puerto Rico’s exclusive jurisdiction shall include,
10 but not be limited to Christmas bonuses, sick and vacation
11 pay, workman’s compensation, and any other benefits not
12 covered under the current aforementioned Federal legisla-
13 tion.”.

14 **SUBPART 13. PUERTO RICO PARTICIPATION IN**
15 **FEDERAL APPOINTMENTS**

16 Section 301 of title 3, is amended by inserting at the
17 beginning thereof the term “(a)” and by adding at the end
18 thereof the following:

19 “(b) The highest ranking Federal officer serving in the
20 Commonwealth of Puerto Rico for any Federal department
21 and agency, or division thereof, and any other appointment in
22 the Commonwealth of Puerto Rico subject to Senate confir-
23 mation, shall be appointed by the President from a list of
24 eligible candidates recommended by the Governor of the
25 Commonwealth of Puerto Rico.”.

1 **SUBPART 14. REPRESENTATION IN UNITED STATES**

2 **SENATE**

3 Section 36 of the Puerto Rican Federal Relations Act,
4 48 U.S.C. section 891-895, is amended as follows:

5 **"SUBCHAPTER V. RESIDENT COMMISSIONERS**

6 **SECTION 891. RESIDENT COMMISSIONERS; ELECTION.**

7 "The qualified electors of Puerto Rico shall choose a
8 Resident Commissioner to the United States Senate and a
9 Resident Commissioner to the United States House of Repre-
10 sentatives at each general election, whose terms of office
11 shall be four years from the 3rd of January following such
12 general election, and who shall be entitled to receive official
13 recognition as such commissioner by all of the departments of
14 the Government of the United States, upon presentation,
15 through the Department of States, of a certificate of election
16 of the Governor of Puerto Rico.

17 **"SECTION 892. QUALIFICATIONS OF COMMISSIONERS;**
18 **APPOINTMENT TO FILL VACANCY.**

19 "No person shall be eligible to election as a Resident
20 Commissioner who is not a bona fide citizen of the United
21 States and who is not more than twenty-five years of age,
22 and who does not read and write the English language. In
23 case of a vacancy in either office of Resident Commissioner
24 by death, resignation, or otherwise, the Governor by and
25 with the advice and consent of the Senate of the Common-
26 wealth of Puerto Rico shall appoint a Resident Commissioner

1 to fill the vacancy, who shall serve until the next general
2 election and until his successor is elected and qualified.

3 **"SECTION 893. SALARY OF COMMISSIONERS; ALLOWANCES,**
4 **FRANKING PRIVILEGE.**

5 "The Resident Commissioners shall receive a salary
6 payable monthly by the United States. The Resident Com-
7 missioners shall be allowed the same sum for stationary and
8 for the pay of necessary clerk hire as is allowed Members of
9 the Senate of the United States and Members of the House of
10 Representatives of the United States. The Resident Commis-
11 sioners shall be allowed the franking privilege granted Mem-
12 bers of Congress.

13 **"SECTION 894. SALARY AND TRAVELING EXPENSES; PAY-**
14 **MENT.**

15 "The salary and traveling expenses of the Resident
16 Commissioners from Puerto Rico to the United States shall
17 be paid in the same manner as the salaries of the Members of
18 the Senate and the House of Representatives are paid.

19 **"SECTION 895. OTHER PRIVILEGES.**

20 "The appropriate sections of title 2 of the United States
21 Codes and any other statutory law that relates to the privi-
22 leges afforded United States Senators shall be amended to
23 include the Resident Commissioner from the Commonwealth
24 of Puerto Rico to the United States Senate."

1 thirty days. The District Office for Puerto Rico of the
2 Immigration and Nationality Service shall issue the
3 special temporary entry visit visas, as well as other
4 entry visas.

5 “(2) If adequate appropriated funds to carry out this
6 subsection are not otherwise available, the Director of the
7 Immigration and Nationality Service is authorized to accept
8 from the Government of the Commonwealth of Puerto Rico
9 such funds as may be tendered to cover all or any part of the
10 costs of administration and enforcement of this subsection.”.

11 **SUBPART 17. LAW ENFORCEMENT**

12 Section 287 of the Immigration and Nationality Act, 8
13 U.S.C. section 1357, is amended as follows:

14 “(a) Any officer or employee of the Service authorized
15 under regulations proscribed by the Attorney General, and
16 any officer or employee of and within the Commonwealth of
17 Puerto Rico authorized by the Governor of the Common-
18 wealth of Puerto Rico shall have the power without war-
19 rant.”.

20 **SUBPART 18. HISTORIC SITES AND CONSERVATION**

21 **LANDS**

22 Section 8 of the Puerto Rico Federal Relations Act, 48
23 U.S.C. section 749 is amended by redesignating it section 8A
24 and enacting a new Section 8B:

1 "SECTION 8b.

2 “(a)(i) Lands. Title to all lands, buildings, and interests
3 in lands, and other property now owned by the United States
4 and within the territorial limits of the Commonwealth of
5 Puerto Rico, and the harbor areas and navigable streams and
6 bodies of water and submerged lands underlying the same in
7 and around the island of Puerto Rico and the adjacent islands
8 and waters, owned by the United States, which may have
9 been acquired in Puerto Rico by the United States under the
10 cession of Spain in the treaty of peace entered into on De-
11 cember 10, 1898, and the lands owned by the United States,
12 and administered under the Caribbean National Forest, is
13 hereby conveyed to the people of Puerto Rico and placed
14 under the control of the Government of the Commonwealth
15 of Puerto Rico; *Provided*, That the United States and the
16 Commonwealth of Puerto Rico may negotiate to establish
17 mutually agreed terms and conditions for the continued use
18 and administration of such lands and properties.

19 (ii) The conveyance described in subsection (i) of this
20 section shall be effective thirty days after the enactment of
21 this section and the Legislature of the commonwealth of
22 Puerto Rico shall have the authority to legislate as it shall
23 deem advisable with respect to all such Crown Lands con-
24 veyed under this section.”.

1 **SUBPART 19. COMMUNITY VALUES**

2 The Puerto Rican Federal Relations Act is amended by
3 inserting a new section 61 as follows:

4 **"SECTION 61.**5 **"(a) DEFINITIONS.—**

6 “(1) The term ‘antitrust laws’ has the same mean-
7 ing given such term in the first section of the Clayton
8 Act, 15 U.S.C. section 12, and shall also include sec-
9 tion 5 of the Federal Trade Commission Act, 15
10 U.S.C. section 45.

11 “(2) The term ‘person in the entertainment indus-
12 try’ means any organization, or an individual connected
13 with any organization, that produces, distributes, trans-
14 mits, or exhibits any form of audio or visual entertain-
15 ment.

16 “(3) The term ‘audio or visual entertainment’ in-
17 cludes:

18 “(i) video, audio, or mixed programs trans-
19 mitted via electromagnetic waves of any frequen-
20 cy, whether transmitted to all receivers of a given
21 type within transmission range, or to only select-
22 ed receivers on the basis of a subscription fee or
23 any other criteria;

24 “(ii) programs transmitted by cable systems
25 as defined in section 602(5)–(6) of the Cable Com-
26 munications Policy Act of 1984, 47 U.S.C. sec-

1 tion 522(5)-(6), except that reference in 47
2 U.S.C. section 522(6) to 'video' shall be read as
3 'veideo or audio' and references in 47 U.S.C. sec-
4 tion 522(6) to 'television' shall be read as 'televi-
5 sion or radio'; and

6 “(iii) motion pictures, which include enter-
7 tainment, using film, videotapes, videocassettes,
8 compact discs, or any other functionally substan-
9 tially equivalent medium, if admission is generally
10 charged for such entertainment, or if such enter-
11 tainment is generally made available to the public
12 on a rental or purchase basis for private viewing.

13 “The term 'audio or visual entertainment' does
14 not include printed or otherwise written material unless
15 such printed or otherwise written material is used in
16 any form of audio or visual entertainment described
17 above.

18 “(b) Upon declaration by the Governor of Puerto Rico
19 (the Governor) and publication of such declaration in the offi-
20 cial register of the Commonwealth of Puerto Rico, the anti-
21 trust laws shall not apply to any joint discussion, consider-
22 ation, review, action, or agreement by or among persons in
23 the entertainment industry for the purpose of, and limited to,
24 developing and disseminating voluntary guidelines designed
25 to alleviate the negative impact of violence, pornography, al-

1cohol and drugs in all audio or visual entertainment in Puerto
 2Rico, or in any subset of audio or visual entertainment in
 3Puerto Rico as the Governor may designate in any declara-
 4tion under this section, provided that

5“(1) no declaration by the Governor under this
 6section shall operate to exempt from the antitrust laws
 7any joint discussion, consideration, review, action, or
 8agreement that results in a boycott of any person; and

9“(2) no declaration by the Governor under this
 10section shall operate to exempt from the antitrust laws
 11any activities conducted more than 36 months after
 12such declaration by the Governor. The Governor may
 13limit the effect of any declaration to a shorter period if
 14he or she does so in the declaration itself.

15“(c) A declaration by the Governor under section 2 con-
 16cerning any forms of audio or visual entertainment shall not
 17limit his or her authority to make future declarations con-
 18cerning those forms of audio or visual entertainment.”

19 **SUBPART 20. ASSUMPTION OF BUDGETARY RE-**
 20 **SPONSIBILITIES AND TRANSFER OF FEDERAL**
 21 **FUNCTIONS**

22 The Puerto Rican Federal Relations Act is amended by
 23 inserting a new section 63, as follows:

24 “The Commonwealth of Puerto Rico shall assume the
 25 expenses inherent in all governmental authority transferred

1 pursuant to this Act. The Government of the United States,
2 or any agency thereof; may from time to time delegate to the
3 Commonwealth of Puerto Rico the total or partial perform-
4 ance of functions vested in the United States, including the
5 administration of such Federal laws and programs on the
6 island, as may be mutually agreed.”.

7

SUBPART 21.

8 The enhancements to the Commonwealth relationship
9 adopted pursuant to this Act shall form part of the Compact
10 entered upon by the Congress and the People of Puerto Rico
11 in 1952. It may be amended in the same manner as entered
12 upon in order to provide for the continuing enhancement of
13 the Commonwealth relationship.

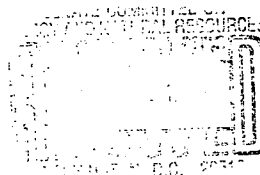
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General Services Administration
Office of Congressional Affairs
Washington, DC 20405



July 14, 1989



The Honorable
J. Bennett Johnston
Chairman, Committee on
Energy and Natural Resources
United States Senate
Washington, DC 20510-6150

Dear Mr. Chairman:

Enclosed is the General Services Administration (GSA) Statement for the Record on S. 710, S. 711, and S. 712, legislation to provide for a referendum on the political status of Puerto Rico.

We appreciate the opportunity to present our views on this legislation. If you have any questions concerning the enclosed statement feel free to call me on 566-0563.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robin G. Graf".

Robin G. Graf
Acting Associate Administrator
for Congressional Affairs

Enclosure

STATEMENT OF EARL E. JONES
COMMISSIONER
FEDERAL PROPERTY RESOURCES SERVICE
GENERAL SERVICES ADMINISTRATION
SUBMITTED TO THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
JULY 1989

Mr. Chairman and Members of the Committee:

I am Earl E. Jones, Commissioner of the Federal Property Resources Service, General Services Administration and I would like to submit for the record the views of the General Services Administration (GSA) on S. 710, S. 711 and S. 712, bills "To provide for a referendum on the political status of Puerto Rico." The caption of the bills fully describe their purpose.

GSA has no comment on the overall merits of or need for the bills as they relate to the selection of a particular political status, however, we would like to express our concerns regarding the proposed real property disposal provisions contained in S. 712. Briefly summarized, each of the political status options provides for the disposition of Federal real property located in Puerto Rico at variance to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (Property Act).

The Property Act is the statute governing the disposition of most Federal real property, including that located in Puerto Rico. Under that Act, GSA is vested with the responsibility for administering an economical and efficient system for the Federal Government to promote the most effective use of real property by Federal agencies and the orderly disposition of real property it no longer requires.

-2-

Under normal procedures, real property which is no longer needed by a Federal agency is reported to GSA as excess real property. GSA first notifies other landholding Federal agencies that such property is available for further Federal utilization. If we receive a properly justified request for further use of the property for Federal purposes, it is transferred to the requesting agency. Such transfers among Federal agencies fulfill the Congressional objective stated in the Property Act that GSA minimize executive agency expenditures for property through efficient and effective utilization of excess property.

If there is no further Federal requirement for a property, it becomes available for disposal as surplus real property. Under existing provisions of law, eligible State and local governmental units and certain nonprofit institutions may acquire surplus real property for restricted local public purposes at monetary discounts of up to 100 percent where such purposes reflect the highest and best use of the property. Eligible public uses include public park and recreation, historic monument, public airport, health, education, correctional facility, highway and wildlife conservation. Also, in accordance with the provisions of Title V of the Stewart B. McKinney Homeless Assistance Act,

-3-

Federal properties determined suitable by the Department of Housing and Urban Development are made available by GSA in coordination with the Department of Health and Human Services for homeless assistance purposes.

In addition, State and local public bodies may purchase real property by negotiation at its estimated fair market value for unrestricted use. Under certain limited circumstances, GSA is also authorized to negotiate the sale of real property with private firms and individuals. Property which is not needed for further Federal purposes and which is not transferred for nonfederal public purposes is generally offered for sale to the public by GSA through competitive bid offerings and public auctions. Such sales benefit the locality by placing the property in productive use, returning it to the tax rolls, and providing the taxpayers on a nationwide basis a monetary return which is applied to their benefit.

In every decision involving the practices described above, we are required by law to consider environmental and cultural impacts resulting from any proposed disposition in accordance with the National Environmental Policy Act of 1969, the Historic Preservation Act of 1966, and other relevant statutes. Hence, the GSA real property management and disposition responsibilities

-4-

constitute an extensive program in which Federal agencies, State and local governments, and the public fully participate through well-defined guidelines promoting such participation.

I have dwelt at some length on the statutory authorities, and implementing procedures so that you may be better able to draw your own conclusions as to their interface with the matters which come before your Committee concerning the proposed disposition of Federal real property holdings in Puerto Rico. However, I would like to emphasize that the structure of the Property Act and the Federal Property Management Regulations promulgated by GSA were designed to assure the fullest use of federally owned real property and that real property assets of the Federal Government are judiciously and equitably managed or disposed of in a manner that serves the best interests of both the Government and the general public.

We understand the desire of Puerto Rico to acquire title to Federal real property holdings in order to advance its economic and social development and to preserve its distinct historical heritage and cultural personality. However, we believe Puerto Rico's overall interest can be accommodated under the existing real property program, without any changes in the existing law or disposal procedures.

The CHAIRMAN. Before announcing the first panel, I would like to turn to the ranking minority member of this committee with whom I have worked every step of the way on this legislation and virtually all legislation on this committee, Senator Jim McClure of Idaho.

STATEMENT OF HON. JAMES A. McCLURE, U.S. SENATOR FROM IDAHO

Senator McCLURE. Thank you, Mr. Chairman. First I would like to congratulate you and the leadership of the three parties who will be testifying today and tomorrow.

I am quite frankly somewhat surprised at the ambitious schedule that the Chairman has announced has so far managed to hold. For an issue of this importance, there has been a remarkable amount of work accomplished, and considerable credit goes to all those involved.

I must say that each of the status options demonstrates considerable thought. I think that each poses the basic issues which the committee needs to address. Whether we will agree with either the particular objectives of individual sections or with the approach taken to secure that objective remains to be seen.

I look forward to the testimony which we will receive today and tomorrow, later this month in Puerto Rico, and then subsequently back here.

As I indicated in my earlier remarks before the Senate, I view this measure as central to our process of government. I do not know what particular status option our fellow citizens in Puerto Rico will choose at this moment, but they should have the option and we should ensure that their decision is an informed one.

In the history of the United States, there is probably no better example than Puerto Rico as a result of well-intentioned federal legislation which does not have a specific goal. In the space of two years earlier this century we in the Congress enacted measure impediments to a final status resolution.

In 1917 Congress extended citizenship, and citizenship is probably the single greatest problem which those advocating independence will have to resolve.

The other issues such as tax and trade, economic assistance, foreclosure of the area to the armed forces of third countries, and base rights all are tractable. We have dealt with all those recently in the Micronesian Compacts. Citizenship and the shared family ties between those United States citizens living in Puerto Rico and those who have moved to the mainland is the crux of the problem.

One year later in the Revenue Act of 1918, Congress enacted the most difficult hurdle with which those advocating statehood must deal. In 1918 we treated Puerto Rico as a foreign country for tax purposes. Had we simply extended the federal tax laws either as a local territorial tax, as we did for Guam, or simply provided the revenues be paid into the local treasury, as we did for the Virgin Islands, I think that the statehood measure would be far simpler. Congress created the current problem, and I think that Congress has an obligation to attempt to deal with it.

History is useful only insofar as it has proven the limitations of congressional prophesy. The expectations for Alaska were that it would never be self-sustaining, and the state now has an \$11 billion trust fund developed through the grants which accompanied statehood.

Congress also assumed that a package deal of Alaska and Hawaii would produce two Democrats from Alaska to balance the two Republicans from Hawaii. Well, at least the arithmetic was right.

I will have a great many questions on each of these proposals, and I expect that the end result of our process will likely be somewhat different than that where these measures started.

As I said in my floor remarks, I consider both independence and statehood to be permanent, in that I believe that for all practical purposes, these options, if implemented, will be irreversible.

Theoretically, of course, by mutual agreement, they could be reversed, but no one should hold any hope of that ever happening. The present status does not have that degree of permanence. That does not mean that it's not the best option at the present time.

It may be that fears over the impact of statehood on the rich culture of Puerto Rico would lead people to not opt for statehood at this time. I think that those fears are groundless, but I recognize that there is that concern, and certain individuals may prefer the current status.

Economic concerns may affect others who view independence as more important than citizenship, and they may also prefer to bide their time. Those are personal decisions which are beyond our control, and if there are improvements which can usefully be made in the current status, then we should make them.

Our objective is to produce three measures which will honestly and thoughtfully present options which this Congress has agreed to support. It may be that a subsequent Congress would produce an independence bill more acceptable to those who advocate that option. I don't know.

It may be that a subsequent Congress will enact a statehood bill with better guarantees. Again, I don't know.

It may be that a subsequent Congress will agree to provisions for the present status which we will not. Predictions for a future Congress are probably on a par with congressional prophecy.

Once again, let me thank the Chairman and the staff for their great efforts in putting these hearings together and let me thank and congratulate the leadership and each of the three parties for their hard work and dedication to seeing this process work openly and fairly for all the people of Puerto Rico. They deserve nothing less from us.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator McClure.

In my opening statement I said we wanted to have elections in 1992. Obviously I should have said 1991 because 1992 is election year in Puerto Rico and, of course, 1991 is our target date.

It is very, very important that we get this legislation out in this Congress so that the elections can be held far in advance of your elections in 1992, and I wanted to clear that up.

Next I want to call on Senator Pete Domenici, a valued member of this committee, who will either speak in Spanish or English at his choice.

**STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM
NEW MEXICO**

Senator DOMENICI. Thank you very much, Mr. Chairman.

Yo voy hablar en Ingles pero entiendo no puedo hablar muy bien pero algo.

The CHAIRMAN. That is enough. That is enough.

Senator DOMENICI. You do not need to interpret that.

Mr. Chairman, and friends from Puerto Rico, I do not have a long statement.

I compliment the Chairman and ranking member for the diligent work that they have put into this issue, and I compliment the leadership of Puerto Rico and the three parties for their diligent effort in bringing this issue to the forefront.

This is, as I see things in the world today, a very important event for the United States because it's obvious that the world is moving rather rapidly in the direction of democracy and freedom and individual opportunity. Perhaps that movement has been moved along by the success of the United States democracy and its union of states.

But, in any event, the fire for freedom and for democracy is moving rapidly in the world, and it will not be put out. It will move even more rapidly in the next 40 to 50 years in my opinion. We see it all around us.

And, in a sense, this is an exercise in United States practicing what we preach. The people of Puerto Rico through their leaders desire, it appears, desire to have an opportunity to exercise that individual right at the ballot, at the box, at the voting booth to determine their collective destiny as an institution of government.

And it seems to me that we do not know how it will turn out. We do not know how it will turn out here. We do not know how it will turn out in Puerto Rico. But it seems to me that it is incumbent upon us since we seem to have the destiny of your future status in our hands, to join hands and come up with something that is practical for the exercise of the rights that we hold so sacred in our country of determining one's destiny and of using democracy and individual thought, individual decisions through the ballot box to determine the destiny and the future. It seems to me that we can do no less than to join hands and do the best we can to give you that opportunity.

I look forward to working on this committee with the chairman and ranking member and look forward to the testimony today. This will be a long trip together. There's no question about it. It won't be a month or two. It will be very long and very arduous, but it does seem to me that through the hard work of the Chairman and ranking member and their commitment that we're on the way. Through the hard work of your leaders clearly you are moving in the direction that compliments this effort, and we compliment your effort, so I hope it works out in a way that is in the best interest of

our country and the best interest of your people. Thank you very much.

The CHAIRMAN. Thank you, Senator Domenici.
Senator Burns.

**STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM
MONTANA**

Senator BURNS. Thank you, Mr. Chairman. I have no lengthy statement, and I would heed the word of Senator Domenici this morning that it will be a long trek as we work our way through this process.

A special welcome to our special guests this morning, and I look forward in their testimony and the information that can be gained by me personally, and I will have to look further into this issue because I am new on this committee and new to the Congress of the United States.

I congratulate our Chairman for moving this process along and allowing me to be a part of that process. So, if it is going to be a long and arduous trek, then maybe I should withhold my statement and sit back and listen because I will probably learn a lot more than I can contribute to it. But I look forward to it and the information that emanates from these hearings. Thank you, Mr. Chairman, and congratulations to you.

The CHAIRMAN. Thank you, Senator Burns.

Senator HEFLIN. No statement.

The CHAIRMAN. Senator Ford?

Senator FORD. I have no statement. Thank you, Mr. Chairman.

The CHAIRMAN. Before we begin our hearings, I would like to explain what we have in mind.

The three parties have each been invited to make an initial statement of 30 minutes each, after which we thought we would get the three parties represented by their principal for a round of questions to the extent we have time this morning.

Then we will begin individual statements and longer questions one at a time of the three parties beginning this afternoon with Governor Hernandez-Colon.

Before we begin, I would simply like to thank all three parties for real cooperation in this effort.

I want the people of Puerto Rico to know that each of the three parties has been well represented. They have played this game fair. They have worked hard.

The product represented by S.712 shows a real dedication of all three parties to make the process work.

Really, the process itself is a very important thing because it represents self-determination for Puerto Rico. That is what we are going to try to deliver on this committee to the people of Puerto Rico. That is a realistic choice and self-determination.

What that choice will be and, indeed, what the shape of the choices will be we cannot tell, and that is what this process is about. But thus far I want to thank all three parties for their very hard and effective work.

We begin this morning with the Statehood Party represented by Governor Carlos Romero Barcelo. He is accompanied by former

Governor Luis Ferre, both very distinguished Governors and very distinguished people. They are accompanied by Pedro Rossello and, Governor Romero Barcelo, you may begin.

STATEMENT OF GOV. CARLOS ROMERO BARCELO, PRESIDENT, NEW PROGRESSIVE PARTY (STATEHOOD), ACCOMPANIED BY DR. LUIS A. FERRE, AND DR. PEDRO ROSSELLO, STATEHOOD PARTY

Governor ROMERO. Thank you, Mr. Chairman, Senators.

I am honored to be here with you on this day, I believe it will be an historic day and a significant milestone, the admission of Puerto Rico as the 51st State of the Union.

My name is Carlos Romero Barcelo, and I am here today in my capacity as president of the New Progressive Party of Puerto Rico, the pro-statehood party. I served two terms as Governor of Puerto Rico and as Mayor of San Juan. I am privileged to be here with Dr. Luis Ferre, the founder of our party, a man who has been an inspiration to generations of Puerto Ricans in our quest for political equality.

To my left is also the Vice President of our party, Dr. Pedro Rossello.

And at this point, I would wish—I would ask Don Luis to make a few brief remarks.

STATEMENT OF DR. LUIS A. FERRE, STATEHOOD PARTY

Dr. FERRE. Thank you, Governor.

Mr. Chairman and members of the committee, I am Luis A. Ferre, former Governor of Puerto Rico, and I am here on behalf of the Statehood Party and also of the Statehood Coalition which represents 20 organizations that are working for statehood of Puerto Rico.

The testimony of the Governor, Carlos Romero Barcelo, will give us the continuation of the quest for statehood that those of us who have confidence in the rich values and vigorous potential of American democracy have kept alive.

I will only give you a personal perspective of our odyssey. I am now 85 years old, and most of my life has been dedicated to the cause of statehood of Puerto Rico because I sincerely believe that the United States is the true champion of democracy and equality in the world, with a constitution that has permitted the orderly and successful development of its resources.

It was 53 years ago in 1936 that I first appeared before a committee similar to this one to oppose a bill by Senator Millard Tydings that would grant independence to Puerto Rico. I had to travel from San Juan to Haiti, Cuba, and Miami by plane and then by train to Washington, quite a trek. A long trip in those days, but moved by my desire to defend the right of statehood for the loyal American citizens of Puerto Rico. This was the beginning of a pilgrimage that has continued ever since, and it will continue by myself and those that have my same convictions until we have achieved our goal, seeing Puerto Rico admitted as a state of the union.

It has been a difficult task because economic, political, and cultural objections have been raised by a large number of Puerto

Ricans who though aspiring to retain their U.S. citizenship were misled to believe that it was both impossible to attain and catastrophic for Puerto Rico to forsake its supposedly advantageous position of tax exemptions and its territorial condition to assume the legitimate obligations of statehood with all its rights and privileges. Those of us who had confidence in the dynamic forces of statehood were convinced that this was a mistaken position.

In 1949, we testified before the Subcommittee of the Committee on Labor and Education at hearings held in Ponce, Puerto Rico, and maintained that what Puerto Rico needed to solve the serious economic problems they had observed was something that required, and I quote:

More than a kind interest on our part and that of Congress to extend to us this or that measure of help in a generous spirit of fair deal that the root of our problem went deeper and required an equal deal for the American citizens of Puerto Rico which would give them the equality of opportunity to which every American citizen is entitled so as to be able to solve his own problems by his own efforts and through his own enterprise.

And added:

What must be done instead? I contend that the problem of the United States citizen of Puerto Rico must be met with a massive attack, with courage, determination, and honesty. If we are American citizens, then we must be given the tools that our fellow American citizens in the continental United States have to solve their problems, and those are equal rights under statehood so that we can protect our economic interests in that very place, Congress, where economic policies are established.

This was in 1949, but our effort was to no avail. Puerto Rico continued as a ward of Congress with the illusion that it was better to enjoy tax exemption than equality of rights and duties. And as a result, the problems continued to grow and the economic help to Puerto Rico vastly increased.

In 1966 the United States Puerto Rico Status Commission was created, and I had the privilege of being appointed on behalf of the statehood position. One of its conclusions reads:

Economic studies indicate that sustained economic growth under the present status and continuation of the special economic arrangements will make statehood with adequate but not extraordinary or unprecedented provisions for transition fully possible without severe risks.

Following the recommendations of the Status Commission, a plebiscite was held in Puerto Rico in 1967 between independence, statehood and enhanced commonwealth. The statehood forces rallied under my leadership and that of Mr. Romero Barcelo and others, and we increased our voting strength in such a manner that four months after the plebiscite we organized the New Progressive Party on the platform of statehood, and won the 1968 election. As a result, I was elected governor after 28 years of commonwealth control.

Well, another generation has gone by since the Status Commission report of 1966, and we find ourselves in the same predicament of trying to solve the problems of Puerto Rico with patches of the same special measures that have proven ineffective for two generations. Are we going to try again in the same measures that have failed and have made Puerto Rico dependent every time a larger measure from the largesse of Congress to find ourselves a generation from now with a large economic dependency or is it not time

to try the well tested method of the quality of rights, obligations, and opportunities that has been so successful with the 50 states.

This paternalistic approach is not the method of American democracy. It is not fair to the 3,300,000 U.S. citizens living on the island, nor to the 2,300,000 Puerto Ricans living in the 50 states who have patriotically contributed to the defense of our country during all the conflicts in which we have been involved during this century and who by their industriousness and resourcefulness have also contributed to the prosperity and progress of the United States. Nor does it correspond either to the spirit of fair deal of American democracy to hold 3,300,000 U.S. citizens disenfranchised any longer from their political rights under the territorial clause of the Constitution.

The United States Congress has been called by a great patriot the "moral summit of the world." Giving Puerto Rico the right to assume its full responsibilities as a state of the union after almost 100 years of apprenticeship is the best demonstration of your commitment to this lofty leadership. It would also be a proof to the world that democracy American style does work. Thank you, gentlemen.

The CHAIRMAN. Thank you very much, Governor.

STATEMENT OF GOV. CARLOS ROMERO BARCELO—Continued

Governor ROMERO. Mr. Chairman Senators, there are several points I would like to make in my statement today. First, I would like to devote my comments to the legislation that is pending before the committee. Having the Congress invite the people of Puerto Rico to express their will on their preferred status is a significant gesture. More than that, it is a governmental exercise of surpassing importance.

Congress' initiative to enact the legislation enjoys the New Progressive Party's full endorsement. We believe the people of Puerto Rico will exercise this franchise to select statehood. Whatever the result, the time has come to gauge the will of the U.S. citizens in Puerto Rico.

Mr. Chairman, Senators, you will hear from three very dedicated political leaders in these hearings. We differ strongly in matters of policy, but each of us loves the island of Puerto Rico and its people. Each of us wishes to promote the economic development of Puerto Rico. Each of us wishes to preserve and enhance the free institutions and traditions that have made our island a beacon of liberty in the Caribbean. Our differences have to do with how best to promote these ends.

One of us believes the way is through independence. Another that it lies in a mixed relationship with the United States known as commonwealth. I believe the best way is the same as that chosen by our fellow citizens of the United States, through statehood.

If Congress passes plebiscite legislation, we will campaign hard for our positions. Just as in campaigns in the States, there will be some hard punches thrown and received, but the purpose of that hard campaigning will not be for personal gain or political aggran-

dizement. It will be to enhance the well-being of our fellow Puerto Ricans by the best means we know.

It is important to keep this in focus, the debate over statehood versus the other two options is absorbing and because the definitions of each status have been incorporated in the legislation is an indispensable element. But let us not lose sight of the overall objective that Congress enact this legislation inviting the plebiscite.

Whatever the merits of our differences, this result is a common goal. And, having said that, everyone knows I represent an ever-growing number of Puerto Ricans who believes that statehood is the only viable status. Faithful to my beliefs and my constituency, I advocate that course.

These hearings are being televised in Puerto Rico where they were watched with intense interest. However, it will come as a surprise to many Americans that there is so much debate about Puerto Rico's political future. After all, for the near century since the Spanish American war, the United States and Puerto Rico have shared a common bond, a common heritage, and an uncommon interweaving of our societies.

In every war since World War I Puerto Ricans have fought under the American flag. Nearly 200,000 Puerto Rican citizens have served the United States faithfully in this century's major wars. Many paid the ultimate price for the cause of democracy. In the Korean war, for example, Puerto Rico was second among all states in the number of wounded and third in the number of battle deaths.

The American Naval base at Roosevelt Roads is the largest in the world outside the mainland U.S., and it is vital to our hemispheric and international security. More than two million Puerto Ricans live, work and vote as full-fledged citizens all across the United States in addition to the 3,300,000 Puerto Ricans who live on the island.

Our cultures exchange the best of both worlds with musicians like Pablo Casals, opera singers like Justino Diaz, actors like Jose Ferrer, Raul Julia and Rita Moreno, athletes like Roberto Clemente, Chi Chi Rodriguez, and Angel Cordero achieving fame not only in America, but around the world.

Our economies have virtually become one. More than 75 percent of our consumer goods are produced in the 50 states. More than 90 percent of our industry derives from mainland U.S. businesses. Since 1917 Puerto Ricans have been citizens of the United States. We have 3,300,000 American citizens living in Puerto Rico, more than live in 27 of the states now represented in Congress.

With such a close bond, with so much progress some people ask why Puerto Rico would ever want to change the current status and become the 51st state. The answer is simple. Because we do not have equal rights.

Puerto Ricans are a talented, a hard working people, a proud people. We are U.S. citizens who have given their lives for our country and have worked hard to enrich our nation, but we are U.S. citizens with a difference. We are second class citizens who have no voice in our nation's future, who have no vote in Washington.

For more than 200 years the United States has been the world's shining example of democracy and today that torch of the Statue of Liberty is burning brightly in Beijing. It seems in Congress that while that torch burns brightly in Beijing and in other countries where they have dictatorships, we will have today some people who will be advocating permanent disenfranchisement.

So, it should surprise no one that American democracy burns brightest in Puerto Rico. We already are U.S. citizens. What we seek is to become full-fledged citizens with the same rights and responsibilities as Americans in New Orleans or Boise or any American city or state.

I believe the case is compelling for Puerto Rico to become the 51st state. President Bush agrees. George Bush is a strong supporter of statehood for Puerto Rico. Many Democratic and Republican members of Congress also believe that the state of Puerto Rico will strengthen this country, just as Alaska and Hawaii did, and just like the other 35 states who joined the union after the revolution.

Let me briefly spell out the reasons why Puerto Rico should become the 51st state. Let me also discuss some of the misconceptions about what this would mean.

There are four compelling reasons why Puerto Rico should become the 51st star on the American flag. The first reason goes back to the first 13 stars on that American flag. The American revolution was fought to give people the right to decide their own destiny. Puerto Ricans seek no less.

We are subject to the laws of Congress, but three million Puerto Ricans, three million U.S. citizens have no vote here in Congress. That is not right. It was not right in the 13 colonies in 1775, and it is not right in Puerto Rico in 1989.

Puerto Rico is subject to a patchwork of federal laws, some of which are the same as they are here in the mainland, some of which are specifically written for our island. But all these laws governing Puerto Rico share a common feature. Not one Puerto Rican had a vote to determine what those laws were going to be.

If Puerto Rico becomes the 51st state, the motto which adorns the Supreme Court, "Equal justice under law," will finally have real meaning on our island.

The second reason why Puerto Rico should be the 51st state is because we have earned the right to become full-fledged American citizens, and many Puerto Ricans earned it the hard way, with their lives. I mentioned early the number of Puerto Ricans who have served and died fighting under the American flag. But behind those numbers are heroes, Puerto Rican heroes, American heroes.

When American planes sought to avenge the bloody terrorism of Muhammad Quaddafi's Libya, a Puerto Rican Air Force commander was in the eye of the raid, and Major Ribas-Dominicci gave his life for his country. His mother did not vote for the President who gave the order to take action against Libya. She has no right to vote. She lives in Utuado, Puerto Rico.

The United States in its long march to overturn inequality has historically reversed past patterns of discrimination. Other men and women have fought in the nation's wars when they, too, were disenfranchised. In World War I and Korea, World War I, and World War II and Korea men and women served and died at the

time when neither they nor their parents could vote. They came from Alaska and Hawaii. They came from southern states, and they were below the age of 21. They could fight, but not until the 1960s and early seventies were they granted full voting rights.

The nature of the commonwealth or territorial status is undemocratic in itself. It seems preposterous to suggest that Congress, the Congress of the nation which is the example of democracy throughout the world can sponsor, encourage or support a relationship between the fifty states and a territory of 3,300,000 U.S. citizens based on permanent disenfranchisement.

The third reason for Puerto Rican statehood is international relations and national security. Just as Puerto Rico needs the United States, the United States needs Puerto Rico. Earlier I mentioned the critical role played Roosevelt Roads Naval Base. Puerto Rico is at the crossroads of the Caribbean and North, South, and Central America.

If the security of the 20th century America focused on Europe and Asia, then it is clear that the security of 21st century America could well center on this hemisphere. We need look no further than Cuba, Panama, Nicaragua and the drug lords in South America to realize the foreign policy challenges that we face.

Admission of Puerto Rico as a state will demonstrate to Central America and South America in an irrefutable way that the United States is genuinely hospitable to Hispanic language and culture. The present territorial relationship, using the Supreme Court's word in 1980, is one in which decisions are made for the territorials in the national capital without their participation.

That sends one signal to Latin America. On the other hand, statehood in which Puerto Ricans take part in choosing the American President and elect actual voting members to the Senate and the House sends quite another kind of signal.

I do not know how many billions in foreign aid and debt forgiveness such a signal is worth, but surely it has great value for American standing in the eyes of Latin America. It would place a part of the American union in an area of great strategic interest to the United States, the Caribbean. Granting statehood to Hawaii achieved the same result in the Pacific.

A territorial outpost is one thing. Even an enormous military facility such as Roosevelt Roads cannot transform it into something organically linked to the mainland. By its very nature statehood does that. It will for all practical purposes end the debate that has sometimes erupted in the United Nations over the alleged colonial status of Puerto Rico.

And the fourth reason why Puerto Rico should become a state can be summed up in two words: the future. The first 13 of the United States made a great free and prosperous nation. And that nation became greater, freer and even more prosperous with each new state that was added.

When the Louisiana Purchase was made, many Americans scratched their heads and asked what would they ever do with all that worthless land. When William Seward committed his folly in buying Alaska, people thought he was crazy. But today you cannot imagine what America would be like without the states of the Louisiana Purchase, without the state of Alaska.

I am confident that in a few decades' time the citizens of the United States will look back and not be able to imagine a time when Puerto Rico was not the 51st state of the union. The genius of the American experiment in democracy is that the United States has never stopped growing, not just in size and population, but in the diversity, strength and freedom of its people.

Puerto Rico has been a member of the union, although on a hybrid basis since 1989. The Puerto Rican people have been United States citizens since 1917. They have bled for their country and they have earned the opportunity that the pending bills would bestow, the chance to express a preference regarding the type of relationship they should have with the mainland with an advance knowledge that Congress has blessed their endeavor. Equality, justice, patriotic service, international relations, national security and the future, all good reasons why Puerto Rico will be a great state in a great nation.

Now, let me address some of the arguments some people make against Puerto Rican statehood. Just as I believe there are compelling reasons for statehood, others find arguments to oppose it.

The first argument they cite is why upset the status quo. Why not just remain a territory tied to the United States getting a free ride? Puerto Rico has made progress as a territory. But, no matter how much economic progress we make as a territory, no matter if we call it commonwealth, we can never solve the fundamental problems of that status. We will never be equal. We will always be second class citizens without participation in the decisions that affect our nation's future. We will never know when Congress will withdraw what it has given.

Independence will give us total control of our destiny. But the overwhelming majority of Puerto Ricans believe our destiny, our families and our future are inextricably bound with that of the United States. Only a relative handful of Puerto Ricans favor independence. Only one option will endow Puerto Ricans with the full rights of American citizens. That option is statehood.

The status issue is a voting rights issue. It is also a civil rights issue. The present territorial relationship violates a basic principle of democracy, the principle of government by consent of the governed.

Governor Hernandez-Colon stated correctly on February 26, 1989 the following, and I quote, "Due to our unique relationship with the United States, Puerto Rico has no participation in making laws that apply to us, a lack of democratic legitimacy in the application of those laws is a basic problem in the political structure of the commonwealth we have been aware of since 1952."

Statehood is a challenge. It is the inevitable choice of those who place a high value on representative government and who believe that Puerto Rico's real economic development will occur not as a territory under the plenary powers of Congress to grant or withdraw various benefits, but as a state inextricably bound to the union of other states.

From the Congress' point of view, statehood is the only option of the three under which Puerto Rico will contribute to the federal treasury and not simply make claims upon it. The difference is dramatic. Under the present commonwealth status, to say nothing of

the proposed enhancement of that status, the net deficit to the treasury that is attributable to Puerto Rico will be at least \$160 billion over the next 25 years. The net deficit under our statehood proposal will be about \$17 billion over the same 25-year period, and in the later years under statehood, there should be no deficit at all, but a surplus beginning in the 18th year. So, fiscal prudence is one reason why Congress should wish to make statehood possible for Puerto Rico.

The second argument against statehood is economic. Opponents of statehood claim Puerto Rico would suffer serious economic side effects from the imposition of federal income taxes, and the loss of section 936 tax incentives.

The facts are exactly the opposite. It is under territorial status that Puerto Rico's economic development is uncertain. Commonwealth status is the most serious threat to section 936. Congress may eliminate the section and would be under pressure to do so in consideration of every future tax bill.

We, on the other hand, are not proposing to end section 936 precipitously. We are proposing instead that it be guaranteed for a period of time after the beginning of statehood and then phased out gradually at a rate, and in an environment, that will continue to attract business and jobs to Puerto Rico. Whatever accommodations may be agreed upon would be protected more fully within a statehood admission act than section 936 is now. Statehood will provide certainty not possible under the territorial status.

For the long term the best way to assure continued economic growth in Puerto Rico is statehood. Businesses grow and create jobs where there is long term stability. And nothing would do more to build business confidence in Puerto Rico than the ultimate stability of statehood.

I am going to skip the next few pages to save some time. I am going to go into page 19, however, they remain as part of my statement. But it is too long and I think I am running a little bit out of time.

The CHAIRMAN. The full statement will be put into the record.

Governor ROMERO. Thank you. I will go onto the third argument. The third argument against statehood is language. Some people argue that our Spanish heritage and language is a barrier to statehood. I could not disagree more. Puerto Rico is a bilingual society, proud of both our Hispanic and American cultures. By accepting Puerto Rico as a state and guaranteeing that we shall maintain English and Spanish as official languages and that we preserve our right to enrich and strengthen our cultural heritage, the Congress and the nation will be sending a strong message of friendship and brotherhood to all of Latin America.

The two principal languages in America are Spanish and English. It is in our national interests to improve our relations politically, economically and otherwise in Latin America. Accepting an Hispanic community as an equal partner in the nation with two senators and congressmen, and at the same time respecting our Spanish language and cultural heritage, will go a long way in helping to crumble down the walls of misunderstanding. Walls of misunderstanding that have been nourished throughout the years by a

feeling in Latin American that North Americans look down upon them.

The fourth argument against statehood is simple. That a majority of the Puerto Rican people do not support it. Well that is precisely what plebiscites are all about. It has been 22 years since the last plebiscite and an entire new generation of Puerto Ricans have come on the scene. They deserve the chance to choose once and for all where Puerto Rico's future lies.

In the 1967 plebiscite, 39 percent supported statehood. Since that time our numbers have grown significantly. If I was not convinced that a new plebiscite would result in statehood, then I would not be here with you today. Mr. Chairman, members of the committee, complete the task that you have initiated. Let the people of Puerto Rico speak. Puerto Ricans will speak loud and clear for equality, for justice, for patriotic service, for better international relations, and for the future.

Puerto Rico will speak for statehood. I think it is about time we added a new star on the American flag. Thank you.

[The prepared statement of Governor Romero Barcelo follows:]

STATEMENT BY
GOVERNOR CARLOS ROMERO BARCELO
BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

Thursday, June 1, 1989

Good morning.

I am honored to be here with you on a day I believe will go down in history as a significant milestone in the admission of Puerto Rico as the United States' 51st State.

My name is Carlos Romero Barcelo. I am here today in my capacity as President of the New Progressive Party of Puerto Rico, the pro-statehood party. I served two terms as Governor of Puerto Rico and also as the Mayor of San Juan.

I am privileged to be here with Don Luis Ferre, the founder of our Party, the Chairman of the Republican Party of Puerto Rico, and a man who has been an inspiration to generations of Puerto Ricans in our quest for political equality.

I have asked Don Luis to make a few brief remarks.

(Remarks by Don Luis Ferre)

I would like to make several points in my statement today.

I want to devote my first comments to the legislation pending before this Committee. Having the Congress invite the people of Puerto Rico to express their will on their preferred status is a significant gesture. More than that, it is a governmental exercise of surpassing importance.

Congress' initiative to enact this legislation enjoys the New Progressive Party's full endorsement. We believe the people of Puerto Rico will exercise this franchise to select statehood. Whatever the result, the time has come to gauge the will of the U.S. citizens in Puerto Rico.

Mr. Chairman, you will hear from three very dedicated political leaders in these hearings.

We differ strongly on matters of policy.

But each of us loves the island of Puerto Rico and its people. Each of us wishes to promote the economic development of Puerto Rico. Each of us wishes to preserve and enhance the free institutions and traditions that have made our island a beacon of liberty in the Caribbean.

Our differences have to do with how best to promote these ends. One of us believes the way is through independence. Another, that it lies in a mixed relationship with the United States known as "commonwealth." I believe the best way is the same as that chosen by our fellow citizens of the United States -- through statehood.

If Congress passes plebiscite legislation, we will campaign hard for our positions. Just as in campaigns in the states, there will be some hard punches thrown and received. But the purpose of that hard campaigning will not be for personal gain or political aggrandizement. It will be to enhance the well-being of our fellow Puerto Ricans by the best means we know.

It is important to keep this in focus. The debate over statehood versus the other two options is absorbing and, because the definitions of each status have been incorporated in the legislation, is an indispensable element. But let us not lose sight of the overall objective: that Congress enact this legislation inviting the plebiscite. Whatever the merits of our differences, this result is a common goal.

Having said that, everyone knows I represent an ever-growing number of Puerto Ricans who believe statehood is the only viable status. Faithful to my beliefs and my constituency, I advocate that cause.

These hearings are being televised in Puerto Rico, where they will be watched with intense interest. However, it will come as a surprise to many Americans that there is much debate about Puerto Rico's political future. After all, for the near-

century since the Spanish-American War, the United States and Puerto Rico have shared a common bond, a common heritage, and an uncommon interweaving of our societies.

In every war since World War I, Puerto Ricans have fought under the American flag.

Nearly 200,000 Puerto Rican citizens have served the United States faithfully in this century's major wars. Many paid the ultimate price for the Cause of Democracy. In the Korean War, for example, Puerto Rico was second among all states in the number of wounded and third in the number of battle deaths.

The American naval base at Roosevelt Roads is the largest in the world outside the mainland U.S. and it is vital to our hemispheric and international security.

More than two million Puerto Ricans live, work, and vote as full-fledged citizens all across the United States, in addition to the 3.3 million Puerto Ricans who live on our island.

Our cultures exchange the best of both worlds with musicians like Pablo Casals, opera singers like Justino Diaz, actors like Jose Ferrer and Raul Julia, and athletes like Roberto Clemente, Chichi Rodriguez, and Angel Cordero, achieving fame not only in America, but around the world.

Our economies have virtually become one. More than 75 percent of our consumer goods are produced in the 50 states. More than 90 percent of our industry derives from mainland U.S. businesses.

Since 1917, Puerto Ricans have been citizens of the United States. We have 3.3 million American citizens living in Puerto Rico: more than live in 27 states now represented in Congress.

With such a close bond, with so much progress, some people ask why Puerto Rico would ever want to change the current status and become the 51st State.

The answer is simple -- because we do not have equal rights.

Puerto Ricans are a talented people, a hard-working people, a proud people.

We are U.S. citizens who have given their lives for our country and have worked hard to enrich our nation.

But we are U.S. citizens with a difference -- we are second-class citizens who have no voice in our Nation's future, who have no vote in Washington.

For more than two hundred years, the United States has been the world's shining example of democracy. And today the torch of the Statue of Liberty is burning brightly in Beijing.

So it should surprise no one that American democracy burns brightest in Puerto Rico.

We already are U.S. citizens. What we seek is to become full-fledged citizens, with the same rights and responsibilities as Americans in New Orleans or Boise or any American city or state.

I believe the case is compelling for Puerto Rico to become the 51st State.

President Bush agrees. George Bush is a strong supporter of statehood for Puerto Rico. Many Democratic and Republican members of Congress also believe that the State of Puerto Rico will strengthen this country just as Alaska and Hawaii did, and just like the other 35 states who joined the Union after the Revolution.

Let me briefly spell out the reasons why Puerto Rico should become the 51st State. And let me also discuss some of the misconceptions about what this would mean.

There are four compelling reasons why Puerto Rico should become the 51st star on the American flag.

The first reason goes back to the first thirteen stars on that American flag. The American Revolution was fought to give people the right to decide their own destiny. Puerto Ricans seek no less.

We are subject to the laws of Congress. But three million Puerto Ricans, three million U.S. citizens, have no vote here in Congress. That is not right. It was not right in the thirteen colonies in 1775, and it is not right in Puerto Rico in 1989.

Puerto Rico is subject to a patchwork of Federal laws, some of which are the same as they are here on the mainland, some of which are specifically written for our island. But all these laws governing Puerto Rico share a common feature -- not one Puerto Rican had a vote to determine what those laws were going to be.

If Puerto Rico becomes the 51st State, the motto which adorns the Supreme Court, "Equal Justice Under Law," will finally have real meaning on our island.

The second reason why Puerto Rico should be the 51st State is because we have earned the right to become full-fledged American citizens -- and many Puerto Ricans earned it the hard way, with their lives. I mentioned earlier the numbers of Puerto Ricans who have served and died fighting under the American flag.

But behind those numbers are heroes, Puerto Rican heroes, American heroes. When American planes sought to avenge the bloody terrorism of Muhammar Quadafi's Libya, a Puerto Rican Air Force Commander was in the eye of the raid. And Major Ribas-Dominicci gave his life for his country.

His mother did not vote for the President who gave the order to take action against Libya. She has no right to vote -- she lives in Utuado, Puerto Rico.

The United States, in its long march to overturn inequality, has historically reversed past patterns of discrimination. Other men and women have fought in the Nation's wars when they too were disenfranchised. In World Wars I and II and Korea, men and women served and died at a time when neither they nor their parents could vote. They came from Alaska and Hawaii, they came from southern states; they were below the age of 21. They could fight, but not until the 1960's and early 1970's were they granted full voting rights.

The nature of the "Commonwealth" or territorial status is undemocratic in itself. It seems preposterous to suggest that the Congress of the Nation which is the example of democracy throughout the world can sponsor, encourage or support a relationship between the fifty states and a territory of 3.3 million U.S. citizens based on permanent disenfranchisement.

The third reason for Puerto Rican statehood is international relations and national security. Just as Puerto Rico needs the United States, the United States needs Puerto Rico. Earlier I mentioned the critical role played by Roosevelt Roads Naval Base.

Puerto Rico is at the crossroads of the Caribbean and North, South, and Central America. If the security of twentieth century America focused on Europe and Asia, then it is clear that the security of twenty-first century America could well center on this hemisphere. We need look no further than Cuba, Panama, Nicaragua, and the drug lords in South America to realize the foreign policy challenges we face.

Admission of Puerto Rico as a state will demonstrate to Central America and South America, in an irrefutable way, that the United States is genuinely hospitable to Hispanic language and culture. The present territorial relationship -- using the Supreme Court's word in 1980 -- is one in which decisions are

made for the territorials in the national capital, without their participation. That sends one signal to Latin America. Statehood, in which Puerto Ricans take part in choosing the American President, and elect actual voting members to the Senate and the House, sends quite another kind of signal. I do not know how many billions in foreign aid and debt forgiveness such a signal is worth, but surely it has great value for America's standing in the eyes of Latin Americans.

It will place a part of the American Union in an area of great strategic interest to the United States, the Caribbean. Granting statehood to Hawaii achieved the same result in the Pacific. A territorial outpost is one thing. Even an enormous military facility such as Roosevelt Roads cannot transform it into something organically linked to the mainland. By its very nature, statehood does that.

It will, for all practical purposes, end the debate that has sometimes erupted in the United Nations over the alleged "colonial" status of Puerto Rico.

And the fourth reason why Puerto Rico should become a state can be summed up in two words -- the future. The first thirteen of these United States made a great, free and prosperous Nation. And that Nation became greater, freer, and even more prosperous with each new state that was added. When the Louisiana Purchase

was made, many Americans scratched their heads and asked what would they ever do with all that worthless land. When William Seward committed his "folly" of buying Alaska, people thought he was crazy.

But today you cannot imagine what America would be like without the states of the Louisiana Purchase, without the State of Alaska. I am confident that, in a few decades time, the citizens of the United States will look back and not be able to imagine a time when Puerto Rico was not the 51st State of our Union.

The genius of the American experiment in democracy is that the United States has never stopped growing, not just in size and population, but in the diversity, strength, and freedom of its people.

Senators serve on this panel from the great states of Oklahoma and New Mexico. How many American citizens know that those states were admitted as late as 1907 and 1912, and that one of the obstacles they had to overcome was the objection that they were bilingual? How many American citizens know that Alaska, whose Senator also sits on this panel, had to fight for admission for over 40 years and overcome the serious objection that Alaska might never be able to pay its way? For that matter, how many members know that the enabling legislation to admit Colorado to

the Union was vetoed over that same issue? How many know that the State of Ohio was the first state admitted to the Union with a special grant from the federal government to ensure that the citizens of Ohio would be able to live according to the same standards enjoyed by the other states who already were members of the Union?

Puerto Rico has been a member of the Union, although on a hybrid basis, since 1898. The Puerto Rican people have been United States citizens since 1917. They have bled for their country and they have earned the opportunity that the pending bills would bestow: the chance to express their preference regarding the type of relationship they should have with the mainland with an advance knowledge that Congress has blessed their endeavor.

Equal Justice, Patriotic Service, International Relations, National Security, and the Future. All good reasons why Puerto Rico will be a great State in a great Nation.

Let me address some of the arguments some people make against Puerto Rican statehood. Just as I believe there are compelling reasons for statehood, others find arguments to oppose it.

The first argument they cite is why upset the status quo, why not just remain a territory tied to the United States, getting a free ride.

Puerto Rico has made progress as a territory. But no matter how much economic progress we make as a territory -- no matter if we call it Commonwealth -- we can never solve the fundamental problems of that status -- we will never be equal, we will always be second-class citizens without participation in the decisions that affect our Nation's future. We will never know when Congress will withdraw what it has given.

Independence would give us total control of our own destiny, but the overwhelming majority of Puerto Ricans believe our destiny, our families, and our future, are inextricably bound with that of the United States. Only a relative handful of Puerto Ricans favor independence.

Only one option will endow Puerto Ricans with the full rights of American citizens. That option is statehood.

The status issue is a voting rights issue. It is also a civil rights issue. The present territorial relationship violates a basic principle of democracy, that is, the principle of government by consent of the governed.

Governor Hernandez-Colon stated correctly on February 26, 1989:

Due to our unique relationship with the United States, Puerto Rico has no participation in making laws that apply to us. A lack of democratic legitimacy in the application of those laws is a basic problem in the political structure of the Commonwealth we have been aware of since 1952.

Statehood is the challenge. It is the inevitable choice of those who place a high value on representative government, and who believe that Puerto Rico's real economic development will occur not as a territory, under the plenary power of Congress to grant or withdraw various benefits, but as a state inextricably bound to the union of other states.

From the Congress' point of view, statehood is the only option of the three under which Puerto Rico will contribute to the Federal Treasury, and not simply make claims upon it. The difference is dramatic. Under the present "commonwealth" status -- to say nothing of the proposed "enhancement" of that status -- the net deficit to the Treasury that is attributable to Puerto

Rico will be at least \$160 billion over the next 25 years. The net deficit under our statehood proposal will be about \$17 billion over the same 25-year period -- and in the latter years, under statehood, there should not be a deficit at all, but a surplus beginning in the eighteenth year. So fiscal prudence is one reason why Congress should wish to make statehood possible for Puerto Rico.

The second argument against statehood is economic. Opponents of statehood claim Puerto Rico would suffer serious economic side effects from the imposition of federal income taxes and the loss of Section 936 tax incentives.

The facts are exactly the opposite. It is under territorial status that Puerto Rico's economic development is uncertain. Commonwealth status is the most serious threat to Section 936. Congress may eliminate the Section, and would be under pressure to do so, in consideration of every future tax bill.

We are not proposing to end Section 936 precipitously. We are proposing instead that it be guaranteed for a period of time after the beginning of statehood and then be phased out gradually at a rate and in an environment that will continue to attract business and jobs to Puerto Rico.

Whatever accommodation may be agreed upon would be protected more fully within a statehood enabling act than Section 936 is now. Statehood would provide certainty not possible under the territorial status.

For the long term, the best way to assure continued economic growth in Puerto Rico is statehood. Businesses grow and create jobs where there is long-term stability. And nothing would do more to build business confidence in Puerto Rico than the ultimate stability of statehood.

The argument of economic chaos and additional tax burdens of statehood are repetitious of the arguments raised against statehood in the case of Tennessee, Indiana, Illinois, Michigan, Florida, Iowa, Wisconsin, Oregon, Nevada, California, Nebraska, Colorado, South Dakota, North Dakota, Montana, Washington, Idaho, New Mexico, Arizona, Alaska, and Hawaii. Particularly in Alaska and Hawaii, the last two to be admitted, the economic arguments were very similar to those used against Puerto Rico becoming a state. In Alaska they argued at a local level that statehood would be too costly and that increased taxes would destroy the economy. In Hawaii the opponents of statehood at a local level argued that increased taxes would bring economic collapse.

At page 967 of "Breakthrough from Colonialism," the principal argument in opposition to Hawaii statehood is summarized as follows:

Statehood would bring rising expenditures and increased taxes which in turn would make it difficult to attract new industries and would also drive away from the Islands many established firms. In short, statehood would bring about the economic collapse of Hawaii.

Another argument which appears in the same book on page 969 was summarized as follows:

Independence or Commonwealth status was preferable to statehood especially since the latter offered certain tax advantages which no state could enjoy.

And what happened when Hawaii became a state? Did Hawaii suffer an economic collapse as predicted?

No. On the contrary. In 1970, the First Hawaiian Bank published a report called "Hawaii in 1969 -- After a decade of statehood." The growth rates of Hawaii under statehood shown in that publication are incredible.

The per capita personal income jumped from \$1,987 in 1959 to \$3,513 in 1969.

Bank Private Demand Deposits rose from \$220.3 million in 1959 to \$524.2 million in 1969.

Total Personal Income rose from \$1,178 million in 1959 to \$2,705 million in 1967.

Civilian employment rose from 204,450 in 1959 to 294,850 in 1969.

The growth of tourism was remarkable. In 1959 visitors to Hawaii numbered 243,000. In 1969, Hawaii had 1.4 million visitors. An increase of 476 percent in ten years.

In 1959 Hawaii had 6,802 rooms for visitors. In 1969 Hawaii had 25,822 rooms.

Hotel employment in 1959 was 3,700 persons. In 1969 hotel employment was 13,150.

This kind of economic expansion is precisely what can be and should be expected in Puerto Rico as soon as we become a state.

The third argument against statehood is language. Some people argue that our Spanish heritage and language is a barrier to statehood. I could not disagree more. Puerto Rico is a bilingual society, proud of both our Hispanic and American cultures.

By accepting Puerto Rico as a state and guaranteeing that we shall maintain English and Spanish as official languages and that we preserve our right to enrich and strengthen our cultural heritage, the Congress and the Nation will be sending a strong message of friendship and brotherhood to all of Latin America.

The two principal languages in America are Spanish and English. It is in our national interest to improve our relations, politically, economically, and otherwise with Latin America. Accepting a Hispanic community as an equal partner in the Nation, with two Senators, seven Congressmen, and at the same time respecting our language and cultural heritage, will go a long way in helping to crumble down the walls of misunderstanding. Walls of misunderstanding that have been nourished through the years by a feeling in Latin America that North Americans look down upon them.

The fourth argument against statehood is simple -- that a majority of the Puerto Rican people do not support it. Well,

that is what plebiscites are all about. It has been 22 years since the last plebiscite and an entire new generation of Puerto Ricans have come on the scene. They deserve the chance to choose, for once and for all, where Puerto Rico's future lies.

In the 1967 plebiscite, 39 percent supported statehood. Since that time our numbers have grown significantly. If I were not convinced that a new plebiscite will result in statehood, than I would not be here with you today.

Members of the Committee, complete the task you have initiated. Let the people of Puerto Rico speak. Puerto Ricans will speak loud and clear for equal justice, for patriotic service, for international relations, for national security, and for the future.

Puerto Rico will speak for statehood.

I think it is about time we added a new star on the American flag.

Thank you.

The CHAIRMAN. Thank you very much, Governor Romero Barcelo, for an excellent statement, also Governor Ferre. Thank you very much, gentlemen. Before we have questions we will hear from the other two parties. Next, representing PIP, or the Puerto Rican Independence Party, is Senator Ruben Berrios Martinez, Senator Fernando Martin and Representative David Noriega. Senator Fernando Martin is a Senate Minority Leader and representative David Noriega is House Minority Leader, each for the PIP.

Senator McCLURE. Mr. Chairman I would like to interrupt for just a moment. I have been called away, and will have to be absent for just a few minutes. And I want to explain to my friends at the table that they should read nothing into the fact that I must absent myself for a brief period of time while you are making your statement. I welcome you here and I apologize for my necessary absence.

The CHAIRMAN. Senator we are glad to have you.

**STATEMENT OF SENATOR RUBEN BERRIOS MARTINEZ,
PRESIDENT, PUERTO RICAN INDEPENDENCE PARTY**

Senator BERRIOS. Mr. Chairman, distinguished members of the committee, the problem of political status of Puerto Rico which brings us here today, while difficult to solve, is simple to define. Puerto Rico is a Latin American nation which by virtue of the Spanish-American War of 1898 came under the sovereignty of the United States. And today, 91 years after that date, United States laws and regulations enacted by the U.S. Congress in which Puerto Rico has no voting representation, apply to Puerto Rico.

Such a relationship by whatever name and whether by imposition or by consent contradicts the principle of representative democracy, is inconsistent with the values and principles of the American people, and constitutes a growing source of embarrassment to the United States in the international community. In terms of constitutional law, Puerto Rico is an unincorporated territory or a possession of the United States subject to the plenary powers of Congress through the territorial clause of the United States Constitution.

In terms of international law, Puerto Rico is a colony in a world which through General Assembly Resolution 4767 of January 13, 1989 has declared the last decade of the century as the international decade for the eradication of colonialism. The solution to the Puerto Rican status problem is clearly dictated by international law which is part of the law of the United States. Under U.N. General Assembly Resolution 1514 (XV) of 1960 which explicitly applies to, and I quote, "all territories which have not yet achieved independence, the United States is specifically obliged to transfer", and I quote, "all powers to the Puerto Rican people so that they can freely determine their own future."

Repeatedly, the world community through numerous specific resolutions, has reminded the United States government of its obligations regarding Puerto Rico. But the United States government has opted up to now to disregard the standards of international law in the case of Puerto Rico. It is for us, therefore, the cause for optimism that the President of the United States has recommended

that this Congress take up the matter of Puerto Rican self-determination and as Senators Johnston and McClure have included in Senate bills, 711 and 712 and explicit recognition of the applicability of international law to whatever legislation results from these hearings.

Senators Johnston and McClure have proposed three bills of law, as you know, leading to a referendum to be held in Puerto Rico between the alternatives of statehood, independence and commonwealth. Since the bill 710 has been overwhelmingly repudiated in Puerto Rico as being at best a useless popularity contest among undefined alternatives, I will direct my comments to Senate bills 711 and 712. Although I should make it clear that S. 712 in so far it contains a prior congressional commitment to fully defined alternatives is a better bill.

The provisions of these bills fall into two principal categories. First, those that refer to the terms and conditions of the referendum, the administration of the referendum and its effects. And second those that refer to the definitions of the three status alternatives. The definitions of independence contained in S. 711 and S. 712 have been proposed by the Puerto Rican Independence Party.

Our proposals consist essentially of an initial process of transition toward the proclamation of independence characterized by full democratic guarantees and a second process of transition to take place after the proclamation of independence. This latter process will facilitate the evolution of the Puerto Rican economy from the present condition of extreme dependence to one of development based on greater economic self-sufficiency and balanced interdependence. This means that only with independence can the United States look forward to lifting the economic burden which colonial dependence imposes on the American taxpayer.

In summary we have formulated an independence proposal which will guarantee the legitimate interests of both Puerto Rico and the United States. To this end we have devised realistic solutions to complex problems related to the issues of citizenship, defense, trade relations, taxation, currency and finance, public debt and others. There is a hearing scheduled for tomorrow where we will respond to your questions concerning all these issues.

I look forward to answering the questions regarding citizenship already put forward. I am, of course, willing to answer your questions on this matter during the course of this morning as well. But I think it is more important in this opening statement to direct the thrust of my comments.

First, to the minimum substantive requirements that must be met by the three alternatives to be submitted to the people of Puerto Rico. And second to the procedural aspects of the proposed referendum. At the outset, I must state that in order to achieve an authentic process of self-determination, it is indispensable that the bills under consideration be substantially amended.

First, as concerns the substantive requirements I have already referred to, it is necessary that the alternatives in the referendum comply with the principles of international law relating to self-determination. Otherwise, the process will be a futile exercise of what might be called territorial filibustering. And, furthermore, the process would be inconsistent with the policy expressed explicitly

in bills S. 711 and 712 whereby the United States recognizes the principles of international law with respect to its relationship with Puerto Rico.

Only three options, all based upon the principle of sovereignty are accepted under international law as valid alternatives to territoriality or colonialism; independence, integration or statehood and sovereign free association. Once the principle of sovereignty is explicitly recognized as an indispensable component of each status alternative, it becomes necessary to scrutinize the definitions put forward by the Puerto Rican political parties to assure their compliance with this principle of sovereignty. Suffice it to say at this moment that the alternative presented concerning commonwealth status would continue to be in enflagrant violation of the standards mandated by international law as minimum requirements for free association.

This means that the commonwealth alternative contained in the bills does not constitute a de-colonizing alternative. In order to comply with international norms, the present commonwealth relationship requires more than cosmetic corrections. It requires that the Congress under the U.S. Constitution effectively and I quote, "dispose of the territory," renouncing the sovereign powers that emanate from the territorial clause. The argument that a status of political subordination like the existing or like the proposed commonwealth status can be legitimate because it may enjoy popular support is equivalent to arguing that consent is the only requirement for a valid contract.

I need not remind the distinguished senators that the U.S. Constitution absolutely prohibits any contract of slavery no matter how voluntary or that a contract to engage in work for a less than the mandated minimum wage is legally unenforceable even if entered into voluntarily. Such arrangements are unacceptable under the U.S. legal system because they violate either legal or constitutional principles of a higher order. Principles which are placed by society beyond the scope of the will of particular individuals because of their importance.

In the same manner, international law will not tolerate the perpetuation of political subordination even if it were freely consented to. Colonialism by consent is no solution to the problem of colonialism. Needless to say, the existence of a higher or preemptory norm of international law prohibiting colonialism under any eyes is in no small way attributable to the recognition that left to their own devices the strong will usually find ways to persuade the weak of the alleged advantages of subordination.

As regards the integration alternative, that is, statehood. This should be made clear that under international law and the prevailing circumstances of Puerto Rico, the selection of such alternative would in no way extinguish the inalienable right of the people of Puerto Rico to independence.

The second issue of fundamental importance, which I want to bring to your consideration, refers to the concept of the transfer of powers to the subject people as a prerequisite to the exercise of self-determination under international law. I repeat, the concept of the transfer of powers to the subject people as a prerequisite to the exercise of self-determination under international law. There is no

doubt that such concept applies to the Puerto Rican situation. But we must also recognize as a matter of political reality that the United States has been unwilling to accept such a procedure.

Faced with this impasse, before a legitimate referendum can take place in Puerto Rico, the U.S. Congress as a minimum would have to place the Puerto Rican people in conditions similar to those which would prevail if powers were, in fact, transferred. We are talking about a concept of substantive compliance. To achieve this end, the bills under consideration would have to be substantially amended. Such amendments would have to address very important matters such as those referring to voter qualifications and to the conditions under which the political campaign leading to the referendum would be conducted.

In relation to voter qualifications, we hold that only the people of Puerto Rico and I repeat, the people of Puerto Rico, may exercise the right to self-determination in the proposed referendum. The term people has a distinct meaning in international law and it is defined by geographic, historical, ethnic, linguistic and cultural determinants among others. It follows then, that only persons born in Puerto Rico or of Puerto Rican parentage should participate as a general rule in the proposed referendum.

We understand, however, that other persons are, by conscious decision, truly Puerto Rican. We, therefore, propose that those persons who have resided in Puerto Rico for over 20 years or who established their residence prior to attaining voting age and have continued to reside in Puerto Rico and those persons married to a Puerto Rican, should also be permitted to participate in the referendum. As you may realize, these categories do not conform to the electoral laws of Puerto Rico.

Since the referendum is not a regular election, regular election laws ought not to apply. The proposed referendum is a special election for self-determination of the Puerto Rican people. And thus, only Puerto Ricans by birth, parenthood or choice, subject to strict qualifications enacted by Congress, should participate. In relation to the campaign leading to the referendum, such special provisions have to be enacted to secure a fair and equitable process.

During decades, the independence movement of Puerto Rico has been the target of systematic repression by the federal and the Puerto Rican governments. A party to the Civil Rights Commission of Puerto Rico and the Supreme Court of Puerto Rico, the government has, over the course of the last 40 to 50 years, systematically maintained illegal dossiers on more than 100,000 independent sympathizers as a basis for persecution and discrimination. Since the beginning of the century, the educational system in Puerto Rico has consistently subverted the national esteem of the Puerto Rican people; purges specially directed against Independentistas have traditionally characterized civil service and private employment in Puerto Rico.

The extreme economic dependence of Puerto Rico hinders also the free determination of Puerto Ricans. Especially those Puerto Ricans whose daily subsistence depends on federal funds. In order to counter these conditions, which are a consequence of 91 years of political subordination, in order to make possible a valid and fair process of self-determination, Congress will have to adopt special

measures. We shall in due course submit specific amendments to cope with these conditions.

However, by way of example, I would like to advance some crucial considerations at this point. One, adequate public financing based on the strictest equality must be provided for the three alternatives and strict limits on contributions and expenditures from other sources, must be imposed. Two, equal time must be provided in the electronic media so that no alternative can utilize more time than is available to other alternatives at comparable times. Three, strict prohibitions with appropriate sanctions must be included concerning the use of government resources of any kind by any of the proponents of any formula including the advertisements of government achievements or the mailing of official newsletters.

Four, all FBI activities directed at followers of independence because of their political beliefs must cease immediately. The Senators should take note that the Puerto Rican Civil Rights Commission, a government agency of the Commonwealth, has provided ample evidence of intervention by the FBI in the 1967 plebiscite, designed to harass and discredit pro-independence leaders. Five, prohibition should be made for periodic communications and public notices by the federal government to the recipients of federal entitlements or transfer payments explaining the obligations to which the U.S. government is committed under the various status alternatives in connection with the particular benefits in question.

Six, strict sanctions must be imposed against any form of discrimination or threat of discrimination whether by government or by private citizens that might be used to coerce or to punish any legal expression or political preference.

Finally, Senators, I urge you as distinguished members of the Senate, to discharge the responsibility which Congress assumed by virtue of the Treaty of Paris of 1898 regarding Puerto Rico. Responsibility is a function of power, and it is the Congress of the United States that holds plenary power over Puerto Rico. The only way in which Congress can exercise its power in a manner which would be recognized as legitimate by the international community and the majority of the Puerto Rican people is by providing for a process through which the people of Puerto Rico can select from among decolonizing alternatives under fair and equitable conditions.

It is time for Justice Harlan's visionary words at the beginning of the century to prevail and I quote, "The idea that this country may acquire territories anywhere upon the earth by conquest or treaty and hold them as near colonies or provinces is wholly inconsistent with the spirit and genius as well as with the words of the Constitution", end of quote. The spirit and genius of the Constitution, the values and interests of the American people and the dignity of the Puerto Rican people demand an end to Puerto Rico's political subordination.

Thank you very much, Mr. Chairman.

[The prepared statement of Senator Berrios Martinez follows:]

STATEMENT BY RUBEN BERRIOS MARTINEZ,
PRESIDENT OF THE PUERTO RICAN INDEPENDENCE PARTY
TO THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
JUNE 1, 1989

MR. CHAIRMAN, DISTINGUISHED MEMBERS OF THE COMMITTEE:

THE PROBLEM OF THE POLITICAL STATUS OF PUERTO RICO WHICH BRINGS US HERE TODAY, WHILE DIFFICULT TO SOLVE, IS SIMPLE TO DEFINE.

PUERTO RICO IS A LATIN AMERICAN NATION WHICH BY VIRTUE OF THE SPANISH AMERICAN WAR OF 1898 CAME UNDER THE SOVEREIGNTY OF THE UNITED STATES. AND TODAY, 91 YEARS AFTER THAT DATE, U.S. LAWS AND REGULATIONS ENACTED BY THE CONGRESS - IN WHICH PUERTO RICO HAS NO VOTING REPRESENTATION - APPLY TO PUERTO RICO.

SUCH A RELATIONSHIP - BY WHATEVER NAME AND WHETHER BY IMPOSITION OR CONSENT - CONTRADICTS THE PRINCIPLE OF REPRESENTATIVE DEMOCRACY, IS INCONSISTENT WITH THE VALUES AND PRINCIPLES OF THE AMERICAN PEOPLE, AND CONSTITUTES A SOURCE OF EMBARRASSMENT TO THE UNITED STATES IN THE INTERNATIONAL COMMUNITY.

IN TERMS OF CONSTITUTIONAL LAW, PUERTO RICO IS AN UNINCORPORATED TERRITORY OR POSSESSION OF THE UNITED STATES, SUBJECT TO THE PLENARY POWERS OF CONGRESS THROUGH THE TERRITORY CLAUSE OF THE UNITED STATES CONSTITUTION. IN TERMS OF INTERNATIONAL LAW, PUERTO RICO IS A COLONY IN A WORLD WHICH THROUGH GENERAL ASSEMBLY RESOLUTION 43-47 OF JANUARY 13, 1989, HAS DECLARED THE LAST DECADE OF THIS CENTURY AS "THE INTERNATIONAL DECADE FOR THE ERRADICATION OF COLONIALISM."

THE SOLUTION TO THE PUERTO RICAN STATUS PROBLEM IS CLEARLY DICTATED BY INTERNATIONAL LAW, WHICH IS PART OF THE LAW OF THE UNITED STATES.

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

UNDER U.N. GENERAL ASSEMBLY RESOLUTION 1514 (XV) OF 1960, WHICH EXPLICITLY APPLIES TO ALL "TERRITORIES WHICH HAVE NOT YET ACHIEVED INDEPENDENCE," THE UNITED STATES IS SPECIFICALLY OBLIGED TO TRANSFER "ALL POWERS" TO THE PUERTO RICAN PEOPLE, SO THAT THEY CAN FREELY DETERMINE THEIR OWN FUTURE.

REPEATEDLY, THE WORLD COMMUNITY, THROUGH NUMEROUS SPECIFIC RESOLUTIONS, HAS REMINDED THE UNITED STATES GOVERNMENT OF ITS OBLIGATIONS REGARDING PUERTO RICO. BUT THE UNITED STATES GOVERNMENT HAS OPTED UP TO NOW TO DISREGARD THE STANDARDS OF INTERNATIONAL LAW IN THE CASE OF PUERTO RICO.

IT IS FOR US, THEREFORE, CAUSE FOR OPTIMISM THAT THE PRESIDENT OF THE UNITED STATES HAS RECOMMENDED THAT THIS CONGRESS TAKE UP THE MATTER OF PUERTO RICAN SELF-DETERMINATION AND THAT SENATORS JOHNSTON AND MC CLURE HAVE INCLUDED IN SENATE BILLS 711 AND 712 AN EXPLICIT RECOGNITION OF THE APPLICABILITY OF INTERNATIONAL LAW TO WHATEVER LEGISLATION RESULTS FROM THESE HEARINGS.

SENATORS JOHNSTON AND MC CLURE HAVE PROPOSED THREE BILLS LEADING TO A REFERENDUM OR REFERENDA, TO BE HELD IN PUERTO RICO, BETWEEN THE ALTERNATIVES OF STATEHOOD, INDEPENDENCE, AND COMMONWEALTH.

SINCE BILL 710 HAS BEEN OVERWHELMINGLY REPUDIATED IN PUERTO RICO AS BEING AT BEST A USELESS POPULARITY CONTEST AMONG UNDEFINED ALTERNATIVES, I WILL DIRECT MY COMMENTS TO SENATE BILLS 711 AND 712; ALTHOUGH I SHOULD MAKE CLEAR THAT S. 712, INSOFAR AS IT CONTAINS A

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

PRIOR CONGRESSIONAL COMMITMENT TO FULLY DEFINED ALTERNATIVES, IS A BETTER BILL.

THE PROVISIONS OF THESE BILLS FALL INTO TWO PRINCIPAL CATEGORIES: FIRST, THOSE THAT REFER TO THE TERMS AND CONDITIONS OF THE REFERENDUM, ITS ADMINISTRATION, AND ITS EFFECTS; AND SECOND, THOSE THAT REFER TO THE DEFINITIONS OF THE THREE STATUS ALTERNATIVES.

THE DEFINITIONS OF INDEPENDENCE CONTAINED IN S. 711 AND S. 712 HAVE BEEN PROPOSED BY THE PUERTO RICAN INDEPENDENCE PARTY. OUR PROPOSALS CONSIST ESSENTIALLY OF AN INITIAL PROCESS OF TRANSITION TOWARDS THE PROCLAMATION OF INDEPENDENCE, CHARACTERIZED BY FULL DEMOCRATIC GUARANTEES, AND A SECOND PROCESS OF TRANSITION TO TAKE PLACE AFTER THE PROCLAMATION OF INDEPENDENCE. THIS LATTER PROCESS WILL FACILITATE THE EVOLUTION OF THE PUERTO RICAN ECONOMY FROM THE PRESENT CONDITION OF EXTREME DEPENDENCE TO ONE OF DEVELOPMENT BASED ON GREATER ECONOMIC SELF-SUFFICIENCY AND BALANCED INTERDEPENDENCE. THIS MEANS THAT ONLY WITH INDEPENDENCE CAN THE UNITED STATES LOOK FORWARD TO LIFTING THE ECONOMIC BURDEN WHICH COLONIAL DEPENDENCE INPOSES ON THE AMERICAN TAXPAYER.

IN SUMMARY, WE HAVE FORMULATED AN INDEPENDENCE PROPOSAL WHICH WILL GUARANTEE THE LEGITIMATE INTERESTS OF BOTH PUERTO RICO AND THE UNITED STATES. TO THIS END, WE HAVE DEVISED REALISTIC SOLUTIONS TO COMPLEX PROBLEMS RELATED TO THE ISSUES OF CITIZENSHIP, DEFENSE, TRADE RELATIONS, TAXATION, CURRENCY AND FINANCE, PUBLIC DEBT, AND OTHERS.

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

THERE IS A HEARING SCHEDULED FOR TOMORROW WHERE WE WILL RESPOND TO YOUR QUESTIONS CONCERNING ALL THESE ISSUES. I AM OF COURSE WILLING TO ANSWER YOUR QUESTIONS ON THIS MATTER DURING THE COURSE OF THIS MORNING AS WELL; BUT I THINK IT MORE IMPORTANT, IN THIS OPENING STATEMENT, TO DIRECT THE THRUST OF MY COMMENTS, FIRST, TO THE MINIMUM SUBSTANTIVE REQUIREMENTS THAT MUST BE MET BY THE THREE ALTERNATIVES TO BE SUBMITTED TO THE PEOPLE OF PUERTO RICO, AND SECOND, TO THE PROCEDURAL ASPECTS OF THE PROPOSED REFERENDUM.

AT THE OUTSET I MUST STATE THAT IN ORDER TO ACHIVE AN AUTHENTIC PROCESS OF SELF-DETERMINATION, IT IS INDISPENSABLE THAT THE BILLS BEFORE YOU BE SUBSTANTIALLY AMENDED.

FIRST, AS CONCERNS THE SUBSTANTIVE REQUIREMENTS, IT IS NECESSARY THAT THE ALTERNATIVES IN THE REFERENDUM COMPLY WITH THE PRINCIPLES OF INTERNATIONAL LAW RELATING TO SELF-DETERMINATION. OTHERWISE, THE PROCESS WOULD BE A FUTILE EXERCISE OF WHAT MIGHT BE CALLED TERRITORIAL FILIBUSTERING. AND FURTHERMORE, THE PROCESS WOULD BE INCONSISTENT WITH THE POLICY EXPRESSED IN BILLS S. 711 AND S. 712, WHEREBY THE UNITED STATES RECOGNIZES THE PRINCIPLES OF INTERNATIONAL LAW WITH RESPECT TO ITS RELATIONSHIP TO PUERTO RICO.

ONLY THREE OPTIONS, ALL BASED ON THE PRINCIPLE OF SOVEREIGNTY, ARE ACCEPTED UNDER INTERNATIONAL LAW AS VALID ALTERNATIVES TO COLONIALISM: INDEPENDENCE, INTEGRATION, AND SOVEREIGN FREE ASSOCIATION.

ONCE THE PRINCIPLE OF SOVEREIGNTY IS EXPLICITLY RECOGNIZED AS AN INDISPENSABLE COMPONENT OF EACH STATUS ALTERNATIVE, IT BECOMES

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

NECESSARY TO SCRUTINIZE THE DEFINITIONS PUT FORWARD BY THE PUERTO RICAN POLITICAL PARTIES TO ASSURE THEIR COMPLIANCE WITH THIS PRINCIPLE. SUFFICE IT TO SAY AT THIS MOMENT THAT THE ALTERNATIVE PRESENTED CONCERNING COMMONWEALTH STATUS WOULD CONTINUE TO BE A FLAGRANT VIOLATION OF THE STANDARDS MANDATED BY INTERNATIONAL LAW AS MINIMUM REQUIREMENTS FOR SOVEREIGN FREE ASSOCIATION. THUS THE COMMONWEALTH ALTERNATIVE CONTAINED IN THE BILLS DOES NOT CONSTITUTE A DECOLONIZING ALTERNATIVE. IN ORDER TO COMPLY WITH INTERNATIONAL NORMS, THE PRESENT COMMONWEALTH RELATIONSHIP REQUIRES MORE THAN COSMETIC CORRECTIONS; IT REQUIRES THAT THE CONGRESS, UNDER THE U.S. CONSTITUTION, EFFECTIVELY "DISPOSE OF THE TERRITORY", RENOUNCING THE SOVEREIGN POWERS THAT EMANATE FROM THE TERRITORY CLAUSE.

THE ARGUMENT THAT A STATUS OF POLITICAL SUBORDINATION - LIKE THE EXISTING OR THE NEWLY PROPOSED COMMONWEALTH STATUS - CAN BE LEGITIMATE BECAUSE IT MAY ENJOY POPULAR SUPPORT IS EQUIVALENT TO ARGUING THAT CONSENT IS THE ONLY REQUIREMENT FOR A VALID CONTRACT. I NEED NOT REMIND THE DISTINGUISHED SENATORS THAT THE U.S. CONSTITUTION ABSOLUTELY PROHIBITS ANY CONTRACT OF SLAVERY - NO MATTER HOW VOLUNTARY - OR THAT A CONTRACT TO ENGAGE IN WORK FOR LESS THAN THE MANDATED MINIMUM WAGE IS LEGALLY UNENFORCEABLE, EVEN IF ENTERED INTO VOLUNTARILY. SUCH ARRANGEMENTS ARE UNACCEPTABLE UNDER THE U.S. LEGAL SYSTEM BECAUSE THEY VIOLATE HIGHER LEGAL OR CONSTITUTIONAL PRINCIPLES, PRINCIPLES WHICH ARE PLACED BY SOCIETY BEYOND THE SCOPE OF THE WILL OF PARTICULAR INDIVIDUALS.

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

IN THE SAME MANNER, INTERNATIONAL LAW WILL NOT TOLERATE THE PERPETUATION OF POLITICAL SUBORDINATION EVEN IF IT WERE FREELY CONSENTED TO. COLONIALISM BY CONSENT IS NO SOLUTION TO THE PROBLEM OF COLONIALISM. NEEDLESS TO SAY, THE EXISTENCE OF A HIGHER OR PEREMPTORY NORM OF INTERNATIONAL LAW PROHIBITING COLONIALISM UNDER ANY GUISE, IS IN NO SMALL WAY ATTRIBUTABLE TO THE RECOGNITION THAT LEFT TO THEIR OWN DEVICES, THE STRONG WILL USUALLY FIND WAYS TO PERSUADE THE WEAK OF THE ALLEGED ADVANTAGES OF SUBORDINATION.

AS REGARDS THE INTEGRATION ALTERNATIVE - THAT IS, STATEHOOD - IT SHOULD BE MADE CLEAR THAT UNDER INTERNATIONAL LAW, IN THE PREVAILING CIRCUMSTANCES OF PUERTO RICO, THE SELECTION OF SUCH AN ALTERNATIVE WOULD IN NO WAY EXTINGUISH THE INALIENABLE RIGHT OF THE PEOPLE OF PUERTO RICO TO INDEPENDENCE.

THE SECOND ISSUE OF FUNDAMENTAL IMPORTANCE WHICH I WANT TO BRING TO YOUR CONSIDERATION REFERS TO THE CONCEPT OF THE TRANSFER OF POWERS TO THE SUBJECT PEOPLE AS A PREREQUISITE TO THE EXERCISE OF SELF-DETERMINATION UNDER INTERNATIONAL LAW. THERE IS NO DOUBT THAT SUCH CONCEPT APPLIES TO THE PUERTO RICAN SITUATION; BUT AS A MATTER OF POLITICAL REALITY WE MUST ALSO FACE THE FACT THAT THE UNITED STATES HAS BEEN UNWILLING TO ACCEPT SUCH A PROCEDURE. FACED WITH THIS IMPASSE, BEFORE A LEGITIMATE REFERENDUM CAN TAKE PLACE IN PUERTO RICO, THE U.S. CONGRESS - AS A MINIMUM - WOULD HAVE TO PLACE THE PUERTO RICAN PEOPLE IN CONDITIONS SIMILAR TO THOSE WHICH WOULD PREVAIL IF POWERS WERE IN FACT TRANSFERRED. TO ACHIEVE THIS END, THE BILLS UNDER

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

CONSIDERATION WOULD HAVE TO BE SUBSTANTIALLY AMENDED. SUCH AMENDMENTS WOULD HAVE TO ADDRESS VERY IMPORTANT MATTERS SUCH AS THOSE REFERRING TO VOTER QUALIFICATIONS AND TO THE CONDITIONS UNDER WHICH THE POLITICAL CAMPAIGN LEADING TO THE REFERENDUM WOULD BE CONDUCTED.

IN RELATION TO VOTER QUALIFICATIONS, WE HOLD THAT ONLY THE PEOPLE OF PUERTO RICO MAY EXERCISE THE RIGHT TO SELF-DETERMINATION IN THE PROPOSED REFERENDUM.

THE TERM "PEOPLE" HAS A DISTINCT MEANING IN INTERNATIONAL LAW, DEFINED BY GEOGRAPHIC, HISTORICAL, ETHNIC, LINGUISTIC, AND CULTURAL DETERMINANTS. IT FOLLOWS THEN, THAT ONLY PERSONS BORN IN PUERTO RICO OR OF PUERTO RICAN PARENTAGE SHOULD PARTICIPATE IN THE PROPOSED REFERENDUM. WE UNDERSTAND, HOWEVER, THAT OTHER PERSONS ARE BY CONSCIOUS DECISION TRULY PUERTO RICAN. WE THEREFORE PROPOSE THAT THOSE PERSONS WHO HAVE RESIDED IN PUERTO RICO FOR OVER TWENTY YEARS, OR WHO ESTABLISHED THEIR RESIDENCE PRIOR TO ATTAINING VOTING AGE AND HAVE CONTINUED TO RESIDE IN PUERTO RICO, AND THOSE PERSONS MARRIED TO A PUERTO RICAN ALSO BE PERMITTED TO PARTICIPATE IN THE REFERENDUM.

AS YOU MAY REALIZE, THESE CATEGORIES DO NOT CONFORM TO THE ELECTORAL LAWS OF PUERTO RICO. SINCE THE REFERENDUM IS NOT A REGULAR ELECTION, REGULAR ELECTION LAWS OUGHT NOT TO APPLY. THE PROPOSED REFERENDUM IS A SPECIAL ELECTION FOR THE SELF-DETERMINATION OF THE PUERTO RICAN PEOPLE; AND THUS ONLY PUERTO RICANS BY BIRTH, PARENTHOOD OR CHOICE, SUBJECT TO STRICT QUALIFICATIONS ENACTED BY CONGRESS, SHOULD PARTICIPATE.

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

IN RELATION TO THE CAMPAIGN LEADING TO THE REFERENDUM, SPECIAL PROVISIONS HAVE TO BE ENACTED TO SECURE A FAIR AND EQUITABLE PROCESS. DURING DECADES, THE INDEPENDENCE MOVEMENT IN PUERTO RICO HAS BEEN THE TARGET OF SYSTEMATIC REPRESSION BY THE FEDERAL AND THE PUERTO RICAN GOVERNEMENTS. ACCORDING TO THE CIVIL RIGHTS COMMISSION AND THE SUPREME COURT OF PUERTO RICO, THE GOVERNMENT HAS OVER THE COURSE OF THE LAST FORTY TO FIFTY YEARS SYSTEMATICALLY MAINTAINED ILLEGAL DOSSIERS ON MORE THAN 100,000 INDEPENDENCE SYMPATHIZERS AS A BASIS FOR PERSECUTION AND DISCRIMINATION. SINCE THE BEGINNING OF THE CENTURY THE EDUCATIONAL SYSTEM IN PUERTO RICO HAS CONSISTENTLY SUBVERTED THE NATIONAL ESTEEM OF THE PUERTO RICAN PEOPLE. PURGES - ESPECIALLY AGAINST THE INDEPENDENTISTAS - HAVE TRADITIONALLY CHARACTERIZED CIVIL SERVICE AND PRIVATE EMPLOYMENT IN PUERTO RICO. THE EXTREME ECONOMIC DEPENDENCE ALSO HINDERS THE FREE DETERMINATION OF PUERTO RICANS, ESPECIALLY OF THOSE WHOSE DAILY SUBSISTENCE DEPENDS ON FEDERAL FUNDS.

IN ORDER TO COUNTER THESE CONDITIONS - WHICH ARE A CONSEQUENCE OF 91 YEARS OF POLITICAL SUBORDINATION - IN ORDER TO MAKE POSSIBLE A VALID AND FAIR PROCESS OF SELF-DETERMINATION, CONGRESS WILL HAVE TO ADOPT SPECIAL MEASURES.

WE SHALL IN DUE COURSE SUBMIT SPECIFIC AMENDMENTS TO COPE WITH THESE CONDITIONS. HOWEVER, BY WAY OF EXAMPLE WE WOULD LIKE TO ADVANCE SOME CRUCIAL CONSIDERATIONS:

1. ADEQUATE PUBLIC FINANCING BASED ON THE STRICTEST EQUALITY MUST BE PROVIDED FOR THE THREE ALTERNATIVES AND STRICT LIMITS ON CONTRIBUTIONS AND EXPENDITURES FROM OTHER SOURCES MUST BE IMPOSED.

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

2. EQUAL TIME MUST BE PROVIDED IN THE ELECTRONIC MEDIA SO THAT NO ALTERNATIVE CAN UTILIZE MORE TIME THAT IS AVAILABLE TO THE OTHER ALTERNATIVES AT COMPARABLE TIMES.

3. STRICT PROHIBITIONS WITH APPROPRIATE SANCTIONS MUST BE INCLUDED CONCERNING THE USE OF GOVERNMENT RESOURCES OF ANY KIND BY ANY OF THE PROPONENTS OF ANY FORMULA, INCLUDING THE ADVERTISEMENT OF GOVERNMENT "ACHIEVEMENTS" AND THE MAILING OF "OFFICIAL NEWSLETTERS".

4. ALL F.B.I. ACTIVITIES DIRECTED AT FOLLOWERS OF INDEPENDENCE BECAUSE OF THEIR POLITICAL BELIEFS MUST CEASE IMMEDIATELY. THE SENATORS SHOULD TAKE NOTE THAT THE PUERTO RICO CIVIL RIGHTS COMMISSION - A GOVERNMENT AGENCY OF THE COMMONWEALTH - HAS PROVIDED AMPLE EVIDENCE OF INTERVENTION BY THE F.B.I. IN THE 1967 PLEBISCITE DESIGNED TO HARASS AND DISCREDIT PRO-INDEPENDENCE LEADERS

5. PROVISION SHOULD BE MADE FOR PERIODIC COMMUNICATIONS AND PUBLIC NOTICES BY THE FEDERAL GOVERNMENT TO THE RECIPIENTS OF FEDERAL ENTITLEMENTS OR TRANSFER PAYMENTS EXPLAINING THE OBLIGATIONS TO WHICH THE U.S. GOVERNMENT IS COMMITTED UNDER THE VARIOUS STATUS ALTERNATIVES IN CONNECTION WITH THE PARTICULAR BENEFITS IN QUESTION.

6. STRICT SANCTIONS MUST BE IMPOSED AGAINST ANY FORM OF DISCRIMINATION, OR THREAT OF DISCRIMINATION, WHETHER BY GOVERNMENT OR BY PRIVATE CITIZENS, THAT MIGHT BE USED TO COERCE OR TO PUNISH ANY LEGAL EXPRESSION OF POLITICAL PREFERENCE.

FINALLY, I URGE YOU, DISTINGUISHED MEMBERS OF THE SENATE, TO DISCHARGE THE RESPONSIBILITY WHICH CONGRESS ASSUMED BY VIRTUE OF THE

Ruben Berrios Martinez
June 1, 1989

Committee on Energy
& Natural Resources

TREATY OF PARIS OF 1898 REGARDING PUERTO RICO. RESPONSIBILITY IS A FUNCTION OF POWER, AND IT IS THE CONGRESS OF THE UNITED STATES THAT HOLDS PLENARY POWERS OVER PUERTO RICO. THE ONLY WAY IN WHICH CONGRESS CAN EXERCISE ITS POWER IN A MANNER WHICH WILL BE RECOGNIZED AS LEGITIMATE BY THE INTERNATIONAL COMMUNITY AND THE MAJORITY OF THE PEOPLE OF PUERTO RICO IS BY PROVIDING FOR A PROCESS THROUGH WHICH THE PEOPLE OF PUERTO RICO CAN SELECT FROM AMONG DECOLONIZING ALTERNATIVES UNDER FAIR AND EQUITABLE CONDITIONS.

IT IS TIME FOR JUSTICE HARLAN'S VISIONARY WORDS AT THE BEGINNING OF THE CENTURY TO PREVAIL:

THE IDEA THAT THIS COUNTRY MAY ACQUIRE TERRITORIES ANYWHERE UPON THE EARTH, BY CONQUEST OR TREATY, AND HOLD THEM AS MERE COLONIES OR PROVINCES ... IS WHOLLY INCONSISTENT WITH THE SPIRIT AND GENIUS, AS WELL AS WITH THE WORDS OF THE CONSTITUTION.

THE SPIRIT AND GENIUS OF THE CONSTITUTION, THE VALUES AND INTERESTS OF THE AMERICAN PEOPLE, AND THE DIGNITY OF THE PUERTO RICAN PEOPLE DEMAND AN END TO PUERTO RICO'S POLITICAL SUBORDINATION.

The CHAIRMAN. Thank you very much for an excellent statement, Senator Berrios. We now have a vote on the floor of the Senate. I think it is an appropriate time for us to go over and vote and return.

Senator BRADLEY. Mr. Chairman, would you then presume to then reconvene and go through lunch and also through the afternoon?

The CHAIRMAN. No; we will break for lunch at 12:30 p.m. or so and come back at 2 p.m.

[Recess.]

The CHAIRMAN. If you would ask those who are in the hall to come in so that we can close the doors. It is now my pleasure to introduce the Governor of Puerto Rico, Rafael Hernandez Colon; he is accompanied by three distinguished members, Jaime Fuster, the Resident Commissioner of Puerto Rico with whom we work very closely here in the Congress; Miguel Hernandez Agosto, President of the Senate of Puerto Rico; and Ronny Jarabo, who is speaker of the House of Puerto Rico.

Governor, we are pleased to have you and your colleagues here and look forward to hearing from you.

STATEMENT OF HON. RAFAEL HERNANDEZ-COLON, GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO

Governor HERNANDEZ-COLON. Mr. Chairman we are very glad to be here.

Muy buenos dias Senores Senadores, es un gran honor encontrarme ante ustedes en esta ocasion historica donde se discute el futuro de mi pueblo: el pueblo Puertorriqueno. Mi mas cordial saludo a todos. Procedo ahora en Ingles.

The CHAIRMAN. I understood that by the way.

Governor HERNANDEZ-COLON. During this half of this century, the people of Puerto Rico, then under colonial status, were polarized between those seeking total separation from the United States and those wanting total assimilation to the United States. Violence, turmoil and bitterness characterized the politics of that period.

In 1952 the people of Puerto Rico and the Congress designed a way out of that dilemma: the commonwealth relationship. This solution gained recognition from the United Nations.

Commonwealth arose as the answer to end the colonial dilemma, solving the difficulties in the other options. Independence was and is impracticable for two reasons. It would wreck the Puerto Rican economy and it runs counter to the unswerving desire of the people of Puerto Rico to maintain their American citizenship and live in permanent union with the United States. It will also disrupt—Statehood was and is unworkable because it would also disrupt the Puerto Rican economy and does not take into account another given of the Puerto Rican reality: the fact that Puerto Ricans form a people, a distinct society, with its own culture, ethnos and language.

This explains the nature of the proposals before you from statehood and independence advocates. Both try to meet the difficulties outlined by injecting generous doses of commonwealth into their

proposals, by delaying the take-off from commonwealth for long periods indeed.

The process produces some strange results. You are not asked to admit a state in the classic, historical and constitutional sense, but rather a body politic aspiring someday to become a state. That unique political entity could not possibly be admitted, as the Constitution requires, on an equal footing with other states, for it would not even be able to keep its own footing. A most singular kind of statehood is being sought from you. It would be, on the one hand, a sort of statehood on crutches, a state requiring special arrangements for an economy which is less than half of that of the poorest state in the Union.

On the other hand, this most unequal of states would resist to melt or blend; it would be a state with a different primary language, marching under its own flag, apart from the United States in international sports competitions. This is the first time that one finds such a startling departure from constitutionally sanctioned, traditional enabling acts enacted by this Congress since the thirteen colonies formed the Union.

The independence proposal is equally flawed. A republic composed mostly of citizens of another state is quite difficult to imagine.

This brings us to the real world. The commonwealth relationship designed in 1952 has proved to be a workable, down-to-earth way of meeting the aspirations of the Puerto Rican people: the desire for permanent union with the United States, the wish for the fullest autonomy compatible with such desire, the need for preserving their distinct historical heritage and cultural personality, and the necessity for accelerating their economic and social development.

Commonwealth provided the necessary flexibility from the U.S. fiscal system in order to implement economic development strategies to rescue the Puerto Rican people from hopeless dependency upon the United States.

History has not betrayed our expectations. Through the commonwealth association with the United States, Puerto Rico has been able to overcome abject poverty, its small size and remote geographic location, and a lack of natural resources. Under commonwealth, we have been able to achieve the highest standard of living in Latin America.

Puerto Rico's economic development has been possible through the optimal utilization of the tools available only under commonwealth, such as Section 936. Through the fiscal autonomy that the Congress has granted us, the island was able to attract investment capital and create jobs and opportunity on an island desperate for growth. Today, the livelihood of nearly 300,000 of the island's 900,000 workers depends on the continuity and stability of this favorable business climate. From a per capita income of only \$180 in the 1940s, Puerto Rico now surpasses \$5,000. Production from Puerto Rican factories serves world markets, particularly in pharmaceuticals, medical devices and electronics.

Why then does commonwealth need to be enhanced? We have come a long way, but we still have a long way to go. Our per capita income is still only one-third that of the United States and our unemployment rate is three times as high.

As we enter a new century and face the challenges of globalized economies in an ever-more interdependent world, broader autonomy is necessary so that we may expand the self-sustaining character of the Puerto Rican economy.

There is a need for a clear federal policy to support the more assertive role of Puerto Rico in the Caribbean region. There is a desire on the part of a majority of the Puerto Rican people for a broader autonomic framework upon which they can better realize their full potential as a people.

In what ways do the bills before you enhance commonwealth? In four main ways: by enlarging the political autonomy of the people of Puerto Rico, by accelerating their economic and social development, by providing for their increased participation in the United States government decisions affecting them, and by safe-guarding their distinct cultural and historical heritage.

Of the bills before you, S. 712 is our choice because it is meant to provide the voters in Puerto Rico the specific and concrete terms upon which to make the fundamental decisions required of them. In framing the proposal for an enhanced commonwealth under S. 712, we propose the precise amendments to the federal laws which clearly define the scope of an enhancement and which make the bill self-executing upon approval by the Congress and by the people of Puerto Rico.

We would hope that this committee will hold the statehood proposal to this same standard, which it does not meet at present, particularly in the vital economic transition provisions which are totally dependent upon future enactments by Congress of provisions of doubtful constitutionality. The people of Puerto Rico need to know the concrete and definite terms of statehood in order to make an informed decision on matters essential to their well-being.

One particular element of our definition of enhanced commonwealth should be considered at the outset: permanent union. Commonwealth supporters conceive of our relationship to the United States as one of a permanent nature. We do not see Puerto Rico as destined to be a state of the Union or an independent nation. Such is our political will. From a legal point of view, this union finds its permanence in the constitutionally irreversible bond of our American citizenship and in the compact of union between the people of Puerto Rico and Congress which was not entered upon for a limited time period, but rather for a relationship enduring into the future only to be changed through mutual consent.

We are fully aware, however, that Puerto Ricans have a right to aspire to another political status. This is inherent in their rights as free people. Commonwealth supporters are second to none in the defense of these rights of all Puerto Ricans. The permanence on which we base our relationship is the only permanence possible in the political relationships of democratic peoples, that their constitutional institutions endure stably into the future and that when they decide to change them, they will follow the established constitutional and democratic processes to bring about any desire to change.

Under S. 712, the political autonomy of the people of Puerto Rico within permanent union with the United States would be furthered in several ways. Many federal laws are applicable in Puerto Rico

today in spite of the fact that they are not attuned to the particular economic, cultural, demographic, and other conditions of the commonwealth. Under our proposal, federal laws, rules and regulations which are inconsistent with the described policy, now generally applied to Puerto Rico by including us in the definition of the word "state," would be inapplicable to Puerto Rico, unless Congress makes a specific finding that there is an overriding national interest in the applicability of such law to the Commonwealth of Puerto Rico. Any federal law pertaining to foreign relations, defense, national security, citizenship and grants and services to individuals citizens, however, would continue to apply to the commonwealth just as they apply in the states.

The political autonomy of Puerto Rico would also be bolstered by giving it economic jurisdiction over the waters, seabed and submerged lands surrounding Puerto Rico; by restoring its authority to issue United States passports; by strengthening its law enforcement capabilities; by enabling the government of the United States, or any agency thereof, to delegate to the commonwealth the total or partial responsibility for functions now performed by the federal government; and by promoting the international interest of Puerto Rico to the extent compatible with the foreign relations and security interests of the United States.

The economic and social development of the people of Puerto Rico would be accelerated by securing for them more equitable participation in all federal programs that provide grants or services to citizens of the United States as individuals; by authorizing the Commonwealth to consolidate federal grant-in-aid programs; by endowing the commonwealth with authority to impose tariff duties on foreign-origin products imported into Puerto Rico, when consistent with the international obligations of the United States.

By enabling the commonwealth to establish regulation over maritime transportation to assure the lowest possible rates; by promoting the creation of intellectual property in Puerto Rico; and by the United States encouraging other countries to consider Puerto Rico as a developing area for purposes of their general or regional systems of trade preferences.

Increased participation by the people of Puerto Rico in United States government decisions affecting them would also be assured, and finally, the distinct historical heritage and cultural identity of the people of Puerto Rico would be safeguarded through federal policy.

These enhancements of commonwealth status would provide a broader framework of autonomy under which the people of Puerto Rico could accelerate their economic and social development, affirm their cultural identity, and assume a more pro-active role in the Caribbean region.

They would go a long way toward updating what was a brilliant solution to the dilemma of a people seeking their place in dignity within the American constitutional system—a people unwilling to give up their identity and culture, and the pursuit of their full economic potential through statehood or to give up their citizenship, economic potential and permanent union with the United States through independence.

These enhancements will go a long way in enabling us as a people and as American citizens to provide a future together with the United States where we can be true partners contributing in an increasing way, not only to our progress and well-being, but also to the broader goals of the United States, such as the economic development of the Caribbean Basin.

Already we are engaged in a task together with the United States government whereby we have promoted twin plants between Puerto Rico and 11 Caribbean countries. This effort represents investments amounting to \$165 million over the past three years, creating 10,327 jobs in these 11 countries.

In this, our contribution to regional development and national security, we brought to Grenada four manufacturing plants twinned with Puerto Rico. With our Section 936 resources we are financing housing developments in Jamaica and airlines serving this and other points in the Caribbean region. Young men and women from all over the Caribbean are being trained in Puerto Rico. Not only are Caribbean economies being strengthened in a region where the Cuban model vies for leadership, but more importantly, democracy is being strengthened.

A stronger commonwealth economy, one better able to function under the economic dynamics of a new century—a politically stronger commonwealth will open the way to greater achievements in Puerto Rico and the region. And it will open the way for the people of Puerto Rico to feel the pride that through their efforts and their devotion to the values shared with the United States, they are helping to build a better future for themselves and their fellow citizens of the United States of America.

Thank you very much, Mr. Chairman.

[The prepared statement of Governor Hernandez-Colon follows:]

STATEMENT BY

HONORABLE RAFAEL HERNANDEZ COLON
GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO

ON S.712
TO PROVIDE FOR A REFERENDUM ON
THE POLITICAL STATUS OF PUERTO RICO

BEFORE THE

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

JUNE 1, 1989
9:30 A.M.

MUY BUENOS DÍAZ SEÑORES SENADORES, ES UN GRAN HONOR ENCONTRARME ANTE USTEDES EN ESTA OCASIÓN HISTÓRICA DONDE SE DISCUTE EL FUTURO DE MI PUEBLO: EL PUEBLO PUERTORRIQUEÑO. MI MÁS CORDIAL SALUDO A TODOS. PROCEDO AHORA EN INGLÉS.

DURING THE FIRST HALF OF THIS CENTURY, THE PEOPLE OF PUERTO RICO, THEN UNDER COLONIAL STATUS, WERE POLARIZED BETWEEN THOSE SEEKING TOTAL SEPARATION FROM THE UNITED STATES AND THOSE WANTING TOTAL ASSIMILATION TO THE UNITED STATES. VIOLENCE, TURMOIL AND BITTERNESS CHARACTERIZED THE POLITICS OF THAT PERIOD.

IN 1952 THE PEOPLE OF PUERTO RICO AND CONGRESS DESIGNED THE WAY OUT OF THAT DILEMMA: THE COMMONWEALTH RELATIONSHIP. THIS SOLUTION GAINED RECOGNITION FROM THE UNITED NATIONS.

COMMONWEALTH AROSE AS THE ANSWER TO END THE COLONIAL DILEMMA, SOLVING THE DIFFICULTIES IN THE OTHER OPTIONS. INDEPENDENCE WAS AND IS IMPRACTICABLE FOR TWO REASONS. IT WOULD WRECK THE PUERTO RICAN ECONOMY AND IT RUNS COUNTER TO THE UNSWERVING DESIRE OF THE PEOPLE OF PUERTO RICO TO MAINTAIN THEIR AMERICAN CITIZENSHIP AND LIVE IN PERMANENT UNION WITH THE UNITED STATES. STATEHOOD WAS AND IS UNWORKABLE BECAUSE IT WOULD ALSO DISRUPT THE PUERTO RICAN ECONOMY AND DOES NOT TAKE INTO ACCOUNT ANOTHER GIVEN OF THE PUERTO RICAN REALITY: THE FACT THAT PUERTO RICANS FORM A PEOPLE, A DISTINCT SOCIETY, WITH ITS OWN CULTURE, ETHNOS AND LANGUAGE.

THIS EXPLAINS THE NATURE OF THE PROPOSALS BEFORE YOU FROM STATEHOOD AND INDEPENDENCE ADVOCATES. BOTH TRY TO MEET

THE DIFFICULTIES OUTLINED BY INJECTING GENEROUS DOSES OF COMMONWEALTH INTO THEIR PROPOSALS, BY DELAYING THE TAKE-OFF FROM COMMONWEALTH FOR LONG PERIODS INDEED.

THE PROCESS PRODUCES SOME STRANGE RESULTS. YOU ARE NOT ASKED TO ADMIT A STATE IN THE CLASSIC, HISTORICAL AND CONSTITUTIONAL SENSE, BUT RATHER A BODY POLITIC ASPIRING SOMEDAY TO BECOME A STATE. THAT UNIQUE POLITICAL ENTITY COULD NOT POSSIBLY BE ADMITTED, AS THE CONSTITUTION REQUIRES, ON AN EQUAL FOOTING WITH OTHER STATES, AS IT WOULD NOT EVEN BE ABLE TO KEEP ITS OWN FOOTING. A MOST SINGULAR KIND OF STATEHOOD IS BEING SOUGHT FROM YOU. IT WOULD BE, ON THE ONE HAND, A SORT OF STATEHOOD ON CRUTCHES, A STATE REQUIRING SPECIAL ARRANGEMENTS FOR AN ECONOMY WHICH IS LESS THAN HALF OF THAT OF THE POOREST STATE IN THE UNION. ON THE OTHER HAND, THIS MOST UNEQUAL OF STATES WOULD RESIST TO MELT OR BLEND, IT WOULD BE A STATE WITH A DIFFERENT PRIMARY LANGUAGE, MARCHING UNDER ITS OWN FLAG, APART FROM THE UNITED STATES IN INTERNATIONAL SPORTS COMPETITIONS. THIS IS THE FIRST TIME THAT ONE FINDS SUCH A STARTLING DEPARTURE FROM CONSTITUTIONALLY SANCTIONED, TRADITIONAL ENABLING ACTS ENACTED BY THIS CONGRESS SINCE THE THIRTEEN COLONIES FORMED THE UNION.

THE INDEPENDENCE PROPOSAL IS EQUALLY FLAWED. A REPUBLIC COMPOSED MOSTLY OF CITIZENS OF ANOTHER STATE IS QUITE DIFFICULT TO IMAGINE.

THIS BRINGS US TO THE REAL WORLD. THE COMMONWEALTH RELATIONSHIP DESIGNED IN 1952 HAS PROVED TO BE A WORKABLE, DOWN-TO-EARTH WAY OF MEETING THE ASPIRATIONS OF THE PUERTO

RICAN PEOPLE: THE DESIRE FOR PERMANENT UNION WITH THE UNITED STATES, THE WISH FOR THE FULLEST AUTONOMY COMPATIBLE WITH SUCH DESIRE, THE NEED FOR PRESERVING THEIR DISTINCT HISTORICAL HERITAGE AND CULTURAL PERSONALITY, AND THE NECESSITY FOR ACCELERATING THEIR ECONOMIC AND SOCIAL DEVELOPMENT.

COMMONWEALTH PROVIDED THE NECESSARY FLEXIBILITY FROM THE U.S. FISCAL SYSTEM IN ORDER TO IMPLEMENT ECONOMIC DEVELOPMENT STRATEGIES TO RESCUE THE PUERTO RICAN PEOPLE FROM HOPELESS DEPENDENCY UPON THE UNITED STATES.

HISTORY HAS NOT BETRAYED OUR EXPECTATIONS. THROUGH THE COMMONWEALTH ASSOCIATION WITH THE UNITED STATES, PUERTO RICO HAS BEEN ABLE TO OVERCOME ABJECT POVERTY, ITS SMALL SIZE AND REMOTE GEOGRAPHIC LOCATION, AND A LACK OF NATURAL RESOURCES. UNDER COMMONWEALTH WE HAVE BEEN ABLE TO ACHIEVE THE HIGHEST STANDARD OF LIVING IN LATIN AMERICA.

PUERTO RICO'S ECONOMIC DEVELOPMENT HAS BEEN POSSIBLE THROUGH THE OPTIMAL UTILIZATION OF THE TOOLS AVAILABLE ONLY UNDER COMMONWEALTH, SUCH AS SECTION 936. THROUGH THE FISCAL AUTONOMY THAT THE CONGRESS HAS GRANTED US, THE ISLAND WAS ABLE TO ATTRACT INVESTMENT CAPITAL AND CREATE JOBS AND OPPORTUNITY ON AN ISLAND DESPERATE FOR GROWTH. TODAY, THE LIVELIHOOD OF NEARLY 300,000 OF THE ISLAND'S 900,000 WORKERS DEPENDS ON THE CONTINUITY AND STABILITY OF THIS FAVORABLE BUSINESS CLIMATE. FROM A PER CAPITA INCOME OF ONLY \$180 IN THE 1940s, PUERTO RICO NOW SURPASSES \$5,000. PRODUCTION FROM PUERTO RICAN FACTORIES SERVES WORLD MARKETS, PARTICULARLY IN PHARMACEUTICALS, MEDICAL DEVICES, AND ELECTRONICS.

WHY THEN DOES COMMONWEALTH NEED TO BE ENHANCED?

WE HAVE COME A LONG WAY, BUT WE STILL HAVE A LONG WAY TO GO.

OUR PER CAPITA INCOME IS STILL ONLY ONE-THIRD THAT OF THE UNITED STATES AND OUR UNEMPLOYMENT RATE IS THREE TIMES AS HIGH.

AS WE ENTER A NEW CENTURY AND FACE THE CHALLENGES OF GLOBALIZED ECONOMIES IN AN EVER-MORE INTERDEPENDENT WORLD, BROADER AUTONOMY IS NECESSARY SO THAT WE MAY EXPAND THE SELF-SUSTAINING CHARACTER OF THE PUERTO RICAN ECONOMY.

THERE IS A NEED FOR A CLEAR FEDERAL POLICY TO SUPPORT THE MORE ASSERTIVE ROLE OF PUERTO RICO IN THE CARIBBEAN REGION.

THERE IS A DESIRE ON THE PART OF A MAJORITY OF THE PUERTO RICAN PEOPLE FOR A BROADER AUTONOMIC FRAMEWORK UPON WHICH THEY CAN BETTER REALIZE THEIR FULL POTENTIAL AS A PEOPLE.

IN WHAT WAYS DO THE BILLS BEFORE YOU ENHANCE COMMONWEALTH? IN FOUR MAIN WAYS: BY ENLARGING THE POLITICAL AUTONOMY OF THE PEOPLE OF PUERTO RICO, BY ACCELERATING THEIR ECONOMIC AND SOCIAL DEVELOPMENT, BY PROVIDING FOR THEIR INCREASED PARTICIPATION IN THE UNITED STATES GOVERNMENT DECISIONS AFFECTING THEM, AND BY SAFEGUARDING THEIR DISTINCT CULTURAL AND HISTORICAL HERITAGE.

OF THE BILLS BEFORE YOU, S.712 IS OUR CHOICE BECAUSE IT IS MEANT TO PROVIDE THE VOTERS IN PUERTO RICO THE SPECIFIC AND CONCRETE TERMS UPON WHICH TO MAKE THE FUNDAMENTAL

DECISIONS REQUIRED OF THEM. IN FRAMING THE PROPOSAL FOR AN ENHANCED COMMONWEALTH UNDER S.712, WE PROPOSE THE PRECISE AMENDMENTS TO THE FEDERAL LAWS WHICH CLEARLY DEFINE THE SCOPE OF THE ENHANCEMENT AND WHICH MAKE THE BILL SELF-EXECUTING UPON APPROVAL BY THE CONGRESS AND BY THE PEOPLE OF PUERTO RICO.

WE WOULD HOPE THAT THIS COMMITTEE WILL HOLD THE STATEHOOD PROPOSAL TO THIS SAME STANDARD, WHICH IT DOES NOT MEET AT PRESENT, PARTICULARLY IN THE VITAL ECONOMIC TRANSITION PROVISIONS WHICH ARE TOTALLY DEPENDENT UPON FUTURE ENACTMENTS BY CONGRESS OF PROVISIONS OF DOUBTFUL CONSTITUTIONALITY. THE PEOPLE OF PUERTO RICO NEED TO KNOW THE CONCRETE AND DEFINITE TERMS OF STATEHOOD IN ORDER TO MAKE AN INFORMED DECISION ON MATTERS ESSENTIAL TO THEIR WELL-BEING.

ONE PARTICULAR ELEMENT OF OUR DEFINITION OF ENHANCED COMMONWEALTH SHOULD BE CONSIDERED AT THE OUTSET: PERMANENT UNION. COMMONWEALTH SUPPORTERS CONCEIVE OF OUR RELATIONSHIP TO THE UNITED STATES AS ONE OF A PERMANENT NATURE. WE DO NOT SEE PUERTO RICO AS DESTINED TO BE A STATE OF THE UNION OR AN INDEPENDENT NATION. SUCH IS OUR POLITICAL WILL. FROM A LEGAL POINT OF VIEW, THIS UNION FINDS ITS PERMANENCE IN THE CONSTITUTIONALLY IRREVERSIBLE BOND OF OUR AMERICAN CITIZENSHIP AND IN THE COMPACT OF UNION BETWEEN THE PEOPLE OF PUERTO RICO AND CONGRESS, WHICH WAS NOT ENTERED UPON FOR A LIMITED TIME PERIOD, BUT RATHER FOR A RELATIONSHIP ENDURING INTO THE FUTURE ONLY TO BE CHANGED THROUGH MUTUAL CONSENT.

WE ARE FULLY AWARE, HOWEVER, THAT PUERTO RICANS HAVE A RIGHT TO ASPIRE TO ANOTHER POLITICAL STATUS; THIS IS

INHERENT IN THEIR RIGHTS AS FREE PEOPLE. COMMONWEALTH SUPPORTERS ARE SECOND TO NONE IN THE DEFENSE OF THESE RIGHTS OF ALL PUERTO RICANS. THE PERMANENCE ON WHICH WE BASE OUR RELATIONSHIP IS THE ONLY PERMANENCE POSSIBLE IN THE POLITICAL RELATIONSHIPS OF DEMOCRATIC PEOPLES: THAT THEIR CONSTITUTIONAL INSTITUTIONS ENDURE STABLY INTO THE FUTURE AND THAT WHEN THEY DECIDE TO CHANGE THEM THEY WILL FOLLOW THE ESTABLISHED CONSTITUTIONAL AND DEMOCRATIC PROCESSES TO BRING ABOUT ANY DESIRED CHANGE.

UNDER S.712, THE POLITICAL AUTONOMY OF THE PEOPLE OF PUERTO RICO WITHIN PERMANENT UNION WITH THE UNITED STATES WOULD BE FURTHERED IN SEVERAL WAYS. MANY FEDERAL LAWS ARE APPLICABLE IN PUERTO RICO TODAY IN SPITE OF THE FACT THAT THEY ARE NOT ATTUNED TO THE PARTICULAR ECONOMIC, CULTURAL, DEMOGRAPHIC, AND OTHER CONDITIONS OF THE COMMONWEALTH. UNDER OUR PROPOSAL, FEDERAL LAWS, RULES AND REGULATIONS WHICH ARE INCONSISTENT WITH THE DESCRIBED POLICY, NOW GENERALLY APPLIED TO PUERTO RICO BY INCLUDING US IN THE DEFINITION OF THE WORD "STATE," WOULD BE INAPPLICABLE TO PUERTO RICO, UNLESS CONGRESS MAKES A SPECIFIC FINDING THAT THERE IS AN OVERRIDING NATIONAL INTEREST IN THE APPLICABILITY OF SUCH LAW TO THE COMMONWEALTH OF PUERTO RICO. ANY FEDERAL LAW PERTAINING TO FOREIGN RELATIONS, DEFENSE, NATIONAL SECURITY, CITIZENSHIP AND GRANTS AND SERVICES TO INDIVIDUALS, HOWEVER, WOULD CONTINUE TO APPLY TO THE COMMONWEALTH JUST AS IN THE STATES.

THE POLITICAL AUTONOMY OF PUERTO RICO WOULD ALSO BE BOLSTERED BY GIVING IT ECONOMIC JURISDICTION OVER THE WATERS,

SEABED AND SUBMERGED LANDS SURROUNDING PUERTO RICO; BY RESTORING ITS AUTHORITY TO ISSUE UNITED STATES PASSPORTS; BY STRENGTHENING ITS LAW ENFORCEMENT CAPABILITIES; BY ENABLING THE GOVERNMENT OF THE UNITED STATES, OR ANY AGENCY THEREOF, TO DELEGATE TO THE COMMONWEALTH THE TOTAL OR PARTIAL RESPONSIBILITY FOR FUNCTIONS NOW PERFORMED BY THE FEDERAL GOVERNMENT; AND BY PROMOTING THE INTERNATIONAL INTEREST OF PUERTO RICO TO THE EXTENT COMPATIBLE WITH THE FOREIGN RELATIONS AND SECURITY INTERESTS OF THE UNITED STATES.

THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE PEOPLE OF PUERTO RICO WOULD BE ACCELERATED BY SECURING FOR THEM MORE EQUITABLE PARTICIPATION IN ALL FEDERAL PROGRAMS THAT PROVIDE GRANTS OR SERVICES TO CITIZENS OF THE UNITED STATES AS INDIVIDUALS; BY AUTHORIZING THE COMMONWEALTH TO CONSOLIDATE FEDERAL GRANT-IN-AID PROGRAMS; BY ENDOWING THE COMMONWEALTH WITH AUTHORITY TO IMPOSE TARIFF DUTIES ON FOREIGN-ORIGIN PRODUCTS IMPORTED INTO PUERTO RICO WHEN CONSISTENT WITH THE INTERNATIONAL OBLIGATIONS OF THE UNITED STATES; BY ENABLING THE COMMONWEALTH TO ESTABLISH REGULATION OVER MARITIME TRANSPORTATION TO ASSURE THE LOWEST POSSIBLE RATES; BY PROMOTING THE CREATION OF INTELLECTUAL PROPERTY IN PUERTO RICO; AND BY THE UNITED STATES ENCOURAGING OTHER COUNTRIES TO CONSIDER PUERTO RICO AS A DEVELOPING AREA FOR PURPOSES OF THEIR GENERAL OR REGIONAL SYSTEMS OF TRADE PREFERENCES.

INCREASED PARTICIPATION BY THE PEOPLE OF PUERTO RICO IN UNITED STATES GOVERNMENTAL DECISIONS AFFECTING THEM WOULD ALSO BE ASSURED, AND FINALLY, THE DISTINCT HISTORICAL HERITAGE

AND CULTURAL IDENTITY OF THE PEOPLE OF PUERTO RICO WOULD BE SAFEGUARDED THROUGH FEDERAL POLICY.

THESE ENHANCEMENTS OF COMMONWEALTH STATUS WOULD PROVIDE A BROADER FRAMEWORK OF AUTONOMY UNDER WHICH THE PEOPLE OF PUERTO RICO COULD ACCELERATE THEIR ECONOMIC AND SOCIAL DEVELOPMENT, AFFIRM THEIR CULTURAL IDENTITY, AND ASSUME A MORE PRO-ACTIVE ROLE IN THE CARIBBEAN REGION.

THEY WILL GO A LONG WAY TOWARDS UPDATING WHAT WAS A BRILLIANT SOLUTION TO THE DILEMMA OF A PEOPLE SEEKING THEIR PLACE IN DIGNITY WITHIN THE AMERICAN CONSTITUTIONAL SYSTEM -- A PEOPLE UNWILLING TO GIVE UP THEIR IDENTITY AND CULTURE, AND THE PURSUIT OF THEIR FULL ECONOMIC POTENTIAL THROUGH STATEHOOD OR TO GIVE UP THEIR CITIZENSHIP, ECONOMIC POTENTIAL AND PERMANENT UNION WITH THE UNITED STATES THROUGH INDEPENDENCE.

THESE ENHANCEMENTS WILL GO A LONG WAY IN ENABLING US AS A PEOPLE AND AS AMERICAN CITIZENS TO BUILD A FUTURE TOGETHER WITH THE UNITED STATES WHERE WE CAN BE TRUE PARTNERS CONTRIBUTING IN AN INCREASING WAY NOT ONLY TO OUR PROGRESS AND WELL-BEING, BUT ALSO TO THE BROADER GOALS OF THE UNITED STATES, SUCH AS THE ECONOMIC DEVELOPMENT OF THE CARIBBEAN BASIN.

ALREADY WE ARE ENGAGED IN A TASK TOGETHER WITH THE U.S. GOVERNMENT WHEREBY WE HAVE PROMOTED TWIN PLANTS BETWEEN PUERTO RICO AND ELEVEN CARIBBEAN COUNTRIES. THIS EFFORT REPRESENTS INVESTMENTS MOUNTING TO \$165 MILLION OVER THE PAST 3 YEARS, CREATING 10,327 JOBS IN THESE ELEVEN COUNTRIES.

IN THIS, OUR CONTRIBUTION TO REGIONAL DEVELOPMENT AND NATIONAL SECURITY, WE BROUGHT TO GRENADA FOUR MANUFACTURING PLANTS TWINED WITH PUERTO RICO. WITH OUR SECTION 936 RESOURCES WE ARE FINANCING HOUSING DEVELOPMENTS IN JAMAICA AND AIRLINES SERVING THIS AND OTHER POINTS IN THE CARIBBEAN REGION. YOUNG MEN AND WOMEN FROM ALL OVER THE CARIBBEAN ARE BEING TRAINED IN PUERTO RICO. NOT ONLY ARE CARIBBEAN ECONOMIES BEING STRENGTHENED IN A REGION WHERE THE CUBAN MODEL VIES FOR LEADERSHIP BUT, MORE IMPORTANTLY, DEMOCRACY IS BEING STRENGTHENED.

A STRONGER COMMONWEALTH ECONOMY, ONE BETTER ABLE TO FUNCTION UNDER THE ECONOMIC DYNAMICS OF A NEW CENTURY, A POLITICALLY STRONGER COMMONWEALTH WILL OPEN THE WAY TO GREATER ACHIEVEMENTS IN PUERTO RICO AND THE REGION. AND IT WILL OPEN THE WAY FOR THE PEOPLE OF PUERTO RICO TO FEEL THE PRIDE THAT THROUGH THEIR EFFORTS AND THEIR DEVOTION TO THE VALUES SHARED WITH THE UNITED STATES THEY ARE HELPING TO BUILD A BETTER FUTURE FOR THEMSELVES AND THEIR FELLOW CITIZENS OF THE UNITED STATES OF AMERICA.

The CHAIRMAN. Thank you very much, Governor, for an excellent statement. At this time, were there further statements from your group? At this time I would like to invite Governor Romero Barcelo and Senator Berrios Martinez to come to the table and have questions among the three principles for, perhaps, the next 50 minutes or an hour.

And then this afternoon we will get into the further questioning of first, you, Governor and then tomorrow our other two main witnesses.

First gentleman, I want to really extend my authentic congratulations to all three of you. All three of those statements were really excellent and portrayed—I think the best case that could be made in the case of each of you—of three different statuses. I say that not out of courtesy, but out of real conviction.

First I want to tell you that yesterday afternoon the Appropriations Committee cleared my amendment to give \$1.5 million, that is \$500,000 to each of the parties to cover your expenses, personnel, rent, travel, et cetera, connected with this plebiscite, with a referendum, should I say. As we speak it is being considered on the floor of the Senate. The committee amendments were accepted en bloc with the exception of two other amendments. So this amendment has been accepted, at least temporarily, on the floor. So we are very hopeful that it will be accepted without a debate on the floor of the Senate and later in a conference committee with the House.

But I would first like to invite the three of you tell us why it is important because we may have to argue this either on the floor of the Senate or in a conference committee. I suppose we ought to begin with you Governor Romero Barcelo—and would you begin.

Governor ROMERO. I believe it is extremely important, Senator because right now we have no funds whatsoever available other than the usual funds that the party gets through donations from the people. We just went through a campaign in 1988 and we have some debts from that campaign that we have to fulfill. At the same time, raise additional funds that are required.

At this point in time we have engaged attorneys in Washington, constitutional attorney; we have engaged economists to advise us on this intricate problem. We have been using volunteer services up to now. And at this moment the Governor of Puerto Rico and the commonwealth is using the people's money to do their job. They travel, they eat, they get lodged in hotels, they do all—pay all the attorneys, and all their help, through the funds of Puerto Rico. So they are very, very comfortable.

But the Independence Party and the Statehood Party do not have the funds. We are going to deal with that locally because we feel that use of that money is illegal. But we will do that locally. But here, we need those funds to have a fair chance. We have had very great difficulties in getting all of our information available at the times that the Senate required and we want to meet those schedules and we want to have this whole process speeded up as much as possible.

The CHAIRMAN. Thank you very much. To his credit, although Governor Hernandez Colon does indeed have state funds and travel, he is supporting this amendment. Would you like to comment on that?

Governor HERNANDEZ-COLON. I am fully supporting the amendment. I am very much aware of the need of the funds, particularly because of the technical, legal and economic work that has to be done regarding these bills. I would also like to say that on the first of May, the legislative assembly of Puerto Rico approved the joint resolution number three which provided \$1,350,000 to be equally distributed between the parties so that they may use them for these purposes or other reorganizational purposes in Puerto Rico: reorganization of the parties.

So there have been the fund, public funds available to all three parties since the first of May in Puerto Rico. We fully support the amendment. We understand that it is absolutely necessary to have additional funds.

The CHAIRMAN. Thank you very much, Governor. Senator Berrios.

Senator BERRIOS. I think it is very easy to argue in favor of the amendment in order for there to exist fair and equitable conditions for all concerned. It is just as though they have equal access to funds. And obviously that is not the case at the present moment. And the only way to compensate for that deficiency is through this amendment.

The CHAIRMAN. Thank you very much. Gentleman, first with respect to the process, you have all been involved every step of the way in evolving this process and putting in the three bills and working with us on the way this bill is handled here in the Congress. Do you have any particular suggestions on how we might improve just the process, the hearings, the method of handling this bill? Is there anything further you would like to suggest? Any of you?

Governor ROMERO. In the hearings that are going to be held in Puerto Rico very soon this month, I do not know what amount of time would be allotted to each one of the witnesses, but I am sure that there will be quite a few witnesses that will have significant contributions to make. But unless they have some amount of time, reasonable, and I would call reasonable at least 15 minutes, that it would be very difficult for them to come up with any kind of a statement, a significant statement in three or four or five minutes.

I think it is something that we have quite a few people at home that want to make significant contributions. And it is not the same you know just putting them into the record, or reading it out loud or putting it forth verbally because we all know that when this record is going to get big, very, very big records.

The CHAIRMAN. Well there is always a tradeoff. We have only so much time in Puerto Rico and we can restrict the number of people and allow more time per person or let more people testify and have a shorter period of time. Senator Berrios.

Senator BERRIOS. I think that a way should be found for the hearings to be extended in Puerto Rico, geographically and in time. I know that there are difficulties, but I would say that with time enough to keep the timetable as it is, the extension should be made. How can this be done? I imagine there must be ways of sending the staff over, for example, to listen to—more people might have to stay in different places in Puerto Rico, on the West Coast

and the South at the same time you keep on conducting your hearings here.

I think they should be extended. Besides having more time for those who attend, they should be extended geographically in Puerto Rico and I think they should be carried to New York particularly, also into Chicago for the Puerto Ricans there to express their feelings regarding this issue which effects their homelands. I think both things should be done.

The CHAIRMAN. Well, again, we have that problem of the trade-off. As I said in my opening statement, we are committed. Let me speak for myself, I am committed to getting this legislation out of this committee early enough so that the process can work. And the goal is referenda for self-determination for Puerto Rico. It may not represent everything that everyone wants.

But if we are going to do that we have to push and we have to move and we cannot have too many hearings. There are so many serious questions here, constitutional questions, legal questions that involve lawyers and specialists and technicians. We have to allow time for that kind of thing because that is of first importance. Allowing ordinary citizens to testify is important in the process, too, because they must feel that they are a part of this. But we do not want to make them such a part of it that we do not have time to legislate. We have to keep our eye on the ball and the fact that we have to meet that goal.

So, as time goes on if the three of you can keep the excellent relationship you have had, tough competitors, but able to talk between yourselves on advising us we would very much appreciate it.

Governor ROMERO. Regarding the hearings, besides the issues of the bills themselves, there are certain procedural issues regarding the plebiscite in Puerto Rico that we would also like to be able to address in the hearings. That is how the plebiscite is going to be carried out. And something that we discussed earlier, which is, we would like the U.S. Department of Justice and the federal courts, to have jurisdiction, particularly pertaining to any tampering with the process.

We are having problems right now with the elections in San Juan. They are being questioned. And we certainly would not like to go to the elections with the same persons that are going to be controlling the elections unless we have some forum that we could feel that there would be more objectivity where we could present these issues and these problems.

That is why we would like to somehow or other expand or include the jurisdiction of the U.S. Department of Justice and the federal courts because the plebiscite is also something that involves the national interest.

The CHAIRMAN. Are you speaking of putting that in the legislation?

Governor ROMERO. Yes, sir.

The CHAIRMAN. There are a number of questions, of course, that must be resolved. First, the question of who will vote? Senator Berrios wants to restrict that. Governor Hernandez-Colon wants to broaden it and Governor Romero, your position is that you want to expand it slightly from what it is now, am I correct on that?

Governor ROMERO. Well, we can meet the constitutional and legal issues involved and the practical issues involved. I certainly feel that most of the Puerto Ricans living in the States would be voting for statehood because that is why they came up here. It costs them \$200 to make the trip.

The CHAIRMAN. As I understand it, under present law, it is rather easy to establish a voting residence in Puerto Rico; you have to live there 60 days. Is that correct?

Governor ROMERO. Yes.

Senator BERRIOS. Senator, I beg your pardon. We would like to broaden the voting qualifications and so that only Puerto Ricans vote. We broaden the rights of Puerto Ricans in the same manner that we limit the rights of non-Puerto Ricans to vote. We are the ones who want to broaden the rights of Puerto Ricans.

The CHAIRMAN. On the question which some of you have suggested limiting the amount of money that may be spent independently by, for example, 936 corporations? We have requested a legal opinion on that and we have a copy of that. I will furnish copies to all of you. There are serious questions under the *Buckley v. Valeo* ruling about how much restriction can be done in that respect if we should want to do that, and I do not suggest that we would want to do that. I do not know that it would be possible to get the three of you to agree on that, but—Senator Berrios?

Senator BERRIOS. Regarding that I would like to say that *Buckley v. Valeo* is not under the territorial clause that this Congress should feel at ease to make all needful rules and regulations regarding the issues before us in this referendum because in our legal opinion, *Buckley v. Valeo* does not stand in this type of referendum. This referendum will be held under the powers of the territorial clause of the United States.

The CHAIRMAN. But there is a fundamental right question. And I think surely the freedom of speech. It has been held to be a fundamental right and under *Buckley v. Valeo* there is a first amendment right that they are protecting. So let me ask you a troublesome question for me. The legislation as we initially introduced it and as further expanded provides, in the case of S. 712, for a self-executing status, but it provides that that status may be achieved with only 50.1 percent of the vote, anything over 50 percent. Should we provide for more than 50 percent for a change in status? I am thinking of, for example, if you had a choice of let us say, independence by 50.01 percent and then perhaps if you could lock that in, that they could not consider another choice then, but that you would then have a further election with the requirement to have something above 50 percent in order fully to effectuate that status.

Is that fair? Keeping in mind, for example, that Hawaii and Alaska both had had referenda before they were admitted into the Union and had had that approved by 90 percent, as I recall. Is that fair?

Senator BERRIOS. If the question is directed to me, I will answer in a very simple manner. According to our interpretation of this process, the people of Puerto Rico have a right to independence, so as soon as they express that right, by a majority vote of any kind, but of course, 50.1, they should make that right valid. Now there is

no right to statehood and there is no right to commonwealth or free association. So Congress is free to put whatever percentage requirements it deems necessary regarding commonwealth and regarding statehood because that is your prerogative.

It is not your prerogative to deny independence once the Puerto Rican people demand it because you are ruled by international law which is part of a law of this land and which gives the right to independence to peoples. That does not apply to statehood and that does not apply to commonwealth. I would understand that some people here in the United States and in this Congress would like to put higher percentages for statehood or for commonwealth. After all, how can you guarantee that a 50.1 percentage for statehood is not converted into a minus 50 percent in three years after statehood. Then you will have Lithuania on your hands here.

The CHAIRMAN. Governor Romero.

Governor ROMERO. Senator, I agree with part of what Senator Berrios has said, but not all of it of course. I believe that they have a right. People who advocate independence have a right to become independent if a majority in Puerto Rico vote for it. But I disagree with him when he says that we do not have a right to be a state.

I think we do have a right to be a state because all that being a state means, as far as we are concerned, is the right to vote and a right to representation, equality. And that is the basic issue. When all American citizens have a right to equality, have a right to vote and a right to representation. There is no Congress, no one, that can deny that right to U.S. citizens to achieve that equality. So we feel that once the majority of people of Puerto Rico vote for it, then that has to be the goal.

First, the commonwealth option, they certainly do not want to have it put in place if more than half of the people vote for it. As a matter of fact, as Senator McClure very precisely pointed out when this bill was introduced in the Senate, the things that the commonwealth asked for do not even require a referendum. This could be laws that can be passed by Congress because Congress has the territorial powers over Puerto Rico because we are a territory so it does not have to go through a plebiscite. So, if a majority of the people of Puerto Rico vote for it, then how can Congress then say, well we would like you to do it but we are not going to give it to you now. So it is 51 percent for commonwealth, it has to be 51 percent for statehood. You cannot have different rules.

And there is another issue here. When you talk about statehood for Puerto Rico, when you introduce the ingredient of commonwealth of the territorial status, they say that they stand for permanent citizenship, U.S. citizenship; they say that they are proud of their U.S. citizenship, and they want to be permanently united. So the only difference is that—I really here—are represented, should we have the right to vote and the right to representation? And should we assume our obligations and bear obligations to pay taxes? So, we have to have more than a majority for that to have a right to vote and assume obligations of paying taxes. I think 51 percent is more than enough.

There is not going to be a Lithuania like Mr. Berrios says. If there was 51 for statehood and 49 percent for independence we might have to think about it. But there is not going to be 51 per-

cent statehood and 49 percent independence. We are going to win by a majority but the second stronger will be for the commonwealth status. I think any political observer would say that.

So if the commonwealth status has permanent union and U.S. citizenship, I am sure the vast majority of the commonwealth will be very happy with statehood once it comes and once they realize what it means.

Governor HERNANDEZ-COLON. I would like to say, Mr. Chairman, that there is a significant difference between the consideration of the enhancements of the current status and a change to a totally different status. Commonwealth was established in 1952. We are not seeking to change the nature of that status. We are seeking to enhance it in the different ways that we have discussed here.

As Senator McClure himself said, these enhancements could come by the way of congressional legislation. But then, their nature would be different because they would not be proposals to the people of Puerto Rico to be accepted in a referendum. And, therefore, they would have a force and effect by the fact that they were legislated by the Congress, but not by the fact that they had the acceptance of the people of Puerto Rico. And, therefore, they were joined in contact so there is a basic difference here.

Now, historically, the vote for statehood as you very well know, has been a vote of very, very large majorities. It does entail a very fundamental and radical change. Independence also entails a very fundamental and radical change. So it is not a question of abstract rights that are being raised here. It is a very fundamental, political decision to be made between the people of Puerto Rico and the Congress of the United States.

And, therefore, there should be the necessary solidity to whatever decision of that nature is made.

The CHAIRMAN. Governor Hernandez-Colon you have made statements to the effect that Section 936 would not be possible to be extended under statehood. I wonder if you would make that statement and give Governor Romero a chance to respond to that because that is one of the key arguments you have made?

Governor HERNANDEZ-COLON. I have two things to say about that. First of all, that they do not address the problem in their proposal. S. 712 is supposed to be a self-executing bill. And although Section 936 is mentioned in S. 712, it is not mentioned in the way that it would need to be mentioned so that a precise amendment to the internal revenue code is made in order to make it operative under statehood situation. It just says Congress will do this at a later date. So that is the first problem that it is not precisely and concretely addressed in the technical, legal language necessary to do so.

Now, with regards to that particular legal language and assuming that we would have it before us, that credit structured for a state would come into conflict with the uniformity clause of the Constitution that requires that taxation should be uniform throughout the 50 states. So you would have here a credit within the internal revenue code applicable only to Puerto Rico. That is the constitutional question that would then be raised if they had proposed the technical amendments, which they have not.

The CHAIRMAN. Governor Romero.

Governor ROMERO. Senator, Hernandez-Colon is an attorney and so am I, but neither of us are constitutional experts. The commonwealth proponents have used the services, have used the opinions of Professor Laurence Tribe from Harvard. Now we are using the opinions and recommendations and advice of Professor Paul Gewirtz from Yale University. So Professor Gewirtz will be available tomorrow at the two hour session to explain precisely from a constitutional attorney's point of view, why it is constitutional to extend 936 at least for a period of time within statehood.

I want to point out further. Senator, these two books I have are two volumes which are the most comprehensive study that has ever been made about the admission of the original 13 colonies that became a nation and the 37 states that were then admitted in the Union. The whole process that went through in every single instance. This book was prepared by the Grupo de Investigadores de Puerto Rico, Puerto Rican investigation group and it is a very, very comprehensive and complete study.

In this book you will find that they were distributed to the staff members of the Senators and if anyone does not have it please let us know. I will be very glad to make it available. Each one of those, they studied case-by-case, state-by-state, all of the special agreements and all the special accommodations that were made for every territory. And the most recent ones were, of course, Alaska and Hawaii.

Alaska, for instance, as far as the excise tax on oil is concerned, they are exempt 90 percent and that is by law. And that was challenged and the Supreme Court said no. But those things, I think they can be explained much better by Professor Gewirtz. And I just wanted to add—and here you will see also in the study that not even a majority has been required for statehood. Throughout the history there were cases before the admissions act was put forth to the people, the vote on the referendums had been even less than a majority; for statehood, in Wisconsin it was 22 percent, in the case of Nebraska it was 47 percent. In the case of Colorado it was 45 percent. So they did not require a majority before the admissions act was presented to them.

I think tomorrow we will be in a much better position with our legal advisors to address that question. And Mr. Gewirtz has prepared a written statement very, very, very thorough and excellent one that addresses itself to all those issues that have been raised.

The CHAIRMAN. I think it would be helpful to have him here. I understand that the Finance Committee has jurisdiction over Section 936.

I would expect that we would at least make recommendations to the Finance Committee and at least deal with that question in some manner—in a preliminary manner at least, because that is so intrinsic to the whole Statehood situation and I am encouraging the Finance Committee to begin hearings early on, because it is so tremendously complicated and so technical and they will need time within which to deal with that, Senator?

Senator BERRIOS. Regarding this matter, I must point out the following. In this area, like in other areas which will be considered by this Committee, there is nothing Statehood and Commonwealths can do that Independents cannot do better.

There is no way in which you can make 936 permanent, or semi-permanent, either under Commonwealth or under Statehood. It would be there for a number of years—X number of years, subject to the will of the Congress.

If you wanted 936 for 15, 20 or 30 years and the Puerto Rican people wanted 936 for so many years, then we could enter into a treaty and then 936 could be finally permanent. So there is a lot of flexibility from no permanence at all to halfway permanency, 50 year permanency in independence and I must remind you of this.

I must also point out for the record that it is true that some states have been admitted without a majority of voters, but these are not a people—these are American people who live in Wisconsin or Colorado. In Puerto Rico we are talking about the Puerto Rican people and that is a basic difference.

The CHAIRMAN. On that subject—

Senator McCLURE. Mr. Chairman, might I just interject one thing with respect to the jurisdictional question?

The CHAIRMAN. Yes, indeed.

Senator McCLURE. Obviously, if we continue the status quo under the laws of Commonwealth, the U.S. Tax Code will have an application in a manner that would be differently affected than it would be under either independence or Statehood.

Under the circumstances, we have a greater difficulty in deferring to the committee of jurisdiction here with respect to the future application of the tax code, which is uniquely their jurisdiction and not ours. I realize that you are not so concerned about the jurisdictional niceties between committees of the Congress, but we cannot evade it and I think we can treat that tax consequence perhaps differently in our legislation emanating from this Committee, with respect to the options that might be available under Independence or Statehood, but we are more constrained under the Commonwealth alternative.

The CHAIRMAN. I think that is correct, but our concern now is to get the Finance Committee involved, not to steal their jurisdiction.

Governor HERNANDEZ-COLON. Senator, I would like to say that our bill does not include any amendments to the Internal Revenue Code.

The CHAIRMAN. Yes, we understand that. Senator Berrios, you said you were dealing with the people of Puerto Rico, implying that there is a difference between the people and American citizens.

If the Puerto Rican people opted for independence, would it not be appropriate then to have them make a choice as to citizenship—American citizenship or Puerto Rican citizenship?

Senator BERRIOS. I would have no objection to that, but the fact is that the United States Supreme Court has an objection to that, and our constitutional experts which work for free, as a matter of fact—maybe we will contract some later—our constitutional law experts say that fortunately or unfortunately that is out of our hands.

The CHAIRMAN. Well, we have a congressional research service. I will share that opinion with you. As I recall, it states that there is a difference considering the derivation of citizenship. If citizenship derives from having been born an American citizen it is infeasible, whereas if it is from—

Senator BERRIOS. If it is legislative. It can be of a legislative nature or by birth. The thing is that we are talking of citizens by birth in 99.9 percent of the cases, because almost nobody was born before 1917 is now a Puerto Rican citizen. This is a question we can talk about. I have no objection to comparing constitutional notes and we have made our proposal because we believe it is in accord with U.S. Supreme Court decisions.

The CHAIRMAN. Obviously, whatever the court says, it is.

Senator BERRIOS. If it will be of any help, Senator Johnston, I can assure you that all of the Independentistas will renounce American citizenship the next day after independence, so if you can convince Statehood and Commonwealth to do the same thing there will be no trouble whatsoever.

The CHAIRMAN. It would seem to me that since citizenship involves at least potentially duties as well as responsibilities—here it is. I will share this with you.

Senator BERRIOS. I will be glad to consider it.

The CHAIRMAN. They talk about, some Puerto Ricans do have 14th Amendment citizenship—that is, those who were born in the United States—are within the meaning of Section 1 and are therefore constitutional citizens from birth.

As to them, either dual citizenship or some treaty provision requiring some choice might be alternatives. In any event, the relative number of persons involved would be small. I will share this opinion with you.

Now, Governor Hernandez-Colon, you have a process here in which you say that laws, rules and regulations, you would make a request that they be made applicable or not applicable after those laws, rules and regulations are passed. In which event, then, the Executive or the Congress would have to make a determination as to whether they applied.

Governor HERNANDEZ-COLON. There is a request in that direction. It is not exactly that. We request that a Federal policy be established that will alter the criteria presently existing for the applicability of Federal law, because it is very vague—it is the criteria of “locally inapplicable”—and because the practice that the Congress has followed is to include Puerto Rico in specific legislation by treating it as a state, we propose a more discriminating treatment for the extension of legislation to Puerto Rico.

This treatment would not apply to laws in the matter of foreign relations, defense, national security, citizenship or Federal programs extending rights to individuals. It would also not apply in any given circumstance where the Congress finds that there is an overriding national interest that a law of any nature not of the categories that I mentioned before should apply to Puerto Rico.

Now, given those exceptions, then the criteria would be whether the particular law is consistent with the Federal policy to be adopted as a result of the referendum and this policy would be as follows: the policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the people of Puerto Rico, one, to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union.

The CHAIRMAN. Let me interrupt you at that point, because it seems to me that your proposal would be productive of endless litigation to determine whether it was consistent, or whether it had a proper regard for Federal law. For example, the Coastal Barrier Resources Act. Would that have a proper regard for ecology, or would it be considered—

Governor HERNANDEZ-COLON. I would say no.

The CHAIRMAN. I wonder if—for example, we might put in a proposal that said, in these categories—specific categories—that a rule of statutory interpretation would be that it did not apply unless Congress said that it did apply. The rule of statutory interpretation which of course could be overcome either by stating specifically in the law that it does apply, or by statutory history.

Governor HERNANDEZ-COLON. I would not like to answer to that. I think we have a problem that is recognized by our proposal in the bill and by your suggestion. I would like to give some thought to that and see what problems may arise.

The CHAIRMAN. Well, you will be here this afternoon and we might deal further with that question. It seems to me that you pose a legitimate question that we ought to try to deal with in this legislation, but it seems to me the formula would be a little difficult and productive of litigation.

Governor HERNANDEZ-COLON. There are many mechanisms that can be thought up and they have their problems, and we are certainly willing to look at alternatives.

The CHAIRMAN. Obviously, I have a lot more questions, but let me turn the questions over to Senator McClure at this point.

Senator McCLURE. Well, Mr. Chairman, in view of the time, I would suggest that some of the questions that are more narrowly focused would be submitted to the witnesses for response in writing, giving them the opportunity to give a reasoned, reflected and consultative answer to the questions.

I have been following with interest the questions that you have asked, because they parallel many of my own. It is an extraordinarily difficult process which we are trying to follow and which we want the proposals of the three options to be as fully explained and understood as is possible for us to do in advance.

In connection with that general philosophy, I have a rather general question as to how the ballot is written in a plebiscite. In Puerto Rican law, the language of the ballots is to be developed by you. I would assume in this particular instance we probably have to develop that balanced language here. Do any of you have a problem with that conclusion?

Governor HERNANDEZ-COLON. That, as a matter of fact, senator, is in our proposal—in the Commonwealth proposal.

Senator McCLURE. Do the other parties also agree with that?

Governor ROMERO. Yes, senator, we definitely agree that it should be determined at the level of Congress. We have not addressed ourselves to that issue, because it was not a part of what we were supposed to do, but I think in the process we should address ourselves to that issue and we would be glad to.

Senator BERRIOS. Of course, senator, responsibility is a function of power, and you have the power, so you make the offer.

Senator McCURE. Well, we want it also to reflect the options as you gentlemen see them and so far as the Congress is willing to accept the proposals that are made, because I understand that we may have the power to do that, but on behalf of the people of the State of Idaho I sometimes resist the exercise of that power.

Senator BERRIOS. I resist it all the time. That is why I believe in independence.

Senator McCURE. The second question with respect to the ballot language, obviously you cannot include on the ballot all of the proposal. There has to be some description of the alternatives so that the people of Puerto Rico can indeed read the ballot.

I suspect there will be some few who go to the ballot box without having read the entire proposal of any one of the parties, let alone all of the parties. I do not know whether that will lead them to check the fourth box that says, "none of the above," or what result that might have.

But I am concerned, as I think we all must be, that the people of Puerto Rico be given an honest choice and that it is a choice which we in the Congress of the United States are ready and committed to observe. I think it is fundamental to this proposition, so that we need to understand from our end, the Congress of the United States, what is being submitted as options, that we are ready to support when chosen.

Secondly, so that the people of Puerto Rico can know what the options are and they make an informed choice when they go to the ballot box. That leads us to the question of how simple or how complex the ballot language should be. We obviously cannot print all of this in its final form and put that on the ballot and say, now after you have read through all of this, check the appropriate box.

What is the answer to that? Is it a simple, do you choose Independence, do you choose Reformed Commonwealth or do you choose Statehood, or none of the above? Do you want it just that simple? Do you have an opinion, senator?

Senator BERRIOS. Yes, I have an opinion. I must remind you to start with that after so much progress we have 14 percent of the people who do not know how to read and write in Puerto Rico, so it will be a problem for them to start with 14 percent. We have to deal with that problem of people who cannot even read Statehood, Commonwealth or Independence.

The other issue which is of great importance is that in order for the choice to be informed, people have to be well informed before and that is done not through what appears on the ballot—because nobody is going to read it, whether it is medium or long—but through a campaign which permits and promotes the explanation of alternatives.

I think that is the real issue here—the type of political campaign leading up to the ballot—and then you can have as long a definition as you want, there in the ballot. But I think definitions are crucial to this matter and not only definitions as explained by the political parties. I quoted—I talked about that in my statement. Congress has the obligation to inform people as to the offer they are making regarding each one of the alternatives and the consequences in an official manner, through public notices or whatever

way might be chosen. One has to devise very novel ways to deal with it, but I think it can be dealt with.

Senator McCLURE. Governor Hernandez?

Governor HERNANDEZ-COLON. With regard to Commonwealth, the proposition that would be actually submitted to the people of Puerto Rico would not be Commonwealth itself, but rather the enhancement of Commonwealth, so we need to define in somewhat broad terms what this enhancement would be.

We have suggested the language here in our proposal, and it reads: enhance to enable the people of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market and a common currency. That would be the definition that we propose to the Congress, that be submitted to the people of Puerto Rico.

Senator McCLURE. Well, I see at least one gentleman shaking his head. I assume that is negative.

Senator BERRIOS. I do not mean negative regarding his definition. In my opinion it cannot be posed that way. That is such a vague generality and it would be such a vague generality regarding any other alternative that it is useless to pose it to people that way. It has to be more detailed.

Senator McCLURE. Governor Romero?

Governor ROMERO. Well, you talk about Senate Bill 712. Obviously, whatever was printed on the ballot would have to be broader and would have to be a more precise definition of what we are submitting to the vote of the people of Puerto Rico.

However, as you well point out it would be impossible—it would be unrealistic to set out the whole Admissions Act in the case of Statehood, or set out all the facts, the things that the Commonwealth people want for the so called enhancement, that it would be very—in the first place people would not have time to read it at the ballot. We would have kind of a revolution at the polls that people are waiting to vote.

So the only way to carry that message would be as Senator Berrios said—through the campaign before the plebiscite. So I think we can reach an agreement—I do not see why not—as to what the definitions, how large the definition or how broad the definition should be in each one of the different bills.

I have no problems with the Commonwealth defining itself—although I had some problems with their language, of course, expressly my problems with saying that there is any “permanent union” with Commonwealth because that would—It would be misleading the people of Puerto Rico. But if we argue about that, I think we can reach an agreement.

Senator McCLURE. If the senator would yield, I share his concern. What we would want to do, I think, is have a ballot which is neutral in terms of loaded adjectives. We do not want to say, “wonderful Statehood” or “great Commonwealth.” We want to try to be as factual as we can and also succinct while conveying some information. I am sure the three of you can agree.

Governor HERNANDEZ-COLON. But senator, I must mention that given the fact that there was a plebiscite in Puerto Rico in 1967

and that there were definitions at that time—there was a definition in particular of the Commonwealth formula and the elements in that definition, such as permanent union, common citizenship, were essential elements of the Commonwealth proposal that any change which would affect those essential elements would have a confusing and negative impact upon what the people of Puerto Rico were called upon to vote.

Because Commonwealth has been defined in a certain way, and so defining it in a different way would carry with it the connotation that Congress does not accept that particular definition and that would be the problem. Now, I do not suggest that we call it the “great Commonwealth” or anything like that, but that those historical elements that have been before the people of Puerto Rico should be a part of the definition.

Senator BERRIOS. Senator, I think we should make this point clear. I think the question is very important, and I think we can agree, but a reference has to be made to the self-executing treaty as a whole. Congress in S. 712 is going to make an offer. We want pressure so that the whole offer will be in the ballot box, but the people will have to know what it is about—I am referring to that offer that they are voting, and that offer is extended. How do you get the people to know the offer? That is a procedural matter which we can deal with, but I think that has to be—

Senator McCLURE. I agree with the point that you make, senator. Governor Romero?

Governor ROMERO. We cannot take the precedent of 1967 as a precedent because there are certain things that happened in that plebiscite that are not present now which we objected to from the beginning. We went to the plebiscite because we had no choice, because there was going to be an offer of a vote and if we did not go we boycotted it as the Republican Party did then, then we would be out in left field and it would be a one-way contest, and they would say well here, the vast majority of the people of Puerto Rico is almost overwhelming for Commonwealth, so we had to go.

The Popular Party was in control of both legislatures, and the overwhelming majority of both legislatures, and they passed a bill where statehood was not defined, independence was not defined. They only had an embellished definition of Commonwealth. Then we have to go to the plebiscite. It was not accepted by the Statehood Party; it was not accepted by the Independence Party.

The Statehood Party boycotted the plebiscite; the Independence Party boycotted the plebiscite as an independent group, as a private group; we went with Luis Ferre to support statehood in the plebiscite. So that cannot be taken as a precedent. All the words that appeared in there and were voted for, that vote is not valid in its entirety because of the way it was admitted. Now, this case is different.

Congress is supporting it, all three parties are supporting it, all three parties are working together on the definitions, and I think that makes a world of difference from the 1967 plebiscite.

Governor HERNANDEZ-COLON. There is a misrepresentation here. Statehood was defined in the way that statehoodists wanted statehood to be defined in that plebiscite.

Senator McCCLURE. Let me make one suggestion here, and then I think I will yield back the balance of my time so that we may address the questions in the individual sections to follow.

But, if we do not get into the question of the coloration on the face of ballot, an attempt by anyone to carry the salesmanship of their cause into the ballot box—into the voting booth—it may be that the only way we can avoid that is to leave the perception of the choice to the education process.

We must be as clear as we possibly can with respect to the Congress of the United States and our legislative history as to what we intend. Leave it to the debate in Puerto Rico as to how you presented that issue to the public. But, in the ballot itself, refer to the enabling act that calls for the plebiscite and say Commonwealth as set forth in the enabling act, statehood as set forth in the enabling act, independence as set forth in the enabling act.

So that everybody has the reference as to what Congress has approved and that the ballot itself contains no attempt to color that decision within the confines of the voting booth. I do not know how else to approach it, but I will certainly listen to the suggestions that may be made from time to time.

Governor ROMERO. The Virgin Islands really has a problem, they have about seven different alternatives. How they solve the seven definitions, I really do not know.

The CHAIRMAN. You may have just solved our problem Senator McClure. Senator Burns.

Senator BURNS. Thank you, Mr. Chairman. I have one question for the Senator.

You mention that you had about a 14-percent illiteracy rate in Puerto Rico. From my own information, I am aware that an informed public is vital in any election, that when you go to the ballot, you fully understand the issues. And given the choice, people do the right things. They may not vote the way we want them to, but given the choice, they will always do the right thing for what their interests are.

But, I would be interested in knowing, do you know the percentage—this may be an unfair question—of truly bilingual people in Puerto Rico?

Senator BERRIOS. I do not know exactly, but let me advance some criteria. I think one of the myths regarding Puerto Rico is that the Puerto Ricans living in Puerto Rico are bilingual. You know, it is a very easy test. When you go there, just go around a little bit and ask somebody in English something. Even in San Juan.

Truly, I studied at Yale and Oxford and see what kind of a patriotic accent I have. You know, and I was four years at Georgetown, four at Yale and two at Oxford, and I am still not bilingual. And it is not because of any psychological reasons, but because we have been brought up to speak Spanish in all our daily life and so on. So, bilingualism, I don't think, is a reality in Puerto Rico.

Many people speak English, yes, and they can communicate. But, we are not bilingual, I do not think so.

Governor HERNANDEZ-COLON. I have the figures of the 1980 census on this, and we have 19 percent of the people of Puerto Rico, according to the census, that speak English fluently, 19 percent.

We have 23 percent that speak English with difficulty.

The CHAIRMAN. That is in addition to the 19 percent?

Governor HERNANDEZ-COLON. Yes—19 percent fluently and 23 with difficulty. And 58 percent are unable to speak English.

Governor ROMERO. Senator, may I address that question?

In the first place, one of the reasons why I consider myself bilingual, I have some trace of an accent once in awhile. But, I consider myself bilingual and I did not study much more than Ruben did in the mainland. I just learned Spanish as my first language and that is the language I spoke at home.

So, many people at home are, I think, bilingual and I think Berrios may have a psychological problem with trying to say that he is bilingual. He is very articulate in English, too.

Senator BERRIOS. Senator, if you permit me—

Senator BURNS. There would be those in these chambers who say that I do not handle the English language very well either. I guess my concern would be the ability to communicate.

Governor ROMERO. That is what I want to address myself to. The figures that the Governor have given are correct and I have no question about them. But, there has been something that has been happening in Puerto Rico, particularly under the supporters of Commonwealth administration.

Before 1940, Senator, we had in Puerto Rico about 500 exchange teachers who came from the mainland. Just about everyone that graduated from high school in the 30s and 20s had a teacher, who was Mrs. Brown, Mrs. Smith, something or other.

When the Popular Party came into office and control, they did away with that program. By the time Luis Ferre, the first statehood governor, came into office in 1969, there were less than a dozen or two dozen of the those teachers left in Puerto Rico. And they did away, to the point when I came into office in 1977, the English department in the public schools, as well as the mathematics department, as well as the science department, and they still are in very serious trouble.

Many of the teachers that were teaching English were not adequately prepared to teach English, did not have enough education to teach English. They had certificates to teach English. So the teaching of English in Puerto Rico has deteriorated tremendously under the Commonwealth, under the Popular Party, because they have been always ambivalent about being U.S. citizens.

They want to be U.S. citizens when they are asking for money. They want to be included, as you will see in the proposal. They want to be included as a state when it means receiving money. But when it means assuming obligations of citizenship, they want to be excluded from everything. From paying taxes, they want to be excluded from participating in the process of governing and helping making the decisions.

So, right now, for instance, in the public schools of Puerto Rico, under this administration, they have a book for first graders written by Ricardo Alegria which is the Cultural Advisor of the Governor, where it talks about Puerto Rico. And when it refers to the nation, it says our friendly nation, the U.S.

It talks about Puerto Rico as my country and it makes no reference whatsoever to the fact that Puerto Ricans are U.S. citizens.

Nowhere in that book. And that is used for the students in the first few grades.

So, this is why when we say in Puerto Rico that the Commonwealth people are moving toward independence, and they deny it, it is the leadership that are going toward that goal. They have had the Secretary of Education under his administration make a proposal, which he later backs down from, because of the public indignation, to do away with the teaching of English in the first two grades.

There are legislators in his party who have submitted bills precisely for making Spanish the only official language in Puerto Rico. So, what they would like to do is eliminate English and create a greater difference between Puerto Rico and the rest of the nation.

And that is why we have so few people now that are bilingual and that can understand English. We feel that Puerto Rico can be, and should be, bilingual for our benefit, for the benefit of all of the people in Puerto Rico and the benefit of the nation.

I had the advantage to be bilingual. I have been able to enjoy Shakespeare in English, Cervantes in Spanish. I have been able to enjoy Bob Hope's jokes in English and Cantinflas' jokes in Spanish. I have had the best of two worlds. And, I think that is what we want to have in Puerto Rico.

Governor HERNANDEZ-COLON. Senator, could I make a remark about this?

Senator BURNS. It seemed at the time that it was sort of a simple question.

Governor HERNANDEZ-COLON. It goes to a very fundamental matter, what Governor Romero is saying. And that is, what should be the primary language of the people of Puerto Rico. Now, the United States, at the beginning of the century, established a policy of instruction in the public schools in the English language in order to bring about that result that Governor Romero is talking about.

Now, that policy is reflected in the enabling acts of, say, Louisiana, where the Congress in admitting Louisiana into the Union as a state, required that English be the language of instruction.

And, so it is reflected also in the enabling act of New Mexico. Now, I think there should be a concrete position from the statehooders here as to what they intend the language of instruction, the primary language of instruction, to be in Puerto Rican schools after Puerto Rico is admitted as a state.

Because, if that policy is not established, there is no possibility that that will ever happen.

Senator BURNS. My only concern is with all the points that the Chairman and the ranking member of this committee are concerned with, the ability to communicate. And I wanted some kind of a figure on that, and I can appreciate the difficulty in answering my question.

I have no further questions. Thank you, Mr. Chairman.

Senator BERRIOS. I think the questions and answers of both my colleagues here reflect what I have been trying to say all afternoon.

This is a very, very different problem from all those other problems that the United States has had to deal with. We are dealing

with a people, and this is a reflection of it. And your question is well oriented also, if I may say so, regarding how you instruct the Puerto Rican people. After all, the 58 percent cannot even speak English, much less write it.

Then when the orientation takes place, like Senator McClure proposed, translations will have to be made. TV orientation will have to be made, not only on the part of the Puerto Rican political parties. You know how political parties usually behave; we all behave in a certain manner. Vote for me because you will have the job in the mayor's office in the next election.

We do not act that way because we do not have any mayors, you know? But maybe if we did, we could. I am not saying that I am an innocent bystander. But, definitely, that has to be taken out of the hands of the typical political bosses in Puerto Rico. They can talk and they can use whatever legitimate influences they want, but the Congress of the United States has to explain to the Puerto Rican people what title such and such says in Spanish and through mechanisms that they understand. It is an obligation on the part of the Congress.

I think Senator McClure was saying the same thing.

Senator BURNS. Thanks very much. I appreciate it. Thank you, Mr. Chairman.

The CHAIRMAN. Gentlemen, as you know, what we have planned is to have each of you appear separately. Governor Hernandez-Colon this afternoon, beginning at 2. Senator Berrios tomorrow beginning at 9:30, and Governor Romero tomorrow afternoon at 1:30.

There has been a suggestion that perhaps you would prefer, and perhaps senators here would prefer, to have a continuation of all three of you so that any question asked, the others could respond. Would you like to do that?

I do not want to change the schedule.

Governor ROMERO. Mr. Chairman, I think it would be much more instructive for the Senate if we were to do it separately so that we could have with us, at that time, the people that are working with us and who can address themselves more directly, and in a more technical manner, to many of the questions.

Like when I talked about the constitutional issues, we have Professor Gewirtz. I will address myself to what Governor Hernandez-Colon referred to.

I think our position is stated very clearly in our proposal in the bill. But, we will state it more clearly if it is necessary.

Senator BERRIOS. I have a suggestion regarding this. Why do we not go with a compromise. Why not keep on for two hours more, the three of us together, and then shorten the period we have for each other.

I think this is a lot more illuminating. It can be illuminating for this committee if the three of us can face some questions together for a larger amount of time, and then we can go into what Governor Romero says.

The CHAIRMAN. I do not like to change the schedule except by unanimous consent. If the three of you would like to do that, we can do that in this afternoon's session. You may not be able to be here tomorrow, Governor Hernandez-Colon.

Governor HERNANDEZ-COLON. I have a slight problem. You see, we came prepared to make the presentations in a certain way.

The CHAIRMAN. Well, alright, let's keep the original schedule. I just think we've been having a good session this morning. I think it was productive. I think it will be equally productive to do it in the original way for this afternoon and tomorrow.

So, we will stand in recess until 2 p.m. at which time Governor Hernandez-Colon will testify.

[Whereupon, at 12:47 p.m., the committee recessed to reconvene at 2 p.m.]

AFTERNOON SESSION

The CHAIRMAN. The hearing will come to order. We are continuing this afternoon with the testimony of Governor Raphael Hernandez-Colon. Welcome back Governor. Do you have a statement for this afternoon?

STATEMENT OF HON. RAFAEL HERNANDEZ-COLON, GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO

Governor HERNANDEZ-COLON. Yes, I do, Mr. Chairman.

Good afternoon Mr. Chairman and members of the Committee. The structure of the Commonwealth proposal in the bills before you can best be understood by a deeper look at the nature and thrust of the Commonwealth relationship.

In the early part of this century, when the United States was shaping its policy regarding the status of Puerto Rico, Felix Frankfurter wrote that:

One of the great demands upon inventive statesmanship is to help evolve new kinds of relationships so as to combine the advantages of local self-government with those of a confederated union. Luckily, our Constitution has left this field of invention open.

The creation of the Commonwealth relationship was, indeed, such an act of inventive statesmanship. The singular character of the relationship has been repeatedly stressed by the courts.

The Supreme Court of the United States remarked, in 1976:

Puerto Rico occupies a relationship to the United States that has no parallel in our history. It is not a state, yet its degree of autonomy is not less than that of a state.

In several cases, the United States Supreme Court has held that Puerto Rico is, to the same degree as a state, sovereign over matters not ruled by the Constitution. It is not a territory either, as this statehood proposal would have this Committee hold.

The Court of Appeals for the First Circuit has ruled that Puerto Rico's status changed from that of a mere territory to the unique status of Commonwealth.

This was precisely the change intended by the Congress in 1952 in order to end the colonial relationship, and precisely the change recognized by the United Nations in 1953 declaring that the colonial relationship had ended.

The Commonwealth relationship represents, in sum, a new creative way of joining a community with a distinct historical heritage and cultural identity, a people in their own right, to the United States of America.

The realization of this fact has far-reaching consequences. In judging the advisability of changes to the Commonwealth relationship, the familiar analogies must be case aside. The yardstick is not

whether a given power is or is not enjoyed by a state. The test is whether the proposed reform is in line with the reason and purpose of the unparalleled Commonwealth relationship.

The last four decades have seen the establishment and consolidation of Commonwealth. The coming decades should mark the age of its enhancement. Principles inherent in our relationship can and should now be developed to their full potential.

The referendum proposition for the enhancement of Commonwealth will appear in the ballot in Spanish as follows:

El estado libre asociado se fortalecera para acelerar el desarrollo economico y social y alcanzar la maxima autonomia cultural y politica del pueblo de Puerto Rico en su union permanente con los Estados Unidos sobre los pilares de comun defensa, comun mercado, comun moneda, y el vinculo indisoluble de la ciudadanía americana.

In English it would read as follows:

The Commonwealth association with the United States shall be enhanced to enable the people of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market, and a common currency.

Our proposal, detailed and specific, is in stark contrast to those of Statehood and Independence. Neither contains a valid proposition. It should be required of them. Throughout this process, the people of Puerto Rico should know the precise contours of the status options presented to them. Ambiguity, fill in the blanks, saying one thing in Washington and another in San Juan, should be avoided.

The people of Puerto Rico are entitled to an informed choice. Voting in the dark is far scarier than whistling in the dark. A majority vote for Commonwealth should establish a policy to enhance the Commonwealth relationship by encouraging the acceleration of Puerto Rico's economic and social development; helping the attainment of maximum political autonomy within permanent union with the United States; securing more equitable participation in federal entitlement program for individuals; assuring increased participation in U.S. Government decisions affecting Puerto Rico; safeguarding the distinct cultural identity of the people of Puerto Rico and protecting the bilateral, non-colonial nature of our relationship.

This policy would govern the next phase of the Commonwealth relationship. The elements of this policy have been present since its creation. Their formal adoption and continued implementation as federal policy will assure that a relationship which, at the time it was established, was without parallel in American history, will long flower and bear fruit.

A prime test for this policy is the applicability in Puerto Rico of federal statutory law. Since 1900, the rule for applicability has been the following:

The statutory laws of the United States, not locally inapplicable, have the same force and effect in Puerto Rico as in the United States, except the internal revenue laws.

This old provision raises vexing problems. No mechanism was ever created to determine which federal laws are applicable and which are not. The historical result has been the often indiscrimi-

nate extension of federal laws to Puerto Rico, even when differing conditions have called for a discreet differentiated approach.

Given the fact that the Commonwealth relationship does not envisage a voting representation in Congress, but rather a broader local autonomy, the 1900 general standard of inapplicability must be fleshed out in order to achieve greater coherence with the principle of government through the consent of the governed.

Generic consent to all federal laws should give way to specific consent so that federal laws may better accommodate our different social and economic reality.

The uniqueness of our relationship requires that a device be fashioned for Puerto Rico to have a meaningful say in the applicability of federal laws. Other societies have met this problem. The British solution was the Statute of Westminster of 1933.

Laws enacted by the British Parliament did not apply in a dominion without its consent. Guam has requested an analogous solution. Our proposed solution is different.

Consent is granted to the applicability of federal laws relating to foreign relations, defense, national security, citizenship, and to entitlement programs which are rights inherent to U.S. citizenship. Other federal laws are applicable only if consistent with the policy, unless Congress finds that an overriding national interest requires their application in Puerto Rico.

As under current law, local inapplicability is subject to judicial determination. Our proposal also includes a mechanism for a case-by-case participation by the Commonwealth in the determination of local inapplicability. Rules and regulations receive analogous treatment, and federal agencies would be required, separately, to consider the consistency with the policy of any proposed action.

As we enter a new century and face the challenges of an ever more interdependent world economy, Puerto Rico cannot exist as an island by itself. Disconnected in geography or separate in its future and fate from the rest of the Caribbean and the world. We are playing a vital role in promoting the economic development and political stability of the Caribbean Basin, and we want to do more.

Puerto Rico's international role has been recognized by the United States. To further our contribution to national security and regional development, Puerto Rico requires a clearer federal policy in support of our international role. Our proposal builds on existing practice and it would enable the Commonwealth to take official actions to promote its international interests, provided the President does not determine they imperil the foreign relations or national defense of the United States.

This provision will introduce a much needed certainty and agility in decision-making to Puerto Rico's international actions, and will further our common interest in widening opportunity in the Caribbean. International commerce and trade are increasingly important as the world economy becomes more globalized.

Our proposed enhancement of Commonwealth would assure Puerto Rico the tools to prosper in the new economic dynamics. Puerto Rico is highly dependent on maritime and air transportation. In recent years, we have established San Juan as the aviation

hub of the Caribbean, the gateway between Latin American and North America and Europe.

Our aviation proposal would designate Puerto Rico as an open port for foreign air carriers. Presently, foreign carriers interested in serving Puerto Rico are often unable to obtain operating authority. Under our proposal, while remaining within the deregulated U.S. domestic regime and subject to FAA jurisdiction for safety matters, the Commonwealth would negotiate with foreign governments bilateral air transport agreements, insofar as they affect Puerto Rico. This would be subject to presidential review for foreign policy concerns.

Puerto Rico is uniquely dependent on maritime transportation. Eighty-six percent of our imports come by ocean-going vessels. Over 66 percent of those come from the United States.

This ocean-going commerce has been subject to competing regulatory regimes generally unresponsive to Puerto Rico's need for the lowest possible maritime transportation rate. Annual rate increases of over 10 percent, well in excess of inflation, have not been uncommon.

We do not propose to eliminate the Jones Act provision requiring the use of U.S. bottoms in transporting outgoing and incoming cargo and passengers between Puerto Rico and the United States. It burdens us, but we recognize the overriding national interest.

We do propose, however, that the Commonwealth establish its own commission chartered to regulate the services and rates for the Puerto Rico-United States trade in ways that, given the Jones Act, assure the lowest maritime rates. We further seek to accelerate Puerto Rico's participation in the world economy by expanding access for our products in foreign markets and promoting our agricultural self-sufficiency.

Under the generalized system of preferences, and other regional systems of preferences, industrialized nations provide unilateral preferential treatment to imports from developing countries, territories, and other political entities. Although Puerto Rico's income qualifies it for GSP treatment, our exports do not now receive such preferential treatment enjoyed by, among others, the U.S. Virgin Islands, Guam, and American Samoa.

Our proposal would encourage other countries to consider Puerto Rico as a developing area for purposes of their respective GSP programs, and to assure U.S. cooperation toward that end.

Since 1930, Puerto Rico has set tariffs with respect foreign coffee to protect local production. Our trade proposal expands this existing authority to allow the imposition of tariff duties on foreign origin products imported to Puerto Rico, or transshipped through the United States, but only to the extent consistent with the international obligations of the United States.

Such tariffs would be in addition to those applicable upon entry to the customs territory of the United States. This special tariff-setting authority would permit the Commonwealth to provide adequate protection and encouragement to the production of a narrow category of Puerto Rican products, primarily agricultural in nature, of slight interest to the United States but vital to Puerto Rico. It would not affect U.S. origin merchandise, which would continue to enjoy duty-free access to Puerto Rico.

Looking forward to the next century, and the emerging information age, we seek to establish Puerto Rico as a regional center for the creation of intellectual property in industrial designs and computer chips. We have come a long way in our economic development, but as long as we are way behind the U.S. national per capita income, only one third, we must continue to seek mechanisms for economic growth, particularly in those technologies suited to a small, densely populated island.

Our proposal would amend U.S. copyright laws to provide for additional protection to industrial designs and semi-conductor chip products and mask works created in or first manufactured in Puerto Rico.

To a tropical island economy, maritime resources are critical. Our proposal would grant the Commonwealth jurisdiction over fishery and other maritime resources, living and non-living, and would permit Puerto Rico to establish its own exclusive economic zone.

Puerto Rico's economic development would be advanced. The federal funds would better reflect our priorities and needs and particularized economic and social circumstances. We propose to impose the utilization of federal funds by extending to Puerto Rico an authority analogous to that now available to the Territories to consolidate federal grant-in-aid programs on an agency-by-agency basis. This proposal would not cover entitlement programs that provide grants or services to individuals.

As we strive for accelerated economic development, we must keep in mind the need of U.S. citizens in Puerto Rico, for more equitable participation in federal programs providing them with grants or services. We propose to achieve parity with the United States over the next four years in the nutritional assistance program, the equivalent of food stamps; AFDC; and Medicaid; and, over eight years, in the supplemental security income program.

We believe that U.S. citizens in Puerto Rico, like their counterparts in the states, are entitled to a minimal safety net without requiring them to leave Puerto Rico to gain full assistance. An existing inequity under present law is that more than 121,000 aged or disabled Puerto Rican residents not now eligible for assistance under SSI received a total monthly assistance of thirty-two dollars, compared with three hundred and fourteen dollars in the States.

Inequities of this nature among fellow citizens are contrary to the essence and dignity of our common citizenship.

As stated earlier, another primary objective of the federal policy to be established, is to accord the people of Puerto Rico greater participation in federal decisions affecting them. There are several ways to achieve this objective under Commonwealth.

We propose increased participation through a role in federal appointments on the island, and a non-voting delegate to the Senate. Currently, federal appointments serving in Puerto Rico are made with little, if any, consultation with the Government of Puerto Rico.

In order to make the exercise of executive power more consistent with the principle of government by consent, we propose that the appointment of any high-ranking federal officer serving in the Commonwealth, as well as any other appointments subject to

Senate confirmation, be made from a list of eligible candidates recommended by the Governor, who is the highest elected official in the Commonwealth.

Puerto Rico has been represented in the House of Representatives by a Resident Commissioner since 1900. His representation of the interests of the more than three million United States citizens of Puerto Rico contributes to the decision-making process of the House with respect to Puerto Rico.

We seek similar representation in the Senate. The multiplicity of legislative problems affecting Puerto Rico, and the Senate's exclusive role in treaty-making and Presidential appointments, make this representation vital to us. Our non-voting representative in the Senate would have all the rights and privileges of other members as are compatible with the Constitution of the United States.

The exercise of federal judicial authority must also be made more coherent with the nature of the Commonwealth relationship. As the Supreme Court has recently stated, "A rigid rule of deference to interpretations of Puerto Rico law by Puerto Rico courts is particularly appropriate given the unique cultural and legal history of Puerto Rico."

In line with this ruling, we set forth an abstention rule to govern the federal court's interpretation of unconstrued Puerto Rican statutes and regulations. To assure uniformity in the interpretation of the essential elements of the relationship, and in the interaction of federal judiciary with the Commonwealth government, we propose to centralize consideration of these matters in a single court.

To further the accessibility of federal courts to citizens seeking to vindicate their rights, almost 60 percent of whom speak no English, we propose that the proceedings be conducted in Spanish in the Federal District Court of Puerto Rico, at the request of any party. In such cases, to facilitate appeals and avoid delays, the court record would be kept in both English and Spanish.

To strengthen law enforcement, we would vest Commonwealth officials with authority to implement the immigration laws. Due to its relatively higher standard of living and greater employment opportunities, the Commonwealth has attracted many illegal aliens from nearby island nations. The admittedly limited resources of the INS on the island have made it impossible, effectively, to enforce the immigration laws.

Addition of Commonwealth resources to the patrol of our borders would both stop aliens who attempt to enter illegally and combat illegal traffic in drugs.

Central to the policy to be established through the referendum is the protection of the distinct identity of the people of Puerto Rico. Under our proposal, public lands and properties significant to our people and history, would be returned to the Commonwealth. Title to real property acquired by the United States from Spain under the Treaty of Paris, the so-called Crown lands, and to the lands administered under the Caribbean National Forest, El Yunque would be conveyed to Puerto Rico.

The United States and the Commonwealth would negotiate conditions for the administration of such lands and properties. No military bases would be affected by this proposal.