

leave, which is, of course, more onerous to the employer and more satisfactory to the employees in Puerto Rico because it is paid.

The case might be made that eventually both legislations can co-exist, but you have to ask the question of whether that is economically feasible in an island with the difficult problems that employers have in terms of competition. It is the kind of choice that Congress would not have made had all the States similar legislation, and yet I have not been able to persuade my colleagues that Puerto Rico should be dealt in a different manner.

The CHAIRMAN. Senator Moynihan, do you have any questions?

Senator MOYNIHAN. No. Thank you very much. I much appreciate it.

The CHAIRMAN. Senator McClure had a call from the White House and will be back shortly. Mr. Fuster, thank you very much for an excellent statement. We appreciate your participation.

Mr. FUSTER. You are welcome, Senator.

The CHAIRMAN. Next we are pleased to welcome the very distinguished former Resident Commissioner of Puerto Rico, the Honorable Baltasar Corrada-del Rio.

#### STATEMENT OF BALTASAR CORRADA-DEL RIO, FORMER RESIDENT COMMISSIONER OF PUERTO RICO

Mr. CORRADA. Thank you very much. Mr. Chairman, distinguished members of the Committee, Senator Moynihan.

First of all, I would like to say welcome to Puerto Rico.

The CHAIRMAN. Thank you.

Mr. CORRADA. We are very pleased to have you here, and we appreciate the time that you have given to consider this vital matter for the people of Puerto Rico.

Mr. Chairman, distinguished members of the Committee, the introduction in the Senate of S. 711 and S. 712 was prompted by a letter signed on January 17, 1989 by the leaders of the three main political parties in Puerto Rico.

I signed that letter with great hopes that we were at last beginning the process that would result in the final solution to the dilemma of Puerto Rico's political status. Frankly, I thought that Governor Hernandez Colon, Senator Berrios and I were sincere and courageous when in that letter we expressed that "the people of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and that the will of the people once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect."

In reviewing these bills I find that both statehood and independence are clearly defined in such a way as to meet the goals specified in the January 17 letter. However, I am shocked and disappointed with the definition of "commonwealth," because under any valid United States constitutional standard, reasonable principles of international law and plain common sense, "commonwealth" as defined in these bills is not and cannot be construed to be an ultimate political status or to constitute a permanent union between Puerto Rico and the United States.

Under the Constitution of the United States, only States of the Union are in permanent union among themselves and with the United States. And this matter has been settled since the case of Texas v. White in 1868. It is clear that Congress does not have the power to admit a body politic in permanent union with the United States other than a State of the Union.

To do so would be to accept that in the federation there could be different categories or classes of state. What is this proposal other than a flagrant effort to include a separate and unequal type of state, clearly a very imperfect union, within the federation? Congress has no constitutional power to accept it and to do so would be a breach of trust and of your duties to protect the right of each of the 50 States in the Union.

To ask for privileges and rights that may not be accorded to any of the 50 States in the allocation of powers between the United States and each of the States on a permanent basis is unrealistic, unfair and constitutionally unattainable. Any of the proposals which entail, on a permanent basis, giving powers or privileges to Puerto Rico that cannot be granted to the 50 States should thus be rejected.

The fatal flaws in the definition of "commonwealth" not only relate to serious U.S. Constitutional and Federal policy questions. The "commonwealth" definition does not satisfy well-established principles of international law. The United Nations has recognized free association as a valid solution to the status problem in Resolution 1514 approved by the General Assembly in 1960.

The main elements of free association as defined by the United Nations require three things. First, the total prior transfer of sovereignty from Congress to Puerto Rico, second, the decision by Puerto Rico to delegate to the United States some powers or authority under the terms of a compact mutually agreed to and, third, the power of both parties under the compact to unilaterally terminate the compact and conclude the relationship. Quite clearly, none of these requirements are met in the proposed definition of "commonwealth" in the bills before you.

I will now address the question of section 936. I believe it would not be wise or desirable for Congress to eliminate the provisions of Section 936. I support the provisions in section 16(b) of S. 712 that would allow section 936 to remain in full effect for a number of years under statehood and for a gradual phaseout thereafter.

However, Mr. Chairman and distinguished Senators, my proposal to you today is that in fairness to the people of Puerto Rico and in order to allow them to decide their political future on the basis of fundamental questions of democracy, security and freedom, Congress should provide in S. 711 and S. 712 for a uniform tax policy concerning how to deal in the future with section 936 in an equal manner for statehood, commonwealth or independence.

Under such tax policy, section 936 would remain in full effect for the next ten years and then would be gradually phased out during a period of 15 years thereafter, regardless of the outcome of the plebiscite. If you think this period is too long, let us look at it. Let us change it. But be fair and uniform with everybody.

On the question of citizenship, I would like to express, unfortunately, as far as Puerto Rico is concerned, the concept of U.S. citi-

zenship has been clouded by constitutional, legal and political uncertainties resulting precisely from the ambiguity and lack of definition of our political status.

We cannot continue to accept that there can be a separate class of U.S. citizenship in our nation, a citizenship that does not allow us to vote for the President, a citizenship that does not allow us to have voting representation in Congress. We cannot allow this second-class citizenship to perpetuate discrimination against Puerto Ricans in Federal programs.

We need to remove the cloud of uncertainty on the question of whether or not U.S. citizenship in Puerto Rico may be revoked by Congress. We need to reject the intolerable situation of accepting the doctrine of separate and unequal established by the Supreme Court of the United States in the so-called insular cases beginning with *Downes v. Bidwell* and entrenched since *Balzac v. People of Puerto Rico*, which say we are nothing but an unincorporated territory of the United States.

Thus, we are separate from and not part of the United States, and we do not deserve under the United States Constitution equal treatment under Federal programs enacted by Congress as pointed out by the Supreme Court of the United States in the case of *Harris v. Rosari* in 1980. Only statehood will guarantee not only that our U.S. citizenship will not be revoked.

Senator Johnston, it is not just a question of whether U.S. citizenship can be revoked, and that is now clouded in uncertainty. And I was pleased by your statements. You are one very distinguished and powerful Senator in the U.S. Senate, but not until this question is clearly decided by the Supreme Court of the United States will the doubts and uncertainties be cast on, or until we have statehood.

But the point is not only whether that citizenship may be revoked. Maybe it can be revoked or not revoked by Congress, but it is a second-class citizenship. Would you accept for your citizens of Louisiana that they be citizens of the United States and yet not have the right to vote for the President of the United States?

Would you accept, Senator Johnston, that the citizens of Louisiana, that U.S. citizens do not have the right to send you to represent them in Congress? Well, maybe that citizenship could not be revoked but we want first-class citizenship and not second-class citizenship that cannot be either revoked and that is the fundamental question we are addressing here.

On pages 14 and 15 of my statement I indicate some of the most important contributions Puerto Rico brings to the nation as a whole when admitted as a State of the Union. Because I would like to be very clear on this, distinguished Senators and Mr. Chairman. We are not only asking Congress to give us benefits, we are proud to give to the nation, even if modestly, our fair share of what we can.

The true test of being an American is not the language you speak or the color of your skin. When over 100 Americans were held hostage in Iran in 1980, one of them, a Hispanic named Jimmy Lopez, wrote in a wall of a small room where he was held in captivity in Spanish, *viva la roja, blanca y azul*. His body was imprisoned, but his spirit was free.

So he wrote in Spanish long live the red, white and blue. The real test of Americanism is our commitment to the fundamental principles of freedom, justice and democracy upon which our nation is founded. We Puerto Ricans have shown that commitment to those principles and to the United States many times. Perhaps in broken English, but with great pride as we become the 51st state, we also will say long live the red, white and blue.

And then we turn to our children and we will say que Dios bendiga a Puerto Rico y a los Estados Unidos. Thank you very much.  
[The prepared statement of Mr. Corrada follows:]