

three years because of the difficulties of translation and arguments over whether the translation was properly done and so forth, certainly one possibility, Senator, would be to try this on some kind of a pilot basis and see how it went.

I think our principal concern here was to have a blanket rule which said, with no discretion in the court at all, it has got to be done in Spanish unless—if one party wants it to be done in Spanish.

Senator McCLURE. What if we turned that around and said only if all parties agree that it be held in Spanish?

Judge CAMPBELL. Well, that gets you into, I would say, more into the area of reason. The concern is that we really do not have any experience with a Federal District Court that has been operated this way.

You may be right that 10 pages is incorrect, or you may not be. I do not know. That was the testimony that we heard from this particular individual. But it is not something, it seems to me, that should be rushed into, and it certainly should not—the danger is if it comes prior to the status legislation, it would be effectively unchangeable.

Senator McCLURE. I lean toward the idea that we ought to create an expedited procedure such as the Chairman has referred to, with respect to the electoral process. Whether it is a TECA type of court, or a three-judge panel, and if I am thinking of a designated three-judge panel, I would think it should come from the district that ordinarily has jurisdiction, from the circuit that has jurisdiction rather than broader than that.

But I think, as you suggested, that between our staffs we can find a workable solution to that particular question. I look forward to doing that.

Thank you very much, Mr. Chairman. I have no more questions at this time.

The CHAIRMAN. Thank you, Senator McClure.

Gentlemen, thank you very much. We appreciate your help.

Next we have a panel with Brigadier General Michael J. Byron, Marine Corps, who is Director of Inter-American Region of the Department of Defense, stationed here in Washington; and Mary V. Mochary, Principal Deputy Legal Adviser to the Department of State.

General Byron and Ms. Mochary, welcome.

General, why do we not begin with you with the Department of Defense, and then we will hear from State.

STATEMENT OF BRIG. GEN. M.J. BYRON, ACTING DEPUTY ASSISTANT SECRETARY OF DEFENSE (INTER-AMERICAN AFFAIRS), DEPARTMENT OF DEFENSE

General BYRON. Mr. Chairman, Senator McClure, I am very pleased to be here this afternoon and welcome the opportunity to testify before the committee about the Department of Defense's views on S. 712, a bill to provide for the referendum on the political status of Puerto Rico.

My prepared statement, which has been submitted for the record, is focused primarily on defense and national security issues. I will now briefly summarize it for you.

We have assessed how the legislation as written will impact on this department and considered the impact on national security interests proposed by each status option. For the purpose of this assessment we considered the strategic value of Puerto Rico within the context of the following defense requirements: first, regional and/or global conflict; U.S. presence and support for our friends and allies in the Eastern Caribbean and in the Caribbean Basin as a whole.

And for those two purposes, the naval station at Roosevelt Roads; the radar sites which are part of the regional Caribbean Basin radar network and communications support are essential. For the war on drugs—a subject of increasing concern for all of us—we need the presence of the radar sites which are part of the Caribbean Basin radar network, along with, again, the requisite support and communication facilities. And finally, as a unique U.S. and allied training facility, such as Camp Santiago, where just last month members of the regional security system from the Eastern Caribbean states trained as part of the workup for the highly successful exercise Tradewinds 1989.

Puerto Rico is important to us not only for its strategic location, but also for the tremendous training capability which cannot be duplicated anywhere else on the eastern coast of the United States. In short, these facilities remain vital to the U.S. Atlantic Command training and readiness, with no suitable options available for an alternate site that allows the breadth of integrated training required.

Defense facilities in Puerto Rico must also be viewed in relationship to our slow but steady withdrawal from the Caribbean. The committee should note that under the Panama Canal treaties, our forces will be withdrawn from Panama by 1999. As of 1 July, we close down U.S. Forces Caribbean in Key West, Florida. If we lose access to facilities in Puerto Rico, our only remaining operational facility would be Guantanamo Bay, Cuba. Guantanamo Bay has a strategic position, but it is obviously vulnerable to Cuban pressures.

These closures, coupled with a continued reduction of an already modest military assistance program for the Caribbean states, sends a negative message to our regional allies and adversely impacts on our global military interests.

The Department of Defense considers Puerto Rico as a strategic pivot point of major importance to the U.S. national security, and strongly recommends that provisions be made for the retention of the following installations and facilities: the entire Roosevelt Roads complex, including communications station and its outlying transmitter and receiver sites; facilities on Vieques Island; the naval communications facility at Sabana SECA; the Punta Borinquen radar site, which is a CBR, or Caribbean Basin radar network site; Punta Salinas radar site, which is also integrated into the Caribbean Basin radar network; and access to San Juan International Airport of Muniz; Air National Guard base and Borinquen International Airport; and finally, use of Camp Santiago training area.

I would like to highlight some of the provisions of the bill which could impact on our national security interests. And again, as Judge Breyer has said, our assessment focuses on the impact items and is not necessarily negative in tone.

Under statehood, Title II of S. 712 defines a statehood choice for Puerto Rico. As currently written, this option has the least impact from the defense perspective. As we understand the statehood alternative, Puerto Rico could be admitted to the Union on a basis essentially similar to other states. The Federal Government would continue to be responsible for security and defense, with Congress reserving exclusive authority over lands held for defense or Coast Guard purposes. However, unless the President or Secretary of Defense determined such lands to be critical areas, Puerto Rico could exercise concurrent jurisdiction over them.

This might be troublesome in practice with respect to such matters as arrest, custody and trial of service personnel on U.S. military installations; but, again, it is really minimal in its impact. Other agencies of the Executive Branch will cover those provisions in the legislation which would accord the new state different treatment from that currently afforded the other 50 states.

[The prepared statement of General Byron follows:]

10 JUL 1989

PREPARED STATEMENT OF
BRIGADIER GENERAL M. J. BYRON,
ACTING DEPUTY ASSISTANT SECRETARY OF DEFENSE
(INTER-AMERICAN AFFAIRS),
DEPARTMENT OF DEFENSE
BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
JULY 11, 1989

MR. CHAIRMAN, I AM VERY PLEASSED TO BE HERE THIS AFTERNOON, AND WELCOME THE OPPORTUNITY TO TESTIFY BEFORE THIS DISTINGUISHED COMMITTEE ABOUT THE DEPARTMENT OF DEFENSE'S VIEWS ON S. 712, A BILL "TO PROVIDE FOR A REFERENDUM ON THE POLITICAL STATUS OF PUERTO RICO." IF THIS BILL WERE TO BECOME LAW, A REFERENDUM TO BE HELD IN 1991, WOULD PRESENT THE VOTERS OF PUERTO RICO WITH THREE POLITICAL STATUS OPTIONS: (1) STATEHOOD; (2) INDEPENDENCE; (3) "ENHANCED COMMONWEALTH", EACH AS DEFINED IN THE BILL.

I WILL FOCUS MY REMARKS PRIMARILY ON DEFENSE AND NATIONAL SECURITY ISSUES. PLEASE NOTE, HOWEVER, THAT THERE ARE OTHER SIGNIFICANT LEGAL, CONSTITUTIONAL AND POLICY ISSUES PRESENTED BY

THE BILL WHICH ARE OF PRIMARY INTEREST TO OTHER EXECUTIVE BRANCH AGENCIES.

WE HAVE ASSESSED HOW THE LEGISLATION, AS WRITTEN, WILL IMPACT THIS DEPARTMENT, AND CONSIDERED THE IMPACT ON NATIONAL SECURITY INTERESTS POSED BY EACH STATUS OPTION. FOR THE PURPOSE OF THIS ASSESSMENT, WE CONSIDERED THE STRATEGIC VALUE OF PUERTO RICO WITHIN THE CONTEXT OF THE FOLLOWING DEFENSE REQUIREMENTS: (1) REGIONAL AND/OR GLOBAL CONFLICT; (2) US PRESENCE AND SUPPORT FOR OUR FRIENDS AND ALLIES IN THE EASTERN CARIBBEAN AND CARIBBEAN BASIN AS A WHOLE. FOR THOSE TWO PURPOSES, THE NAVAL STATION AT ROOSEVELT ROADS, THE RADAR SITES WHICH ARE PART OF THE CARIBBEAN BASIN RADAR NETWORK, AND THE COMMUNICATIONS SUPPORT ARE ESSENTIAL; (3) FOR THE "WAR ON DRUGS," WE NEED THE PRESENCE OF TWO RADAR SITES WHICH ARE PART OF THE CARIBBEAN BASIN RADAR NETWORK AND THE COMMUNICATION FACILITIES ARE REQUIRED; (4) A UNIQUE US AND ALLIED TRAINING FACILITY, SUCH AS AT CAMP SANTIAGO WHERE JUST LAST MONTH MEMBERS OF THE

REGIONAL SECURITY SYSTEM TRAINED AS PART OF THE WORK UP FOR THE HIGHLY SUCCESSFUL EXERCISE TRADEWINDS 89. PUERTO RICO IS IMPORTANT TO US NOT ONLY FOR ITS STRATEGIC LOCATION, BUT ALSO FOR THE TREMENDOUS TRAINING CAPABILITY WHICH CAN NOT BE DUPLICATED ANYWHERE ELSE ON THE EAST COAST OF THE US. IN SHORT, THESE FACILITIES REMAIN VITAL TO ATLANTIC FLEET TRAINING AND READINESS, WITH NO SUITABLE OPTIONS AVAILABLE FOR AN ALTERNATE SITE THAT ALLOWS THE BREADTH OF INTEGRATED TRAINING REQUIRED.

SINCE WORLD WAR II WE HAVE SLOWLY BUT STEADILY WITHDRAWN OUR PRESENCE FROM THE EASTERN CARIBBEAN, AS HAS THE UNITED KINGDOM. STARTING WITH OUR BASE IN TRINIDAD AND TOBAGO, WE HAVE FOR VARIOUS REASONS, MOSTLY BUDGETARY, REMOVED OURSELVES FROM THE AREA. AS OUR PRESENCE DWINDLED, WE BEGAN TO SEE OUR ADVERSARIES TAKING ADVANTAGE OF OUR PERCEIVED LACK OF INTEREST. EVEN THE SOUTH AMERICAN DRUG CARTELS ARE REALIZING THE POTENTIAL WHICH CAN BE GAINED IN THE EASTERN CARIBBEAN. AS WE CONTINUE TO PUSH OUR WAR ON DRUGS, THE EASTERN CARIBBEAN ISLANDS HAVE THE

POTENTIAL TO BECOME CENTERS FOR TRANSSHIPMENT OF NARCOTICS TO BOTH THE UNITED STATES AND EUROPE. EXPERIENCE HAS SHOWN THAT WE CAN EXPECT INSTABILITY ALSO TO INCREASE AS NARCO DOLLARS FLOW INTO THE ECONOMY. THE COMMITTEE SHOULD ALSO NOTE THAT UNDER THE PANAMA CANAL TREATIES, OUR FORCES WILL BE WITHDRAWN FROM PANAMA IN 1999. IF WE WERE TO LOSE OUR PRESENCE IN PUERTO RICO AND PANAMA, OUR ONLY CARIBBEAN BASE WOULD BE GUANTANAMO BAY, CUBA, 600 MILES TO THE WEST OF PUERTO RICO. GUANTANAMO BAY HAS A STRATEGIC POSITION, BUT IT IS OBVIOUSLY VULNERABLE TO CUBAN PRESSURE. ADDITIONALLY, IT JUST DOES NOT HAVE THE SAME CAPABILITY AS ROOSEVELT ROADS. AS OF 1 JULY, WE CLOSED DOWN U.S. FORCES CARIBBEAN IN KEY WEST, FLORIDA. THIS CLOSURE, COUPLED WITH THE CONTINUED REDUCTION OF AN ALREADY MODEST MILITARY ASSISTANCE PROGRAM TO THE EASTERN CARIBBEAN, SENDS A NEGATIVE MESSAGE TO OUR FRIENDS THROUGHOUT THE CARIBBEAN.

THE DEPARTMENT OF DEFENSE CONSIDERS PUERTO RICO AS A STRATEGIC PIVOT POINT OF MAJOR IMPORTANCE TO US NATIONAL SECURITY AND

STRONGLY RECOMMENDS THAT PROVISIONS BE MADE FOR THE RETENTION OF THE FOLLOWING INSTALLATIONS AND FACILITIES:

- THE ENTIRE ROOSEVELT ROADS COMPLEX, INCLUDING THE COMMUNICATIONS STATION AND ITS OUTLYING TRANSMITTER AND RECEIVER SITES;
- VIEQUES ISLAND FACILITIES;
- THE NAVAL SECURITY GROUP AT SABANA SECA;
- THE PUNTA BORINQUEN RADAR SITE (IMPORTANT FOR ITS ROLE IN THE CARIBBEAN BASIN RADAR NETWORK);
- THE PUNTA SALINAS RADAR SITE (ALSO IMPORTANT FOR ITS ROLE IN THE CARIBBEAN BASIN RADAR NETWORK);
- ACCESS TO THE SAN JUAN INTERNATIONAL AIRPORT/MUNIZ AIR NATIONAL GUARD BASE, AND BORINQUEN INTERNATIONAL AIRPORT.
- USE OF CAMP SANTIAGO TRAINING AREA.

THERE ARE MANY OTHER OUTLYING AREAS WHICH CONTRIBUTE TO EACH OF THE ABOVE MENTIONED FACILITIES I HAVE NOT LISTED THEM HERE, BUT

I HAVE PROVIDED YOUR STAFF WITH A COMPLETE LIST OF ALL PRESENT DEPARTMENT OF DEFENSE FACILITIES, WHICH ALSO INCLUDES THE ACREAGE OF EACH. IF THIS LIST DOES NOT SUFFICE, WE WILL PROVIDE YOU WITH SUCH ADDITIONAL INFORMATION AS YOU MAY REQUIRE. IN THAT CONNECTION, WE HAVE ALSO PROVIDED THREE CHARTS WHICH MAY BE OF INTEREST TO YOU. ONE SHOWS WHERE THE MAJOR FACILITIES ARE LOCATED, ONE SHOWS THE PUERTO RICAN OPERATING AREA, AND THE LAST ONE SHOWS WHERE THE FACILITIES ARE LOCATED ON THE ISLAND OF VIEQUES. WE HAVE ALSO PROVIDED YOUR STAFF WITH A BRIEF OVERVIEW OF THE ECONOMIC IMPACT WHICH SOME OF THE FACILITIES HAVE TO THE LOCAL ECONOMY.

I WOULD LIKE TO HIGHLIGHT SOME OF THE PROVISIONS OF THE BILL WHICH COULD IMPACT ON OUR NATIONAL SECURITY INTERESTS.

STATEHOOD

TITLE II OF S.712 DEFINES A " STATEHOOD" CHOICE FOR PUERTO RICO. AS CURRENTLY WRITTEN, THIS OPTION IS THE LEAST TROUBLESOME FROM THE DEFENSE PERSPECTIVE.

AS WE UNDERSTAND THE STATEHOOD ALTERNATIVE, PUERTO RICO COULD BE ADMITTED TO THE UNION ON A BASIS ESSENTIALLY SIMILAR TO OTHER STATES. THE FEDERAL GOVERNMENT WOULD CONTINUE TO BE RESPONSIBLE FOR SECURITY AND DEFENSE, WITH CONGRESS RESERVING EXCLUSIVE AUTHORITY OVER LANDS HELD FOR DEFENSE OR COAST GUARD PURPOSES. HOWEVER, UNLESS THE PRESIDENT OR THE SECRETARY OF DEFENSE DETERMINES SUCH LANDS TO BE "CRITICAL AREAS," PUERTO RICO COULD EXERCISE CONCURRENT JURISDICTION OVER THEM. THIS MIGHT BE TROUBLESOME IN PRACTICE WITH RESPECT TO MATTERS SUCH AS ARREST, CUSTODY AND TRIAL OF SERVICE PERSONNEL ON U.S. MILITARY INSTALLATIONS. OTHER AGENCIES OF THE EXECUTIVE BRANCH WILL COVER THOSE PROVISIONS IN THE LEGISLATION WHICH WOULD ACCORD THE

NEW STATE DIFFERENT TREATMENT FROM THAT CURRENTLY AFFORDED THE OTHER 50 STATES.

ENHANCED COMMONWEALTH

UNDER THE ENHANCED COMMONWEALTH OPTION, THE GOVERNOR OF PUERTO RICO MAY TAKE ANY OFFICIAL ACTION TO PROMOTE THE INTERNATIONAL INTEREST OF PUERTO RICO THAT IS NOT PROHIBITED BY LAW; HOWEVER, THE PRESIDENT MAY DETERMINE WITHIN 30 DAYS THAT SUCH ACTION WOULD IMPERIL US FOREIGN RELATIONS OR NATIONAL DEFENSE, IN WHICH CASE THE GOVERNOR'S AUTHORITY FOR THAT ACTION WOULD BE WITHDRAWN. THIS PROCEDURAL REQUIREMENT FOR A PRESIDENTIAL DETERMINATION IS UNDULY CUMBERSOME, AND COULD CAUSE SERIOUS DELAY UNDER CRITICAL CIRCUMSTANCES. THIS PROVISION COULD ALSO BE POLITICALLY COSTLY SINCE IT COULD PUT THE US AND PUERTO RICAN GOVERNMENTS AT ODDS WITH EACH OTHER. THE EXEMPTION FROM ANY FUTURE MILITARY DRAFT IS INCONSISTENT WITH US RESPONSIBILITY FOR NATIONAL DEFENSE. ADDITIONALLY, PUERTO RICO WOULD IMMEDIATELY

ACQUIRE TITLE TO ALL LANDS CEDED BY SPAIN TO THE US BY THE 1898 TREATY OF PEACE. THIS WOULD REQUIRE US TO RELINQUISH SEVERAL SMALLER PROPERTIES. THE MAJOR FACILITIES REFERRED TO ABOVE WERE ACQUIRED IN FEE, AND WOULD NOT BE AFFECTED BY THIS PROVISION.

INDEPENDENCE

TITLE III OF S. 712 DETAILS THE INDEPENDENCE OPTION TO BE OFFERED TO THE PUERTO RICAN PEOPLE. THE DEPARTMENT OF DEFENSE FULLY SUPPORTS THE RIGHT OF THE PUERTO RICAN PEOPLE TO CHOOSE INDEPENDENCE, HOWEVER, TITLE III RAISES A NUMBER OF DEFENSE AND NATIONAL SECURITY RELATED ISSUES THAT MAY REQUIRE REVISION. SECTION 5.2 (A) OF TITLE III WOULD REQUIRE THE US TO COLLABORATE WITH PUERTO RICO "TOWARD THE ULTIMATE GOAL OF DISARMAMENT, PEACE, AND INTERNATIONAL RELATIONS BASED ON THE PRINCIPLES OF EQUALITY, MUTUAL RESPECT AND INTERDEPENDENCE." ADDITIONALLY THE US WOULD BE REQUIRED TO FORMALLY RECOGNIZE "THE RIGHT OF THE PEOPLE OF PUERTO RICO TO STRIVE TOWARD THE TOTAL

DEMILITARIZATION OF ITS TERRITORY." SECTION 5.2 (B) PROVIDES THAT "THE REPUBLIC OF PUERTO RICO SHALL BE CLOSED TO ANY AND ALL MILITARY FORCES OF FOREIGN NATIONS." THESE TWO PROVISIONS WOULD OF COURSE PRECLUDE U.S. RETENTION OR USE OF THE MAJOR FACILITIES WHICH WE WILL REQUIRE FOR THE FORESEEABLE FUTURE. I HAVE ALREADY MENTIONED THE STRATEGIC IMPORTANCE OF THOSE INSTALLATIONS. RELOCATING THEM WOULD INVOLVE ENORMOUS FINANCIAL EXPENDITURES, AND A DEGRADATION OF OUR MILITARY CAPABILITIES. WE WOULD NEED TO EXAMINE VERY CLOSELY THE PROVISION IN SECTION 5.2 (D) THAT THE REPUBLIC OF PUERTO RICO "SHALL BE A NUCLEAR FREE ZONE."

IN SUM, OF THE THREE ALTERNATIVES, THE INDEPENDENCE OPTION WOULD HAVE THE MOST SIGNIFICANT IMPLICATIONS FOR DOD. WE FULLY SUPPORT THE RIGHT OF THE PEOPLE OF PUERTO RICO TO CHOOSE THEIR POLITICAL STATUS, BUT UNDER ANY OPTION WE WOULD NEED TO RETAIN AND USE THE FACILITIES LISTED ABOVE. WE ARE LOOKING FORWARD TO WORKING WITH THE COMMITTEE TO RESOLVE ALL THE PROBLEMS IN THIS

LEGISLATION IN ORDER TO CLEARLY DEFINE THE ISSUES AND DEVELOP
REALISTIC AND WORKABLE OPTIONS FOR THE PEOPLE OF PUERTO RICO.
MR. CHAIRMAN THANK YOU ONCE AGAIN FOR THE OPPORTUNITY TO APPEAR
BEFORE THIS DISTINGUISHED COMMITTEE.

I WILL BE PLEASED TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.