

**H.R. 900, PUERTO RICO
DEMOCRACY ACT OF 2007;
AND H.R. 1230, PUERTO RICO
SELF-DETERMINATION ACT
OF 2007**

LEGISLATIVE HEARINGS

BEFORE THE

SUBCOMMITTEE ON INSULAR AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

March 22, 2007 and April 25, 2007

Serial No. 110-8

Printed for the use of the Committee on Natural Resources



Available via the World Wide Web: <http://www.gpoaccess.gov/congress/index.html>

or

Committee address: <http://resourcescommittee.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

34-236 PDF

WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
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by Congressman Jose Serrano and 93 co-sponsors, including Chairman Nick Rahall and Puerto Rico Resident Commissioner Luis Fortuño. We believe this bill affords the people of Puerto Rico the opportunity to make an informed decision and directly vote on their status preference on constitutionally valid options as defined by Congress.

Until you my honorable ladies and gentleman of this committee act, Puerto Rico will continue suffering of being a second class territory of the union and we the U.S. citizens who have served in the U.S. Armed Services having paid our greatest tribute of all: Be willing to give our lives for our nation, lack the rights to vote for he who send us to the front lines in combat and the right to decide our political status.

Thank you for giving me this opportunity. God bless our veterans and our soldiers at home and around the world.

NOTE: Additional information submitted for the record by Mr. Pedroza has been retained in the Committee's official files.

Ms. CHRISTENSEN. Thank you, Mr. Pedroza. We will now hear from Mr. Luis González Vales, the Official Historian of Puerto Rico. Five minutes.

**STATEMENT OF LUIS E. GONZÁLEZ VALES,
OFFICIAL HISTORIAN OF PUERTO RICO**

Mr. GONZÁLEZ VALES. Madame Chair, Members of the committee, I am speaking as the Official Historian, a position created by the Legislature in 1903, with tenure for life and not subject to recall by any party.

I am not advocating any status or side. The only consideration that has prompted me to appear before the committee is my feeling that this may be a historic moment in the possible solution to the island's long-standing status controversy.

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

I am confident that from a historical perspective, the Puerto Rico Democracy Act, H.R. 900, would provide a process that addresses this central question in a more direct and precise way than H.R. 1230. In my judgment, it is more democratic, for it places in the hands of all Puerto Rican voters the decision. In addition, it provides at each stage clearly defined alternatives to choose from.

Since 1967, there has been a number of status referendums and plebiscites which have been inconclusive, because the political parties have defined each status option without considering their constitutionality. Therefore, it is the Government of the United States who has to act to change Puerto Rico's status.

The fundamental flaw of H.R. 1230, in my humble opinion, is the inclusion of a new or modified commonwealth status not subject to Federal territory governing powers as an option for Puerto Rico's future status.

Puerto Rico is an unincorporated territory of the United States. Commonwealth is a word in the formal name of its local government adopted with the adoption of the territorial constitution. It is not now a status in the sense that territory, State of the United States, and nations are statuses. And very early—and it has been stated here before—Governor Munoz and Resident Commissioner Fernos agreed with the U.S. Representatives of both Houses of Congress, including this Subcommittee's predecessors and with a

precedent and Federal powers, regarding the territory was not being, the powers regarding the territory were not being relinquished, and that Puerto Rico remains subject to U.S. Government powers under the territory clause. It has been also the conclusion of the Supreme Court and Justice and State Departments.

Puerto Rican proposals for an enhanced commonwealth status have been rejected by the U.S. Government repeatedly since soon after the local constitution was adopted in 1952. In my opinion, there would be a significant difference between the constitutional convention proposed by the H.R. 1230 and the 1950 Convention that resulted in the drafting of the Commonwealth of Puerto Rico Constitution.

Public Law 81.600 included specific parameters to guide the work of the convention. Then a consensus was reached among all convention delegates, regardless of their political affiliation, as to how the local government should be organized, and unanimity was nearly achieved.

Today, with the present polarization among the major political parties, there is a strong possibility that a convention may end deadlock, making the solution to the status question nearly impossible.

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

H.R. 1230 would further recognize an inherent authority of the people of Puerto Rico to call a constitutional convention in the territory, authority which is provided by U.S. Public Law 81.600.

H.R. 900 otherwise would provide a good process for determining Puerto Rico's status preference, the process recommended by the Presidential Task Force on Puerto Rico's Status, established initially by President Clinton and continued by President Bush. It includes all the options for Puerto Rico recognized to date. It provides for the current status to continue if, and as long as, the voters want it. It provides a process for the issue to be resolved in the future if there is not a majority for seeking the territory's ultimate democratic status in an initial or subsequent vote.

Finally, it is my opinion that Congress, after more than a century of being entrusted with the responsibility by Article IX of the Treaty of Paris of 1898, must act to provide a viable solution to this longstanding issue which has consumed a lot of energies that could be better spent addressing the island's social and economic problems.

I have appeared before you, for I strongly believe that it is time that Puerto Rico ceases to be foreign in a domestic sense.

Thank you.

[The prepared statement of Mr. González Vales follows:]

**Statement of Luis E. González Vales,
Official Historian of Puerto Rico**

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

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

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

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

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

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

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

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

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

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

skewing the vote of the actual people of Puerto Rico. There is no precedent in the U.S. law for persons resident in one U.S. jurisdiction to vote in another U.S. jurisdiction.

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

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

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

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

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

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

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

Ms. CHRISTENSEN. Thank you very much, Mr. González. Next I would like to recognize Ms. Veronica Ferraiuoli for five minutes.

STATEMENT OF VERONICA FERRAIUOLI, PRESIDENT, PUERTO RICO CHAPTER OF THE FEDERAL BAR ASSOCIATION

Ms. FERRAIUOLI. Good afternoon. My name is Veronica Ferraiuoli. I am the President of the Puerto Rico Chapter of the Federal Bar Association, and appear before you on its behalf.

The Federal Bar Association is a voluntary non-partisan organization whose main objective is to serve as the representative of the Federal legal profession in Puerto Rico. Currently our chapter boasts about 800 members, and it includes practitioners, judges, and students from all political ideologies.

As a representative of the Federal Bar Association, I am not here to advocate any particular status choice. However, I am here to urge you to protect the integrity and the jurisdiction of the United States District Court for the District of Puerto Rico.

The options under H.R. 900 are clear with respect to the jurisdiction of the Federal Court in Puerto Rico. If status quo is chosen, the Federal Court in Puerto Rico will remain unchanged. If the people of Puerto Rico choose statehood, the Federal Constitution will determine the Federal Court's jurisdiction.

If independence or free association is the choice of the people of Puerto Rico, international law will divest the Federal judiciary of jurisdiction in Puerto Rico. In contrast, the constitutional convention to be held under H.R. 1230 provides no safeguard or guarantee of the Federal Court's continued jurisdiction in Puerto Rico. Without such a guarantee that the Federal Court's current jurisdiction will be respected, as long as Puerto Ricans continue to be citi-