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**Puerto Rico Questions [1]**

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# The Interagency Working Group on Puerto Rico

September 30, 1996

MEMORANDUM FOR ELENA KAGAN  
Associate Counsel to the President

FROM: JEFFREY FARROW  
Co-Chair

SUBJECT: PUERTO RICO STATUS BILL WITHDRAWAL

House Resources Committee Chairman Young withdrew the bill that would have called upon Puerto Ricans to choose between nationhood and statehood just minutes before the Rules Committee was scheduled to provide for Floor consideration late Friday.

Primary sponsor Young took the action at the request of Resident Commissioner Romero-Barcelo, a co-sponsor, after agreeing with Rules Chairman Solomon to amend the bill to require that English be the language of public instruction under statehood.

The Solomon-Young amendments also would have:

- changed the questions posed to Puerto Ricans to a choice among options of the status quo, nationhood, and statehood (still at least every four years until either nationhood or statehood were chosen) from first, a choice between status quo and "full self-government" options and, then, between nationhood and statehood, with the latter counting if full self-government won a majority, and
- stated that English is the official language of the Federal Government in all states.

August 21, 1996

MEMORANDUM FOR JANET MURGUIA  
ELENA KAGAN ✓

From: Jeffrey Farrow JF  
Subject: Puerto Rico issues raised by Guam talks

As you know, some of the proposals that Interior's Guam 'commonwealth' bill effort is addressing involve issues raised in the Puerto Rico status debate. This is to note aspects of the effort, as I understand them from a verbal briefing by Dep. Sec. Garamendi's assistant, and possible Puerto Rico implications.

Please give me any thoughts...and keep this confidential.

Mutual Consent: Interior has agreed to commit to the extent constitutional that policies in the wide-ranging bill cannot be changed without Guam's consent. A similar commitment is the disputed heart of the commonwealth concept in Puerto Rico. (A key unresolved aspect of this issue is that Justice signed off on the Guam language earlier on the understanding that the commitment would not be enforceable in court and Interior wants it to be.)

Federal Laws and Regs: Interior wants a commission -- it, Guam's Governor and Delegate, and two other federal agencies -- that would 1) overrule agencies on the application of regs to Guam and 2) make recommendations on laws affecting Guam. The proposal would address an 'Achilles Heel' of Puerto Rico's commonwealth: its lack of representation in the federal policy-making process.

U.S. Taxation: Interior wants to enable Guamanians to not have to file a federal tax return on U.S. income. Puerto Rico commonwealthers would be interested; they claim 'tax autonomy'.

Immigration: Interior wants to eventually give Guam control and, in the interim, allow it to limit the number of immigrants. Puerto Rico's commonwealthers have made immigration proposals in the past but seem to have given up doing so.

The following matters are less likely to stir up interest in Puerto Rico but are worth noting. 1) Interior is willing to enable Guam to replace federal labor laws so long as its laws are as strict. Puerto Rico's commonwealthers would probably not want to battle the unions. 2) Interior has agreed to an unofficial native Guamanian status vote. The issue is somewhat related to the claim of many U.S. Puerto Ricans that they should be able to vote on Puerto Rico's destiny. 3) Guam wants more liberal requirements re exports to the U.S. Puerto Rico is part of the U.S. customs territory while Guam is not.

## The Interagency Working Group on Puerto Rico

Aug. 21

To: Elena Kagan

From: Jeff Farrow

I want to make sure that you are aware that the President said the following re tax incentives for U.S. corporate investment and economic activity in Puerto Rico on signing the bill to increase the minimum wage.

As strong a piece of legislation as this is overall, however, I am concerned about three provisions, two of which I objected to when they were included in legislation I vetoed last year.

The first provision repeals the tax credit related to corporate investments in Puerto Rico and other insular areas. I urged the Congress to reform the credit and use the resulting revenue for Puerto Rico's social and job training needs. My proposal would have, over time, prevented companies from obtaining tax benefits by merely attributing income to the islands, but it would have continued to give companies a tax credit for wages and local taxes paid and capital investments made there, as well as for earnings reinvested in Puerto Rico and qualified Caribbean Basin Initiative countries. This legislation ignores the real needs of our citizens in Puerto Rico, ending the incentive for new investment now and phasing out the incentive for existing investments. I remain committed to my proposal for an effective incentive based on real economic activity that preserves and creates jobs in underdeveloped islands, and I hope that the Congress will act to ensure that the incentive for economic activity remains in effect.

Room 6061, U.S. Department of Commerce Building, Washington, D.C. 20230  
Telephone (202) 482-0037 • Facsimile (202) 482-2337

## The Interagency Working Group on Puerto Rico

August 5, 1996

MEMORANDUM FOR ELENA KAGAN  
Associate Counsel to the President

From: JEFFREY L. FARROW  
Co-Chair

Subject: Senate Puerto Rico status bill

A bill based on the legislation reported by the House Resources Committee has been sponsored by Sen. Craig and six others -- four of them Democrats.

Like the House bill, it calls for choices before 1999 --

- 1) between A) a status quo Commonwealth and B) national sovereignty or statehood and
- 2) between A) sovereignty and B) statehood as well as

revoting every four years so long as Commonwealth is chosen.

It, too, would require a presidential transition plan for a selected status change that would require congressional and Puerto Rican popular approval to be effective.

But it would not require further presidential, congressional, and referendum action at the end of the transition and does not specify a minimum transition period.

The Interagency Working Group on Puerto Rico  
Telephone (202) 482-0037 • Facsimile (202) 482-2337

Facsimile Transmission Cover Sheet

Date: 8/7/96

To: Elena Kagan

Fax Number: \_\_\_\_\_

From: Jeff Farrow

Message: Clippings re the Democratic and  
Republican Platforms on Puerto Rico follow.

Note: The information contained in this facsimile message is CONFIDENTIAL and is intended for the recipient ONLY. If there is a problem with this transmission, please contact the sender as soon as possible.

Number of pages with cover: 5

TRANSLATION FROM EL NUEVO DIA  
AUGUST 6, 1996

### EFFECTIVE DEMOCRATIC COALITION

The U.S. Democratic Party agreed yesterday to the historic and surprising request of a Puerto Rico commonwealthers-statehood coalition for the inclusion in the 1996 Democratic Platform of a commitment to provide Puerto Rico with an industrial incentive based on jobs.

In an act of great contrast with past differences between the Democratic commonwealthers and statehooders, commonwealthers Celeste Benitez and Hector Luis Acevedo, and statehooder Kenneth McClintock asked for the inclusion of a Democratic commitment to economically assist Puerto Rico.

The commitment, that will be ratified at the National Democratic Convention this month in Chicago, has as its backdrop the recent decision by Congress to eliminate Section 936 without offering anything in return to Puerto Rico.

"We support the fair participation of Puerto Rico in federal programs and we are committed to provide effective incentives for investment based on the preservation and creation of jobs in the islands," reads the Democratic Platform which was drafted with the participation of the White House.

Benitez, who spoke with President Clinton on Saturday about Puerto Rico's economic situation, seemed to be pleased that the agreement was reached during her incumbency as Chairwoman of the Puerto Rico Democratic Party. "The two factions agreed to obtain something good for Puerto Rico, independently from ideological differences," she said.

Acevedo, President of the Popular Democratic Party, said that he is sure that, after the Democrats win Congress, President Clinton will be successful in reformulating the industrial incentive for Puerto Rico based on jobs, as part of the tax measure that would be introduced after the elections.

In response to the Republican majority plan of eliminating all 936 incentives, Clinton had proposed to eliminate the income credit while permanently preserving the wage credit and QPSII. Clinton wanted the income raised from the elimination of the income credit to be returned to Puerto Rico in the form of social programs. But Clinton did not achieve an unanimous support from the different Puerto Rican sectors, for which the ideology and politics kept them divided during the Congressional discussions on 936.

McClintock, who is well known for his conciliatory attitude in the Democratic circles, said that the new language is compatible with the position of the Democratic statehooders in favor of a permanent wage credit for Puerto Rico. Months ago, the senator peacefully negotiated with PPD Senator Eudaldo Baez Galib the distribution of statehood and commonwealth delegates that will go to Chicago. Out of 67 delegates, 18 are statehooders.

McClintock, who was introduced by Acevedo, spoke in front of more than 140 members of the Platform Committee about the contrast between the Democrats who want to help Puerto Rico and the Republicans who are not providing the islands with any incentives. The senator said that this time Puerto Rico Democrats were exporting that on which they agreed, leaving differences on the side. Acevedo praised McClintock's attitude. "A language by consensus and common creation was agreed upon," the mayor said.

Used to the abysmal differences among the Puerto Rican factions, the Platform Committee reacted to this consensus with applause. Acevedo said that "there is a future for the industrial incentive in Puerto Rico. The name is not important; what's important is the jobs of my people," Acevedo said. The Mayor is convinced the Democrats will win in 1996, especially now that Ross Perot decided to run under the new Reform Party.

# Demos pledge investment incentives for P.R.

By ROBERT FRIEDMAN

1992 Washington Bureau

WASHINGTON — The national Democratic Party pledged Monday in its 1992 platform to provide "effective incentives for investment" to both preserve and create jobs in Puerto Rico.

The Democrats didn't spell out what those incentives would be, but in a rare show of agreement, the platform delegates from both the Popular Democratic and New Progressive parties enthusiastically accepted the wording.



The Puerto Rico members of the platform committee, which met in Pittsburgh, are PDP President Héctor Luis Acevedo, island Democratic chair Celeste Benítez and New Progressive Party Sen. Kenneth McClintock.

"This means that the Democratic Party, if it wins the November election and takes control of the House, is committed to providing programs that will create investment and jobs and preserve the jobs we already have," said Acevedo.

Asked if the PDP accepts this rather general language in lieu of Section 936, which the party pressed Congress to keep intact, Acevedo said "I don't think the language is very different from 936."

Last week, Congress voted the immediate repeal of new 936 tax breaks, while giving existing companies on the island 10 more years to get the program's benefits.

McClintock said he was "very pleased"

with the platform commitment. Asked if he was also speaking on behalf of Gov. Rosselló and Resident Commissioner Carlos Romero Barceló, he said: "I normally don't take actions if I'm not sure what I'm doing. This was within the parameters of what I came here to do."

Rosselló and Romero had backed the repeal of 936, but wanted a wage-credit plan put in its place. The wage credit never materialized in this Congress. While some Republicans — such as House Budget Committee Chairman John Kasich, R-Ohio — have said they would revisit a wage credit possibility next year, the island Democrats worked for a platform pledge.

The platform committee unanimously approved the following plank: "We support fair participation for Puerto Rico in federal programs and are committed to providing effective incentives for investment based on preserving and creating jobs on the island."

Acevedo said this expands on the 1992 platform language which only mentioned the federal programs.

Acevedo, Benítez and McClintock also agreed on the party's status plank, which said: "We recognize the existing status of the Commonwealth of Puerto Rico and the strong economic relationship between the people of Puerto Rico and the United States."

"We pledge to support the right of the people of the Commonwealth of Puerto Rico to choose freely, and in concert with the U.S. Congress, their relationship with the United States, either as an enhanced commonwealth, a state or an independent nation."

Benítez said she too was "very pleased" with what she termed an "historic first" for Puerto Rico, in that both island parties were able to reach consensus.

Please see DEMOCRATS, Page 12.

From Page 3

## Democrats

"My intention has been to reach consensus and we finally achieved it and I'm very pleased," said Benítez. "I think we have to continue to move in that direction."

Does that mean that the PDP will ease up on blaming NPP leaders, rather than Congress, for the demise of 936?

Not quite.

"That's reality and it happened," Benítez said, referring to the 936 repeal and

Rosselló's and Romero's alleged blame for it. She said the issue will remain a crucial part of the PDP campaign because "an election is a referendum on the incumbents."

Benítez said that forging further consensus on what is good for the future of the island's economy, "could only happen after the election and the people have spoken."

The platform will be presented at the Democratic National Convention in Chicago later this month and is expected to get unanimous approval.

# GOP platform includes independence as status alternative for the island

## Fortuño seems satisfied with wording change

By ROBERT FRIEDMAN  
Staff Washington Bureau

5/7 FR

WASHINGTON — The national Republican Party — while continuing its support for statehood — has for the first time recognized independence in its 1998 platform as a viable status alternative for Puerto Rico.

The GOP's platform committee approved its stance on Puerto Rico status Tuesday at a meeting in San Diego where the Republican National Convention will be held next week.

The plank on Puerto Rico repeats wording from the 1993 platform, which says: "We support the right of the United States citizens of Puerto Rico to be admitted to the Union as a fully sovereign state after they freely so determine."

That it adds: "We endorse initiatives of the congressional Republican leadership to provide for Puerto Rico's smooth transition to statehood if its citizens choose to alter their current status or to set them on their own path to become an independent nation."

Secretary of Economic Affairs Luis Fortuño, one of the island's two platform committee delegates — the other is Secretary of State Norma Burgos — expressed satisfaction with the amendment. "Those of us who would like to end the indecision and status quo are very happy," he said.

In a phone interview from San Diego, Fortuño added that in "no way" does the amendment lessen the GOP's support for statehood.

The party is saying, "You have two options. We support statehood and if you choose statehood we support you. We are not making a decision to independence."

Commonwealth is not mentioned, other than implied in the phrase "current status." Free association also is not mentioned as a status alternative in the GOP platform.

The amendment reportedly was pushed in San Diego by Kansas Mayor, regular advisers to House Resources Committee Chairman Dan Young, author of legislation on the island's status. Island Republican leaders, including former Gov. Luis A. Ferré, agreed to the amendment.

The amendment was officially introduced by Robert McDonnell, a delegate from Virginia, and endorsed by delegate Lorna Horta, New Jersey's secretary of state.

Statehood advocate Miriam Ramirez de Ferrer said Manauz proposed the amendment to help promote the Young status bill among Republican members of Congress.

The bill calls for a mandated plebiscite on the island before the end of 1998 with voters choosing to either continue commonwealth or make a status change to statehood, independence or free association. The legislation could reach the House floor for a vote after Congress recesses in September.

A companion bill was introduced in the Senate last week, on the day Congress recessed.

"It's not that the Republican Party is shoddy in dot, or withdrawing support of statehood in any way," said Ramirez de Ferrer from San Juan of the GOP platform statement. "The amendment helps provide a process for the Republican leadership" on the Young bill, she said.

July 28, 1996

Elena,  
Thanks.  
JFF

MEMORANDUM FOR LEON PANETTA

Through: Harold Ickes  
Marcia Hale

CC: Alexis Herman Doug Sosnik  
Ray Martinez Suzanna Valdez

From: Jeffrey Farrow JF

Subject: Representation at Puerto Rico Ceremonies

Our response to the sensitive challenges from Puerto Rico posed by official ceremonies on the holidays honoring its constitution (used by the commonwealth party to celebrate the current governing arrangement) and an early leader (used by the statehood party to express its aspirations) went as well as could be hoped.

Ray Martinez and Suzanna Valdez did excellent jobs in highly-charged situations made more intense by crowds estimated at 50,000 each, live television and radio broadcasting, and controversial statements by Reps. Toby Roth at the commonwealthers' event and Patrick Kennedy at the statehooders'.

- Ray's trip was particularly difficult because it involved overlapping ceremonies conducted by the insular government controlled by the statehooders and a major city led by commonwealthers...on different sides of Puerto Rico.
- Suzanna's was especially hard since some commonwealthers communicated strong opposition to it occurring.

As you know, the appearances were important.

- We were not ready to take the executive and legislative policy actions that the commonwealthers wanted even more.
- Gov. Rossello was offended by and criticized for the President not going to the recent NGA meeting and some other Puerto Ricans were also disappointed by it.

# PRIMER PLANO

Magre

EL NUEVO DIA · JUEVES 25 DE JULIO DE 1996

## Toque femenino a la fiesta del ELA

Por CARMEN ENID ACEVEDO  
DE EL NUEVO DIA

DOS MUJERES estarán al frente de los actos oficiales de conmemoración del 25 de julio, Día de la Constitución del Estado Libre Asociado de Puerto Rico.

El preámbulo de la Constitución será leído hoy por la jueza administradora del Tribunal de Circuito de Apelaciones, Liana

Fiol Malta y actuará de gobernadora interina la secretaria de Estado, Norma Burgos, ante la salida del gobernador Pedro Rosselló de la Isla.

Fiol Malta, quien recibió su grado de doctora en Derecho el pasado mes de mayo de la Universidad de Columbia, en Nueva York, expresó orgullo ante la designación que le hiciera el juez presidente interino del Tribunal Supremo, Francisco Rebollo Lo-

pez.

Para la jueza "es un honor estar allí y también es un honor para el Tribunal de Apelaciones, porque entiendo que se reconoce que ya somos una institución. Que ya estamos dentro de la Rama Judicial".

"Me tomó por sorpresa, no era algo que tenía en mente como una cosa de día a día, pero es consistente con el cargo que ocupó", dijo Fiol Malta, en entrevista con este diario ayer.

Para Fiol Malta la lectura del preámbulo de la Constitución es "un recordar al pueblo y a las ramas de gobierno de que tenemos ese esquema y esos parámetros por los que vamos a actuar; para mí es una función muy importante".

"ES PARTE de un protocolo pero como muchas cosas que son ritualistas, que se hacen continuamente pues tienen un impacto e importancia; recordarle al pueblo y a las personas de las tres ramas de gobierno que tenemos un marco de acción y que no podemos salirnos de ese marco. Y es recor-

dar algo más a esas tres ramas. Recordarles que a quien le compete interpretar y velar porque se cumpla esa ley fundamental es a la Rama Judicial", comentó Fiol Malta.

Advertió que "son muchos mensajes de civismo que se dan".

La designación de Fiol Malta fue hecha por Rebollo López en ausencia del juez presidente del Supremo, José Andreu García. El que ocupe esa posición es quien tradicionalmente lee el preámbulo.

Fiol Malta fue designada el pasado mes de mayo Administradora del Circuito de Apelaciones.

Cuenta con un grado de Jura Doctor de la Universidad de Puerto Rico y una maestría y un doctorado en Derecho de la Universidad de Columbia.

Fue comisionada de la Comisión de Servicio Público, ayudante especial del ex gobernador Rafael Hernández Colón y ha sido catedrática de Derecho de la Universidad Católica y de la Universidad Interamericana.

## Acude la Casa Blanca a las dos actividades

Por LEONOR MULERO  
DE EL NUEVO DIA

WASHINGTON - La Casa Blanca designó a Rey Martínez, ayudante del Director de Asuntos Políticos, como el portavoz del mensaje presidencial en la celebración del Estado Libre Asociado.

Lo interesante del caso es que Martínez acudiría tanto a la actividad que realizará el gobierno estadista de Pedro Rosselló, como a la celebración que hará en Ponce el estadolibrista Partido Popular Democrático.

Se comentaba ayer que el orador especial de la actividad ponceña sería el representante republicano por Wisconsin, Toby Roth. Este asistió a las audiencias congresionales que celebró en San Juan meses atrás la Subcomisión de Asuntos Indígenas e Insulares para discutir el controvertible Proyecto Young.

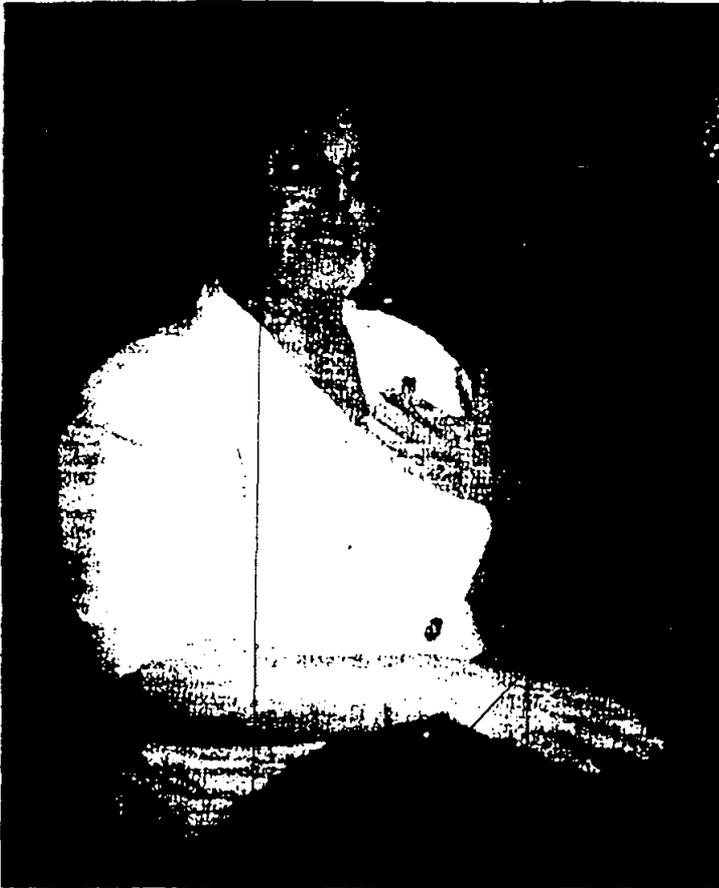
Roth, que aboga por oficializar el inglés en Estados Unidos, ha advertido a los puertorriqueños de las "consecuencias" culturales de que Puerto Rico se convierta en un estado.

Mientras, Eric Pelletier, ayudante del

congresista republicano por Nueva York, Gerald Solomon, viajará a Puerto Rico para entrevistarse con líderes de los tres partidos políticos de la Isla. El tema de las reuniones será el status político de Puerto Rico. Solomon preside la Comisión de Reglas y Calendario, la cual ha prometido celebrar audiencias públicas sobre el Proyecto Young, que busca darle a Puerto Rico la oportunidad de tener un completo gobierno propio.

SOLOMON, que no pudo asistir esta vez a Puerto Rico, envió a Pelletier en su lugar. "Por varios años, Eric ha seguido este asunto y otros que están relacionados, por lo que lo estoy enviando en mi lugar para tener una visión correcta de esta medida en Puerto Rico", dijo Solomon refiriéndose al Proyecto Young.

Por su parte, el congresista demócrata por Rhode Island, Patrick Kennedy, será el orador especial en la celebración del natalicio del prócer estadista José Celso Barbosa, el próximo sábado. La Casa Blanca enviará como mensajera a esa actividad a la ayudante especial para Asuntos Públicos, Susana Valdés.



ESPECIAL PARA EL NUEVO DIA XAVIER ARAUJO

Fiol: "Es un honor estar allí y también es un honor para el Tribunal de Apelaciones".

White House Attends both ceremonies

# PRIMER PLANO

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EL NUEVO DIA DOMINGO 28 DE JULIO DE 1996

## "Poder" para el pueblo puertorriqueño

Por AMELIA ESTADES SANTALIZ DE EL NUEVO DIA

LOS LIDERES del Partido Nuevo Progresista se hicieron eco ayer de estribillos folclóricos para validar la puertorriqueñidad dentro del marco de la unión permanente con los Estados Unidos. Mientras, el gobernador Pedro Roselló enfatizó en que hay que devolverle el poder al pueblo.

El Gobernador utilizó una frase del fenecido presidente norteamericano John F. Kennedy para afirmar que "llegó la hora de una nueva generación que le haga frente a las nuevas oportunidades y a la vez que le devuelva el poder al pueblo". Así se expresó ayer en el acto de conmemoración del 139 natalicio de José Celso Barbosa.

"Estamos ante un nuevo siglo que requiere grandes cambios y esta nueva generación tiene que estar antes de que empiece el nuevo siglo. El pueblo volverá a tener ese poder en sus manos cuando sea el estado 51."

Unas 40,000 personas, según la Policía, participaron del reconocimiento a la visión y trabajo de Barbosa, fundador del Partido Republicano en 1899. Además aceptaron de parte de los líderes del Partido Nuevo la encomienda de trabajar para conseguir la estadidad y la "igualdad para todos".

El puntillazo de la tarde lo dio el congresista Patrick Kennedy, quien participó como invitado especial de la actividad, y quien en un improvisado español dijo "soy estadista" y tildó el acto como "la celebración de la liberación puertorriqueña".

"EL DESTINO de Puerto Rico es convertirse en estado 51 de la Nación. Es realmente infame que cuatro millones de puertorriqueños no puedan votar por el Presidente. Además, que el Congreso tome decisiones significativas en cuanto a fondos y legislación que afectan al pueblo. Eso va en contra del espíritu de la democracia", afirmó.

Roselló por su parte hizo énfasis en el voto mediante el cual el pueblo tendría nuevamente el poder.

Mientras Roselló enarbó su posición de "ser boricua, pero también estadista, y que soy puertorriqueño pero también ciudadano americano", el comisionado Romero Barceló exigió la igualdad de derechos para



EL NUEVO DIA/JUAN RIVAS

todos, y expuso el caso del propio Celso Barbosa.

"No tuvo acceso a la Universidad española por ser negro y fue entonces cuando se fue a la Universidad de Michigan donde se hizo médico".

"Ese es el orgullo de la ciudadanía, si la tienen pertenecen a esa nación. Es igualdad, es tener los mismos derechos y los mismos privilegios para todos".

El gobernador Pedro Roselló hace un gesto de ánimo mientras su esposa Mega y el congresista Patrick Kennedy saludan durante el acto de conmemoración del 139 natalicio de José Celso Barbosa celebrado ayer en Bayamón.



EL NUEVO DIA/JUAN RIVAS



EL NUEVO DIA/JUAN RIVAS

El congresista Patrick Kennedy y don Luis A. Ferré en un momento alegre.

## A la carga Ferré

Por AMELIA ESTADES SANTALIZ DE EL NUEVO DIA

DON LUIS A. Ferré, precursor del Partido Nuevo Progresista, criticó ayer la vehemencia con que el Partido Popular Democrático (PPD) ha defendido el nacionalismo en estos días, y les diagnosticó a sus líderes un contagio con "la enfermedad de las vacas locas".

Así se expresó Ferré ante una multitud congregada ayer en los bajos de la Alcaldía de Bayamón para conmemorar el 139 natalicio de José Celso Barbosa.

El ex gobernador cuestionó de dónde saltó el nacionalismo del cual se han hecho eco los líderes populares.

"Nacionalismo a esta hora, ¿de dónde? Ahora son los Populares Nacionalistas. Hablan en términos de asociación, pero no saben de dónde vienen ni a dónde van. No saben si quieren la unión permanente o una nación separada".

Desde que los estadolibristas se unieron a la caminata del pasado 14 de julio en Fajardo denominada "La Nación en Marcha", que se celebró durante la Convención de los Gobernadores, sus líderes han sido señalados por haberse aliado con simpatizantes de izquierda. También por respaldar un status de libre asociación que es catalogado por Ferré como un "mejuaje" y como "mogolla" por otros cabecillas del Partido Nuevo Progresista.

# PORTADA

Novo →

4

EL NUEVO DIA VIERNES 26 DE JULIO DE 1996

## Lealtad a toda prueba

Por CARMEN MILLAN PABON DE EL NUEVO DIA

**PONCE** - La defensa acérrima del Estado Libre Asociado marcó el paso de la conmemoración del aniversario 44 de su fundación, celebrada ayer en este municipio.

Hector Luis Acevedo, presidente del Partido Popular Democrático y alcalde de San Juan, no perdió la oportunidad para propugnar la relación que existe entre Puerto Rico y los Estados Unidos a través de la Constitución del ELA, fundamentándose en la nacionalidad puertorriqueña y la ciudadanía estadounidense.

"El Estado Libre Asociado representa la armonía entre el ser puertorriqueño, defender nuestra cultura, nuestra identidad propia, nuestro sentido ante la historia y nuestra lealtad a la ciudadanía de los Estados Unidos. Ciudadanía que atesora el puertorriqueño y a la que hemos servido con lealtad incuestionable", dijo Acevedo.

"No se tiene que traicionar a Puerto Rico para ser un buen ciudadano americano, y para ser buen puertorriqueño no hay que dejar de ser ciudadano de los Estados Unidos de América", proclamó Acevedo ante un público que deliraba por sus palabras.

En lo que se podría calificar como el momento "en caliente" de la campaña política del PPD, unas 25,000 personas llenaron a capacidad el Estadio Raqueto Montañer. El último estuvo en alto en todo momento mientras el sol brillaba sin dar tregua, a pesar de los pronosticos del tiempo.

"VENIMOS AQUÍ con la frente en alto de un pueblo que ha sabido enfrentar sus dificultades históricas entre las grandes fuerzas que nos quieren asimilar y disolver nuestra identidad propia y la voluntad mayoritaria. Frente ante la historia, cultivada con el sacrificio de nuestra gente en querer afirmar en ser puertorriqueños primero. Entre asimilistas y autonomistas, ha sido la gran batalla histórica de nuestro pueblo", dijo el líder popular.

En una obvia crítica a los anuncios televisivos del Partido Nuevo Progresista, Acevedo dijo que "amar a Puerto Rico no es usar la bandera para los anuncios políticos y después negar que somos una nación".

"No le aceptamos clases de ciudadanía americana a aquellos que traicionan sus valores más profundos, que no respetan los resultados del plebiscito. Por eso no le aceptamos liderazgo a aquellos políticos que prometen defender la cultura de trabajo que tanto caracteriza a los puertorriqueños y a los Estados Unidos y usan el dinero público, traicionando su palabra empeñada, para querer arrojar al puertorriqueño en el desempleo, en la desesperación de las fábricas cerradas", sostuvo Acevedo, en alusión a la pronta desaparición de la Sección 936 del Código de Rentas Internas Federal.

Poco antes de que empezaran los actos oficiales, una



EL NUEVO DIA/AURA MAGRUDER

El presidente del PPD, Héctor Luis Acevedo (al centro), dijo que "amar a Puerto Rico no es usar la bandera para los anuncios políticos y después negar que somos una nación". Lo acompañan el congresista republicano Toby Roth (a la izquierda) y el alcalde de Ponce, Rafael Cordero Santiago.

numerosa delegación de la candidata por el PPD para la alcaldía de San Juan, Sila María Calderón, irrumpió con sus características banderas amarillas dentro del ya creado mar de banderas de Puerto Rico y de "la pava".

Un minuto antes de que empezaran los mensajes -a las 11:59 a.m.- un sector del público abuchó al representante Jorge de Castro Font, quien prácticamente retó a la audiencia mientras saludaba, de pie, levantando en una mano las banderas de Puerto Rico y de Estados Unidos. Al hacerse más visible, las personas se conmovieron y del público se oían gritos de "payaso" y "cretino".

**LA BANDERA** de Estados Unidos que exhibió De Castro Font fue una de las pocas que se vieron en los actos.

Algunos De Castro Font se mantuvo así hasta el final de la actividad, e incluso aplaudió al Presidente del PPD, las personas que se habían sentado inicialmente a su alrededor primero lo mandaron a sentar para después dejarlo solo.

Por su parte, el anfitrión de la actividad, el alcalde de Ponce, Rafael Cordero Santiago, hizo un fuerte llamado a los líderes políticos del País a que incorporen a personas de las tres ideologías de status -estadolibristas, independentistas y estadistas- "que no militan en ningún partido", para exigirle al Congreso y al Presidente de Estados Unidos "la verdad" sobre el status político de Puerto Rico.

"Durante estos 44 años la polémica del status ha minado las fuerzas y las energías de nuestro pueblo... (las personas de los tres partidos) deben reunirse, y en comunión de pensa-

miento por el bien del pueblo puertorriqueño exigirle y plantearle, con respeto, pero con dignidad, al Congreso de Estados Unidos. Nosotros lo que estamos buscando es acabar con el chantaje, la mentira, y la demagogia", sostuvo el alcalde ponqueño, arrancando los aplausos de los presentes.

El congresista Toby Roth, republicano por Wisconsin, quien habló como "invitado" en medio del discurso de Acevedo, dijo que amaba a Puerto Rico y apreciaba y respetaba profundamente a su gente, siempre amante y respetuosa de la preservación de sus tradiciones.

Recordó "la relación" que existe entre Puerto Rico y Estados Unidos desde el 1932 y se expresó maravillado de la cantidad de personas y la fogosidad con que celebraban el aniversario del ELA.

**EN DOS OCASIONES** Roth elogió la labor de Acevedo y anticipó que sería el próximo gobernador, al asegurar que cuando el Alcalde va a Washington tiene el respeto (de todos).

Rafael Martínez, portavoz del presidente Bill Clinton, dijo en un discurso de apenas cuatro minutos que "el Presidente está dispuesto a trabajar para la autodeterminación del pueblo de Puerto Rico".

El ex gobernador Rafael Hernández Colón, que reside en Ponce, fue uno de los grandes ausentes a la actividad, pero se dijo que todavía está en España dictando una clase sobre las relaciones políticas entre Puerto Rico y Estados Unidos.



Las Martínez

# Rep. Kennedy: P.R. could retain language as state

By MARTY GERARD DELFIN  
Of The STAR NEWS

Should Puerto Rico join the Union, it can retain its language and culture, a pro-statehood member of Congress told tens of thousands who gathered in Bayamón Saturday to celebrate the birth of statehood proponent José Celso Barbosa.

"As a state you can continue to speak Spanish. As a state you can also choose to speak English. That is your constitutional right," said Rep. Patrick Kennedy, D-R.I.

The young legislator, son of Massachusetts Sen. Edward Kennedy, said he would help lead the fight against any provisions imposed by Congress that would deny Puerto Rico's entry as the 51st state if the island doesn't comply with an English-only statute.

"Soy estadista. La estadidad es el futuro [I'm a stateholder. Statehood is the future]," said Kennedy, pronouncing the Spanish words spelled out for him phonetically in his speech.

But while he pledged to fight to make Puerto Rico "a full partner in the American dream," Kennedy wouldn't commit to supporting that Puerto Rico keep its status as an individual country for future Olympic games.

"What counts is making sure first of all that Puerto Rico is represented in the

American team, and that is the way we have a team effort," Kennedy told reporters after the ceremonies. "Puerto Rico is on the American team in so many ways, and we need to make sure it's on the Olympic team in the future when Puerto Rico is the 51st state in the country."

A Congressional Research Service report released last week says it's unlikely that Puerto Rico will be allowed to compete separately from the U.S. team if the island were to become a state. Still, the determination of Puerto Rico's status in the Olympics remains with the International Olympic Committee, the report states.

Besides keeping its own language and culture, participation as a separate entity in international competitions — such as the Olympics and the Miss Universe pageant — is an emotional issue for most Puerto Ricans.

Kennedy was the guest speaker at the Barbosa Day celebrations held in front of the Bayamón City Hall to mark the 129th anniversary of his birth.

Organizers estimated that between 50,000 to 60,000 people showed up for the ceremony, whose start was delayed for nearly two hours because Gov. Roselló,

Please see BARBOSA, Page 8

From Page 3

## Barbosa

Resident Commissioner Carlos Romero Barceló and Kennedy arrived late.

The crowd gathered on a portion of Highway 2 from Columbia Street to City Hall that was blocked to traffic. People could also be seen perched on the roof of the multilevel parking garage next to City Hall, where two gigantic Puerto Rican and U.S. flags draped down for several levels.

Throughout the activity, white pro-statehood flags bearing sketches of Barbosa, a physician who lived from 1837 to 1921, were prevalent. His 90-year-old daughter, Doña Pilar Barbosa, who has religiously attended the celebrations annually, was not present this year due to poor health for the past few weeks after suffering from a fall.

In his speech before the cheering crowd, Roselló predicted that just as communism fell and apartheid was repealed in South Africa, statehood for Puerto Rico was imminent before the end of the century.

"Here in Puerto Rico we are undertaking changes. Statehood will be ours before long," he said.

President Clinton sent a representative, Susan Valdez, who reaffirmed the administration's commitment to retain U.S. citizenship for all Puerto Ricans.

The issue of Puerto Rican nationality and citizenship was the focal point of speeches given by Romero Barceló and NPP founder and former Gov. Luis A. Ferré.

Later, Romero Barceló told reporters that a bill before Congress making English the official language of the United States would not force Puerto Rico to adopt English at the local level. Romero Barceló, who said he is against the bill because it would infringe on Hispanics who can't read English, and on deaf people who can only read sign language, added that the proposal also is unconstitutional because it prevents freedom of expression.

## Representado el clan Kennedy

Por AMELIA ESTADES SANTALIZ  
DE EL NUEVO DIA

LOS ACTOS conmemorativos del aniversario 129 del nacimiento de José Celso Barbosa, que se llevarán a cabo el sábado en los bajos de la Casa Alcaldía en Bayamón, contarán con la participación del congresista Patrick Kennedy, quien se unirá al gobernador Pedro Roselló como los oradores principales de la ceremonia.

Debido a que es año electoral, los organizadores esperan un promedio de 15,000 personas, "pero podrían ser más", según anunció el alcalde de Bayamón, Ramón Luis Rivera. Además, señaló que el gasto del municipio en dicha actividad no pasa de los \$75,000.

La actividad comenzará a las 10:00 de la mañana con la colocación de ofrendas florales e la estatua del prócer estadista, ubicada en la carretera número dos, justo al lado donde estará el templo. Minutos después, la secretaria de Estado, Norma Burgos, encabezará con la lectura del programa el inicio de los actos protocolarios. Una vez finalice se presentará un espectáculo musical para el pueblo.

### El congresista Patrick Kennedy será uno de los oradores en los actos en honor a Barbosa

De acuerdo con Rivera, la idea de que Kennedy tomara parte en la actividad surgió "debido a la relación de mucho peso que tiene la familia con Estados Unidos y Puerto Rico".

"Ellos son muy amigos de Puerto Rico y yo le mencioné al Gobernador el que se le invitara para dicho acto".

EL MUNICIPIO ha destinado 13 estacionamientos para las personas que se den cita a la Alcaldía en la mañana del sábado. Entre ellos se encuentran el del estadio Juan Ramón Loubriel y varios de los centros comerciales del área.

También han movido un promedio de 400 efectivos de la Policía para que custodien los alrededores.

Unos 155 policías, 200 cadetes, 48 agentes del QIC, 65 motocicletas y más de 40 uniformados adicionales entre tenientes, sargentos y supervisores, se harán cargo de la vigilancia del lugar. Indicó el comandante auxiliar del área de Bayamón, Carmelo Santana.

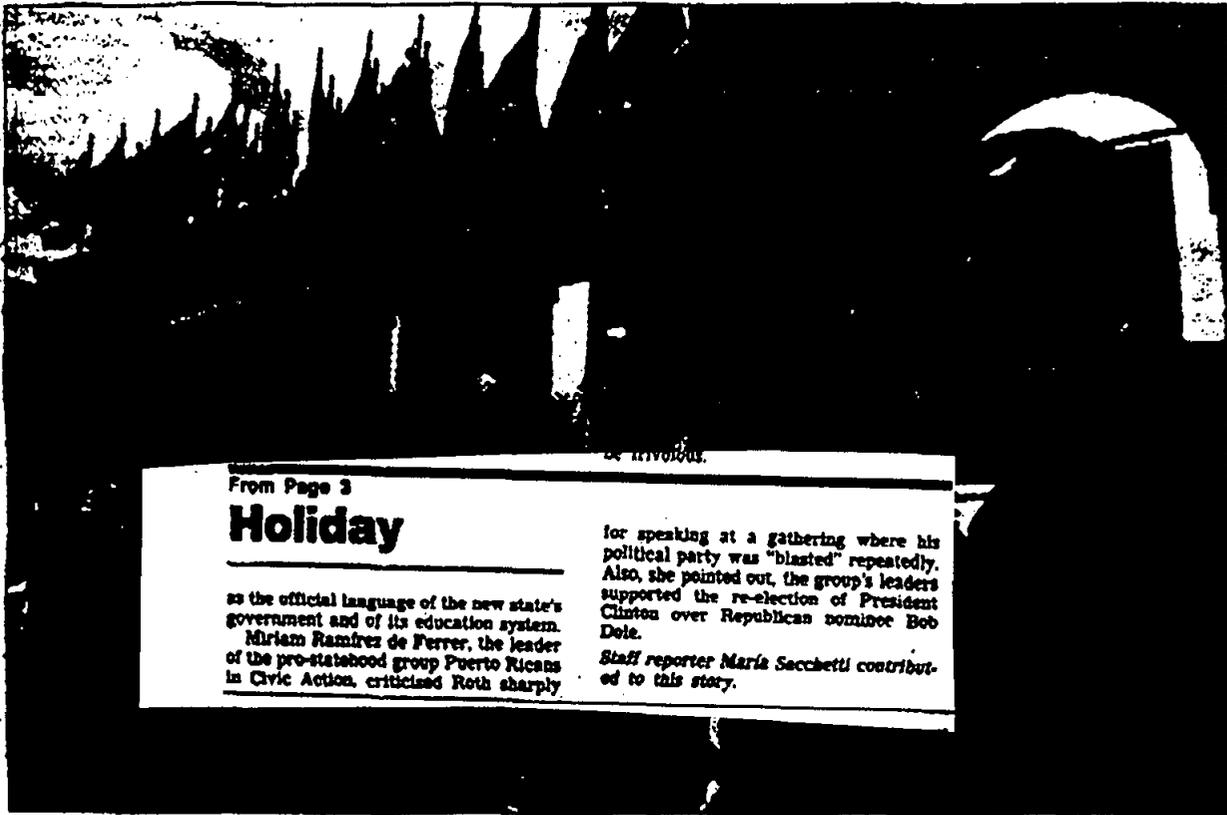
Según Santana, los efectivos se dividirán en dos turnos que correrán "de 6:00 de la mañana hasta las 3:00 de la tarde, y otro hasta la medianoche. Una vez comience a llover la gente se cerrará la carretera número dos".

Además, se anunció que doña Pilar Barbosa, hija del prócer, se encuentra hospitalizada nuevamente, por lo cual no asistirá a la actividad.

## TWA 'black boxes' analyzed

Clinton announces tightened security at airports in aftermath of Flight 800 explosion, crash. Page 13

Airlines step up security for S.J. flights; travelers advised to arrive early. Page 13



### PDP leaders bask in sea of cheers

Popular Democratic Party leaders bask in the Constitution Day cheers of thousands of populeros who jammed Paquito Montaner stadium Thursday in Ponce. From left are candidate for resident commissioner Celeste Bonifaz, Sen. Miguel Hernández Agosto, party President Héctor Luis Acevedo, his wife Carmencita and Ponce Mayor Rafael Cordero Santiago. Page 3

### From Page 3 Holiday

as the official language of the new state's government and of its education system. Miriam Ramirez de Ferrer, the leader of the pro-statehood group Puerto Ricans in Civic Action, criticized Roth sharply

for speaking at a gathering where his political party was "blasted" repeatedly. Also, she pointed out, the group's leaders supported the re-election of President Clinton over Republican nominee Bob Dole.

Staff reporter María Sacchetti contributed to this story.

STAR photo by Ingrid Torres

The San Juan Star - Friday, July 26, 1996

## Acevedo evokes PDP fathers, rips Rosselló at party celebration of Constitution Day

By JULIO GUGLIOTTY  
Of The STAR Staff

PONCE — Defense of commonwealth status and Puerto Rican nationhood were the dominant themes Thursday at the Popular Democratic Party celebration of Constitution Day.

The ceremony even included a speech given by Rep. Toby Roth, a leading Republican proponent of English-only in the United States.

"Forty-four years ago a partnership was established that has governed the relationship between our two nations," said Roth, R-Wis., "and for four decades both of our people have benefited from this association. The mixing of cultures, of language and heritage, have made these countries richer and more diverse."

The Republican congressman said that "Puerto Rico is a special place, and the Puerto Rican people are a special people."

"Your island's culture, history are impressive monuments to the uniqueness of your people. From the island's historic figures like Ponce de León and history-making battles like at El Morro, Puerto Rico has a rich legacy that sets it apart from any other nation," he said.

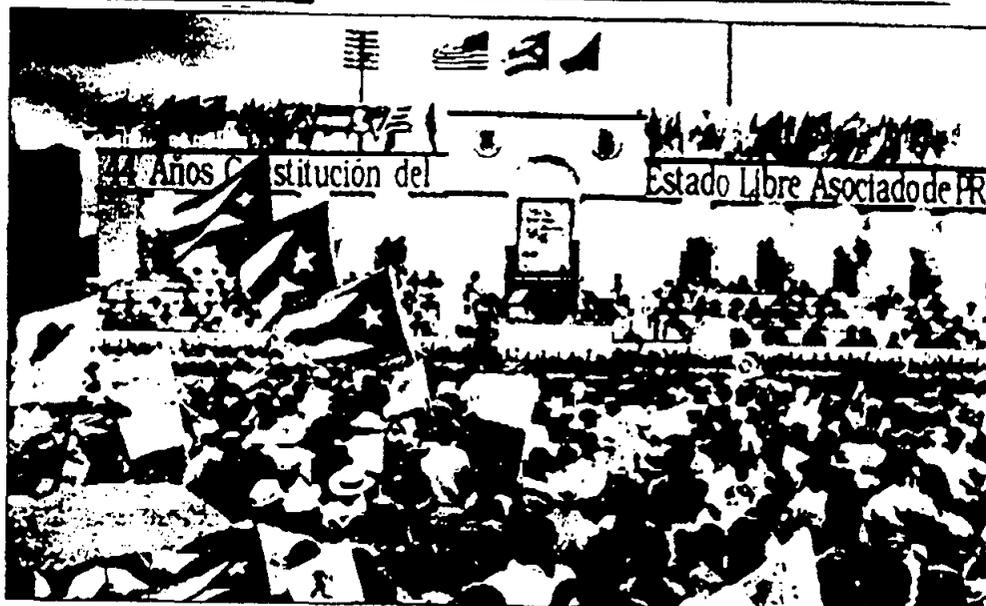
Roth went on to say Puerto Rico's history has been shared with the United States since 1917 and how in 1952 the commonwealth "relationship" between the two had been formed.

"And what a turnout, I can't believe it. I've never seen a turnout like this in North America," Roth said, impressed with the tens of thousands who packed into the Paquito Montaner Stadium.

PDP officials estimated the number of participants at about 50,000. They said the stadium seats 19,000 and thousands more covered the artificial turf on the baseball field. Several thousand more milled around outside the stadium.

Roth spoke in the middle of PDP President Héctor Luis Acevedo's speech. Acevedo brought the Wisconsin Republican to the podium during a fiery defense of commonwealth status to present him as a defender of the island's interests.

In his speech, Acevedo evoked the memory of autonomist leaders ranging from Román Baldorioty de Castro, to Luis Muñoz Rivera, father of Luis Muñoz Marín, the



Some 50,000 commonwealth supporters and Popular Democratic Party followers gather in Ponce's Paquito Montaner Stadium Thursday to celebrate the establishment of the Commonwealth Constitution 44 years ago.

STAR photo by Ingrid Torres

founder of the PDP and architect of the commonwealth, to say that the history of Puerto Rico has been defined by the "great battle" between "assimilationists" and autonomists.

"Today we see repeated in the grand stage of our future that same crossroads," he said in his speech.

Acevedo lashed out at the New Progressive Party administration of Gov. Rosselló for doing everything in its power to sabotage the commonwealth in what he said was their obsession to make Puerto Rico into a state.

"Today, like yesterday, we find ourselves ambushed... [by] those who want to destroy the present, no matter that they cannot foresee better [things] for the future," he said.

He said the Rosselló administration's failure to abide by the results of the 1993 status plebiscite won by commonwealth status was disrespectful of the democratic process, and "goes against the fundamental values of all Puerto Ricans — of those who are independentistas, statehooders, and commonwealthers — because democ-

cracy has to be respected if you really love Puerto Rico." Acevedo also criticized the Rosselló administration for saying "it would not respect federal laws if statehood were to be granted" with the condition that English be the official language of government and in the public school system.

This was a reference to attacks made by Resident Commissioner Carlos Rosero Barceló of a bill approved by a congressional committee this week that would make English the official language of government at the federal and state level in the United States.

At a press conference after the July 25 activity, Acevedo said the federal legislation is an indication of the inclination in Congress towards making English the official language.

Roth, who said he backed the legislation, added that were Puerto Rico to formally petition Congress for admission as a state he would vote in favor. But he said the statehood-enabling legislation would require English

Please see HOLIDAYS, Page 9

Reps. Hamilton, Toricelli, Richardson, & Kildee:

- reject '93 commonwealth option;
- call Puerto Rico a territory; and
- support legislation for a process with realistic options.

June 28, 1996

Senator Charlie Rodriguez  
Majority Leader, Puerto Rico Senate  
The Capitol  
San Juan, Puerto Rico 00901

Dear Senator Rodriguez,

As the senior democrats on the House Resources and International Relations Committees we have always been concerned about the economic and political future of Puerto Rico. As the 104th Congress considers proposed legislation regarding the process of self-determination for Puerto Rico, we believe that it is time to reexamine the status issue in light of the 1993 plebiscite.

On December 14, 1994 the Legislature of Puerto Rico adopted Concurrent Resolution 62 which sought congressional guidance regarding the results of the 1993 status plebiscite. Recently, the Chairmen of the relevant committees and subcommittees that deal with Puerto Rico's political status responded to this important resolution. Although we agree with many portions of the letter, we would like to outline some of our views on the issue as well.

We believe that the definition of Commonwealth on the 1993 plebiscite ballot was difficult given Constitutional, and current fiscal and political limitations. Through numerous Supreme Court and other Federal Court decisions, it is clear that Puerto Rico remains an unincorporated territory and is subject to the authority of Congress under the territorial clause. Another aspect of this definition called for the granting of additional tax breaks to Section 936 companies and an increase in federal benefits in order to achieve parity with all the states without having to pay federal taxes. It is important that any judgement on the future of Puerto Rico be based on sound options that reflect the current budgetary context in the United States. This context should also reflect the bi-partisan agreement being worked on by Congress which reduces Section 936 benefits.

Since Congress has neither approved nor resolved the 1993 plebiscite results, we are in favor of legislation that will establish a future process of self-determination for the people of Puerto Rico. This legislation should include a requirement for status plebiscites to take place within a certain number of years and define various status options in a realistic manner.

Senator Charlie Rodriguez  
June 28, 1996  
Page Two

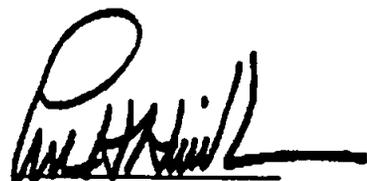
In two years, Puerto Rico will celebrate its 100th year as part of the United States. Congress has both a political and moral responsibility to ensure that the 3.5 million Americans living in Puerto Rico have a right to express their views on the important issue of political status on a regular basis.

We hope this additional response to Concurrent Resolution 62 is helpful.

Sincerely,



**ROBERT TORRICELLI**  
Member of Congress



**LEE HAMILTON**  
Member of Congress



**BILL RICHARDSON**  
Member of Congress



**DALE KILDEE**  
Member of Congress

# PDP leaders determined to clarify status

Elena

## BEHIND THE NEWS

By JORGE LUIS MEDINA  
Of The STAR Staff

7/6/96

Win or lose the general elections, the Popular Democratic Party plans to forge ahead with its avowed intention of clarifying once and for all the boundaries of the commonwealth.

"Even if the elections were lost, I believe the PDP should create [the Commonwealth Affirmation Commission] anyway," said the party's candidate for resident commissioner, Celeste Benítez. "This is something that simply has to be done."

The commission's objective will be twofold, said Benítez. To clarify everything concerning the commonwealth definition that won the 1993 status plebiscite, and to "produce a vision of the commonwealth as it should be."

To do that, the commission will be guided by two principles outlined in the party platform:

■ "No country has moral or juridical authority to govern other peoples without their consent. Democracy and colonialism are incompatible terms. The defects in that sense attributed to the U.S., with or without reason, must be corrected immediately."

■ "The U.S. Congress likewise lacks moral or juridical authority to unilaterally attempt to impose a change of status in Puerto Rico, as some congressmen have tried under the influence of pro-statehood leaders who do not feel any respect for the country."

It is strong language, and if the agenda is successful, said Benítez, "there will be no basis to say that Congress has plenary powers over Puerto Rico." In addition, she said, no doubt will remain that neither the U.S. nor Puerto Rico may tamper with the pact that created commonwealth without prior consultation. Many critics of commonwealth argue that such a pact does not exist.

The creation of the commission is in sync with what PDP president Héctor Luis Acevedo said last month: "We'll use the next term affirmatively to give permanence to the affairs of the commonwealth, so that things will not depend on the good faith of the lawmakers in Congress — or bad faith, because you have both things."

Ever since the commonwealth was created in 1963, the PDP has had to dodge criticism that the new status, which supposedly ended five decades of colonialism under the U.S. flag, was nothing more than a sham.

Believers in statehood for Puerto Rico blasted the new status as a sneaky way to separate the island from the U.S. and achieve independence. Believers in independence called it a colony by consent.

Benítez acknowledged that the whole issue became a thorn the party has to deal with. The commission, she believes, is the answer.

"We do not accept that [that the Commonwealth is a colonial status]. But we acknowledge that several aspects of the definition of the commonwealth have been called into question. It is necessary to clarify that confusion," she said.

When she was tapped to head the group that would deal with the status question for the party platform, Benítez began meetings with PDP leaders over the issue. Among those leaders were Senate Minority Leader Miguel Hernández Agosto, Ponce Mayor Rafael Cordero Santiago, candidate for San Juan mayor Sila María Calderón, former Resident Commissioner Antonio J. Colorado, and party lawmakers Eudaldo Báez Galib, Antonio Fas

Alzamora, Velda González, Mercedes Otero de Ramos, Carlos Vizcarrondo and Aníbal Acevedo Vilá.

One key player in the discussions was former Chief Justice José Trias Monge, a member of the 1952 Constitutional Convention who went on to become a well-known historian and is the author of the five-volume "Constitutional History of Puerto Rico"

Far from becoming an apologist of the commonwealth, Trias Monge has tried in his writings to clarify constitutional and historical questions without shying away from confronting the commonwealth's defects.

In a long 1995 article published in the University of Puerto Rico's Law Review, Trias Monge examined the federal case law dealing with the commonwealth status from 1952 to 1994.

In his closing observations, he found reason to disagree with both commonwealth defenders and its detractors on the colonial issue.

"*Independentistas and statehooders generally consider . . . that it was all a sham, that in reality there was no change in the relationship between Puerto Rico and the U.S. [Believers in commonwealth] on the other hand usually maintain as an article of faith . . . that the relationship between Puerto Rico and the U.S. lost . . . all colonial character.*

"Neither one or the other is wholly right. It is possible to maintain that the relationship . . . is founded upon the consent of both parties without it meaning that the commonwealth in its current form has lost all colonial traits," wrote Trias Monge.

Benítez said Trias Monge's opinions "will obviously be taken into consideration."

Another PDP leader who will figure prominently in any final definition of the commonwealth is former Gov. Rafael Hernández Colón, who, although retired from politics, maintains a keen interest in the status question — and who tried to solve the problem in his last term.

"I cannot conceive of dealing with the commonwealth without counting on [Hernández Colón's] advice," said Benítez. "We must break out of this deadlock in the most affirmative and energetic manner."



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

# LEGISLATIVE REFERENCE DIVISION

ECONOMICS, SCIENCE, AND GENERAL GOVERNMENT BRANCH

TO:

Jeff Farrow / Elena Kagan  
318 / 175

FROM: TIMOTHY JOHNSON  
phone: (202) 395-7562  
FAX: (202) 395-3109

DATE: 7/9

NUMBER OF PAGES (including this cover sheet): 12

COMMENTS:

FYI - Some of these may be  
duplicates, however, here are all  
the comments on HR 3024, the  
bill (LRM 4770) and the Justice letter  
(LRM 4868).

Please call (202) 395-3454 to report any difficulties with transmission of this fax.

F  
2328

**RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM**

LRM NO: 4855

FILE NO: 2126

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

**TO: Timothy JOHNSON 395-7582  
Office of Management and Budget  
Fax Number: 395-3109  
Branch-Wide Line (to reach legislative assistant): 395-3454**

FROM: 6/25/96 (Date)  
Vanessa Harrison (Name)  
State (Agency)  
647-4463 (Telephone)

**SUBJECT: JUSTICE Proposed Report RE: HR3024, United States-Puerto Rico Political Status Act**

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment
- See proposed edits on pages \_\_\_\_\_
- Other: \_\_\_\_\_

FAX RETURN of 2 pages, attached to this response sheet

VS OFFICE

Tuesday

06/25/96 03:16 pm Page:

1

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CA has following comments on LRM #4868, Justice Proposed Report RE: HR 3024, U.S.-Puerto Rico Political Status Act. On p. 2 first paragraph, first full sentence, in following phrase, "as long as this would not create an exception to the principle of separate United States and Puerto Rican nationality and citizenship," add "yet-to-be-created" before the words Puerto Rican. We suggest that a similar addition be made to the last sentence of the following paragraph, "Finally, an individual who maintained United States citizenship under this clauses would have to forfeit yet-to-be-created Puerto Rican citizenship or impinge..."

We suggest these changes to ensure that it is understood that under current law individuals born in Puerto Rico are U.S. citizens. Under current law Puerto Rican citizenship does not exist.

VS OFFICE

Tuesday

06/25/96 01:26 pm

1

Package Subject: LRM#4868;Leonard Lange/EB

Item Title: Justice Prop on HR 3024

.Re Justice's letter, page 2 last para on trade: EB/STA would agree with Justice assertion that Congress could address tariff treatment in legislation granting treatment under USHTS General Notes 3, 4 and perhaps 10, but such treatment under General Note 7 (CBI) could be problematic since re-alignments of benefits would have to be addressed.

**EXECUTIVE OFFICE OF THE PRESIDENT**

25-Jun-1996 04:03pm

**TO:** Timothy D. Johnson  
**FROM:** M. Jill Gibbons  
Office of Mgmt and Budget, LRD  
**CC:** James J. Jukes  
**SUBJECT:** Treasury comments on DOJ letter on HR 3024

## E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

25-Jun-1996 03:23pm

TO:           GIBBONS\_M@A1@CD

FROM:         Ronald Levy  
              DO

CC:           ASSOC GEN COUNSEL (LLR)

SUBJECT:      HR-3024-B LRM No. 4868

HR-3024-B LRM No. 4868: Justice Draft Report on H.R. 3024  
UnitedStates-Puert Rico Political Status Act

Jill:

Comments from our Tax Policy folks are attacheds:

"Working backward:

"1. The penultimate paragraph is fine in isolation; in the context of a letter of comments to the proposed bill, however, it could be misleading. The paragraph could easily be read to suggest that the Administration considers the proposed bill an acceptable process. On the contrary, rather than enabling the people of Puerto Rico to fulfill their aspirations for self-determination, whatever their views might be, the bill establishes a process whereby the people of Puerto Rico would be required to keep voting until they select statehood. [Independence has never received more than 10 percent of any plebescite.] Moreover, based on the results of the most recent referendum, it could be expected that statehood would be selected immediately under this process despite the fact the commonwealth won a plurality in a choice among all three options. The Administration should not appear to support a process that is calculated to produce one pre-selected result.

"2. The second paragraph on p.3 objects to the mention of language requirements. The status options that are presented to the voters should clarify the implications for issues of great concern in Puerto Rico. Three issues of greatest concern under possible statehood are the fate of section 936 (under attack elsewhere in Congress), the implications for official use of the Spanish language, and the preservation of Puerto Rico's separate Olympic team. "Equal footing" language alone will not inform the Puerto Rican electorate as to the implications of statehood for these issues.

"3. Rather than send separate letters, it is recommended that each agency's views be incorporated into an overall response from the Interagency Working Group."

Ron L.

S

June 25, 1996

USTR

To: Timothy Johnson

From: Ralph Ives

Per our discussion re LRM 4868 on Puerto Rico. I am submitting these comments without benefit of reading the draft law.

On page 2, last paragraph, Justice indicates that a separate treaty would be unnecessary. I assume this refers to the situation that would exist if Puerto Rico became an independent country. If so, I do not agree with Justice for two reasons. First, Justice confuses the CBERA, which is a non-reciprocal benefit the U.S. provides Caribbean Basin nations -- passed by law in 1983, implemented by Presidential Proclamation in 1984 only for the list of countries included in the law -- with a reciprocal trade agreement. If the intent of Congress is the latter, making Puerto Rico eligible for CBERA benefits would not do it.

Second, Congress cannot "apply" the CBERA to Puerto Rico. Congress would have to pass a law listing the new country of Puerto Rico as a beneficiary. Then, the President would have to ensure that Puerto Rico meets the laws criteria and issue a proclamation.

EXECUTIVE OFFICE OF THE PRESIDENT

25-Jun-1996 03:11pm

TO: GIBBONS\_M@A1@CD  
FROM: Ronald Levy  
DO  
CC: ASSOC GEN COUNSEL (LLR)  
SUBJECT: HR-3024-A LRM No. 4770

HR-3024-A LRM No. 4770: Request for views on H.R. 3024  
United States-Puerto Rico Political Status Act

Jill:

The following for our Tax Policy folks.

"Concerns with the bill include: (1) The structure of the proposed referenda appear calculated to favor one status option (statehood) over the alternatives (commonwealth or independence); and (2) unlike some previous status referendum bills, it makes no effort to describe in necessary detail the ramifications of each status alternative.

"Treasury will work through the Interagency Working Group on Puerto Rico to develop the Administration's response to this bill."

Ron L.

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Office of the Secretary

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**Office of the General Counsel  
Legislation Division  
Washington DC 20201**

July 5, 1996

NOTE TO TIMOTHY JOHNSON (OMB)

Re: H.R. 3024 (United States-Puerto Rico Political Status Act): LRM #4770

This is a belated response to your request for HHS comments on the bill. We support the intent of the bill to provide for a plebiscite, but take no position on the merits of the specific provisions of the bill. HHS reviewers noted two minor concerns, as described below:

First, we question the appropriateness of Ballot Option II.B.(7) (p. 13, lines 20-21: "Puerto Rico adheres to the same language requirement as in the several States." This provision raises the same divisive issues as S. 356, the "Language of Government Act", and similar bills, and makes no allowance for the unique cultural and historical circumstances of Puerto Rico.

Second, with respect to provisions for the transition stage (at p. 13 line 22): it seems unnecessary and counterproductive to require the President to provide a transition plan within 180 days after receiving results of the referendum, when the transition period itself will last for a minimum of 10 years. It would seem wiser to allow a full year for development of a solid transition plan.

SSW)

Sondra Stigen Wallace  
202-690-7760



United States Department of State

Washington, D.C. 20520

June 27, 1996

UNCLASSIFIED  
MEMORANDUM

TO: H - Julie Norton  
Vanessa Harrison

FROM: L/ARA - T. Michael Peay 

SUBJECT: L/ARA Comments on H.R. 3024: Puerto Rico Political Status Bill

General Comments. There is relatively little in the bill that directly affects the Department of State, particularly since the Interior Department is the agency primarily responsible for overseeing Puerto Rican internal affairs. There is, however, an Inter-agency Working Group on Puerto Rico that ostensibly has plenary authority to review and develop a coherent Administration position on matters involving Puerto Rico. Hence, this bill should definitely be reviewed by that body, which I believe is headed by Interior.

The State Department's primary interest in Puerto Rico concerns Puerto Rican activities within the international sphere, with a view to ensuring that PR's activities do not run afoul of either (i) the U.S. Constitution (in particular the President's authority to manage U.S. foreign relations and conclude international agreements on behalf of the United States and its political subdivisions), or (ii) U.S. foreign policy initiatives and objectives. Hence, whether or not Puerto Rico chooses in a free election to opt for independence is not an issue of concern to the Department of State. Should it become an independent State, the U.S. Government will deal with it as it would any other newly established state.

Specific comments. Item One. In §2 (Findings), there is an inaccurate statement on page 5, in subparagraph (9), where it erroneously suggests that the people of Puerto Rico have never before had an opportunity to "freely express their wishes regarding their future political status in a congressionally recognized referendum, a step in the process of self-determination which the Congress has yet to authorize." It is my understanding that dating back to at least the Eisenhower Administration, it has been the consistent policy and practice of the U.S. Government to allow the Puerto Rican people to freely choose the form of political status they wish to have with the U.S., i.e., the current free association status, statehood, or independence.

- 2 -

It is my further understanding that, since that time period, there have been a number of referenda or other electoral opportunities for the Puerto Rican people to express their political wishes in this regard and that, to date, the majority have preferred to continue the status quo. Thus, to say that Puerto Ricans have somehow been denied the right of free expression on this issue is clearly inaccurate.

Item Two. The clause in §5 on page 11 reflects information that would appear on a notional ballot to be presented to the Puerto Rican electorate. The language in question reads:

"upon recognition of Puerto Rico by the United States as a sovereign nation and establishment of government-to-government relations on the basis of comity and reciprocity, Puerto Rico's representation to the United States is accorded full diplomatic status."

Although this clause is not legislation per se, it is constitutionally suspect and should be deleted in its entirety for two reasons. First, it represents an a priori decision by the Congress as to the conditions governing the establishment of diplomatic relations with a newly independent Puerto Rico (i.e., "on the basis of comity and reciprocity"). Second, it purports to prejudge the level of Puerto Rican diplomatic representation in the United States (i.e., "is accorded full diplomatic status"). Although it is likely the two countries would enjoy normal relations, only the President of the United States -- not the Congress -- has the constitutional authority to determine when and on what conditions to establish relations with another government and what level of diplomatic representation in the United States that government will enjoy from time to time.

If it is deemed essential that the ballot contain some provision that addresses the issue of diplomatic relations between the United States and a sovereign Puerto Rico, a clause along the following lines would be legally appropriate:

"(5) upon recognition of Puerto Rico by the United States as a sovereign nation, the United States will establish government-to-government relations with Puerto Rico, in accordance with applicable provisions of the United States Constitution."

Drafted: L/ARA - TMPEAY; 6/27/96; SELARA 2115

Cleared: L/SFP - LJacobson

cc: ARA/CAR - Dan Santos  
ARA/PPC - Martha Husted

It appears that the legislation is biased towards Puerto Rican self-governance. Given that ONDCP has drug control programs in Puerto Rico, including a HIDTA, there is a concern that these programs would be jeopardized if the territory chooses to change its status. Similarly, Puerto Rican independence would alter the provision of substance abuse treatment through the national health care system and money laundering detection efforts through the banking system.

# Young bill vote a wake up call for PDP

The 11-0 vote for the "Puerto Rico United States Political Status Act" on June 15 in the Subcommittee on Native Americans and Insular Affairs, woke up the Popular Democratic Party, at last.

Delante Beutner, PDP candidate for resident commissioner, reacted first. She predicted the bill will not be approved by Congress, calling it "a publicly stated theory" and that it "cannot be revoked because it is a vested right." It has "solid legal and constitutional bases," she continued. Once again — erroneously — she looked exclusively, to the past.

Subnational candidate Hector Luis Acevedo kept mum.

However, a significant event occurred in Ponce on June 14. Others were much bolder. Rafael Hernández Colón came out of political retirement and announced "the world saw" the United States if the Young bill was approved as-is by the Congress.

Faced with the forces of immobility, he grabbed the PDP leadership on the status issue, once again. This power grab needs an explanation. In the Popular Democratic Party, from its inception, the status issue was the sole province of Luis Muñoz Marín. The party got used to letting its president make all decisions regarding the matter ("on that issue — a very high ranking official once told me — Muñoz talked for me"). Only a very small bunch of us were privy to his thinking and his secrets (I will soon publish here a book of notes about those Washington secrets).

Hernández Colón inherited the mantle, stock and barrel, and exercised it with great alacrity. However, when he left, a great void was created. There was no expertise on the issue in the PDP. Victoria Muñoz and Hector Luis Acevedo



J.R. CRUZ  
PUNTA RICA  
Commentary

opted for ignoring the whole thing. Hernández Colón, forced by his success-  
sors' incoherence on the issue, is ready, willing, and back.

In a speech delivered at a fund-raising event for his foundation, Hernández Colón (prompted by a liberist headline on the White House polling provided by Ricker, do Allegria) recognized for the first time in his life that "the United States political leadership is bent on concretely defining a long-range national policy with respect to its relationship with Puerto Rico."

He welcomed the development, but criticized the "warped mechanism" of the Young bill. His condition is the recognition of the compact established in 1952, and "from there" to revive the existing compact to obtain "the quantum of self-government that the Young bill estimates necessary to solve definitively the status issue" (in simpler words, the status of free association).

Once again, a voice of history's angel, looking homeward, but opening a slim chance of negotiation — with — where you want us to go if you recognize what we said we both did before.

The answer to that is already written: "In 1982 — the United States will voluntarily agree — we entered into a morally binding agreement, but one that is legally unenforceable. Thus, we have to create a new legal relationship. Do you want it or not?"

One cannot but wonder what will be the answer of the PDP.

After the blatant stealing of initiative, Hector Luis Acevedo could do nothing but agree. He admitted that, as Hernández Colón had said, "under the current constitutional compact, Congress has the ability to impose laws over the Puerto Rican people without prior consultation." In other words, goodbye bilateral compact of 1952.

Then came surrender. He also argued along with Hernández Colón that the United States "cannot impose sovereignty" as an option to resolve the status, and that he, too, is going to court, as if a solidly conservative Supreme Court of the United States would be inclined to rule that there is a bilateral compact now. The juridicalization of the issue is a blatant error over an error. Beutner call it "a misunderstanding" that needs to be corrected by a sound bilateral compact in the future, and run with it.

But no. Having heard the voice from the mountains, the chair began Sila Calderón called Congress' actions last Wednesday, June 12, "shameful and shameful" and said she, too, is going to court. Rafael Cardero Santiago, mayor of Ponce (and the renowned political voice of Hernández Colón in party councils), blackmailed Acevedo by telling him if he does not "do something... other leaders of the PDP will assume the leadership in defense of constitutional" meaning of course, Rafael Hernández Colón.

Ponce, however, was provided a bit of medicine from Ponce. Rep. Roberto Cruz (a strong follower of Acevedo's) accused Hernández Colón of "having lied" to Puerto Rico "for the last 30 years." Hernández Colón, he argued, had alleged all his life that the commonwealth was a bilateral compact that could not be amended unilaterally, "and now admits that it can happen." He asked Hernández

Colón to renounce his position as ex-governor, obviously to limit the funds for his next travels to Washington.

Why this weird reaction in the Popular Democratic Party?

A careful reading of the "Amendment to the Nature of a Statute" offered by subcommittee chairman Callaghy will explain it all. It proposes the following "process" to solve the status issue:

- A single ballot, with two quadrants:
  - In the first quadrant, the voter will have to choose between territorial status and decolonization.
  - In the second quadrant, the voter will have to choose between a road to statehood on one side, and a road to free association / independence on the other.
  - If territorial status wins, every four years a similar plebiscite would be held (paid for from rum taxes) until the people of Puerto Rico decide to go for decolonization.
  - If decolonization wins, the votes between statehood and free association / independence will be counted.
  - Be it statehood or free association / independence that wins, the President and the Congress will have exactly one year (180 days for each) to give a final answer to the voters.
  - If free association / independence wins, a constitutional convention will be convened with followers of both options, to define and approve the creation of the free associated state.
- Notice that the process and the ballot design are deliberately composed to prompt a majority decision at each stage. No more doubtful plebiscites. This is its key merit. One that the Popular Democratic Party better recognize very soon. Or else.

Elena,  
Did I give you this (background)?  
JRR

POSITIONS RE THE 1993 COMMONWEALTH OPTION

ITS ASSERTIONS

Commonwealth is or guarantees:

- Permanent union between the U.S. and P.R.
  - Now: Not stated in law.
  - Future: We could generally agree. (E.g., to not unilaterally terminate the relationship. See next item.)
- A bilateral pact that requires mutual consent to alter.
  - Now: There is a bilateral pact but it does not require mutual consent to alter.
  - Future: We could generally agree. (The Northern Mariana Islands Commonwealth Covenant approved by law requires mutual consent to modify provisions re overall relations, the insular constitution, U.S. Citizenship, the application of the U.S. Constitution, and limiting non-Marianan land ownership. Language on this fundamental issue is also being negotiated in response to Guam's commonwealth petition. But this would be a policy commitment and not binding law.)
- Irrevocable U.S. citizenship.
  - Now: We think it is. (Congress would have to have a rational basis to take it away and we can't conceive of one under the current arrangement.)
  - Future: We could extend the 14th Amendment's 1st sentence.
- Common market, common currency, and common defense.
  - Now: Yes.
- International sports representation.
  - Now: Not a federal issue (but yes).
- Cultural identity.
  - Now: Not a federal issue.

ITS PROPOSALS

- Reformulate Sec. 936 to create more and better jobs.
  - The President has proposed a reform for job-creation. It would continue to provide tax credits for wages and local taxes paid and capital investments made in the islands and expand these benefits by allowing companies to carry-forward the amount of the credit that they cannot use in a particular year. It would also continue to effectively exempt income from earnings kept in the islands from taxation. The House, however, has voted to totally terminate the federal tax incentive for investment and economic activity in the islands. The Senate Finance Committee would phase-down the credit but continue to provide a limited credit for wages paid in the islands.
  
- Extend S.S.I.
  - The President has proposed using revenue estimated to be generated by phasing out the ability of companies to obtain federal tax benefits by merely attributing income to island operations for program needs in Puerto Rico, including aid to the needy aged, blind, and disabled.
  - The Administration is also willing to work with the Government of Puerto Rico on other means for financing increased aid to the needy, aged, blind, and disabled.

(S.S.I. was extended to the Northern Mariana Islands through its Commonwealth Covenant with the U.S.)
  
- Fund the Puerto Rico Nutrition Assistance Program at the level of Food Stamps.
  - The Administration and the Congress have agreed to increase funding for inflation.

(Food Stamps apply in the Commonwealth of the Northern Mariana Islands and in the territories: Guam, Samoa, and the Virgin Islands. It formerly applied in Puerto Rico.)
  
- Protect agricultural products.
  - The Administration is developing a program to assist Puerto Rican farmers.

Jeth Farrow 5.30.96

Juan Bras - indep. Idv + advocate

↳ Venez. Tried to renounce US citizenship

St Dept accepted renunciati-

let back into PR.

- St/DOJ - agree: not a "PR citizen"

O.C. - Powell - remains US citizen - bec renunciati-  
founded on a false understanding.

Both agree  
that there's  
no PR  
citship.

Congressman Gallopy -  
Subcom on Homeland  
Affairs.

{ St - says - renounced. - sent already.  
DOJ - retains citship.  
wants to send

Pres may go to PR in July - NOT.

Demo org'd - p. who want to say PR has sep natl-ality.  
(Among them - Bras.)



United States Department of State

Washington, D.C. 20520

Dear Mr. Gallegly:

I am writing in response to your letter of February 21 regarding cases in which U.S. citizen residents of Puerto Rico have recently renounced their U.S. citizenship. We understand your concerns regarding any individual or group of individuals misleading the public regarding citizenship law and immigration status.

The right of a person to expatriate is a long established tenet of the law of the United States. As your letter correctly points out, formal renunciation of citizenship pursuant to Section 349(a)(5) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(5), is one of the ways a citizen may voluntarily expatriate himself. In processing a renunciation case under Section 349(a)(5), a consular officer must ensure that the act of renunciation is voluntary. The consular officer should also stress that the act of renunciation is irrevocable. If a renunciant has any questions about the process, the consular officer will do whatever he or she can to respond to the questions with accurate information. We have attached copies of State Department guidelines on administering renunciations pursuant to Section 349(a)(5), along with copies of the appropriate forms. It is important to note that potential renunciants are counseled to consider carefully the finality of a renunciation.

Please note that one of the attached forms is the Statement of Understanding. All renunciants must read and sign the Statement of Understanding. Statement 3 in the Statement of Understanding asserts that "[u]pon renouncing my citizenship I will become an alien with respect to the United States, subject to all laws and procedures of the United States regarding entry and control of aliens." Statement 6 in the Statement of Understanding asserts "[i]f I do not possess the nationality of any country other than the United States, upon my renunciation I will become a stateless person and may face extreme difficulties in traveling internationally and entering most

The Honorable  
Elton Gallegly,  
House of Representatives.

-2-

countries." Thus, all renunciants should be well aware of the possibility of being rendered stateless.

In your correspondence, you make the point that the State Department makes its determination upon finding that the renunciation was voluntary. Due to the fact that U.S. citizens have a right to renounce, consular officers do not inquire about the reasons for renunciation. However, a person may append his reasons in a supplemental statement which is included with the Oath of Renunciation and the Statement of Understanding. The renunciant's belief that he has another citizenship, even if it is not well founded, cannot deter the consular officer from carrying out his statutory responsibilities. However, if a potential renunciant raises an issue that indicates a faulty understanding of the relevant law, such as becoming a Puerto Rican citizen after renunciation, we would correct that view. For your information, please find attached a copy of the case Davis v. INS, 481 F. Supp. 1178 (1979). which addresses many of the legal issues presented by the recent renunciations of U.S. citizen residents of Puerto Rico.

To the best of the Department's knowledge, our officers are applying the governing laws and regulations correctly and consistently with respect to Puerto Rican residents (and persons born in Puerto Rico) who wish to renounce their U.S. citizenship. In addition, we are, where appropriate, seeking to dispel misconceptions about U.S. immigration law and regulations. We will, consistent with your concerns, pay particular attention to Puerto Rican residents (and persons born in Puerto Rico) who wish to renounce their U.S. citizenship.

For your information, please find attached our correspondence with Jose Rodriguez-Suarez, the Deputy Secretary for External Affairs of the Government of Puerto Rico. This is the only correspondence between the State Department and the Government of Puerto Rico on this issue. Please note that the INS concurred in the views expressed in that letter.

-3-

If you have further questions, please contact Carmen DiPlacido in the Office of Policy Review and Interagency Liaison at (202) 647-3666.

Sincerely,

Barbara Larkin  
Acting Assistant Secretary  
Legislative Affairs

Enclosures:

1. Oath of Renunciation, Statement of Understanding and State Department Guidelines on Renunciation of Citizenship.
2. The case Davis v. INS.
3. Correspondence with Jose Rodriguez-Suarez, the Deputy Secretary for External Affairs of the Government of Puerto Rico.

CA/OCS/PRI:MMeszáros:MM 3/19/96

Cleared: CA/OCS/PRI:CADiPlacido MM for Corb

CA/OCS:GARogers

L/CA:MEisner MM for ME

INS:MSheridan MM for MS

Doc. WWOCSPRI #617

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. form	John LaSalle; RE: DOB (Partial) (1 page)	05/12/1983	P6/b(6)

### COLLECTION:

Clinton Presidential Records  
Counsel's Office  
Elena Kagan  
OA/Box Number: 8289

### FOLDER TITLE:

Puerto Rico Questions [1]

2009-1006-F  
db1542

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Sample of the Oath of Renunciation

[001]

OATH OF RENUNCIATION OF THE NATIONALITY  
OF THE UNITED STATES

(This form has been prescribed by the Secretary of State pursuant to Section 349(a)(5) of the Immigration and Nationality Act, 66 Stat. 268, as amended by Public Law 95-432, October 10, 1978, 92 Stat. 1046.)

Consulate General of the United States of America at

Toronto, Canada, ss:

I, John J. LaSalle, a national of the United States,

(Name)

solemnly swear that I was born at Denver,

(City or town)

Colorado, on P6/(b)(6).

(State or country)

(Date)

That I formerly resided in the United States at 133 King Street

(Street)

Denver, Colorado.

(City)

(State)

That I am a national of the United States by virtue of

birth in the United States

(If a national by birth in the United States, or abroad, so state; if

naturalized, give the name and place of the court in the United States before

which naturalization was granted and the date of such naturalization.)

That I desire to make a formal renunciation of my American nationality, as provided by section 349(a)(5) of the Immigration and Nationality Act and pursuant thereto I hereby absolutely and entirely, ~~without mental reservation, coercion or duress,~~ renounce my United States nationality together with all rights and privileges and all duties of allegiance and fidelity thereunto pertaining.

John J. LaSalle  
(Signature)

Subscribed and sworn to before me this 12th day of May,

19 83, in the American Consulate General at Toronto, Canada.

George J. Sanders  
(Signature of officer)

SEAL

George J. Sanders  
(Typed name of officer)

Consul of the United States of America  
(Title of officer)

Sample of a Statement of Understanding — Continued

CONSULAR OFFICER'S ATTESTATION

John J. LaSalle appeared personally and (read, had read to him)  
(Name) (Circle one verb)

this Statement after my explanation of its meaning and the conse-  
quences of renunciation of United States citizenship and signed  
this Statement (under oath, by affirmation) before me this  
(Circle one)

12th day of May 1983  
(Day of month) (Month) (Year)

Seal

George J. Sanders  
(V144) Consul of the United States of America

WITNESSES' ATTESTATION

The undersigned persons certify that they witnessed the personal  
appearance of John J. LaSalle before the consular officer  
(Name)

George J. Sanders, who explained the seriousness and  
(Name)  
consequences of renunciation of United States citizenship and the  
meaning of the attached Statement of Understanding, after which this  
Statement was signed (under oath, by affirmation) before the named  
(Circle one)

consular officer and undersigned witnesses this 12th day of  
(Day of month)

May 1983  
(Month) (Year)

Witness Richard B. Roebuck 650 Elm St., Toronto, Canada  
(Full name) (Complete address)

Witness Susan Adams 3012 Maple St., Toronto, Canada  
(Full name) (Complete address)

Sample of a Statement of Understanding — Continued

7. The extremely serious and irrevocable nature of the act of renunciation has been explained to me by (Viz) Consul George J. Sanders (Name) at the American Consulate General at Toronto (City), and I fully understand its consequences.

I (do not) choose to make a separate written explanation of my reasons for renouncing my United States citizenship. I (swear, affirm) that I have (read, had read to me) this Statement (Circle one verb) in the English language and fully understand its contents.

John J. LaSalle  
(Signature)

John J. LaSalle  
(Renunciants typed name)

Sample of a Statement of UnderstandingSTATEMENT OF UNDERSTANDING

I, John J. LaSalle, understand that:  
(Name)

1. I have a right to renounce my United States citizenship.
2. I am exercising my right of renunciation freely and voluntarily without any force, compulsion, or undue influence placed upon me by any person.
3. Upon renouncing my citizenship I will become an alien with respect to the United States, subject to all the laws and procedures of the United States regarding entry and control of aliens.
4. My renunciation may not affect my military or Selective Service status, if any, and may not exempt me from income taxation. I understand that any problems in these areas must be resolved with the appropriate agencies.
5. My renunciation may not affect my liability, if any, to prosecution for any crimes which I may have committed or may commit in the future which violate United States law.
6. If I do not possess the nationality of any country other than the United States, upon my renunciation I will become a stateless person and may face extreme difficulties in traveling internationally and entering most countries.

7. If I am found to be deportable by a foreign country, my renunciation may not prevent my involuntary return to the U.S.  
 per 87 Stat 386507.

m. Execution and Disposition of Oath of Renunciation

Execute the form in quadruplicate; send the original and two copies to the Department and retain the fourth copy at the post. When formal renunciations of United States nationality are submitted to the Department, they must be accompanied by an appropriate certificate attesting to the loss of United States nationality by the renunciant and the original Statement of Understanding. \*That Statement should not be noted in paragraphs 8 or 9 of the certificate of loss of nationality.\* (See section 224.2.)

It should be noted that expatriation does not depend upon approval of the certificate. If the oath of renunciation is in the form approved by the Secretary and it is taken voluntarily by a mentally competent person, expatriation occurs at the time of renunciation. Approval of the Certificate of Loss of United States Nationality, indicated by a stamp endorsement signed by an officer of the Passport Office, will establish for the record the validity of the renunciation and that it was executed in the form prescribed by the Secretary of State. A copy of the oath of renunciation and a copy of the approved Certificate of Loss of Nationality showing the date of approval will be returned to the post. That copy of the oath of renunciation and the approved certificate of loss, together with the copy of the Statement of Understanding retained at the post, shall be forwarded to the renunciant. Destroy the fourth copy of the Oath and the Certificate retained by the post and note the action taken on the subject's form FS-558, Passport and Nationality Card.

\*n. Passport to be Forwarded to Department

At the time renunciation is effected, the United States passport of the renunciant shall be taken up and a receipt given for the passport. Forward the passport to the Department with the documents noted above. \*

o. Affidavit of Expatriation Not Required

The affidavit of the expatriated person referred to in section 224.4 is not required when nationality is lost under section 349(a)(6) of the Immigration and Nationality Act.

p. Fees Chargeable

The services set forth in the above-quoted regulations are performed gratis under Item 58(a) of the Tariff of Fees, Foreign Service of the United States of American.



U.S. Department of Justice  
Immigration and Naturalization Service

to  
C.D. Placi  
for  
response

HQ 70/40-P

Office of the General Counsel

425 I Street, N.W.  
Washington, D.C. 20536

**MAR 27 1996**

The Honorable Mary A. Ryan  
Assistant Secretary of State  
Bureau of Consular Affairs  
United States Department of State  
2201 C Street NW Suite 6811  
Washington, DC 20520-4818

RE: Juan Mari Bras  
Born December 2, 1927, Mayaguez, PR

Madame Secretary:

On November 27, 1995, your Department approved a certificate of loss of nationality relating to Juan Mari Bras, a citizen of the United States by virtue of his birth in Puerto Rico. See Immigration and Nationality Act § 358, 8 U.S.C. § 1501. The certificate is based on Mr. Mari Bras' having taken the requisite renunciatory oath on July 11, 1994, before the United States Consul in Caracas, Venezuela. Approval of this certificate is "a final administrative determination of loss of United States nationality . . . subject to such procedures for administrative appeal as the Secretary may prescribe." *Id.* We respectfully ask for a reconsideration of the approval of this certificate of loss of nationality, 22 C.F.R. § 7.2(b), and for a determination that Mr. Mari Bras did not expatriate.

Performance of an expatriating act, without more, is not enough to effect expatriation. The person must have performed the act "with the intention of relinquishing United States nationality." INA § 349(a), 8 U.S.C. § 1481(a). In seeking the loss of nationality certificate, Mr. Mari Bras bore the burden of proving an extent to expatriate "by a preponderance of the evidence." *Id.* § 349(b), 8 U.S.C. § 1481(b). Ordinarily, we agree, voluntarily taking an oath of renunciation would be enough to prove this intention. See *Vance v. Terrazas*, 444 U.S. 252 (1980). Given the particular circumstances of Mr. Mari Bras' case, however, we do not think his taking of the oath of renunciation was sufficient.

Mr. Mari Bras has been quoted as claiming that his renunciation of nationality has had no effect on his status as a citizen of Puerto Rico. See, e.g., J. Ghigliotty, "U.S. Certifies Mari Bras' Loss of Nationality," *The San Juan Star*, December 5, 1995, at 3. It appears that he and others in the Puerto Rican independence movement believe that section 7 of the Foraker Act, Act of April 12, 1900, ch. 191, § 7, 31 Stat. 77, 79 (1900), provides for a Puerto Rican citizenship that does not

depend on United States nationality. Section 7 of the Foraker Act, codified as 48 U.S.C. § 733, provides that:

[a]ll inhabitants continuing to reside in Puerto Rico who were Spanish subjects on the 11th day of April 1899, and then resided in Puerto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Puerto Rico, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the 11th day of April 1900, in accordance with the provisions of the treaty of peace between the United States and Spain entered into on the 11th day of April 1899.

48 U.S.C. § 733. In 1917, Congress extend United States citizenship to persons who acquired Puerto Rican citizenship under section 733, unless they elected by September 2, 1917, not to become United States citizens. Act of March 2, 1917, ch. 145, § 5, 39 Stat. 951, 953 (1917). The 1917 Act also extended to Puerto Rico all Federal statutory law, other than revenue laws and other laws "not locally applicable." *Id.* § 9, 39 Stat. at 954. After the 1917 Act entered into force, those born in Puerto Rico subject to the jurisdiction of the United States were United States citizens from birth. Rev. Stat. § 1992 (1878); *cf.* INA § 302, 8 U.S.C. § 1402. Only United States citizens may hold public office in Puerto Rico. 48 U.S.C. § 874. It does not appear, however, that Congress has ever repealed 48 U.S.C. § 733.

Mr. Mari Bras and his colleagues are, simply, mistaken about the effect of 48 U.S.C. § 733. This statute did not create a Puerto Rican citizenship that is independent of United States nationality. Rather, 48 U.S.C. § 733 extended to Puerto Ricans the status of non-citizen nationals of the United States. *Gonzales v. Williams*, 192 U.S. 1 (1904). Once section 733 took effect, those subject to its terms owed permanent allegiance to the United States. *Id.* at 9. "The nationality of the island became American," as did the nationality of any residents who did not explicitly choose to remain Spanish subjects. *Id.* at 10; *cf.* *Memorandum for the Secretary of the Treasury*, 24 Op. Atty. Gen. 40 (1902). Note that Ms. Gonzales sought to enter the United States through a port of entry in New York, not in Puerto Rico. 192 U.S. at 7. Consequently, the *Gonzales* opinion makes it clear that "Puerto Rican citizenship" is a species of United States nationality, not some separate legal genus.

All citizens of Puerto Rico are *necessarily* United States nationals. The oath of renunciation results in the loss, not only of United States citizenship, but of United States nationality. INA §§ 349(a) and 358, 8 U.S.C. §§ 1481(a) and 1501. The INA does provide a means by which non-citizen nationals may become citizens. *Id.* § 325, 8 U.S.C. § 1436. But there is no way under the law by which a United States citizen may surrender United States citizenship, while retaining United States nationality. *Santori v. United States*, No. 94-1164 (1st Cir. June 28, 1994), 1994 WESTLAW 362,221.

If Mr. Mari Bras had known that expatriation as a United States national would extinguish his Puerto Rican citizenship as well, then we would agree that approval of the loss of nationality certificate was proper. He did indicate an understanding that he would "become an alien" upon

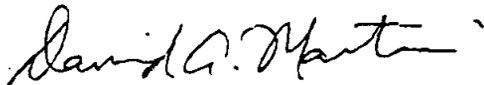
renunciation. Statement of Understanding at 3. An alien, by definition, is neither a citizen nor a national of the United States. INA § 101(a)(3), 8 U.S.C. § 1101(a)(3). But it appears that he honestly, though mistakenly, believed that he could give up United States citizenship, but retain Puerto Rican citizenship. The papers that accompany the certificate of loss of nationality, arguably, reflect this ambiguity. Mr. Mari Bras signed an oath declaring:

... I hereby absolutely and entirely renounce my United States *nationality* together with all rights and privileges and duties of allegiance and fidelity thereunto pertaining.

“Oath of Renunciation of the Nationality of the United States,” (*emphasis added*). Yet the accompanying Statement of Understanding refers, repeatedly, to renunciation of *citizenship*, rather than *nationality*. Since we would not lightly find that a United States national has given up his birthright, we believe that the preponderance of the evidence would not show that Mr. Mari Bras intended to do so.

Please reconsider this case. We understand that Mr. Mari Bras has returned to Puerto Rico. The certificate of loss of nationality shows an address for him in Mayaguez, PR. If the Service can assist your reconsideration in any way, such as by questioning Mr. Mari Bras under oath, please let us know.

Sincerely,



David A. Martin  
General Counsel

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481 FEDERAL SUPPLEMENT

Accordingly, it is

ORDERED (1) that plaintiffs' motions for civil contempt should be and are hereby granted. It is further

ORDERED (2) that on or before January 14, 1980, counsel shall convene an across-the-table conference to determine whether this Court should seek the views of the Secretary of the Department of Health and Welfare as either a party or as an *amicus* to assist it in designing an appropriate remedy consistent with the order granting plaintiffs' motions for contempt. It is further

ORDERED (3) that the Clerk shall forward a copy of this opinion to the Honorable Patricia Harris, Secretary of the Department of Health and Welfare, in order that she may communicate any views which that Department may have to counsel for their consideration. It is further

ORDERED (4) that the Court will give appropriate consideration to a request by counsel to extend the January 14, 1980 deadline should such extension be sought before that date.



Garry DAVIS, Plaintiff,

v.

DISTRICT DIRECTOR, IMMIGRATION  
& NATURALIZATION  
SERVICE, Defendant.

Civ. A. No. 79-1874.

United States District Court,  
District of Columbia.

Dec. 19, 1979.

Native born American sought habeas corpus to challenge his exclusion from the United States. The District Court, Flannery, J., held that: (1) petitioner had made an intentional and voluntary renunciation

of his United States citizenship; (2) revocation of citizenship pursuant to the oath of renunciation did not require allegiance to another nation; (3) petitioner was an alien; (4) passport issued by the "World Service Authority" of which petitioner was president was not a proper entry document; and (5) the petitioner's alleged citizenship in Maine did not entitle him, under the privileges and immunities clause, to enter and remain in the United States.

Petition denied.

#### 1. Citizens ⇐ 10.1

Citizen may voluntarily surrender his citizenship, along with the panoply of rights and obligations that attach thereto. Immigration and Nationality Act, § 349(a), 8 U.S.C.A. § 1481(a).

#### 2. Citizens ⇐ 15

Statement given by petitioner when he signed a renunciation of his American citizenship to the effect that he wanted to be considered a citizen of the world created no ambiguity as to his intent so that the renunciation effectively expatriated the petitioner. Immigration and Nationality Act, § 349(a), 8 U.S.C.A. § 1481(a).

#### 3. Citizens ⇐ 19

Evidence demonstrated that petitioner acted voluntarily at the time that he renounced his citizenship. Immigration and Nationality Act, § 349(a), 8 U.S.C.A. § 1481(a).

#### 4. Citizens ⇐ 16

Statute dealing with renunciation of citizenship under oath does not require allegiance to another nation; it only requires renunciation of United States nationality. Immigration and Nationality Act, § 349(a), 8 U.S.C.A. § 1481(a).

#### 5. Citizens ⇐ 16

Neither Article 13(2) nor Article 15 of the Universal Declaration of Human Rights require the acquisition of another nationality to uphold expatriation. Immigration and Nationality Act, § 349(a), 8 U.S.C.A. § 1481(a).

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DAVIS v. DISTRICT DIRECTOR, IMMIGRATION, ETC.

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Cite as 481 F.Supp. 1178 (1979)

6. Treaties ⇐ 11

United Nations Charter does not supersede United States law.

7. Aliens ⇐ 1

Any person not a United States citizen or national is classified as an "alien." Immigration and Nationality Act, § 101(a)(3), 8 U.S.C.A. § 1101(a)(3).

8. Aliens ⇐ 1

Individual who expatriated himself by signing an oath of renunciation of American citizenship was an "alien." Immigration and Nationality Act, § 101(a)(3, 22), 8 U.S.C.A. § 1101(a)(3, 22).

9. Citizens ⇐ 10.2

Passport issued by the "World Service Authority" of which the holder was president was not a proper entry document. Immigration and Nationality Act, § 212, 8 U.S.C.A. § 1182.

10. Aliens ⇐ 46

Alien who did not have proper entry document was excludable. Immigration and Nationality Act, § 212(a)(20), 8 U.S.C.A. § 1182(a)(20).

11. Constitutional Law ⇐ 207(1)

Former citizen who had renounced his citizenship was not entitled under the privileges and immunities clause to enter and remain in the United States by virtue of being a citizen of Maine. U.S.C.A. Const. art. 1, § 8, cl. 4; art. 4, § 2.

David Carliner, Carliner & Gordon, Washington, D.C., for plaintiff.

Eric A. Fisher, U. S. Dept. of Justice, Washington, D.C., for defendant.

MEMORANDUM OPINION & ORDER

FLANNERY, District Judge.

This case presents the issue whether a native born American may renounce primary allegiance to the United States and still retain rights to enter and remain in this country without a proper visa. Petitioner Garry Davis brings this suit in the form of a writ of habeas corpus. The peti-

tioner seeks the writ to relieve him of the restraint and custody imposed by the Immigration and Naturalization Service ("INS"). The Board of Immigration Appeals on May 24, 1978 voted to exclude and deport the petitioner.

The petitioner is a native of the United States and served as a bomber pilot during World War II. On May 25, 1948, he voluntarily signed an oath of renunciation of United States nationality at the American Embassy in Paris, France.

The petitioner executed the oath in conformity with then Section 401(f) of the Nationality Act. Now codified at 8 U.S.C. § 1481(a)(5), this section allows a native born American to voluntarily renounce United States citizenship. The statute reads the same today as in 1948:

(a) . . . a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by—

(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State

The petitioner signed the oath of renunciation before the United States Consul. The oath of renunciation included the statement:

I desire to make a formal renunciation of my American nationality, as provided by Section 401(f) of the Nationality Act of 1940, and pursuant thereto I hereby absolutely and entirely renounce my nationality in the United States, and all rights and privileges thereunder pertaining and abjure all allegiance and fidelity to the United States of America.

The petitioner, on May 25, 1948, also filed a statement of his beliefs with the United States Consul in Paris. The relevant portion of this statement, which forms the basis of one of petitioner's legal arguments, reads as follows:

I no longer find it compatible with my inner convictions . . . by remaining

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solely loyal to one of these sovereign nation-states. I must extend the little sovereignty I possess, as a member of the world community, to the whole community, and to the international vacuum of its government. I should like to consider myself a citizen of the world.

The United States Consul issued the petitioner a Certificate of Loss of Nationality of the United States on May 25, 1948. Petitioner henceforth devoted his time and energy toward the establishment of world government and the furtherance of world citizenship. He frequently travels abroad to promote these principles and goals. He has at various times entered the United States on a permanent resident alien or on a visitor's visa.

On May 13, 1977, the petitioner attempted to enter the United States on a passport issued by the "World Service Authority", an organization formed to promote world citizenship. The Immigration and Naturalization Service conducted an exclusion hearing four days later, on May 17, 1977. The petitioner stated at the hearing that "I am the president and the chairman of the Board of an organization called the World Service Authority." The administrative law judge found the petitioner deportable. The Board of Immigration Appeals affirmed this decision on May 24, 1978. The Board, relying on 8 U.S.C. § 1182(a)(20), found the petitioner excludable because he lacked a valid document of entry. The petitioner filed the instant writ of habeas corpus on July 19, 1979.

The petitioner contends that he never expatriated himself. He alleges that the statement of beliefs he filed with the United States Embassy creates sufficient ambiguity to preclude renunciation of citizenship. The petitioner secondly argues that renunciation of citizenship requires the acquisition of another nationality. Finally, the petitioner alleges that Article 13(2) of the Universal Declaration of Human Rights, providing that "everyone has the

1. Each subdivision under 8 U.S.C. § 1481(a) represents a separate and independent process that leads to expatriation. These subdivisions

right . . . . to return to his country," requires the INS to allow the petitioner to enter and remain in the United States without any immigration papers.

The Immigration and Naturalization Service argues that the petitioner is neither a citizen nor a national of the United States. He therefore qualifies only as an alien who must be excluded under 8 U.S.C. § 1182(a)(20). This statute requires exclusion if a person does not possess a "valid unexpired immigration visa." The court agrees with the INS and will order the dismissal of the habeas petition.

#### I. PETITIONER LACKS THE STATUS OF A UNITED STATES CITIZEN

[1] 8 U.S.C. § 1481(a) codifies a long standing though little recognized principle of the United States: the right of expatriation. This principle establishes the libertarian concept that a citizen may voluntarily surrender his citizenship along with the panoply of rights and obligations that attach thereto. Federal statutory law sets forth numerous avenues by which a United States citizen may voluntarily expatriate himself.<sup>1</sup> Federal courts require only voluntariness and sometimes intent to uphold the validity of the expatriating act.

##### A. Petitioner's Intent Was Unambiguous

The petitioner alleges that his statement of beliefs, submitted on the same day he signed his oath of renunciation, creates ambiguity whether expatriation occurred. If factually correct, then the intent of the petitioner is open to question.

Whether subjective intent is a prerequisite to expatriation is an unresolved issue. Until the decision of *Asfroyim v. Rusk*, 387 U.S. 258, 87 S.Ct. 1660, 18 L.Ed.2d 757 (1967), the Supreme Court consistently held that objective proof of the voluntary act

are independently self-executing; a citizen satisfying the provisions of one subsection may be expatriated pursuant to that provision.

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## DAVIS v. DISTRICT DIRECTOR, IMMIGRATION, ETC.

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was enough to surrender citizenship.<sup>2</sup> The voluntariness concept espoused in *Afroyim* may be read, however, to encompass an inquiry into subjective intent.<sup>3</sup> Such an inquiry could be determinative of the validity of the expatriating act. For example, it is conceivable that a person may not intend to relinquish United States citizenship yet may objectively perform an expatriating act enumerated in 8 U.S.C. § 1481(a).

A voluntary oath of renunciation is a clear statement of desire to relinquish United States citizenship; therefore, the question of intent would normally not arise under 8 U.S.C. § 1481(a)(5). See 3 C. Gordon & H. Rosenfield, *Immigration Law and Procedure* § 201.10b at 20-62, 73 (1979 ed.) (subjective intent, though perhaps relevant to some methods of expatriation, "irrelevant" to formal renunciation of American citizenship). In the instant case, however, the petitioner has raised the issue of intent by suggesting his statement of beliefs creates ambiguity over whether expatriation occurred. The court would be reluctant to affirm the expatriation of a person who did not intend to relinquish citizenship. We therefore address the question of intent.

[2] Contrary to the petitioner's allegation, the court recognizes no ambiguity in the May 25, 1948 statement of beliefs the petitioner filed with the United States Consul. That statement leaves little doubt that the petitioner sought to relinquish his rights as a United States citizen. According to the petitioner's statement, he could no longer remain "solely loyal" to the United States; instead, "I must extend the little sovereignty I possess, as a member of the world community, to the whole community

The statement of beliefs was devoid of any language recognizing a continued primary allegiance to the United States. Rather, the petitioner renounced his claim of sovereignty to any specific nation. His primary loyalty, according to his own language, belongs to "the world community." The court finds that language renouncing primary loyalty to the United States and affirming primary allegiance to a world community complements, rather than conflicts with, a formal oath of renunciation of citizenship. The statement of beliefs therefore creates no ambiguity: it supplements the petitioner's clear intent to renounce United States citizenship.

#### B. Petitioner's Renunciation Was Voluntary

Voluntariness is uniformly recognized as a requirement toward upholding the validity of an expatriating act. The Supreme Court accordingly has reversed the expatriation of an American involuntarily conscripted into the Japanese Army, *Nishikawa v. Dulles*, 356 U.S. 129, 138, 78 S.Ct. 612, 2 L.Ed.2d 659 (1958), reversed expatriation based solely on a conviction for military desertion absent a voluntary desire to renounce citizenship, *Trop v. Dulles*, 356 U.S. 86, 92-93, 78 S.Ct. 590, 2 L.Ed.2d 630 (1958), and reversed the expatriation of a person who voted in a foreign election but who did not voluntarily relinquish citizenship. *Afroyim v. Rusk*, 387 U.S. 253, 268, 87 S.Ct. 1660, 18 L.Ed.2d 757 (1967). The Court recognized in *Afroyim* "that the only way the citizenship it [Congress] conferred could be lost was by the voluntary renunciation or abandonment by the citizen himself." *Id.* at 266, 87 S.Ct. at 1667.

287 (1950) (voluntariness, despite contrary intent, sufficient to uphold expatriation).

3. See *United States v. Matheson*, 532 F.2d 809, 814 (2d Cir.) (interprets *Afroyim* to require subjective intent), cert. denied, 429 U.S. 823, 97 S.Ct. 75, 50 L.Ed.2d 185 (1976); 42 Op. Atty. Gen. 397 (1969) (*Afroyim* leaves open to individual petitioner whether to raise issue of intent).

2. See, e.g., *Nishikawa v. Dulles*, 356 U.S. 129, 136, 78 S.Ct. 612, 617, 2 L.Ed.2d 659 (1958) ("Unless voluntariness is put in issue, the Government makes its case simply by proving the objective expatriating act."); *Perez v. Brownell*, 356 U.S. 44, 61, 78 S.Ct. 568, 577, 2 L.Ed.2d 603 (1958) ("Congress can attach loss of citizenship only as a consequence of conduct engaged in voluntarily"); *Savorgnan v. United States*, 338 U.S. 491, 502, 70 S.Ct. 292, 94 L.Ed.

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[5, 6] Finally, the court must remain cognizant that statelessness was the intended consequence of the petitioner's May 24, 1948 actions at the United States Embassy.<sup>6</sup> The petitioner's statement of beliefs explicated that rather than remaining solely loyal to one sovereign state, "I would like to consider myself a citizen of the world." In an interview with INS officials on May 13, 1977, the petitioner affirmed that "I have no nationality. I renounced my nationality 1948 in Paris, France . . . I am a World Citizen." The petitioner affirmatively sought his stateless existence. Whatever harshness may attach to statelessness is therefore inapplicable to the instant case.<sup>7</sup>

## II. PETITIONER IS AN ALIEN AND THUS REQUIRES PROPER IMMIGRATION PAPERS TO ENTER AND REMAIN IN THE UNITED STATES

[7] Any person not a United States citizen or national is classified as an alien. 8 U.S.C. § 1101(a)(3); see C. Gordon & H. Rosenfield, 1 *Immigration Law and Procedure* § 2.3d at 2-22 (1979 ed.). The petitioner's voluntary expatriation deprived him of citizenship. He also lacks the status of a United States national.

[8] The Section of the expatriation statute that allowed the petitioner to voluntarily relinquish citizenship, 8 U.S.C. § 1481(a)(5), speaks in terms of "making a formal renunciation of *nationality* before a

6. This finding answers the objection raised in the *Jolley* dissent. Judge Rives dissented there because, *inter alia*, he was unsure whether the petitioner intended statelessness. Herein, statelessness was the calculated result of the petitioner's actions.

7. The petitioner's contention that Article 15 of the Universal Declaration of Human Rights requires the acquisition of another nationality to uphold expatriation is without merit. The Universal Declaration of Human Rights is a United Nations Document. 3 U.N.Doc. a/210 (1948). It is well established that the United Nations Charter does not supersede United States law. See, e. g., *Hitai v. Immigration and Naturalization Service*, 343 F.2d 466, 468 (2d Cir.), cert. denied, 382 U.S. 816, 86 S.Ct. 36, 15 L.Ed.2d 63 (1965); *Vlissidis v. Anadell*, 262 F.2d 398, 400 (7th Cir. 1959).

diplomatic or consular officer . . . " (emphasis added). Moreover, 8 U.S.C. § 1101(a)(22) defines a national as either a citizen or a person who owes permanent allegiance to the United States. The petitioner's expatriation deprives him of citizenship; his oath of renunciation stated that "I . . . abjure all allegiance and fidelity to the United States of America." The petitioner is therefore an alien by virtue of lacking the status of a citizen or national.

An alien must possess a proper entry document upon entering the United States. 8 U.S.C. § 1182(a)(20) provides:

any immigrant who at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter [is excludable].

[9-11] The petitioner's World Service Authority Passport fails to qualify as one of the documents required by 8 U.S.C. § 1182. The Board of Immigration Appeals thus properly found the petitioner excludable. We therefore affirm that ruling and order the dismissal of this habeas petition. Because the petitioner has close relations in the United States who may apply on his behalf for a visa, the petitioner may remain in this country by merely assenting to permanent resident alien status.<sup>8</sup>

The petitioner's argument based on Article 13(2) of the Universal Declaration of Human Rights fails for the same reason.

8. The petitioner raised for the first time at oral argument the theory that the Privileges and Immunities Clause of the Constitution, Article IV, Section 2, allows the petitioner to enter and remain in the United States by virtue of being a citizen of Maine. This argument, though novel, fails to take account of Congressional power to establish nationality laws.

The Privileges and Immunities clause of Article IV, Section 2, serves to prevent one state from discriminating against another state. Article I, Section 8 of the Constitution establishes that "Congress shall have power . . . To establish an uniform Rule of Naturalization." This Constitutional mandate empowers Congress to define "the processes through which

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The court in no way wishes to deprecate the honesty of belief or depth of conviction that the petitioner feels for the cause of world citizenship. This opinion fails to prevent the petitioner or any other person from continuing to work for world peace through the vehicle of world citizenship and world government. Any person who desires to pursue this goal while residing in the United States, however, must obey this nation's immigration and naturalization laws. We therefore only hold that if a person intentionally and voluntarily renounces United States citizenship, then such person must obtain proper visa certification to enter and remain in the United States.



SK&F CO., Plaintiff.

v.

PREMO PHARMACEUTICAL LABORATORIES, INC., Defendant.

Civ. A. No. 79-3434.

United States District Court,  
D. New Jersey.

Dec. 19, 1979.

Drug manufacturer brought action seeking to enjoin defendant manufacturer from distributing allegedly generic equivalent of plaintiff's drug in trade dress which concededly imitated as closely as possible capsule trade dress of plaintiff's drug. The District Court, Biunno, J., held that: (1)

citizenship is acquired or lost," to determine "the criteria by which citizenship is judged," and to fix "the consequences citizenship or noncitizenship entail." L. Tribe, *American Constitutional Law* 277 (1978).

These two constitutional provisions are not in conflict: a state may not discriminate against a citizen of another state, by, for example, restricting travel or access, but Congress

injunction would be granted, where plaintiff established strong case for ultimate success on merits, damage was irreparable, not only as to plaintiff, but as to potentially large class of unidentifiable individual patients using drug in question, balancing of equities between parties favored immediate injunctive relief pending final hearing, and public interest required that if substitutions were allowed by law their trade dress should be as different as possible from that of prescribed brand, so as to provide patient with reasonable basis for informed consent to accept substitute, and (2) injunction would not be stayed pending appeal, where there should not be one patient exposed to risk of being harmed by a generic substitution of which patient was given no fair basis for informed consent, and there was uncontradicted evidence indicating financial inability of defendant to pay damages, not only in instant action but in number of others which were pending in various courts.

Ordered accordingly.

1. Trade Regulation §44

Proposition that no one can obtain a monopoly in a color or combination of colors may be true in a general sense, but it does not follow that composite of a specific trade dress may be copied with impunity merely because one of the features happens to be color.

2. Trade Regulation §413

Trade dress is a complex composite of features, including, among other things, size, color or color combinations, texture, graphics and arrangement, and trade dress is a term reflecting overall general impact, usually visual, but sometimes also tactile, of all these features taken together, and law

has the power to determine the standards by which a person lacking the status of United States citizen shall enter and remain in the United States. Because Congress has determined that an alien must possess a proper document of entry to enter and remain in this country, the petitioner must either obtain a proper visa or be subjected to deportation.

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## DAVIS v. DISTRICT DIRECTOR, IMMIGRATION, ETC.

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Cite as 481 F.Supp. 1178 (1979)

[5, 6] Finally, the court must remain cognizant that statelessness was the intended consequence of the petitioner's May 24, 1948 actions at the United States Embassy.<sup>6</sup> The petitioner's statement of beliefs explicated that rather than remaining solely loyal to one sovereign state, "I would like to consider myself a citizen of the world." In an interview with INS officials on May 13, 1977, the petitioner affirmed that "I have no nationality. I renounced my nationality 1948 in Paris, France . . . I am a World Citizen." The petitioner affirmatively sought his stateless existence. Whatever harshness may attach to statelessness is therefore inapplicable to the instant case.<sup>7</sup>

## II. PETITIONER IS AN ALIEN AND THUS REQUIRES PROPER IMMIGRATION PAPERS TO ENTER AND REMAIN IN THE UNITED STATES

[7] Any person not a United States citizen or national is classified as an alien. 8 U.S.C. § 1101(a)(3); see C. Gordon & H. Rosenfield, 1 *Immigration Law and Procedure* § 2.3d at 2-22 (1979 ed.). The petitioner's voluntary expatriation deprived him of citizenship. He also lacks the status of a United States national.

[8] The Section of the expatriation statute that allowed the petitioner to voluntarily relinquish citizenship, 8 U.S.C. § 1481(a)(5), speaks in terms of "making a formal renunciation of nationality before a

6. This finding answers the objection raised in the *Jolley* dissent. Judge Rives dissented there because, *inter alia*, he was unsure whether the petitioner intended statelessness. Herein, statelessness was the calculated result of the petitioner's actions.

7. The petitioner's contention that Article 15 of the Universal Declaration of Human Rights requires the acquisition of another nationality to uphold expatriation is without merit. The Universal Declaration of Human Rights is a United Nations Document. 3 U.N.Doc. a/810 (1948). It is well established that the United Nations Charter does not supersede United States law. See, e. g., *Hitai v. Immigration and Naturalization Service*, 343 F.2d 466, 468 (2d Cir.), cert. denied, 382 U.S. 816, 86 S.Ct. 36, 15 L.Ed.2d 63 (1965); *Vlissidis v. Anadell*, 262 F.2d 398, 400 (7th Cir. 1959).

diplomatic or consular officer . . ." (emphasis added). Moreover, 8 U.S.C. § 1101(a)(22) defines a national as either a citizen or a person who owes permanent allegiance to the United States. The petitioner's expatriation deprives him of citizenship; his oath of renunciation stated that "I . . . abjure all allegiance and fidelity to the United States of America." The petitioner is therefore an alien by virtue of lacking the status of a citizen or national.

An alien must possess a proper entry document upon entering the United States. 8 U.S.C. § 1182(a)(20) provides:

. . . any immigrant who at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter [is excludable].

[9-11] The petitioner's World Service Authority Passport fails to qualify as one of the documents required by 8 U.S.C. § 1182. The Board of Immigration Appeals thus properly found the petitioner excludable. We therefore affirm that ruling and order the dismissal of this habeas petition. Because the petitioner has close relations in the United States who may apply on his behalf for a visa, the petitioner may remain in this country by merely assenting to permanent resident alien status.<sup>8</sup>

The petitioner's argument based on Article 13(2) of the Universal Declaration of Human Rights fails for the same reason.

8. The petitioner raised for the first time at oral argument the theory that the Privileges and Immunities Clause of the Constitution, Article IV, Section 2, allows the petitioner to enter and remain in the United States by virtue of being a citizen of Maine. This argument, though novel, fails to take account of Congressional power to establish nationality laws.

The Privileges and Immunities clause of Article IV, Section 2, serves to prevent one state from discriminating against another state. Article I, Section 8 of the Constitution establishes that "Congress shall have power . . . To establish a uniform Rule of Naturalization." This Constitutional mandate empowers Congress to define "the processes through which



## United States Department of State

Washington, D.C. 20520

February 13, 1996

Jose Rodriguez-Suarez  
Deputy Secretary for External Affairs  
Government of Puerto Rico  
P.O. Box 3274  
San Juan, Puerto Rico 00902-3274

Dear Mr. Rodriguez-Suarez:

This correspondence is a response to your letter of December 7, 1995. In that letter you asked that our office determine the citizenship status of Mr. Juan Mari Bras. Mr. Bras formally renounced his U.S. nationality on July 11, 1994, under Section 349(a)(5) of the Immigration and Nationality Act (INA). On November 22, 1995, a certificate of loss of nationality was approved in his name under Section 358 of the INA.

Due to the above renunciation, Mr. Mari Bras is not a U.S. citizen. Moreover, Mr. Mari Bras cannot assert that he is a citizen of an individual state, territory or commonwealth of the United States. In Davis v. INS., 481 F. Supp. 1178 (1979), it was held that a U.S. citizen who had renounced his U.S. nationality was not entitled to enter the U.S. as a citizen of his former state.

The Foraker Act, which is quoted by Mr. Mari Bras, deemed that "all inhabitants of Puerto Rico who had not declared allegiance to Spain were citizens of Puerto Rico and entitled to the protection of the United States." The Jones Act of 1917 extended U.S. nationality to inhabitants of Puerto Rico. The citizenship provisions of the Foraker Act and the Jones Act were superceded by Section 202 of the Nationality Act of 1940. The citizenship of Puerto Rico provisions of the Foraker Act have no legal effect today.

Mr. Bras is an attorney and was clearly aware of the above facts. Moreover, when he renounced his U.S. citizenship, he knew, having signed a Statement of Understanding, that if he did not possess another nationality or could shortly acquire one, that he would be rendered stateless.

-2-

If you have further questions, please do not hesitate to contact me at (202) 647-3666.

Sincerely yours,



Carmen A. DiPlacido

Director

Office of Policy Review  
and Interagency Liaison

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U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Elton Gallegly  
Chairman, Subcommittee on Native American  
and Insular Affairs  
Committee on Resources  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your recent letter to Attorney General Janet Reno regarding the renunciation of nationality by residents of Puerto Rico.

In your letter, you correctly stated that residents of Puerto Rico who validly renounce their nationality under 8 U.S.C. 1481(a)(5) become aliens within the meaning of the Immigration and Naturalization Act. However, as the oath of renunciation indicates, this act requires that the renunciant "absolutely and entirely renounce [his or her] United States nationality together with all rights and privileges and all duties of allegiance and fidelity thereunto pertaining." 7 For. Aff. Manual Exhibit 1253E. Thus, it is an integral element of the renunciation of United States nationality that the renunciant absolutely and entirely forswears allegiance to the United States. We believe that it is extremely unlikely that a person who intends to return to any area under the sovereignty of the United States and to continue residence there complies with that requirement.

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Even an alien resident owes allegiance to the United States, at least for the time of his residence. Carlisle v. United States, 83 U.S. 147, 154-155 (1873); United States v. Wong Kim Ark, 169 U.S. 649, 693-694 (1898). Thus, the intent to continue residing in Puerto Rico is inconsistent with the renunciation of allegiance that is crucial to renunciation of nationality. Therefore, the Department of Justice considers a renunciation made under these circumstances ineffective.<sup>1</sup>

<sup>1</sup> The same result would follow if we agreed arguendo with the point made, according to newspaper reports, by at least one of the renunciants that he when he renounced his United States nationality, retained Puerto Rican citizenship under section 7 of the Foraker Act, 48 U.S.C. 733. It is well established that a person who held Puerto Rican citizenship under the Foraker Act was entitled to the protection of the United States and owed

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We are aware of some cases in which the Department of State has issued certificates of loss of nationality to United States citizens residing in Puerto Rico, who purported to renounce their United States citizenship while intending to assume Puerto Rican citizenship and permanently reside in Puerto Rico. Under the 1994 amendment to 8 U.S.C. 1501, this certificate constitutes "a final administrative determination of loss of United States citizenship." We are working with the Department of State to ensure that certificates are issued in accordance with the law. We would be happy to brief you and your staff on our efforts in this regard.

You expressed concern that residents of Puerto Rico may be misinformed about the legal ramifications of relinquishing their United States nationality. Because of its role in the process for renouncing citizenship, the State Department is better able than the Justice Department to explain the current process by which individuals are informed of the ramifications of the renunciation process. Therefore, we have forwarded your letter to the Department of State.

You have requested copies of communications between the Justice Department and the Government of Puerto Rico regarding cases of renunciation of nationality by residents of Puerto Rico. We are enclosing copies of two pertinent opinions of the Attorney General of Puerto Rico which he sent to this Department. In addition, our records reflect a recently received inquiry involving such a case. We are preparing a response and we will forward a copy of that response to your office.

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allegiance to it. Gonzales v. Williams, 192 U.S. 1, 5, 10, 12 (1904), 24 Op. A.G. 40, 42 (1902). Hence, a claim of citizenship under the Foraker Act implies entitlement to the privilege of protection by the United States and the duty of allegiance to it, both of which are inconsistent with the oath of renunciation. We make this point only in order to determine the renunciant's state of mind. We agree with the Opinion of the Attorney General of Puerto Rico to the Governor of Puerto Rico, dated January 2, 1996, a copy of which is attached, that section 5 of the Jones Act, which conferred United States citizenship on the residents of Puerto Rico, superseded section 7 of the Foraker Act. In view of the inconsistency between these two sections, section 7 of the Foraker Act has been repealed by operation of section 58 of the Jones Act.

If you have questions regarding this or any other matter,  
please do not hesitate to contact this office.

Sincerely,

Andrew Fois  
Assistant Attorney General

*Sam T.?*

Enclosure

cc: Deputy Assistant Secretary for Visa Services,  
Department of State

COMMONWEALTH OF PUERTO RICO  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE

PEDRO R. PIERLUISI  
ATTORNEY GENERAL

January 17, 1996

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32

PHONE (809) 721-7700  
FAX: (809) 724-6770

Ms. Theresa Roseborough  
Deputy Assistant Attorney General  
Department of Justice  
10<sup>th</sup> St. & Constitutional Ave. NW  
Washington, DC 20530

Dear Ms. Roseborough:

Enclosed is a copy of my opinion of January 2, 1996, concerning the renunciation of U.S. citizenship by Juan Mari Bras. I thought you might be interested in this issue because it relates to Puerto Rico's political and juridical status.

The basic factual scenario is as follows: On July 11, 1994, Mr. Mari Bras executed an Oath of Renunciation of Nationality at the U.S. Embassy in Caracas, Venezuela and the Ambassador issued the corresponding Certificate of Loss of Nationality. On November 22, 1995, the Office of Consular Affairs of the U.S. Department of State approved the Certificate and notified Mr. Mari Bras of its decision. On December 4, 1995, Mr. Mari Bras--a lifelong advocate of independence for Puerto Rico--held a press conference to announce that the U.S. State Department had approved his renunciation of U.S. citizenship and that he intended to request the issuance of a certificate of Puerto Rican citizenship from the State Department of Puerto Rico. Mr. Mari Bras was born and has resided in Mayaguez, Puerto Rico for most of his life.

In the opinion, I reach the following conclusions:

1. Sections 5 and 5(a) of the Jones Act (Organic Act of March 2, 1917) and Article 302 of the Immigration and Nationality Act (8 U.S.C. sec. 1402) are directly applicable to this matter. They essentially supplanted Section 7 of the Foraker Act (Organic Act of 1900), which provided that all inhabitants of Puerto Rico be deemed citizens of Puerto Rico and as such be entitled to the protection of the United States.
2. Section 5 of the Jones Act provided that all citizens of Puerto Rico, as defined by Section 7 of the Foraker Act, shall be citizens of the United States, but also allowed all those wishing to retain their political status of citizens of Puerto Rico

Ms. Teres Roseborough  
January 17, 1996  
Page 2

to do so by making a declaration under oath to that effect within six months. Section 5(a) of the Act provided that all citizens of the United States who reside in the island for one year shall be citizens of Puerto Rico.

3. Article 302 of the Immigration and Nationality Act declared all persons born in Puerto Rico on or after April 11, 1899, and residing in the island on January 13, 1941, citizens of the United States. It also provided that all persons born in Puerto Rico on or after January 13, 1941, are citizens of the United States at birth.
4. Puerto Rican citizenship is analogous to the state citizenship of the residents of the States of the Union, since it is based on domicile. In accordance with international law, Puerto Rican citizenship is not analogous to the citizenship of nationals of sovereign states because Puerto Rico is subject to the sovereignty of the United States.
5. As a result of his renunciation of U.S. citizenship, Mr. Mari Bras may be treated as an alien by the U.S. Government. The U.S. Immigration and Naturalization Service may determine whether Mr. Mari Bras needs a visa to continue residing in Puerto Rico.
6. The State Department of Puerto Rico is not authorized by its organic law to issue certificates of citizenship, residency or domicile.

Please feel free to call me if you wish to discuss this matter further.

Sincerely,



Pedro R. Pierluisi

Enclosures

## TRANSLATION FROM SPANISH

The Commonwealth of Puerto Rico  
Department of Justice  
"Apartado 192  
San Juan, Puerto Rico 00902"

Address (All) Correspondence  
to the Secretary

January 2, 1996

Hon. Pedro Rossello  
Governor  
"La Fortaleza" ("The Fortress")  
San Juan, Puerto Rico

Consultation No. 110-95-B

Dear Mr. Governor:

I am writing with regards to your consultation concerning Attorney Juan Mari Bras' legal condition, he having formally renounced his American citizenship at the United States Embassy in Caracas, Venezuela. The Department of State of the federal government accepted this renunciation and issued a certificate of the loss of citizenship. Mr. Mari Bras has stated that he intends to ask the Department of State of the government of Puerto Rico to issue him a certificate of Puerto Rican citizenship. We have made a study of this matter and must note that we have not been able to find any precedent for the aforementioned situation.

The renunciation in question was done in accordance with Article 349 of the federal law of June 27, 1952, as amended, which is known as the Immigration and Nationality Act, 8 U.S.C. sec. 1481 (Supl. 1995), and which states the following in its pertinent part:

"(a) A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality: ...

(5) making a formal renunciation of nationality

before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State."

Puerto Ricans were Spanish subjects until April 11, 1899, the date on which the Treaty of Paris, or Treaty of Peace, became effective, putting an end to the Spanish-American War between the United States and Spain. Article IX of this Treaty stated that "the civil rights and political condition of the natural inhabitants of the territories here ceded to the United States will be determined by Congress."

After the change in sovereignty, Puerto Rico remained under a military government until a civil government was established through the federal law of April 12, 1900, which is known as the Organic Law of 1900 or the Foraker Act. Article 7 of this statute noted that Puerto Ricans would be citizens of Puerto Rico.

In the case of Gonzalez vs. Williams, 192 U.S. 1 (1904), the Supreme Court ruled that in accordance with the Foraker Act, the citizens of Puerto Rico, though not citizens of the United States, were also not aliens for the purposes of the Immigration Law of 1891, which was then in force.

Article 10 of the Political Code of 1902, 1 L.P.R.A., sec. 7, stated that (the following persons) would be citizens of Puerto Rico: (a) any person born in Puerto Rico and subject to its jurisdiction; (b) any person born outside Puerto Rico who was a citizen of the United States and lived on the island; and (c) any person who was a Spanish subject, was living in Puerto Rico on April 11, 1899, and had not opted to maintain his fidelity to the Spanish crown in the year following this date, in accordance with the Treaty of Paris.

The federal law of March 2, 1917, which was known as the Organic Act of 1917 or the Jones Act, stated in its Article 5 that all the citizens of Puerto Rico as defined in Section 7 of the Foraker Act would be citizens of the United States, but that those who did not wish this citizenship could sign a sworn statement to this effect at the District Court in the six months after the date on which this statute came in force.

Furthermore Article 5a of the Jones Act, as added to by the Federal Law of March 4, 1927, stated that all citizens of the United States who had lived on the island for a year would be citizens of Puerto Rico.

Article 58 of the Jones Act established in turn that all the laws or parts of the laws applicable to Puerto Rico which did not contradict this statute, including the provisions on tariffs, customs and import duties of the Foraker Act, would

continue to be in force, and all the laws or parts of laws incompatible with this statute would be revoked.

Articles 5, 5a and 58 of the Jones Act, which were previously mentioned, continue to be in force as part of the Federal Relations Act, in accordance with Federal Law No. 600 of July 3, 1950, which authorized the People of Puerto Rico to organize a government based on a constitution it adopted itself.

Furthermore, Article 302 of the federal law of June 27, 1952, the Immigration and Nationality Act, 8 U.S.C., sec. 1402, states as follows:

"Any person who was born in Puerto Rico on or after April 11, 1899, and before January 13, 1941, who is subject to the jurisdiction of the United States and who resides in Puerto Rico on January 13, 1941, or in any other territory under the rule of the United States, and who is not a citizen of the United States under any other law, is through the present (law) declared a citizen of the United States as of January 13, 1941. Any person who is born in Puerto Rico on or after January 13, 1941, and who is subject to the jurisdiction of the United States, is a citizen of the United States at birth."

One should point out that the only mention of citizenship in the Constitution of the United States is in Amendment XIV, Section 1, which establishes in its pertinent part that "any person born or naturalized in the United States and subject to its jurisdiction will be a citizen of the United States and of the state in which he resides."

One should note that the Jones Act in its Article 5 stated that all the citizens of Puerto Rico would be citizens of the United States, and also stated in its Article 5a that all the citizens of the United States who had lived on the island for a year would be citizens of Puerto Rico.

In the case of Lopez vs. Fernandez, 61 D.P.R. 522, 533 (1943), the Supreme Court established a difference in the concept of Puerto Rican citizenship between the Foraker Act and the Jones Act, noting that the first established a general political status, while the second one restricted this political status to residency in Puerto Rico: "in other words, the Jones Act established the dual citizenship which all the citizens of the United States had in the states; a national one and one in the state in which they reside."

In the case of Buscaglia, Treasurer, vs. The Tax Court, 68 D.P.R. 345, 349 (1928), the Supreme Court ruled that the residency on the island for a year, which would make a citizen of the United States a citizen of Puerto Rico, was equivalent to a

domicile. See furthermore, Fiddler vs. The Secretary of the Treasury, 85 D.P.R. 316, 324 (1962). Article 11 of the Political Code of 1902, as amended, 1 L.P.R.A. sec. 8, establishes the norms applicable to determine a person's domicile.

As noted by the Supreme Court in its case of Martinez vs. the Widow of Martinez, 88 D.P.R. 443, 452 (1963), the citizens of a federation have federal citizenship for international purposes and state citizenship for domestic purposes related to juridical areas where there is no federal legislation applicable.

Nevertheless, in the case of Grosse vs. Board of Supervisors of Elections, 221 A. 2d 431, 433 (MD, 1966), the Court ruled that a person did not have to be a citizen of the United States to be a citizen of a state with regards to its internal matters in which there is no federal jurisdiction.

Now in the case of Davis vs. District Director: Immigration and Naturalization Service, 481F. Supp. 1178 (DC, 1979), a U.S. citizen renounced his citizenship at the US Embassy in Paris, France (in accordance with the same legal provision used by Mr. Mari Bras), but did not adopt any other citizenship, because he wanted to be a "citizen of the world." He then tried to enter the United States with a passport issued by a private entity which advocated "world citizenship," but the Immigration and Naturalization Service denied his entrance because he did not have a valid visa. The Court maintained this decision and formulated the following conclusions:

(a) Any citizen of the United States has a right to voluntarily renounce his citizenship, along with all the rights and obligations which it entails.

(b) Renunciation of US citizenship does not require the adoption of any other citizenship. This was recognized by the Supreme Court in Afroyim vs. Rusk, 387 U.S. 253, 268 (1967); also see Jolley vs. Immigration and Naturalization Service, 441 F. 2d 1245 (5th Cir., 1971).

(c) A citizen of the United States who renounces his citizenship becomes an alien for all the legal effects of the government of the United States.

(d) A passport issued by a private entity is not a valid document allowing an alien to enter and stay in the United States.

(e) Such a person must have a visa which gives him permanent resident alien status so that he can enter and stay in the United States.

(f) The argument of the plaintiff to the effect that he could enter and remain in the United States as a citizen of the state of Maine, though novel, cannot prevail over the authority of the Congress to establish a uniform statute on nationality and to require the appropriate documents to enter and stay in the country.

One should note that in accordance with Article 101, clause (36) and (38) of the Federal Law of June 27, 1952, Immigration and Nationality Act, 8 U.S.C., sec. 1101 (36) and (38) (Supl. Ac. 1995), the terms "state" and "United States" include Puerto Rico as they are used in this statute. This law therefore governs the situation which is the subject of this consultation.

The possible argument that the Universal Declaration of Human Rights requires that if you renounce one citizenship you must acquire another is not valid. This Declaration is a document of the Organization of the United Nations and as such cannot prevail over the laws of the United States. See Davis, which was mentioned previously, page 1183; Hital vs. Immigration and Naturalization Service, 343 F. 2d 466, 468 (2d Cir., 1965), denied certiorari, 382 U.S. 816 (1965); Vlissidis vs. Anadell, 262 F. 2d 398, 400 (7th Cir., 1959).

Taking into consideration everything expressed above, one must reach the following conclusions:

(a) Articles 5 and 5a of the Jones Act, which continues in force as part of the Federal Relations Act, and Article 302 of the Federal Law of June 27, 1952, Immigration and Nationality Act, took the place of Article 7 of the Foraker Act.

(b) Puerto Rican citizenship is analogous to state citizenship of the federated states, and is based on residence, but is not analogous to the national citizenship of sovereign states, in accordance with interational law, since Puerto Rico is subject to the sovereignty of the United States.

(c) Renunciation of US citizenship by Mr. Mari Bras made him an alien for all the legal effects of the government of the United States.

(d) The Immigration and Naturalization Service is to determine whether Mr. Mari Bras needs a visa which would give him permanent resident alien status in Puerto Rico.

(e) The legal provisions dealing with the powers and authority of the Department of State do not indicate that it is able to issue certificates of citizenship, residency or domicile. See 3 L.P.R.A., secs. 51 to 66.

(f) Mr. Mari Bras would be able to continue to practice law, since Article 1 of Law Number 17 of June 10, 1939, as amended, 4 L.P.R.A., sec. 721, establishes the requirements for the practice of law in Puerto Rico and does not include that of being a citizen of the United States since 1975. The Supreme Court has also ruled that it is unconstitutional to require citizenship in the United States as a requirement for the practice of law. See In Re Griffiths, 413 US 717 (1973).

(g) Mr. Mari Bras would not be permitted to vote, since Article 2.003 of Law Number 4 of December 20, 1977, as amended, which is known as the Electoral Law of Puerto Rico, 16 L.P.R.A. sec. 3053, establishes the requirements for voting and includes that of being a citizen of the United States. See furthermore with regards to this denial, Articles 2.023, 2.023-A and 5.031 of this statute, 16 L.P.R.A. secs. 3073, 3073a and 3234.

(h) Mr. Mari Bras would be able to continue to enjoy his rights to due process of the law and equal protection under the law, which is guaranteed by Amendment XIV, section 1, of the Constitution of the United States, and Article II, Section 7, of the Constitution of Puerto Rico, since those rights apply both to those who are citizens as to those who are not citizens and reside in Puerto Rico. See De Paz Lisk vs. Aponte Roque, 124 D.P.R. 472, 479 (1989).

I hope that the aforementioned observations might be of use.

Cordially,  
(signature)  
Pedro R. Pierluisi  
Secretary of Justice

Commonwealth of Puerto Rico  
Department of Justice  
"Apartado 192  
San Juan, Puerto Rico 00902"

Address (All) Correspondence  
to the Secretary

January 16, 1996

Hon. Pedro Rossello  
Governor  
"La Fortaleza" ("The Fortress")  
San Juan, Puerto Rico

Consultation Number 110-95-B

Dear Mr. Governor:

The purpose of this communication is to provide a little more information on one of the indications which I made in the opinion of January 2, 1996, dealing with the renunciation of US citizenship by Attorney Juan Mari Bras. My attention was drawn by the fact that the press recently mentioned some statements by the Hon. Roberto Rexach Benitez, the President of the Senate, to the effect that to be able to renounce one's citizenship in the United States one had to acquire the citizenship of another nation. I understand that this statement is contrary to what is established by the jurisprudence of the United States and by federal law itself.

In the case of Afroyim vs. Rusk, 387 US 253, 268 (1967), the Supreme Court ruled that a provision of the Nationality Law of 1940 was unconstitutional, according to which a citizen of the United States who participated in elections in a foreign country would lose his citizenship, even if he did so against his will. The Court noted that a citizen could voluntarily renounce his citizenship and furthermore stated the following: "In some instances, loss of citizenship can mean that a man is left without the protection of citizenship in any country in the world - as a man without a country."

In the case of Jolley vs. Immigration and Naturalization Service, 441 F. 2d 1245, 1257 (5th Cir., 1971), the Federal Court of Appeals for the Fifth Circuit ruled that a

citizen of the United States who had gone to Canada to avoid compulsory military service and had voluntarily renounced his citizenship there had become an alien and could not enter the country without a visa, though he had not acquired other citizenship.

In the case of Davis vs. District Director, Immigration and Naturalization Service, 481 F. Supp. 1178, 1182 (DC, 1979), the Federal Court for the District of Columbia also ruled that a citizen of the United States who had voluntarily renounced his citizenship in France had become an alien and could not enter the country without a visa, though he had acquired another citizenship. The Court mentioned the Afroyin and Jolley cases, which were previously mentioned, to maintain its conclusion that renunciation of US citizenship does not require the acquisition of citizenship of another nation. *not*

One should note that Article 349 of the Immigration and Nationality Act, 8 U.S.C. sec. 1481 (Supl. Ac. 1995) establishes, in summary, that a citizen of the United States will lose his citizenship if he voluntarily carries out any of the following acts:

- (1) obtain the citizenship of a foreign nation;
- (2) Make a sworn statement or other formal statement of fidelity or loyalty to a foreign nation;
- (3) serve in the armed forces of a foreign nation;
- (4) work as an employee of the government of a foreign nation if one has acquired citizenship in that country or if one has made a sworn statement or declaration of fidelity to it;
- (5) formally renounce his citizenship in front of a diplomatic official of the United States in a foreign nation;
- (6) formally renounce his citizenship in the United States when there is a state of war and the Attorney General approves it, or
- (7) be convicted by a court of treason or armed insurrection against the government of the United States.

Clearly arising from the aforementioned precept is the fact that the acquisition of citizenship in a foreign nation in sentence (1) and the renunciation of US citizenship in sentence (5), are distinct acts which are separate and independent from each other and which could lead to the loss of US citizenship. The Court acknowledged this in the aforementioned Davis case, on page 1182, "(b)y creating two separate categories - one for the acquisition of a foreign nationality and one for the renunciation of United States nationality - Congress could only have intended

that each statutory section represents a separate method of expatriation."

One should note, finally, that our analysis of the renunciation of US citizenship by Mr. Mari Bras has been limited strictly to the legal point of view. Furthermore, as we noted in our opinion of January 2nd on page 5, it is the Immigration and Naturalization Service, as the federal agency which is in charge of the establishment of the aforementioned Immigration and Nationality Act, which has to express the administrative and operational point of view with regards to Mr. Mari Bras' present situation.

We hope that these observations will be useful.

Cordially,  
(signature)  
Pedro R. Pierluisi  
Secretary of Justice

X96-075027

**THE HUNDRED FOURTH CONGRESS**  
**JOHN YOUNG, ALASKA, CHAIRMAN**  
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**U.S. House of Representatives**  
**Committee on Resources**  
 Washington, DC 20515

February 21, 1996

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DANIEL VAL KISH  
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 CHIEF COUNSEL  
 JOHN LAWRENCE  
 DEMOCRATIC STAFF DIRECTOR

The Honorable Janet Reno  
 Attorney General  
 Department of Justice  
 10th & Constitution Avenue, NW  
 Washington, D.C. 20530

Dear Attorney General Reno:

I am writing to alert you to the importance of even-handed, carefully managed and non-discriminatory disposition of cases in which residents of Puerto Rico whose U.S. citizenship arises from 8 U.S.C. 1402 relinquish their nationality and citizenship pursuant to 8 U.S.C. 1481(a)(5). It is imperative that the Federal response in any individual case of this type not create unwarranted legal or political ambiguities which could erode the citizenship rights of the millions of loyal and patriotic U.S. citizens who reside in Puerto Rico.

My concern arises from at least one, and possibly up to three, recent cases in which residents of Puerto Rico with U.S. citizen status under 8 U.S.C. 1402 apparently have taken the actions required under the Immigration and Nationality Act to relinquish their U.S. nationality and citizenship, only to claim that the local residency status of "citizen of Puerto Rico" is actually a separate form of Puerto Rican nationality and alternative citizenship status. While these individuals have the right to give up U.S. nationality and citizenship even if they are wrong about the existence of a substitute Puerto Rican nationality, it is my understanding that without first acquiring another recognized nationality such persons become stateless aliens for purposes of Federal immigration laws. There also may be adverse effects under local law in the Puerto Rico, possibly including loss or impairment of voting rights and other civil rights and privileges based legally on U.S. citizenship.

I am very concerned that failure by Federal officials to apply the governing law and regulations in these cases in a coherent and appropriate manner could give the false appearance of legitimacy to the misinformation which is being disseminated in the territory regarding the legal consequences of renunciation of U.S. citizenship by residents of Puerto Rico. While compassion for individuals involved due to the severe hardship which could result may be appropriate in some cases based on criteria set forth in applicable law and regulations, it would seem that there also is a significant U.S. interest in preventing the

public from being intentionally misled. In addition, allowing any person to abuse or make a mockery of U.S. nationality laws would be unfair to all the U.S. citizens in Puerto Rico who, along with their fellow citizens in the states, cherish U.S. citizenship and have always shown themselves ready to serve and defend our nation when called upon. Finally, confusion about the status of U.S. citizens in Puerto Rico could be prejudicial to their ability in the states and Puerto Rico to enjoy the rights and privileges of U. S. citizenship.

It is my understanding that U.S. citizens have the right to relinquish their nationality and citizenship under 8 U.S.C. 1481(a)(5), and that on average over 300 U.S. citizens exercise this right each year through routine procedures prescribed by the Secretary of State. While individuals renouncing allegiance to this nation may have motives ranging from acquisition of a foreign nationality to highly subjective personal or ideological objectives, it also is my understanding that certification of loss of citizenship by the State Department is based upon compliance with a simple procedure for administering the oath of renunciation.

Thus, rather than passing judgment on the motives of the person who is renouncing, the State Department makes its determination upon finding that the renunciation was voluntary. This means that certification of the loss of citizenship by the recent expatriates from Puerto Rico was not based upon acceptance by the Department of State of their claim of a separate nationality and citizenship of Puerto Rico.

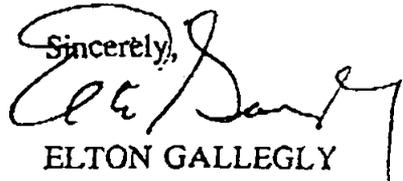
In this regard, I have been advised that from 1900 to 1917 the status of "citizens of Puerto Rico" had been created by the U.S. Congress under Section 7 of the Foraker Act through an exercise of the authority of Congress under Article IV, Section 2, Clause 3 of the U.S. Constitution. This was to implement Article LX of the Treaty of Paris, under which Congress was authorized to provide for the civil and citizenship rights of those inhabitants of Puerto Rico who had come under U.S. nationality and who had no foreign nationality (See Gonzales v. Williams, 192 U.S.1 (1904)). When U.S. citizenship was extended under Section 5 of the Jones Act in 1917, only those who declined U.S. citizenship status within six months of the effective date of that Act could retain the protected status of "citizens of Puerto Rico," but even the small number of people who exercised that option remained under U.S. nationality.

When Congress approved Section 202 of the Nationality Act of 1940, followed by Section 302 of the Immigration and Nationality Act of 1952, codified at 8 U.S.C. 1402, the status of inhabitants of Puerto Rico became part of Federal immigration and nationality law. One of the legal rights recognized for U.S. citizens born in Puerto Rico under the Immigration and Nationality Act is that of expatriation in accordance with 8 U.S.C. 1481 (a)(5), under which U.S. nationality, as well as all forms of citizenship derived from U.S. nationality, can be relinquished.

If the preceding legal analysis is correct, then it would appear that those from Puerto Rico who renounce U.S. nationality under 8 U.S.C. 1481 (a)(5) also relinquish all citizenship status and rights under any of the citizenship measures referred to above. This is the context in which serious immigration policy and compliance issues arise. Consequently, I would like to be informed as soon as possible about any actions or steps which may be necessary or

appropriate in cases where former U.S. citizens who have become aliens remain in Puerto Rico. Also, at the earliest possible time I would like to receive copies of any communications received from or transmitted to the government of Puerto Rico regarding these issues.

Thank you for your attention to this matter.

Sincerely,  


ELTON GALLEGLY  
Chairman  
Subcommittee on Native American  
& Insular Affairs

EG:mm:mah

## LOCAL NEWS

# Reno fields questions about status, citizenship

## Attorney general helps inaugurate tutorial program

By JULIO GHIGLIOTTY  
Of The STAR Staff

Attorney General Janet Reno got a taste of the Puerto Rican political melstrom Friday, as she fielded questions about status and citizenship during the inauguration of a tutorial program for low income students in Puerto Nuevo.

Reno, who lauded the program established by the municipal government under Mayor Héctor Luis Acevedo, seemed taken aback when asked to comment about the renunciation of U.S. citizenship by several Puerto Rican independence advocates.

"I understand that the State Department is considering that issue now, and we're willing to hear from them," she responded.

She gave the same answer when asked about the case of Juan Mari Bras, the pro-independence leader who renounced his U.S. citizenship in July 1994. The State Department issued him a certificate of loss of nationality in November 1995.

A State Department official said then that the Immigration and Naturalization Service had to decide whether Mari Bras would be allowed to remain in Puerto Rico without being a citizen or acquiring an alien resident status.

Mari Bras has argued that he cannot be deported from the land where he was born and lived all his life, claiming his status is Puerto Rican citizen.

The INS has said that the Mari Bras case is unique but has not issued an official ruling.

Reno, however, said, "My understanding is that the INS



STAR photo by Javier Freytes

is waiting to hear from the State Department on that." On the issue of Puerto Rico's status, the Attorney General pointed out that President Clinton has said that he will support whatever decision the Puerto Rican people make on its future relationship with the United States.

Reno answered these questions at the inauguration of the Mi Maestro Amigo (My Teacher Friend) Study and

High Technology Hall by Acevedo in what used to be the Puerto Nuevo Multiple Services Center.

The project is an extension of the student aid facilities established on the grounds of the Roberto Clemente-Hiram Bithorn Sports Complex in Hato Rey and will offer students from elementary to high school grades free tutorial services.

Please see RENO, Page 12

# Speaker bids tearful farewell to her mother

The Associated Press

Orocovis and resided in Morovis, died while interned at the Meunonite Hospital

ly thanked those who helped Torres de Hernández during the years she was ill

"I could not please you," she reported

## LOCAL NEWS

# Congressional report concludes Mari Bras could be 'stateless'

## Study questions if P.R. passport could hold validity

By JULIO GHIGLIOTTY  
Of The STAR Staff

Independence activist Juan Mari Bras, who renounced his U.S. citizenship and has demanded to be recognized as a citizen of Puerto Rico, could be declared "stateless" by the U.S. government, according to a congressional study released Friday.

However, the report issued by the Congressional Research Service makes it clear its conclusion is based on a U.S. District Court ruling that could be challenged before the U.S. Supreme Court.

"If the courts do not recognize an independent Puerto Rican citizenship, a Puerto Rican resident who renounces U.S. citizenship would be stateless," states the CRS study, a copy of which was obtained by the STAR.

Mari Bras could not be reached for comment.

The study on the nature of U.S. citizenship was made at the request of Rep. Nydia Velázquez, D-N.Y., but was made public by the Puerto Rico Federal Affairs Administration.

"The salient issue is whether U.S. law has ever recognized Puerto Rico as a foreign sovereign nation with its own nationals, either at the time of the Foraker Act or afterwards," wrote Margaret Mikyung Lee, legislative attorney of the CRS, in the copy of the study sent to Resident Commissioner Carlos Romero Barceló and faxed to the STAR.

"As discussed above, it appears that the United States, while recognizing and establishing a degree of self-governance,

has not regarded Puerto Rico as a foreign sovereign with the ability to confer a nationality distinct from the U.S. nationality," the study said.

The report cites the 1979 case of Davis vs. District Director INS [U.S. Immigration and Naturalization Service], in which a man renounced his U.S. citizenship and declared himself a "citizen of the world."

According to the study, the case "indicates a likely posture of the courts on the issue of immigration and nationality status of a Puerto Rican resident who renounces U.S. citizenship, if such a case were to come before them."

Davis tried to enter the United States using a passport issued by the "World Service Authority," which promotes world citizenship, but was stopped by INS officials and prevented from entering the country.

The court ruled that his "intentional and voluntary renunciation of his citizenship . . . did not require allegiance to another nation," the study said, adding that he was an alien and that the passport he carried "was not a proper entry document."

Another point made in the study is that Davis claimed that he should be allowed to enter the United States as a citizen of the state of Maine. But, the court ruled Davis' "alleged citizenship" did not entitle him to enter or remain in the United States.

"A court could similarly rule in the case of a Puerto Rican resident that a Puerto Rican passport issued by a non-governmental organization, is not a valid entry document and that he or she is an alien by virtue of the renunciation of U.S. citizenship," the study said.

"It might reasonably conclude, based on the legislative history of U.S. citizenship for Puerto Ricans and on the U.S.

Please see CITIZENSHIP, Page 9

From Page 4

## Citizenship

position on the political status of Puerto Rico, that there is no independent citizenship and nationality of Puerto Rico that can be elected by a Puerto Rican resident, and that a citizenship of Puerto Rico has no greater effect than a citizenship of Maine."

One of Mari Bras' arguments for insisting on the existence of a Puerto Rican citizenship is that it was recognized under the Foraker Act of 1900 and that that section was never repealed after U.S. citizenship was extended to Puerto Rico by the Jones Act of 1917.

The study argues against this position, indicating that "the legislative history of the Foraker Act indicates that the intention of Congress was not to establish a citizenship or nationality of Puerto Rico in the international sense."

In fact, the original version of the Foraker Act included extending U.S. citizenship to Puerto Rico, but it was eliminated for two reasons: "the fear of setting a precedent for treatment

of the Filipinos and the reluctance of 'anti-imperialists' to incorporate Puerto Rico into the United States immediately."

The overriding reason, the study states, seemed to be fear that extending citizenship to Puerto Rico would lead the Philippines to believe that the United States did not intend to grant them independence.

"Congress apparently never intended to grant nor thought that the Puerto Ricans desired Puerto Rican independence," according to the study. But there was a division in Congress between those who believed the United States should expand beyond its borders — "imperialists" — and those who believed it should not — "anti-imperialists," the report said.

"Although even the 'imperialists' did not necessarily envision statehood for Puerto Rico, they believed a permanent association with Puerto Rico was desirable and that U.S. citizenship ought to be extended to inhabitants of a permanent possession and dependency of the United States."

Meanwhile, the "anti-imperialists" — who prevailed in the Foraker Act debate — opposed granting U.S. citi-

zenship to Puerto Rico for fear that it "would convey the message that eventual incorporation and statehood was intended for Puerto Rico," the study concluded.

"Thus, it appears that Puerto Ricans were declared to be citizens of Puerto Rico by default because of the temporary (if ultimately extended) failure to convince opponents that such citizenship did not imply similar treatment for the Philippines nor full statehood for Puerto Rico in the near future, and not because of any intended independence for Puerto Rico or affirmative creation or recognition of a Puerto Rican citizenship or nationality in the international sense," the report said.

## LOCAL NEWS

# J.S. certifies Mari Bras' loss of nationality

## Vays sought to equest certificate of P.R. citizenship

by JULIO GHIGLIOTTY  
The STAR Staff

The U.S. Department of State has sued independence leader Juan Mari Bras a "certificate of loss of nationality," almost 17 months after he renounced his U.S. citizenship in Venezuela.

In the wake of the State Department's action, Mari Bras said Monday he and the resident of the Bar Association, Harry Anduze, are studying "the best way of equesting" that a certificate of Puerto Rican citizenship be issued by the Puerto Rican State Department.

The certificate of loss of nationality was mailed to Mari Bras on Nov. 22, said Susanne Lawrence, spokeswoman for the State Department's Bureau of Consular Affairs, when contacted in Washington.

On Nov. 27, a copy of the certificate was also sent to Immigration and Naturalization Service headquarters in Washington, Lawrence said. She said this is a routine part of the process since any further action in the case would be handled by the INS.

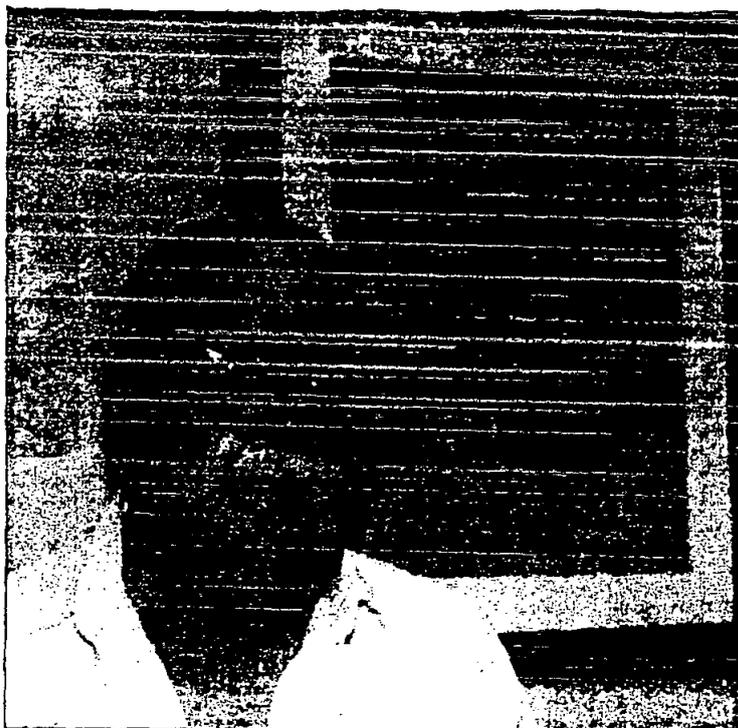
She said that hundreds of certificates of loss of nationality are issued every year and the INS automatically receives a copy of each one.

An INS press officer contacted in Washington asked for more time to find out what is going to be done in this case. He said that a response to questions about what action if any the INS would take might be offered today.

Mari Bras told the STAR that his request for a certificate of Puerto Rican citizenship would be based on the State Department's tacit acceptance of and the Foraker Act's recognition of that citizenship. The Jones Act, under which U.S. citizenship was extended to Puerto Rico, did not repeal that section of the Foraker Act, he said.

Last year, when Mari Bras returned from Venezuela after resigning his U.S. citizenship, Robert Bowles, assistant INS district director in Puerto Rico, said that the agency considered the case "a very delicate matter."

But Gary Scheffer, a Bureau of Consular Affairs Department spokesman, said back then that the Immigration and Nationality Act is very clear about what happens when you renounce your citizen-



STAR Staff photo

The U.S. State Department issued a certificate of loss of nationality to Juan Mari Bras, seen here in a photo taken in January, who renounced his U.S. citizenship 17 months ago. Mari Bras, a leader of the island's independence movement, wants to force the United States to accept that there is a Puerto Rican citizenship. In background is portrait of Puerto Rico nationalist Pedro Albizu Campos.

ship — "you expatriate yourself."

The difference in the Mari Bras case, however, is that he did not become a citizen of another country — the independence leader intends to remain in Puerto Rico, where he was born, and continue practicing law as he has always done.

Mari Bras, who has a law firm in his hometown of Mayaguez, announced Monday at a press conference in the west coast city that he had received the certificate of loss of nationality from the State Department. He said the certificate was "the best gift" he received Saturday, which was his 68th birthday, the Eie News Agency reported.

"It also fulfills my life-long desire to

get rid of the slave-brand of a foreign and imposed citizenship that wounded my patriotic sensibility," he was quoted as saying.

Mari Bras said he will continue to practice law and vote — activities for which, by law, a person must be a U.S. citizen — and travel "wherever I am accepted as a citizen of Puerto Rico, which is what I have become."

Harry Anduze, president of the Bar Association, could not be reached for comment. Lawyers must be licensed by the Bar Association before being allowed to practice law in Puerto Rico and the requirements include being a U.S. citizen and swearing loyalty to the U.S. flag.

Mari Bras, and others, argue that Puerto Rican citizenship, recognized under the Foraker Act of 1900, was not abolished when U.S. citizenship was extended to Puerto Rico in the Jones Act of 1917.

Political analyst Juan Manuel García Passalacqua said the State Department's action is a recognition of the existence of Puerto Rican citizenship "is a historic moment" and raises three questions for the P.R. government.

"First, [the Puerto Rican government has to decide] whether it will issue a Puerto Rican passport to Juan Mari Bras to travel internationally on the basis of the Puerto Rican citizenship recognized by the Foraker Act and by the case of González vs. U.S., the essential case of the Insular Cases," García said.

The case referred to is that of a Puerto Rican woman, Isabel González who was stopped by immigration authorities upon her arrival in New York on Aug. 24, 1902 and denied entrance because she was a foreign immigrant.

González filed suit before the U.S. Supreme Court, which ruled that Puerto Ricans "had the condition of nationals that was distinct from that of American citizens and that permitted their access to the United States as citizens of Puerto Rico," García said.

"Secondly, [the government must decide] whether the Legislature of Puerto Rico will permit Juan Mari Bras to vote in the 1996 elections as a citizen of Puerto Rico, and thirdly, whether his case will become the precedent for a dual citizenship, for those who want it, in a bilateral compact between Puerto Rico and the United States," he said.

"The ball is in the court of the Puerto Rican government," he concluded.

The argument was first espoused in 1993 by José "Fufi" Santori, who went to a lawyer and signed a sworn statement rejecting his U.S. citizenship. His example was followed by about 300 other independentistas, among them Mari Bras.

Federal officials, however, said that the sworn statements were not accepted as legitimate renunciations of citizenship, that the procedure had to be done in a U.S. Embassy in a foreign country.

On July 11, Mari Bras went to the U.S. Embassy in Caracas, Venezuela and complied with the required procedure for renouncing his U.S. citizenship. He returned to Puerto Rico two days later without any problems with the U.S. Customs Service.

# State senator says statehood hinges on English

## Other U.S. leaders attending conference don't voice opinions

by MARIA SACCHETTI  
Of The STAR Staff

The way Colorado State Sen. Ray Powers figures things, Puerto Rico could become a state only when English becomes its most commonly used language. Powers, a conservative Republican,

also wishes he could speak Spanish. He never learned, since he dropped out of school at age 14 to go to work when his father died.

But English is an "American concern," he said, and should be the language most Americans speak.

"It's something you should try to accomplish if you want America to accept [statehood]," he said, while attending the Council of State Governments, which wraps up today at the Caribe Hilton Hotel.

Powers voiced a blunter state side view of Puerto Rico than other state leaders,

including Utah Gov. Michael Leavitt and Illinois Gov. Jim Edgar, both Republicans, who said they wanted to learn more about the island before commenting.

"While I don't have an opinion, I'm very impressed" with Puerto Rico's administration, Leavitt said, adding that he hoped to take a firmer stance before attending the National Governors Association, which will also meet here in July.

"If there is anyone in the world who's going to convince me that Puerto Rico should be a state it would be Gov. Rosselló," he said.

When told that Puerto Rico does not

have a vote in Congress but must comply with federal mandates, Leavitt said, "That seems to me to be a very awkward position to be in."

Edgar said Puerto Rico would have to shed Internal Revenue Code Section 936, which grants certain tax exemptions or profits earned by U.S. companies with factories here.

Both houses in Congress are currently seeking to eliminate the tax break.

Oscar Arias, a 1987 Nobel peace prize winner and former president of Cost

Please see STATES, Page 1





# LA NACION EN MARCHA

Domingo 14 julio Fajardo

## CONVOCATORIA

Las declaraciones públicas del gobernador, Hon. Pedro Roselló, manifestando que Puerto Rico "no es ni ha sido nunca una nación", así como su invitación a los gobernadores de Estados Unidos de América para que celebren su convención en nuestro país, nos hacen creer que a estos visitantes se les ha ofrecido una visión equivocada o errónea sobre Puerto Rico y su nacionalidad.

Ante esta situación, un grupo amplio de personas y de organizaciones cívicas, culturales, religiosas, sindicales y patrióticas convocan al pueblo de Puerto Rico a una gran marcha de afirmación nacional que tendrá lugar el **domingo 14 de julio de 1996** a las **10:00 a.m.** en el pueblo de **Fajardo**, día en el que se estará celebrando la **Convención de Gobernadores de Estados Unidos de América** en el Hotel El Conquistador.

Bajo el lema "**LA NACION EN MARCHA**" esta gran marcha de afirmación nacional tiene como objetivo hacerle conocer a los visitantes que Puerto Rico es una nación que no está dispuesta a anexarse, incorporarse, integrarse o diluirse en ninguna otra.

Al hacer este llamado al pueblo puertorriqueño, los aquí convocantes expresamos el más firme compromiso de destacar, por encima de nuestras preferencias ideológicas o partidistas, la afirmación de la nacionalidad puertorriqueña. A tales fines, será la bandera de Puerto Rico el símbolo que nos unificará en el propósito antes señalado.

Los abajo firmantes hacemos un llamado a todas las organizaciones, entidades y al pueblo puertorriqueño en general a participar en esta gran marcha en defensa de nuestra *nación*.

## The Interagency Working Group on Puerto Rico

June 27, 1996

MEMORANDUM FOR ELENA KAGAN  
Associate Counsel to the President

FROM: JEFFREY FARROW  
Co-Chair

SUBJECT: PUERTO RICO STATUS BILL UPDATE

The House Resources Committee approved the bill to develop Puerto Rico into a 'fully self-governing' status, H.R. 3024, by voice vote yesterday. The key amendment adopted eliminated the suggestion that U.S. citizenship would be withdrawn from individuals born before nationhood under that option.

Amendments not adopted would have done as follows.

- Made the referendum a choice among three options: the current governing arrangement/commonwealth; statehood; and independence -- rather than a means for deciding between 1. the current arrangement and full self-government and 2. nationhood and statehood, to be effective if full self-government wins on the first question.
- Eliminated the requirement for revoting every four years for as long as the current arrangement wins.
- Required a referendum before June 1997 -- rather than before 1999 -- and provided for final federal and insular action on implementing statehood or nationhood to occur before August 1998 -- rather than some 12 years after a vote for a status change.
- Changed the description of the Commonwealth option to be one based on the description of a New Commonwealth Relationship incorporated into a bill that passed the House in 1990 -- from a description of the status quo.
- Deleted the free association sub-option from the nationhood option.

Rules Committee Chairman Solomon has said that he will call a hearing on the bill as well as try to amend it.

Please have Mayra called at 482-4964 to tell us whether you would like to attend a meeting on the bill late afternoon July 2nd.

Room 6061, U.S. Department of Commerce Building, Washington, D.C. 20230  
Telephone (202) 482-0037 • Facsimile (202) 482-2337

**H.R. 3024**  
**AMENDMENT OFFERED BY MR. GALLEGLY**  
**TO THE COMMITTEE PRINT**

In section 4(a), amend paragraph (4) of Part IIA of  
the proposed ballot to read as follows:

1           “(4) The people of Puerto Rico owe allegiance  
2           to the sovereign nation of Puerto Rico and have the  
3           nationality, and citizenship thereof; United States  
4           sovereignty, nationality, and citizenship in Puerto  
5           Rico is ended; birth in Puerto Rico and relationship  
6           to persons with statutory United States citizenship  
7           by birth in the former territory are not bases for  
8           United States nationality or citizenship, except that  
9           persons who had such United States citizenship have  
10          a statutory right to retain United States nationality  
11          and citizenship for life, by entitlement or election as  
12          provided by the United States Congress, based on  
13          continued allegiance to the United States: *Provided,*  
14          That such persons will not have this statutory Unit-  
15          ed States nationality and citizenship status upon  
16          having or maintaining allegiance, nationality, and  
17          citizenship rights in any sovereign nation other than  
18          the United States;

**H.R. 3024**  
**EN BLOC AMENDMENTS OFFERED BY MR. YOUNG**  
**TO THE COMMITTEE PRINT**

In the second sentence of paragraph (4) of section 2, insert "conditionally" before "approved", and strike "approval" and insert "acceptance of congressional conditions".

In section 2, amend paragraph (5) to read as follows:

1           (5) In 1953 the United States transmitted to  
2           the Secretary-General of the United Nations for cir-  
3           culation to its Members a formal notification that  
4           the United States no longer would transmit informa-  
5           tion regarding Puerto Rico to the United Nations  
6           pursuant to Article 73(e) of its Charter. The formal  
7           United States notification document informed the  
8           United Nations that the cessation of information on  
9           Puerto Rico was based on the "new constitutional  
10          arrangements" in the territory, and the United  
11          States expressly defined the scope of the "full meas-  
12          ure" of local self-government in Puerto Rico as ex-  
13          tending to matters of "internal government and ad-  
14          ministration, subject only to compliance with appli-  
15          cable provisions of the Federal Constitution, the

1 Puerto Rico Federal Relations Act and the acts of  
2 Congress authorizing and approving the Constitu-  
3 tion, as may be interpreted by judicial decision.”.  
4 Thereafter, the General Assembly of the United Na-  
5 tions, based upon consent of the inhabitants of the  
6 territory and the United States explanation of the  
7 new status as approved by Congress, adopted Reso-  
8 lution 748 (VIII) by a vote of 22 to 18 with 19 ab-  
9 stentions, thereby accepting the United States deter-  
10 mination to cease reporting to the United Nations  
11 on the status of Puerto Rico.

In section 2, amend paragraph (7) to read as fol-  
lows:

12 (7) The ruling of the United States Supreme  
13 Court in the 1980 case *Harris v. Rosario* (446 U.S.  
14 651) confirmed that Congress continues to exercise  
15 authority over Puerto Rico as territory “belonging to  
16 the United States” pursuant to the Territorial  
17 Clause found at Article IV, section 3, clause 2 of the  
18 United States Constitution, a judicial interpretation  
19 of Puerto Rico’s status which is in accordance with  
20 the clear intent of Congress that establishment of  
21 local constitutional government in 1952 did not alter  
22 Puerto Rico’s status as an unincorporated United  
23 States territory.

In paragraph (1) of section 4(b)—

(1) insert “of full self-government” after “ballot choice” in subparagraph (A); and

(2) in the first sentence of subparagraph (B)—

(A) strike “Congress recognizes the discretionary authority of”; and

(B) strike “to provide” and insert “may provide”.

In the first sentence of paragraph (4) of section 5(e), insert “, or a majority vote to continue the Commonwealth structure as a territory,” after “this subsection”.

In section 7, amend subsection (a) to read as follows:

1 (a) IN GENERAL.—

2 (1) AVAILABILITY OF AMOUNTS DERIVED FROM  
3 TAX ON FOREIGN RUM.—During the period begin-  
4 ning on October 1, 1996, and ending on the date the  
5 President determines that all referenda required by  
6 this Act have been held, from the amounts covered  
7 into the treasury of Puerto Rico under section  
8 7652(e)(1) of the Internal Revenue Code of 1986,  
9 the Secretary of the Treasury—

1           (A) upon request and in the amounts iden-  
2           tified from time to time by the President, shall  
3           make the amounts so identified available to the  
4           treasury of Puerto Rico for the purposes speci-  
5           fied in subsection (b); and

6           (B) shall transfer all remaining amounts to  
7           the treasury of Puerto Rico, as under current  
8           law.

9           (2) REPORT OF REFERENDA EXPENDITURES.—

10          Within 180 days after each referendum required by  
11          this Act, and after the end of the period specified in  
12          paragraph (1), the President, in consultation with  
13          the Government of Puerto Rico, shall submit a re-  
14          port to the United States Senate and United States  
15          House of Representatives on the amounts made  
16          available under paragraph (1)(A) and all other  
17          amounts expended by the State Elections Commis-  
18          sion of Puerto Rico for referenda pursuant to this  
19          Act.

        In section 7(b), strike “the President” in the matter  
preceding paragraph (1) and insert “the Government of  
Puerto Rico”.

        In paragraph (2) of section 7(b), strike “political  
party or parties” and insert “political party, parties, or  
other qualifying entities”.

Elena,  
R.I. JP

**PUERTO RICAN CITIZENSHIP VS. UNITED STATES CITIZENSHIP**

<u>SOURCE</u>	<u>QUESTION ASKED</u>	<u>FINDINGS</u>
El Nuevo Dia Poll May 1996	Which one is your nation: Puerto Rico or the United States?	62% Puerto Rico 25% United States
	If you must decide on only one citizenship, which one would you choose?	54% U.S. 39% Puerto Rican
University of Puerto Rico Poll October 1995	What is more important to you: being a Puerto Rican citizen or a U.S. citizen?	<u>Statehooders</u> 44% Puerto Rican 26% U.S.  <u>Commonwealthers</u> 61% Puerto Rican 11% U.S.  <u>Pro-Independence</u> 79% Puerto Rican 10% U.S.

## The Interagency Working Group on Puerto Rico

June 21, 1996

MEMORANDUM FOR ELENA KAGAN  
Associate Counsel to the President

FROM: JEFFREY FARROW  
Co-Chair

SUBJECT: PUERTO RICO STATUS BILL UPDATE

The House insular subcommittee revised the Puerto Rico political status bill, H.R.3024, before unanimously approving it last week. It took the action after voting down the Commonwealth option that obtained a plurality of the vote in the islands' 1993 vote on status aspirations, 10-1.

The bill now calls for a referendum before 1999 on two questions:

- The first is a choice between A) the current governing arrangement -- commonwealth -- with periodic revoting and B) "full self-government" through nationhood or statehood.
- The second is a choice between nationhood and statehood to be effective if full self-government wins on the first.

Further votes are called for every four years if and so long as the current arrangement obtains majority support. Status change would require congressional and referendum approval of both a transition plan of at least 10 years that the President would submit and an implementation bill at the end of the period.

The bill would also make a number of controversial statements regarding the current governing arrangement and establish a policy of developing a "permanent" status for the islands. The suggestion that U.S. citizenship would be withdrawn from individuals born before nationhood under that option was not eliminated but Subcommittee Chairman Gallegly said that this change would be made by the full Resources Committee.

The full Committee is scheduled to act on the bill next week. Meanwhile, Rules Chairman Solomon has called for it to be amended to add English language and other requirements to statehood.

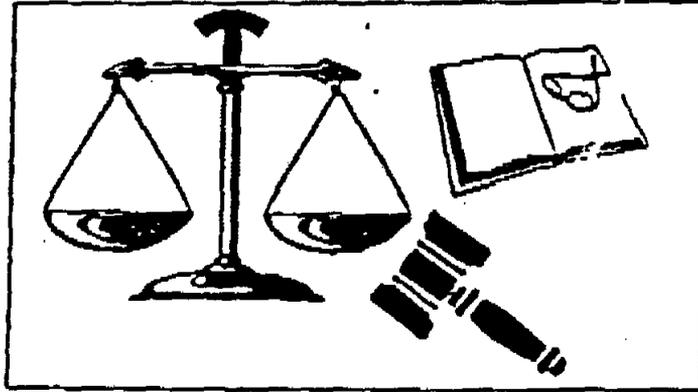
Our views have been requested and OMB has circulated the amended bill in preparation for our comments. Please call if you need a copy or have any questions or thoughts. Mayra will soon call regarding a meeting.

Room 6061, U.S. Department of Commerce Building, Washington, D.C. 20230  
Telephone (202) 482-0037 • Facsimile (202) 482-2337

U.S. DEPARTMENT OF JUSTICE

OFFICE OF LEGISLATIVE AFFAIRS

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TO: ① JEFF FARROW | ② EMENA KAGAW  
 WHITE HOUSE COUNSEL

FAX NO.: (202) 482-2337 | 456-2146

FROM: ADRIEN SILAS

PHONE: 202/514-7276

DATE: JUNE 21, 1996

NO. OF PAGES: FOUR (EXCLUDING COVER)

COMMENTS: PUERTO RICO VIEWS LETTER SENT  
 TO OMB FOR CLEARANCE (ADVANCE)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Don Young  
Chairman  
Resources Committee  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Young:

This letter presents the views of the Justice Department on H.R. 3024, the "United States-Puerto Rico Political Status Act." H.R. 3024 would provide for a referendum on the status of Puerto Rico; a commitment by the Congress to vote on the status selected; a ten-year transition plan; and a second referendum to ratify by majority vote the terms of implementation which the Congress would establish. We support a plebiscite to permit the inhabitants of Puerto Rico to express their views. We have several recommendations for improving the bill.

First, part II(A) in subsection 4(a) delineates the likely ramifications of independence. This subsection would provide for separate Puerto Rico sovereignty leading to "independence or free association." The clause "independence or free association" is misleading because the Spanish translation of "commonwealth" is "estado libre asociado," which also means "free association." Hence, voters might believe that "independence" contains a "commonwealth" option and vote accordingly. This confusion might be deepened by part II(A)(2), which provides for a choice between a treaty between the United States and Puerto Rico, on the one hand, and a free association relationship on the other. Deleting the phrase "or free association" where it exists throughout the bill would eliminate this source of possible confusion.

Second, part II(A)(4) in subsection 4, provides that an independent Puerto Rico "exercises the sovereign power to determine and control its own nationality and citizenship." This subsection generally would withdraw from the Puerto Rican people United States citizenship conferred upon them based upon their birth in the territory during the period in which the United

} Assumes citizenship not granted by 14A.

Read This

States exercised sovereignty and jurisdiction over Puerto Rico. This subsection would authorize Congress to establish criteria for "affected individuals," under which these individuals could retain United States nationality and citizenship or could be naturalized in the United States, as long as this would not create an exception to the principle of separate United States and Puerto Rican nationality and citizenship. We understand that this provision would be limited to individuals and would not authorize the establishment of broad categories of residents of Puerto Ricans who could retain their United States citizenship.

as opposed to those born there - now naturalized here?

But bill doesn't say anything about that?

However, we object to this provision unless the withdrawal of United States citizenship is limited to persons who were born in Puerto Rico and are domiciled there at the time of independence. [Moreover, in our view, the Constitution requires that the bill give those United States citizens residing but not born in Puerto Rico an option either of United States citizenship or of Puerto Rican citizenship.] Finally, an individual who maintained United States citizenship under this clause would have to forfeit Puerto Rican citizenship or impinge upon the principle of separate United States and Puerto Rican citizenship.

To how changed?  
Ash  
DF

no dual where does this come from?  
Seems OK check.

We note that if the independence option prevailed, there likely would be a substantial number of persons who would seek to retain their United States citizenship. We note, but do not resolve at this juncture, the complexity of providing to all residents of Puerto Rico an option to remain citizens of the United States while residing in Puerto Rico. An option of this nature might create a very large population of persons domiciled in Puerto Rico who would be aliens from Puerto Rico's perspective. Moreover, in view of the responsibility of the United States to protect the safety, rights and welfare of United States citizens abroad, the retention of United States citizenship by a sizeable portion of the residents of Puerto Rico could lead to significant interventions by the United States into an independent Puerto Rico's affairs. We believe that continued dialogue with all interested parties would assist in resolving this issue.

Third, part II(A)(8) in subsection 4(a), would remove Puerto Rico from the customs territory of the United States and provide that trade between the United States and Puerto Rico would be based on a treaty. At least insofar as the tariff treatment of Puerto Rico is at issue, a separate treaty would be unnecessary. Congress could address tariff treatment in the legislation implementing independence by granting Puerto Rico treatment under General Notes 3, 4, 7 or 10 of the Harmonized Tariff Schedules of the United States. For example, the Congress could apply to Puerto Rico the Caribbean Basin Economic Recovery Act (General Note 7) or confer upon it Freely Associated States status (General Note 10).

Seems OK

3

Fourth, part II(B) in subsection 4(a), delineates the ramifications of statehood. Express language should be added that Puerto Rico would become a "State in all respects on an equal footing with the other States."

*Seems OK.*

Fifth, part II(B)(7) in subsection 4(a) of the bill would require that Puerto Ricans who wish to support statehood in the referendum express support for "adhere[nce] to the same language requirement as in the several States." We oppose this provision. In becoming a State, Puerto Rico automatically would become subject to all laws generally applicable to the States. Therefore, the provision is unnecessary and language should not be singled out from among the many areas of law that affect the various States. Furthermore, there is no single language requirement governing all of the States. Moreover, since many of the residents of Puerto Rico speak Spanish as their first language, they might interpret the provision as branding Puerto Rican culture an "alien" culture, to be eliminated, rather than incorporated, in the event of statehood. This interpretation might skew a referendum vote arbitrarily against statehood.

*Seems right.*

The Administration is committed to working with Congress and with Puerto Rico's leaders to develop a process that would enable Puerto Ricans to fulfill their aspirations for self-determination. Such a process would build upon the expressions of those aspirations in the 1993 plebiscite. It would resolve what the options for self-determination should be. It would commit both the United States Government and the Government of Puerto Rico to act in response to the will of a majority of the people of Puerto Rico.

We appreciate the opportunity to share our views on this bill. The Office of Management and Budget has advised that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

Andrew Fois  
Assistant Attorney General

cc: Honorable George Miller  
Ranking Minority Member  
Committee on Resources

Honorable Elton Gallegly  
Chairman  
Subcommittee on Native American and Insular Affairs  
Committee on Resources

Honorable Eni F. H. Faleomavaega  
Ranking Minority Member  
Subcommittee on Native American and Insular Affairs  
Committee on Resources

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

LRM NO: 4770

FILE NO: 2126

6/18/96

LEGISLATIVE REFERRAL MEMORANDUM

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FROM: James JUKES

(for) Assistant Director for Legislative Reference

OMB CONTACT: M. Jill GIBBONS 395-7593 Legislative Assistant's Line: 395-3454  
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gibbons\_m@a1.eop.gov

SUBJECT: OMB Request for Views RE: HR3024, United States-Puerto Rico Political Status Act

**DEADLINE: Tuesday, June 25, 1996**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The version of H.R. 3024 approved by a House Resources subcommittee on June 12th is attached. Please ensure that your agency's response is coordinated with your agency's representatives on the Interagency Working Group on Puerto Rico (membership list attached). Thank you.

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**INTERAGENCY WORKING GROUP ON PUERTO RICO**  
**AGENCY MEMBERS**

Executive Office of the President:

White House Office -

Stephen B. Silverman

Deputy Assistant to the President and Deputy Secretary to the Cabinet

Janet Margolis

Deputy Assistant to the President for Legislative Affairs

Elena Kagan

Associate Counsel to the President

Suzanna A. Valdez

Associate Director, Office of Public Liaison

Domestic Policy Council -

Jeremy D. Ben-Ami

Deputy Assistant to the President for Domestic Policy

National Economic Council/(Council on Economic Advisers) -

Mark Mazer

Senior Director

National Security Council -

Senior Director for Inter-American Affairs

Office of Management and Budget -

Joseph J. Minarik

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United States Trade Representative -

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Maria Echaveste  
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Acting Director, Women's Bureau

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Assistant Secretary for Public and Intergovernmental Affairs

Environmental Protection Agency:

Shelly Matzenbaum  
Associate Administrator for Regional Operations, State and Local Relations

General Services Administration:

Eric Dodds  
Deputy Chief of Staff

Small Business Administration:

Irma Munoz  
Assistant Administrator for Marketing and Customer Services

Agency for International Development:

Ramon Enrique Deabon  
Deputy Assistant Administrator for Latin America and the Caribbean

Federal Emergency Management Agency:

Lacy Sutter  
Director, Office of Policy and Assessment

Social Security Administration:

Charlotte Brittan  
Executive Assistant to the Commissioner

*passed*

**H.R. 3024**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**OFFERED BY MR. GALLEGLY**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

**2 (a) SHORT TITLE.**—This Act may be cited as the  
**3 “United States-Puerto Rico Political Status Act”.**

**4 (b) TABLE OF CONTENTS.**—The table of contents for  
**5 this Act is as follows:**

Sec. 1. Short title.

Sec. 2. Findings.

Sec. 3. Policy.

Sec. 4. Process for Puerto Rican full self-government, including the initial decision stage, transition stage, and implementation stage.

Sec. 5. Requirements relating to referenda, including inconclusive referendum and applicable laws.

Sec. 6. Congressional procedures for consideration of legislation.

Sec. 7. Availability of funds for the referenda.

**6 SEC. 2. FINDINGS.**

**7 The Congress finds the following:**

**8 (1) Puerto Rico was ceded to the United States**  
**9 and came under this Nation’s sovereignty pursuant**  
**10 to the Treaty of Paris ending the Spanish-American**  
**11 War in 1898. Article IX of the Treaty of Paris ex-**  
**12 pressly recognizes the authority of Congress to pro-**  
**13 vide for the political status of the inhabitants of the**  
**14 territory.**

1           (2) Consistent with establishment of United  
2 States nationality for inhabitants of Puerto Rico  
3 under the Treaty of Paris, Congress has exercised  
4 its powers under the Territorial Clause of the Con-  
5 stitution (article IV, section 3, clause 2) to provide  
6 by statute for the citizenship status of persons born  
7 in Puerto Rico, including extension of special statu-  
8 tory United States citizenship from 1917 to the  
9 present.

10           (3) Consistent with the Territorial Clause and  
11 rulings of the United States Supreme Court, partial  
12 application of the United States Constitution has  
13 been established in the unincorporated territories of  
14 the United States including Puerto Rico.

15           (4) In 1950 Congress prescribed a procedure  
16 for instituting internal self-government for Puerto  
17 Rico pursuant to statutory authorization for a local  
18 constitution. A local constitution was approved by  
19 the people, amended and approved by Congress, and  
20 thereupon given effect in 1952 after approval by the  
21 Puerto Rico Constitutional Convention and an ap-  
22 propriate proclamation by the Governor. The ap-  
23 proved constitution established the structure for con-  
24 stitutional government in respect of internal affairs  
25 without altering Puerto Rico's fundamental political,

1 social, and economic relationship with the United  
2 States and without restricting the authority of Con-  
3 gress under the Territorial Clause to determine the  
4 application of Federal law to Puerto Rico, resulting  
5 in the present "Commonwealth" structure for local  
6 self-government. The Commonwealth remains an un-  
7 incorporated territory and does not have the status  
8 of "free association" with the United States as that  
9 status is defined under United States law or inter-  
10 national practice.

11 (5) In 1953 the United States notified the  
12 United Nations that the degree of local self-govern-  
13 ment under the new constitution was limited to in-  
14 ternal affairs and administration compatible with  
15 the Federal structure of the United States political  
16 system, subject to compliance with the applicable  
17 provisions of the Federal Constitution, and that the  
18 definition of the new constitutional status would be  
19 subject to interpretation by judicial decision. There-  
20 after, the United Nations General Assembly, based  
21 on the process whereby the new constitutional gov-  
22 ernment was instituted after approval by Congress  
23 and the inhabitants of the territory, adopted Resolu-  
24 tion 748 (VIII) by a vote of 22 to 18 with 19 ab-  
25 stentions, thereby accepting the United States deter-

1       mination that it no longer would transmit informa-  
2       tion to the United Nations regarding Puerto Rico's  
3       status.

4               (6) In 1960 the United Nations General Assem-  
5       bly approved Resolution 1541 (XV), clarifying that  
6       under United Nations standards regarding the polit-  
7       ical status options available to the people of terri-  
8       tories yet to complete the process for achieving full  
9       self-government, the three established forms of full  
10      self-government are national independence, free as-  
11      sociation based on separate sovereignty, or full inte-  
12      gration with another nation on the basis of equality.

13              (7) In the case of *Harris v. Rosario* (446 U.S.  
14      651, 1980) the Supreme Court of the United States  
15      expressly confirmed that Puerto Rico remains a ter-  
16      ritory of the United States subject to the authority  
17      of Congress under the Territorial Clause of the  
18      United States Constitution, a ruling consistent with  
19      congressional intent that the establishment of inter-  
20      nal self-government under a local constitution in  
21      1952 did not alter Puerto Rico's unincorporated ter-  
22      ritory status.

23              (8) In a joint letter dated January 17, 1989,  
24      cosigned by the Governor of Puerto Rico in his ca-  
25      pacity as president of one of Puerto Rico's principal

1 political parties and the presidents of the two other  
2 principal political parties of Puerto Rico, the United  
3 States was formally advised that “. . . the People of  
4 Puerto Rico wish to be consulted as to their pref-  
5 erence with regards to their ultimate political sta-  
6 tus”, and the joint letter stated “. . . that since  
7 Puerto Rico came under the sovereignty of the Unit-  
8 ed States of America through the Treaty of Paris in  
9 1898, the People of Puerto Rico have not been for-  
10 mally consulted by the United States of America as  
11 to their choice of their ultimate political status”.

12 (9) In the 1989 State of the Union Message,  
13 President George Bush urged the Congress to take  
14 the necessary steps to authorize a federally recog-  
15 nized process allowing the people of Puerto Rico, for  
16 the first time since the Treaty of Paris entered into  
17 force, to freely express their wishes regarding their  
18 future political status in a congressionally recognized  
19 referendum, a step in the process of self-determina-  
20 tion which the Congress has yet to authorize.

21 (10) In November of 1993, the Government of  
22 Puerto Rico conducted a plebiscite initiated under  
23 local law on Puerto Rico's political status. In that  
24 vote none of the three status propositions received a  
25 majority of the votes cast. The results of that vote

1        were: 48.6 percent commonwealth, 46.3 percent  
2        statehood, and 4.4 percent independence.

3            (11) In 1994, President William Jefferson Clin-  
4        ton established the Executive Branch Interagency  
5        Working Group on Puerto Rico to coordinate the re-  
6        view, development, and implementation of executive  
7        branch policy concerning issues affecting Puerto  
8        Rico, including the November 1993 plebiscite.

9            (12) There have been inconsistent and conflict-  
10       ing interpretations of the 1993 plebiscite results,  
11       and under the Territorial Clause of the Constitution,  
12       Congress has the authority and responsibility to de-  
13       termine Federal policy and clarify status issues in  
14       order to advance the self-determination process in  
15       Puerto Rico.

16           (13) On December 14, 1994, the Puerto Rico  
17       Legislature enacted Concurrent Resolution 62, which  
18       requested the 104th Congress to respond to the re-  
19       sults of the 1993 Puerto Rico Status Plebiscite and  
20       to indicate the next steps in resolving Puerto Rico's  
21       political status.

22           (14) Nearly 4,000,000 United States citizens  
23       live in the islands of Puerto Rico, which have been  
24       under United States sovereignty and within the  
25       United States customs territory for almost 100

1 years, making Puerto Rico the oldest, largest, and  
2 most populous United States island territory at the  
3 southeastern-most boundary of our Nation, located  
4 astride the strategic shipping lanes of the Atlantic  
5 Ocean and Caribbean Sea.

6 (15) Full self-government for Puerto Rico is at-  
7 tainable only through establishment of a political  
8 status which is based on either separate Puerto  
9 Rican sovereignty and nationality or full and equal  
10 United States nationality and citizenship through  
11 membership in the Union and under which Puerto  
12 Rico is no longer an unincorporated territory subject  
13 to the plenary authority of Congress arising from  
14 the Territorial Clause.

15 **SEC. 3. POLICY.**

16 In recognition of the significant level of local self-gov-  
17 ernment which has been attained by Puerto Rico, and the  
18 responsibility of the Federal Government to enable the  
19 people of the territory to freely express their wishes re-  
20 garding political status and achieve full self-government,  
21 this Act is adopted with a commitment to encourage the  
22 development and implementation of procedures through  
23 which the permanent political status of the people of Puer-  
24 to Rico can be determined.

1 **SEC. 4. PROCESS FOR PUERTO RICAN FULL SELF-GOVERN-**  
 2 **MENT, INCLUDING THE INITIAL DECISION**  
 3 **STAGE, TRANSITION STAGE, AND IMPLEMEN-**  
 4 **TATION STAGE.**

5 (a) **INITIAL DECISION STAGE.**—A referendum on  
 6 Puerto Rico’s political status shall be held not later than  
 7 December 31, 1998. The referendum shall be held pursu-  
 8 ant to this Act and in accordance with the applicable pro-  
 9 visions of Puerto Rico’s electoral law and other relevant  
 10 statutes consistent with this Act. Approval of a status op-  
 11 tion must be by a majority of the valid votes cast. The  
 12 referendum shall be on the following questions presented  
 13 on the ballot as options A and B in a side-by-side format  
 14 in Parts I and II:

15 **“PART I**

16 **“Instructions: Mark the option you choose. Ballots**  
 17 **with both options marked in Part I will not be counted.**

18 **“A. Puerto Rico should continue the present Com-**  
 19 **monwealth structure for self-government with respect to**  
 20 **internal affairs and administration, subject to the provi-**  
 21 **sions of the Constitution and laws of the United States**  
 22 **which apply to Puerto Rico. Puerto Rico remains a locally**  
 23 **self-governing unincorporated territory of the United**  
 24 **States, and continuation or modification of current Fed-**  
 25 **eral law and policy to Puerto Rico remains within the dis-**

1 cretion of Congress. The ultimate status of Puerto Rico  
2 will be determined through a process authorized by Con-  
3 gress which includes self-determination by the people of  
4 Puerto Rico in periodic referenda. If you agree, mark here  
5 \_\_\_\_.

6 "B. Puerto Rico should complete the process leading  
7 to full self-government through separate Puerto Rican sov-  
8 ereignty or United States sovereignty as defined in Part  
9 II of this ballot. Full self-government will be achieved in  
10 accordance with a transition plan approved by the Con-  
11 gress and the people of Puerto Rico in a later vote. A third  
12 vote will take place at the end of the transition period in  
13 which the people of Puerto Rico will be able to approve  
14 final implementation of full self-government. This will es-  
15 tablish a permanent political status under the constitu-  
16 tional system chosen by the people. If you agree, mark  
17 here: \_\_\_\_

18 "PART II

19 "Instructions: Mark the option you choose. Ballots  
20 with both options marked in Part II will not be counted.

21 "If full self-government is approved by the majority  
22 of voters, which path leading to full self-government for  
23 Puerto Rico do you prefer to be developed through a tran-  
24 sition plan enacted by the Congress and approved by the  
25 people of Puerto Rico?

1       “A. Puerto Rico should become fully self-governing  
2 through separate sovereignty leading to independence or  
3 free association as defined below. If you agree, mark here:

4 \_\_\_\_\_

5       “The path of separate Puerto Rican sovereignty lead-  
6 ing to independence or free association is one in which—

7           “(1) Puerto Rico is a sovereign nation with full  
8 authority and responsibility for its internal and ex-  
9 ternal affairs and has the capacity to exercise in its  
10 own name and right the powers of government with  
11 respect to its territory and population;

12           “(2) a negotiated treaty of friendship and co-  
13 operation, or an international bilateral pact of free  
14 association terminable at will by either Puerto Rico  
15 or the United States, defines future relations be-  
16 tween Puerto Rico and the United States, providing  
17 for cooperation and assistance in matters of shared  
18 interest as agreed and approved by Puerto Rico and  
19 the United States pursuant to this Act and their re-  
20 spective constitutional processes;

21           “(3) a constitution democratically instituted by  
22 the people of Puerto Rico, establishing a republican  
23 form of full self-government and securing the rights  
24 of citizens of the Puerto Rican nation, is the su-

1 preme law, and the Constitution and laws of the  
2 United States no longer apply in Puerto Rico;

3 “(4) Puerto Rico exercises the sovereign power  
4 to determine and control its own nationality and citi-  
5 zenship, and United States nationality and citizen-  
6 ship conferred on the people of Puerto Rico based  
7 upon birth in the territory during the period in  
8 which the United States exercised sovereignty and  
9 jurisdiction over Puerto Rico is withdrawn in favor  
10 of Puerto Rican nationality and citizenship, and the  
11 United States Congress has authority to prescribe  
12 criteria for [affected individuals] to establish eligibility  
13 for retention of United States nationality and citi-  
14 zenship or naturalization in the United States on a  
15 basis which does not create an exception to the es-  
16 tablishment and preservation of separate United  
17 States and Puerto Rican nationality and citizenship;

18 “(5) upon recognition of Puerto Rico by the  
19 United States as a sovereign nation and establish-  
20 ment of government-to-government relations on the  
21 basis of comity and reciprocity, Puerto Rico’s rep-  
22 resentation to the United States is accorded full dip-  
23 lomatic status;

24 “(6) Puerto Rico is eligible for United States  
25 assistance provided on a government-to-government

1 basis, including foreign aid or programmatic assist-  
2 ance, at levels subject to agreement by the United  
3 States and Puerto Rico;

4 “(7) property rights and previously acquired  
5 rights vested by employment under laws of Puerto  
6 Rico or the United States are honored, and where  
7 determined necessary such rights are promptly ad-  
8 justed and settled consistent with government-to-  
9 government agreements implementing the separation  
10 of sovereignty; and

11 “(8) Puerto Rico is outside the customs terri-  
12 tory of the United States, and trade between the  
13 United States and Puerto Rico is based on a treaty.

14 “B. Puerto Rico should become fully self-governing  
15 through United States sovereignty leading to statehood as  
16 defined below. If you agree, mark here: \_\_\_\_\_

17 “The path through United States sovereignty leading  
18 to statehood is one in which—

19 “(1) the people of Puerto Rico are fully self-  
20 governing with their rights secured under the United  
21 States Constitution, which is the supreme law and  
22 has the same force and effect as in the other States  
23 of the Union;

24 “(2) the sovereign State of Puerto Rico is in  
25 permanent union with the United States, and powers

1 not delegated to the Federal Government or prohib-  
2 ited to the States by the United States Constitution  
3 are reserved to the people of Puerto Rico or the  
4 State Government;

5 “(3) United States citizenship of those born in  
6 Puerto Rico is guaranteed, protected and secured in  
7 the same way it is for all United States citizens born  
8 in the other States;

9 “(4) residents of Puerto Rico have equal rights  
10 and benefits as well as equal duties and responsibil-  
11 ities of citizenship, including payment of Federal  
12 taxes, as those in the several States;

13 “(5) Puerto Rico is represented by two mem-  
14 bers in the United States Senate and is represented  
15 in the House of Representatives proportionate to the  
16 population;

17 “(6) United States citizens in Puerto Rico are  
18 enfranchised to vote in elections for the President  
19 and Vice President of the United States; and

20 “(7) Puerto Rico adheres to the same language  
21 requirement as in the several States.”.

22 (b) TRANSITION STAGE.—

23 (1) PLAN.—(A) Within 180 days of the receipt  
24 of the results of the referendum from the Govern-  
25 ment of Puerto Rico certifying approval of a ballot

1 choice in a referendum held pursuant to subsection  
2 (a), the President shall develop and submit to Con-  
3 gress legislation for a transition plan of 10 years  
4 minimum which leads to full self-government for  
5 Puerto Rico consistent with the terms of this Act  
6 and in consultation with officials of the three  
7 branches of the Government of Puerto Rico, the  
8 principal political parties of Puerto Rico, and other  
9 interested persons as may be appropriate.

10 (B) Additionally, in the event of a vote in favor  
11 of separate sovereignty, Congress recognizes the dis-  
12 cretionary authority of the Legislature of Puerto  
13 Rico, if deemed appropriate, to provide by law for  
14 the calling of a constituent convention to formulate,  
15 in accordance with procedures prescribed by law,  
16 Puerto Rico's proposals and recommendations to im-  
17 plement the referendum results. If a convention is  
18 called for this purpose, any proposals and rec-  
19 ommendations formally adopted by such convention  
20 within time limits of this Act shall be transmitted to  
21 Congress by the President with the transition plan  
22 required by this section, along with the views of the  
23 President regarding the compatibility of such pro-  
24 posals and recommendations with the United States  
25 Constitution and this Act, and identifying which, if

1 any, of such proposals and recommendations have  
2 been addressed in the President's proposed transi-  
3 tion plan.

4 (2) CONGRESSIONAL CONSIDERATION.—The  
5 plan shall be considered by the Congress in accord-  
6 ance with section 6.

7 (3) PUERTO RICAN APPROVAL.—

8 (A) Not later than 180 days after enact-  
9 ment of an Act pursuant to paragraph (1) pro-  
10 viding for the transition to full self-government  
11 for Puerto Rico as approved in the initial deci-  
12 sion referendum held under subsection (a), a  
13 referendum shall be held under the applicable  
14 provisions of Puerto Rico's electoral law on the  
15 question of approval of the transition plan.

16 (B) Approval must be by a majority of the  
17 valid votes cast. The results of the referendum  
18 shall be certified to the President of the United  
19 States.

20 (4) EFFECTIVE DATE FOR TRANSITION PLAN.—

21 The President of the United States shall issue a  
22 proclamation announcing the effective date of the  
23 transition plan to full self-government for Puerto  
24 Rico.

25 (c) IMPLEMENTATION STAGE.—

1           (1) PRESIDENTIAL RECOMMENDATION.—Not  
2           less than two years prior to the end of the period  
3           of the transition provided for in the transition plan  
4           approved under subsection (b), the President shall  
5           submit to Congress legislation with a recommenda-  
6           tion for the implementation of full self-government  
7           for Puerto Rico consistent with the ballot choice ap-  
8           proved under subsection (a).

9           (2) CONGRESSIONAL CONSIDERATION.—The  
10          plan shall be considered by the Congress in accord-  
11          ance with section 6.

12          (3) PUERTO RICAN APPROVAL.—

13                (A) Within 180 days after enactment of  
14                the terms of implementation for full self-govern-  
15                ment for Puerto Rico, a referendum shall be  
16                held under the applicable provisions of Puerto  
17                Rico's electoral laws on the question of the ap-  
18                proval of the terms of implementation for full  
19                self-government for Puerto Rico.

20                (B) Approval must be by a majority of the  
21                valid votes cast. The results of the referendum  
22                shall be certified to the President of the United  
23                States.

24          (4) EFFECTIVE DATE OF FULL SELF-GOVERN-  
25          MENT.—The President of the United States shall

1 issue a proclamation announcing the date of imple-  
2 mentation of full self-government for Puerto Rico.

3 **SEC. 5. REQUIREMENTS RELATING TO REFERENDA, IN-**  
4 **CLUDING INCONCLUSIVE REFERENDUM AND**  
5 **APPLICABLE LAWS.**

6 (a) **APPLICABLE LAWS.—**

7 (1) **REFERENDA UNDER PUERTO RICAN**  
8 **LAWS.—**The referenda held under this Act shall be  
9 conducted in accordance with the applicable laws of  
10 Puerto Rico, including laws of Puerto Rico under  
11 which voter eligibility is determined and which re-  
12 quire United States citizenship and establish other  
13 statutory requirements for voter eligibility of resi-  
14 dents and nonresidents.

15 (2) **FEDERAL LAWS.—**The Federal laws appli-  
16 cable to the election of the Resident Commissioner  
17 of Puerto Rico shall, as appropriate and consistent  
18 with this Act, also apply to the referenda. Any ref-  
19 erence in such Federal laws to elections shall be con-  
20 sidered, as appropriate, to be a reference to the  
21 referenda, unless it would frustrate the purposes of  
22 this Act.

23 (b) **CERTIFICATION OF REFERENDA RESULTS.—**The  
24 results of each referendum held under this Act shall be  
25 certified to the President of the United States and the

1 Senate and House of Representatives of the United States  
2 by the Government of Puerto Rico.

3 (c) CONSULTATION AND RECOMMENDATIONS FOR IN-  
4 CONCLUSIVE REFERENDUM.—

5 (1) IN GENERAL.—If a referendum provided in  
6 this Act does not result in approval of a fully self-  
7 governing status, the President, in consultation with  
8 officials of the three branches of the Government of  
9 Puerto Rico, the principal political parties of Puerto  
10 Rico, and other interested persons as may be appro-  
11 priate, shall make recommendations to the Congress  
12 within 180 days of receipt of the results of the ref-  
13 erendum.

14 (2) EXISTING STRUCTURE TO REMAIN IN EF-  
15 FECT.—If the inhabitants of the territory do not  
16 achieve full self-governance through either integra-  
17 tion into the Union or separate sovereignty in the  
18 form of independence or free association, Puerto  
19 Rico will remain an unincorporated territory of the  
20 United States, subject to the authority of Congress  
21 under Article IV, Section 3, Clause 2 of the United  
22 States Constitution. In that event, the existing Com-  
23 monwealth of Puerto Rico structure for local self-  
24 government will remain in effect, subject to such  
25 other measures as may be adopted by Congress in

1 the exercise of it's Territorial Clause powers to de-  
2 termine the disposition of the territory and status of  
3 it's inhabitants.

4 (3) AUTHORITY OF CONGRESS TO DETERMINE  
5 STATUS.—Since current unincorporated territory  
6 status of the Commonwealth of Puerto Rico is not  
7 a permanent, unalterable or guaranteed status under  
8 the Constitution of the United States, Congress re-  
9 tains plenary authority and responsibility to deter-  
10 mine a permanent status for Puerto Rico consistent  
11 with the national interest. The Congress historically  
12 has recognized a commitment to take into consider-  
13 ation the freely expressed wishes of the people of  
14 Puerto Rico regarding their future political status.  
15 This policy is consistent with respect for the right of  
16 self-determination in areas which are not fully self-  
17 governing, but does not constitute a legal restriction  
18 or binding limitation on the Territorial Clause pow-  
19 ers of Congress to determine a permanent status of  
20 Puerto Rico. Nor does any such restriction or limita-  
21 tion arise from the Puerto Rico Federal Relations  
22 Act (48 U.S.C. 731 et seq.).

23 (4) ADDITIONAL REFERENDA.—To ensure that  
24 the Congress is able on a continuing basis to exer-  
25 cise its Territorial Clause powers with due regard

1 for the wishes of the people of Puerto Rico respect-  
2 ing resolution of Puerto Rico's permanent future po-  
3 litical status, in the event that a referendum con-  
4 ducted under section four is inconclusive as provided  
5 in this subsection there shall be another referendum  
6 in accordance with this Act prior to the expiration  
7 of a period of four years from the date such incon-  
8 clusive results are certified or determined. This pro-  
9 cedure shall be repeated every four years, but not in  
10 a general election year, until Puerto Rico's unincor-  
11 porated territory status is terminated in favor of a  
12 recognized form of full self-government in accord-  
13 ance with this Act.

14 **SEC. 6. CONGRESSIONAL PROCEDURES FOR CONSIDER-**  
15 **ATION OF LEGISLATION.**

16 (a) **IN GENERAL.**—The Chairman of the Committee  
17 on Energy and Natural Resources shall introduce legisla-  
18 tion providing for the transition plan under section 4(b)  
19 and the implementation recommendation under section  
20 4(c), as appropriate, in the United States Senate and the  
21 Chairman of the Committee on Resources shall introduce  
22 such legislation in the United States House of Representa-  
23 tives, providing adequate time for the consideration of the  
24 legislation pursuant to the following provisions:

1           (1) At any time after the close of the 180th cal-  
2           endar day beginning after the date of introduction of  
3           such legislation, it shall be in order for any Member  
4           of the United States House of Representatives or  
5           the United States Senate to move to discharge any  
6           committee of that House from further consideration  
7           of the legislation. A motion to discharge shall be  
8           highly privileged, and debate thereon shall be limited  
9           to not more than two hours, to be divided equally  
10          between those supporting and those opposing the  
11          motion. An amendment to the motion shall not be in  
12          order, and it shall not be in order to move to recon-  
13          sider the vote by which the motion was agreed to or  
14          disagreed to.

15          (2) At any time after the close of the 14th leg-  
16          islative day beginning after the last committee of  
17          that House has reported or been discharged from  
18          further consideration of such legislation, it shall be  
19          in order for any Member of that House to move to  
20          proceed to the immediate consideration of the legis-  
21          lation (such motion not being debatable), and such  
22          motion is hereby made of high privilege. An amend-  
23          ment to the motion shall not be in order, and it shall  
24          not be in order to move to reconsider the vote by  
25          which the motion was agreed to or disagreed to. For

1 the purposes of this paragraph, the term “legislative  
2 day” means a day on which the United States  
3 House of Representatives or the United States Sen-  
4 ate, as appropriate, is in session.

5 (b) COMMITMENT OF CONGRESS.—Enactment of this  
6 section constitutes a commitment that the United States  
7 Congress will vote on legislation establishing appropriate  
8 mechanisms and procedures to implement the political sta-  
9 tus selected by the people of Puerto Rico.

10 (c) EXERCISE OF RULEMAKING POWER.—The provi-  
11 sions of this section are enacted by the Congress—

12 (1) as an exercise of the rulemaking power of  
13 the Senate and the House of Representatives and, as  
14 such, shall be considered as part of the rules of each  
15 House and shall supersede other rules only to the  
16 extent that they are inconsistent therewith; and

17 (2) with full recognition of the constitutional  
18 right of either House to change the rules (so far as  
19 they relate to the procedures of that House) at any  
20 time, in the same manner, and to the same extent  
21 as in the case of any other rule of that House.

22 **SEC. 7. AVAILABILITY OF FUNDS FOR THE REFERENDA.**

23 (a) IN GENERAL.—

24 (1) AVAILABILITY OF AMOUNTS DERIVED FROM  
25 TAX ON FOREIGN RUM.—During the period begin-

1       ning on October 1, 1996, and ending on the date the  
2       President determines that all referenda required by  
3       this Act have been held, the Secretary of the Treas-  
4       ury, upon request from time to time by the Presi-  
5       dent and in lieu of covering amounts into the treas-  
6       ury of Puerto Rico under section 7652(e)(1) of the  
7       Internal Revenue Code of 1986, shall make such  
8       amounts available to the President for the purposes  
9       specified in subsection (b).

10           (2) USE OF UNEXPENDED AMOUNTS.—Follow-  
11       ing each referendum required by this Act and after  
12       the end of the period specified in paragraph (1), the  
13       President shall transfer all unobligated and unex-  
14       pended amounts received by the President under  
15       paragraph (1) to the treasury of Puerto Rico for use  
16       in the same manner and for the same purposes as  
17       all other amounts covered into the treasury of Puer-  
18       to Rico under such section 7652(e)(1).

19           (b) GRANTS FOR CONDUCTING REFERENDA AND  
20       VOTER EDUCATION.—From amounts made available  
21       under subsection (a)(1), the President shall make grants  
22       to the State Elections Commission of Puerto Rico for  
23       referenda held pursuant to the terms of this Act, as fol-  
24       lows:

1           (1) 50 percent shall be available only for costs  
2 of conducting the referenda.

3           (2) 50 percent shall be available only for voter  
4 education funds for the central ruling body of the  
5 political party or parties advocating a particular bal-  
6 lot choice. The amount allocated for advocating a  
7 ballot choice under this paragraph shall be appor-  
8 tioned equally among the parties advocating that  
9 choice.

10       (c) **ADDITIONAL RESOURCES.**—In addition to  
11 amounts made available by this Act, the Puerto Rico Leg-  
12 islature may allocate additional resources for administra-  
13 tive and voter education costs to each party so long as  
14 the distribution of funds is consistent with the apportion-  
15 ment requirements of subsection (b).

[REDACTED]

If persons born in Puerto Rico possess citizenship encompassed by the Fourteenth Amendment, then there can be no question that Congress could not revoke their citizenship, either retroactively or prospectively. Atroyim v. Rusk, 387 U.S. 253 (1967). However, the question whether persons born in Puerto Rico possess a constitutional right of U.S. citizenship has never been decided by the Supreme Court. It has generally been assumed that their citizenship is based on statute only, and, thus is not covered by the Fourteenth Amendment.<sup>2</sup> However, an argument can be made that Puerto Rico should be deemed part of the United States for purposes of the Citizenship Clause of the Fourteenth Amendment.<sup>3</sup> We do not resolve that issue today, and it is not clear how the Supreme Court would rule if faced with the issue.

In 1917, Congress conferred U.S. citizenship by statute upon persons born in Puerto Rico. Sec. 302 of the Immigration and Nationality Act of 1952, 8 U.S.C. § 1402, provides roughly that all persons born in Puerto Rico on or after April 11, 1899, and residing there or in any other area over which the United States exercises sovereignty, are declared citizens of the United States as of January 13, 1941, unless they had acquired United States citizenship from another source. "All persons born in Puerto Rico on or after January 13, 1941, and subject to the

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<sup>2</sup> This view finds support in Downes v. Bidwell, 182 U.S. 244 (1901), which held that Puerto Rico is not "incorporated" into the United States for the purpose of the Revenue Clause, and Rogers v. Bellei, 401 U.S. 815 (1971), which held that persons not born or naturalized "in" the United States are not Fourteenth Amendment citizens.

<sup>3</sup> This argument is based primarily on U.S. v. Wong Kim Ark, 169 U.S. 649 (1898). The Court in a comprehensive opinion concluded that the Citizenship Clause of the Fourteenth Amendment was meant to codify existing common law of U.S. citizenship, which in turn was based in large part on English common law. Wong Kim Ark can reasonably be read to demonstrate that the common law conferred citizenship upon persons born in territories of the sovereign. The Ninth Circuit, in a split decision, rejected essentially the same argument in a case brought by persons claiming U.S. citizenship by virtue of their or their parents' birth in the Philippines during its period of territoriality. Rabang v. INS, 35 F.3d 1449 (9th Cir., 1994).

jurisdiction of the United States, are citizens of the United States at birth." Id.

There is no authoritative answer to the question whether persons who acquired U.S. citizenship under Sec. 302 can be deprived of it against their will. We are, however, reasonably certain that a person holding U.S. citizenship under section 302 cannot be deprived of it as long as Puerto Rico remains under U.S. sovereignty. The question of the revocability of Sec. 302 citizenship falls in the gap between two pertinent decisions of the Supreme Court. One case, Afroyim v. Rusk, 387 U.S. 253 (1967), holds that persons who are citizens of the United States by operation of the Fourteenth Amendment, including naturalized citizens, cannot be deprived of that citizenship against their will. The petitioner had been naturalized in the United States. The other relevant precedent is Rogers v. Bellei, 401 U.S. 815 (1971), which held that when Congress provides for the U.S. citizenship of a person born in a foreign country whose parent is a citizen of the United States, it may subject that citizenship to the condition subsequent that the person loses that citizenship unless he or she satisfies certain residency requirements.

The situation of a person who acquires United States citizenship by naturalization by virtue of birth in Puerto Rico falls between those two cases. A person born in Puerto Rico arguably does not hold Fourteenth Amendment citizenship because he or she is not born or naturalized in the United States. On the other hand such person was born under the sovereignty and within the jurisdiction of the United States, and his or her citizenship is not subject to a condition subsequent. In our view the critical point is not whether the citizenship is based on the Fourteenth Amendment or on a statute, but whether the grant of citizenship was unconditional or subject to a condition subsequent, hence that the unconditional citizenship of Puerto Ricans cannot be revoked against their will.

Our conclusion that Congress could not take away the U.S. citizenship held by Puerto Ricans without their consent does not necessarily resolve the issue raised in the event that United States were to give up its sovereignty over Puerto Rico and the island were to become a sovereign, independent nation. During and after the War of Independence a substantial body of law -- both in the United States and in Britain -- dealt with the effect of the change of sovereignty on the citizenship and allegiance of the inhabitants of the former British colonies. The issues in those cases varied from the question whether a person born in the Colonies who fought on the side of the British was guilty of treason against the Colony in which he had lived, to the question whether a person who had left the Colony of his birth had become an alien and incapable of inheriting. The pertinent considerations were restated by Chief Justice Marshall in

American Insurance Co. v. Canter, 26 U.S. at 542: He pointed out that upon the cession of territory the relations of the inhabitants "with their former sovereign are dissolved, and new relations are created between them, and the government which has acquired their territory. The same Act which transfers their country, transfers the allegiance of those who remain in it." Emphasis added. In other words, upon a transfer of sovereignty the nationality of the inhabitants is changed to that of the new sovereign, but the inhabitants have the option to retain their nationality by leaving their former residence.

In recent years the Supreme Court has had no opportunity to address this issue; the last case reaffirming this rule was decided in 1892. See Boyd v. Thayer, 143 U.S. 135, 162 (1892). The rule, however, is not obsolete. It was applied in 38 Op. Atty Gen. 525, 530 (1936); and in United States ex rel. Schwartzkopf v. Uhl, 137 F.2d 898, 902 (2d Cir. 1943). The authorities referred to in both opinions show that the rule represents generally recognized U.S. as well as international law.

The rule that, in case of a change of sovereignty, citizenship follows sovereignty is not inconsistent with the reasons underlying the holdings that a person cannot be deprived of his citizenship against his or her will. Afroyim v. Rusk, to which I already have referred and which held that a person could not be deprived involuntarily of his or her citizenship, was largely based on two considerations -- that citizenship should not depend on the whim of Congress, and that the deprivation of citizenship may make a person stateless. 387 U.S. at 268. These rationales are inapplicable where there is a transfer of citizenship as the result of a change of sovereignty. In that circumstance the loss of citizenship would not result from an arbitrary act of Congress, but by operation of law as the result of an act of cession that United States as a sovereign nation is capable of making. Furthermore, the loss of U.S. citizenship would not result in statelessness, but in the acquisition of another nationality. It would also avoid the dangers inherent in dual nationality on such a large scale, including the dilemma of conflicting duties of allegiance. See, Bellei, 401 U.S. at 831-33, Shanks v. Dupont, 28 U.S. (3 Pct.) 242, 247 (1830). Moreover, as suggested in Rabang v. Boyd, 353 U.S. 427, 430 (1957) the notion that residents of Puerto Rico could retain their U.S. citizenship and continue to owe allegiance to the United States if the latter granted independence to Puerto Rico would be inconsistent with that independence. Finally a resident of Puerto Rico could preserve his U.S. citizenship by moving to an area under the sovereignty of the United States.

The rule that citizenship follows nationality applies only where the treaty of cession is silent. That agreement can make specific provisions on this issue. Thus Art. VIII of the Peace

Treaty with Mexico, 9 Stat. 929; Art. IX of the Peace Treaty with Spain, 30 Stat. 1759; Art. 6 of the Treaty with Denmark relating to the cession of the Danish Virgin Islands, 39 Stat. Vol. 2, 1713, all provide that residents of the ceded areas may opt to retain their original citizenship, the implication being that they then would not acquire the nationality of the new sovereign. Article VI B(1) of the Boundary Treaty with Mexico of April 18, 1972, 23 U.S.T. 371, 399, which involved the exchange of small and sparsely populated areas, provided that the transfer of territory should not affect the citizenship of the residents. This indicates the awareness of the negotiators of the treaty that, absent this clause, the transfer of the territory would have resulted in the transfer of citizenship. Accordingly, the question whether in the event of independence the people of Puerto Rico should be permitted to retain their U.S. citizenship is a matter entrusted to the discretion of Congress or the President and Senate under the Treaty power.

The last question is whether Congress has the power to repeal section 302 of the Immigration and Nationality Act prospectively, *i.e.*, without affecting the U.S. citizenship of those who already have acquired it, but to deny it to persons born in Puerto Rico after the effective date of the repealing statute. In the light of our previous discussion that Congress has the power to repeal or to amend earlier legislation, such legislation would likely be effective. Of course, as already discussed, if Puerto Rican's U.S. citizenship were encompassed by the Fourteenth Amendment, then Congress could not deny citizenship to those persons born in Puerto Rico.

**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001**

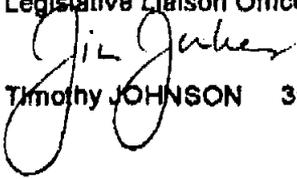
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FILE NO: 2126

6/24/96

**LEGISLATIVE REFERRAL MEMORANDUM**Total Page(s): 6

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FROM: 

(for) Assistant Director for Legislative Reference

OMB CONTACT: Timothy JOHNSON 395-7562 Legislative Assistant's Line: 395-3454

**SUBJECT: JUSTICE Proposed Report RE: HR3024, United States-Puerto Rico Political  
Status Act**

**DEADLINE: 3:00 Tuesday, June 25, 1996**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

**Please advise us if this item will affect direct spending or receipts for purposes of the  
"Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

**COMMENTS: A full committee markup of H.R. 3024 is scheduled for Wednesday, June 26th. The bill as  
approved by subcommittee was circulated on June 18th under LRM 4770.**

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**RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM**

LRM NO: 4868

FILE NO: 2126

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

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SUBJECT: JUSTICE Proposed Report RE: HR3024, United States-Puerto Rico Political Status Act

The following is the response of our agency to your request for views on the above-captioned subject:

- \_\_\_\_\_ Concur
- \_\_\_\_\_ No Objection
- \_\_\_\_\_ No Comment
- \_\_\_\_\_ See proposed edits on pages \_\_\_\_\_
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## U. S. Department of Justice

## Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DRAFT

Honorable Don Young  
 Chairman  
 Resources Committee  
 U.S. House of Representatives  
 Washington, DC 20515

Dear Chairman Young:

This letter presents the views of the Justice Department on H.R. 3024, the "United States-Puerto Rico Political Status Act." H.R. 3024 would provide for a referendum on the status of Puerto Rico; a commitment by the Congress to vote on the status selected; a ten-year transition plan; and a second referendum to ratify by majority vote the terms of implementation which the Congress would establish. We support a plebiscite to permit the inhabitants of Puerto Rico to express their views. We have several recommendations for improving the bill.

First, part II(A) in subsection 4(a) delineates the likely ramifications of independence. This subsection would provide for separate Puerto Rico sovereignty leading to "independence or free association." The clause "independence or free association" is misleading because the Spanish translation of "commonwealth" is "estado libre asociado," which also means "free association." Hence, voters might believe that "independence" contains a "commonwealth" option and vote accordingly. This confusion might be deepened by part II(A)(2), which provides for a choice between a treaty between the United States and Puerto Rico, on the one hand, and a free association relationship on the other. Deleting the phrase "or free association" where it exists throughout the bill would eliminate this source of possible confusion.

Second, part II(A)(4) in subsection 4, provides that an independent Puerto Rico "exercises the sovereign power to determine and control its own nationality and citizenship." This subsection generally would withdraw from the Puerto Rican people United States citizenship conferred upon them based upon their birth in the territory during the period in which the United

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States exercised sovereignty and jurisdiction over Puerto Rico. This subsection would authorize Congress to establish criteria for "affected individuals," under which these individuals could retain United States nationality and citizenship or could be naturalized in the United States, as long as this would not create an exception to the principle of separate United States and Puerto Rican nationality and citizenship. We understand that this provision would be limited to individuals and would not authorize the establishment of broad categories of residents of Puerto Ricans who could retain their United States citizenship.

However, we object to this provision unless the withdrawal of United States citizenship is limited to persons who were born in Puerto Rico and are domiciled there at the time of independence. Moreover, in our view, the Constitution requires that the bill give those United States citizens residing but not born in Puerto Rico an option either of United States citizenship or of Puerto Rican citizenship. Finally, an individual who maintained United States citizenship under this clause would have to forfeit Puerto Rican citizenship or impinge upon the principle of separate United States and Puerto Rican citizenship.

We note that if the independence option prevailed, there likely would be a substantial number of persons who would seek to retain their United States citizenship. We note, but do not resolve at this juncture, the complexity of providing to all residents of Puerto Rico an option to remain citizens of the United States while residing in Puerto Rico. An option of this nature might create a very large population of persons domiciled in Puerto Rico who would be aliens from Puerto Rico's perspective. Moreover, in view of the responsibility of the United States to protect the safety, rights and welfare of United States citizens abroad, the retention of United States citizenship by a sizeable portion of the residents of Puerto Rico could lead to significant interventions by the United States into an independent Puerto Rico's affairs. We believe that continued dialogue with all interested parties would assist in resolving this issue.

Third, part II(A)(8) in subsection 4(a), would remove Puerto Rico from the customs territory of the United States and provide that trade between the United States and Puerto Rico would be based on a treaty. At least insofar as the tariff treatment of Puerto Rico is at issue, a separate treaty would be unnecessary. Congress could address tariff treatment in the legislation implementing independence by granting Puerto Rico treatment under General Notes 3, 4, 7 or 10 of the Harmonized Tariff Schedules of the United States. For example, the Congress could apply to Puerto Rico the Caribbean Basin Economic Recovery Act (General Note 7) or confer upon it Freely Associated States status (General Note 10).

Fourth, part II(B) in subsection 4(a), delineates the ramifications of statehood. Express language should be added that Puerto Rico would become a "State in all respects on an equal footing with the other States."

Fifth, part II(B)(7) in subsection 4(a) of the bill would require that Puerto Ricans who wish to support statehood in the referendum express support for "adhere[nces] to the same language requirement as in the several States." We oppose this provision. In becoming a State, Puerto Rico automatically would become subject to all laws generally applicable to the States. Therefore, the provision is unnecessary and language should not be singled out from among the many areas of law that affect the various States. Furthermore, there is no single language requirement governing all of the States. Moreover, since many of the residents of Puerto Rico speak Spanish as their first language, they might interpret the provision as branding Puerto Rican culture an "alien" culture, to be eliminated, rather than incorporated, in the event of statehood. This interpretation might skew a referendum vote arbitrarily against statehood.

The Administration is committed to working with Congress and with Puerto Rico's leaders to develop a process that would enable Puerto Ricans to fulfill their aspirations for self-determination. Such a process would build upon the expressions of those aspirations in the 1993 plebiscite. It would resolve what the options for self-determination should be. It would commit both the United States Government and the Government of Puerto Rico to act in response to the will of a majority of the people of Puerto Rico.

We appreciate the opportunity to share our views on this bill. The Office of Management and Budget has advised that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

Andrew Fois  
Assistant Attorney General

cc: Honorable George Miller  
Ranking Minority Member  
Committee on Resources

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Honorable Elton Gallegly  
Chairman  
Subcommittee on Native American and Insular Affairs  
Committee on Resources

Honorable Eni F. H. Faleomavaega  
Ranking Minority Member  
Subcommittee on Native American and Insular Affairs  
Committee on Resources