

NONE OF THE ABOVE:

PUERTO RICANS IN THE GLOBAL ERA

Edited by
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“None of the Above” Means More of the Same: Why Solving Puerto Rico’s Status Problem Matters

Christina Duffy Burnett

In December of 1998, a slim majority of the Puerto Rican electorate chose “none of the above” in a plebiscite on the future of Puerto Rico’s relationship to the United States. With this choice, 50.3 percent of the voters rejected several more familiar alternatives on the ballot: statehood, independence, and a continuation of Puerto Rico’s current commonwealth status, along with a fourth option labeled “free association.”¹ Previous plebiscites had yielded victories for an improved or “enhanced” version of commonwealth status.² But the absence of “enhanced” commonwealth from the 1998 ballot, along with the addition of “none of the above,” changed the dynamic: supporters of enhanced commonwealth rallied to the cause of “none of the above” in order to protest the exclusion of their preferred alternative, and in their wake followed all those who wanted to take this opportunity to just say “no.”

Interpretations of the inscrutable outcome of the plebiscite proliferated, but consensus on its significance proved elusive. Island political leaders proffered clashing views in a hearing before a U.S. Senate committee, while pundits and the public tried out their own ideas: that the voters who chose “none of the above” had wanted to express their opposition to the government’s decision to hold the plebiscite too soon after a hurricane had devastated parts of the island; that they had wished to register a protest against the then-recent privatization of the telephone company; that they had been afraid that a victory for statehood specifically would subject them to immediate federal taxation.³ But in the end, the only solid conclusion to be drawn was that a victory for “none of the above” offered a mandate for nothing at all.

Despite this apparently disappointing outcome, certain members of the Puerto Rican intelligentsia embraced the victory of “none of the above,” or at least its null verdict on a concrete proposal for resolving what has come to be known as Puerto Rico’s “status problem.” While the voters’ motivations proved difficult to pin down, among intellectuals the celebration of “none of the above” seemed to be largely driven by a conviction that the so-called status problem had somehow become too complex to be resolved by a simple choice on a paper ballot. As they saw it, the traditional status debate offers old and inadequate solutions for new and unprecedented problems; “none of the above,” in this view, was a welcome rejection not only of the other options on the ballot but also of the status debate itself.⁴

The popularity of “none of the above” inspired the question to which this chapter responds, which was posed to me as part of an invitation to speak at The Puerto Rican Vacilón, the conference that gave rise to this volume: “whether formal decolonization represents an outdated way to address [Puerto Rico’s] contemporary challenges.”⁵ The question, in other words, was whether “none of the above” augured a new age, and a better one; whether its victory at the polls responded to new realities that the old status options could not even begin to address. In response, I argue that formal decolonization for Puerto Rico is by no means outdated; it is, rather, long overdue.

The argument against formal decolonization—which is to say, in favor of “none of the above”—rests on questionable premises: that Puerto Rico’s new challenges have somehow rendered the old ones irrelevant; that territorial sovereignty and the nation-state have somehow become more ambiguous and complicated today than they were in the past; that the status debate can somehow be settled simply by putting it aside, without ever actually solving, the problem that gave rise to it in the first place. None of these premises, I argue below, stands up to scrutiny. Moreover, defenders of the victory of “none of the above” have overlooked a crucial flaw inherent in that result: For all their rhetoric about a visionary and forward-looking challenge to an outdated and unproductive debate, the actual consequences of “none of the above” are impossible to distinguish from an emphatic reaffirmation of Puerto Rico’s colonial status quo.

BETWEEN THE “PREMATURE” AND THE “OUTDATED”

Where status is concerned, the argument that Puerto Ricans should discard an old debate, devoting their energies to new challenges, has a strangely familiar ring. After all, in the not-so-distant past, political leaders who claimed to know best informed the people of the island that formal decolonization was premature. It might well be asked: how did decolonization go from “premature” to “outdated” without stopping at “timely”?

Over 50 years ago, Puerto Rico’s political leaders decided to postpone a final resolution to the island’s colonial status; specifically, they put aside the problem of Puerto Rico’s lack of representation at the federal level and

second-class status under federal law, in order to focus instead on local self-government and on the pressing economic problems that had kept many of the island's people in a state of grinding poverty.⁶ During this transformative period in the 1940s and 1950s, Puerto Rico underwent economic reforms leading to a higher overall standard of living, along with significant political changes at the local level. Puerto Ricans for the first time elected their own governor in 1948 (replacing a system of presidential appointment), and, in 1952, they adopted their own constitution, acquiring in the process the official name of "Commonwealth of Puerto Rico."⁷

At the time, many saw these events as a visionary alternative to an unproductive debate. Postponing a decision among the traditional status options, political leaders instead gave the island's electorate a simple "yes or no" choice on whether to adopt a local constitution and become a "commonwealth," and the affirmative vote prevailed.

Yet despite the overwhelming popular endorsement of this transition to commonwealth status, Puerto Rico's fundamental colonial problem remained untouched: The island remained subject to most federal laws, while its people, still U.S. citizens, continued to be disfranchised at the federal level, and to be treated differently from other citizens under federal law.

Puerto Rico's persistent colonial status had—and continues to have—enormously damaging consequences, both symbolic and practical. The symbolic harms of colonial subjection are obvious; the more practical harms in this case include the fact that the island's non-voting "Resident Commissioner" in Washington has nothing but the smile on his face to offer in return for the vote of a colleague on legislation affecting Puerto Rico; that Puerto Rico must therefore spend staggering amounts of taxpayer money on lobbyists to represent the island's interests, and sometimes even merely to ensure that it is not inadvertently excluded from a given federal bill;⁸ that representatives elected elsewhere in the United States (who by virtue of their voting power wield much greater influence than Puerto Rico's own non-voting delegate) act as self-appointed spokespeople for Puerto Rico, while having no accountability to Puerto Rican voters;⁹ that Puerto Ricans have no voice in the selection of the president, but can be and have been drafted into military service in the U.S. armed forces.¹⁰ And the list goes on.

Recognizing the persistence of Puerto Rico's colonial situation, the leadership of the political party that had designed commonwealth status in the first place embarked on a quest for "enhancements," petitioning Congress for the desired improvements to the commonwealth arrangement immediately after the transition to that status took effect—and for decades to come—without success. Ever since, Puerto Ricans have continued to engage in a seemingly interminable debate over how to put an end to their formally colonial relationship to the United States.

In short, new challenges inspired new approaches, but the old problem did not simply disappear as a result. The reforms of the 1940s and 1950s, important as they were, did not make Puerto Rico's status problem any less important to solve. And the debate over how to solve the problem persisted

for a simple reason: The problem itself persisted. No amount of visionary and forward-looking activity could change that fact, as long as such activity failed to tackle the problem itself.

The same holds true today: New issues have arisen (they always do), but the old problem remains. Yet now, instead of trying to divert attention from the status problem by labeling a solution “premature,” critics of the status debate have tried to make the issue disappear by christening it “outdated.”

Historian Carlos Pabón (chapter 5), for instance, complains that the traditional status alternatives, which he argues rest on nineteenth-century premises about territorial sovereignty and the nation-state, should cease once and for all to be a topic of popular political discussion, because they have nothing to offer the twenty-first century “micro-electronic revolution, cyberspace, and genetic engineering world.” The proposed status options, he insists, cannot resolve contemporary challenges such as “drug trafficking or the ecological crisis.”

Indeed not! (Nor, one might add, can the current status.) All that a status option can do is solve the status problem. A solution to the status problem can, in turn, create conditions far more conducive to the resolution of other contemporary challenges, but no one should expect the traditional status options, or any *de jure* political arrangement, to solve all of Puerto Rico’s contemporary challenges.

In their enthusiasm to deploy an analysis of Puerto Rico’s colonial condition that captures complex twenty-first-century realities, critics of the status debate have defined Puerto Rico’s contemporary challenges so broadly as to make it impossible to know even where to begin to address them. No wonder the traditional status options start to look inadequate. If one defines “decolonization” as the elimination of all forms of subjection, or if by “colonialism” one means the staggering imbalance of power between the United States and Puerto Rico, or if by “contemporary challenges” one means every imaginable contemporary challenge, then of course one can easily reach the conclusion that decolonization is unrealistic, and anyway unequal to the vicissitudes of postmodernity.

Without denying the breadth and complexity of Puerto Rico’s contemporary challenges, however, I propose instead that we understand “colonialism” as one commentator has suggested: as “a simple and perfectly useful word to describe a relationship between a powerful metropolitan state and a poor overseas dependency that does not participate meaningfully in the formal lawmaking processes that shape the daily lives of its people.”¹¹ Decolonization, in turn, refers simply to the implementation of a political status that offers meaningful participation to all citizens in the formal lawmaking processes of a credibly democratic system, not, mind you, a utopia—just meaningful participation and basic democratic legitimacy. Once such a status is in place, those other contemporary challenges will still deserve attention, but at least the harms arising directly out of a status of formal colonial subjection will have been addressed as effectively as they can be addressed; the obstacles that an illegitimate political arrangement poses to the effective resolution of other issues of public concern will have been largely swept aside.

Formal decolonization for Puerto Rico has been postponed for centuries. No one, under these circumstances, should think of formal decolonization as premature, much less outdated. The moment for formal decolonization is right now, and always has been.

OF SOVEREIGN STATES AND STRAW MEN

Those “nineteenth-century” premises that supposedly form the basis of the traditional status options loom large in current criticisms of the status debate. In our twenty-first-century world, the critics argue, there can be no room for old-fashioned ideas about nation-states exercising sole sovereignty and control over their own neatly-bounded territories. Citing the “crisis of the nation-state” and the “era of globalization,” these skeptics exhort us to leave behind the “Westphalian” model of the territorially-bounded sovereign nation-state, and to come to terms with today’s “post-national” realities.

These arguments, too, sound strangely familiar. Academics have been auguring the demise of territorial sovereignty and the nation-state for a very long time, and they have reliably alluded to an imaginary past when nation-states were simple, and territorial sovereignty complete. As international law scholar David Kennedy has observed, “the leading ‘new’ scholars of my generation . . . reaffirm some of the field’s most familiar and dogmatic propositions: that sovereignty has eroded, that international law should be understood politically, that the boundary between international and municipal law is porous, that international law may not be as universal as it pretends, that the international regime is better understood as a process or multilevel game than as government by legal norms.” These ideas, Kennedy goes on, “have been part of disciplinary common sense for a century.” Yet for some reason, today’s academics have “turned them into a fighting faith.”¹²

What past do these new scholars have in mind, anyway? Certainly it cannot be Westphalia, despite the ubiquitous references to the so-called Westphalian model of the territorially-bounded sovereign nation-state in the scholarship trumpeting the decline of an old order. The treaties comprising the Peace of Westphalia in 1648—centuries, that is, before the emergence of anything approximating the modern nation-state—dealt with an immensely complicated web of interrelated sovereign-type prerogatives among an array of entities—some vaguely resembling proto-nation-states, others not at all.¹³

Perhaps these scholars have in mind the nineteenth century, when the so-called Westphalian model of the nation-state supposedly reached its culmination. Yet the nineteenth century also saw European and American imperialists (seeking to justify their colonial projects abroad) going so far in their efforts to manipulate the idea of sovereignty as to render it virtually meaningless. The Europeans who gathered at Berlin in 1884–85 to carve up Africa among themselves, for instance, reasoned that African leaders were sovereign enough to give “native consent” to the transfer of control over territory, but not sovereign enough to enter into bona fide treaties; that protectorate status

preserved “internal” sovereignty while delegating “external” sovereignty, rendering the purportedly protected entity a “semi-sovereign” state; and that in the case of at least one protectorate, “the internal as well as the external sovereignty had passed to the protecting Power, but the territory [had] not been formally annexed.”¹⁴ Decades earlier, the U.S. Supreme Court had subjected Native Americans to the status of “domestic dependent nations” to justify treating them as sovereign and not sovereign at the very same time; and not long thereafter, the court would describe the territories annexed in 1898, including Puerto Rico, as both “foreign” and “domestic,” by way of explaining how they could be subject to U.S. sovereignty and at the same time not be part of the United States proper.¹⁵

Evidently, these people did not live in a world of territorially-bounded sovereign nation-states, nor did they think they did. As they well understood, the concept has always been a fiction: a heuristic, and often a very useful one, but not now, nor ever before, a descriptive label in any precise sense.

As all of this suggests, territorial sovereignty and the nation-state have become no more ambiguous and complicated today than they were in the past. Moreover, none of the traditional status alternatives—neither statehood, independence, commonwealth, enhanced commonwealth, nor free association—assumes the existence of a world of neat and tidy nation-states, and none of them depends on it. Each of these alternatives actually embodies quite a complex set of ideas about the intersection of territory, sovereignty, democracy, legitimacy, power, and interdependence. The seemingly simple terms associated with the status debate—words such as “sovereignty,” “independence,” and “statehood”—should not deceive anyone, much less the savvy scholars of the post-national moment.

The argument that decolonization cannot serve twenty-first-century realities rests on the invention of an iconic age that never was: an Edenic world in which the nation-state was not in crisis and globalization had not yet begun. Such oversimplification should not be deployed in the service of an argument against formal decolonization (or at all, for that matter). Formal decolonization can serve crucial a function today, just as it did in the past. It is a mistake to conclude that formal decolonization has outlived its usefulness because the simple Westphalian world that produced it has passed. No such world ever existed.

CLOSING CONSTITUTIVE QUESTIONS

The argument that Puerto Ricans should simply cease to engage in the status debate and move on to more important matters assumes that Puerto Ricans have deliberately chosen to waste their time on an irrelevant discussion. It is as if they suffered from a decadent addiction, as if the time had come to go cold turkey. But the persistence of the status debate does not call for a 12-step program to help Puerto Ricans kick the habit. Rather, the persistence of the debate attests to a well-founded and widespread recognition that Puerto Rico’s *de jure* relationship to the United States needs resolution: that the island remains, in a formal sense that matters, a colony, and that something

needs to be done about it. The argument over what should be done saps attention and energy away from other contemporary challenges, to be sure, but that argument embodies a collective effort to make a direct intervention into one of the most serious and longstanding of those contemporary challenges.

In Puerto Rico, as in any colonial situation, fundamental questions concerning how the polity should be organized—call them “constitutive” questions—have yet to be answered in a way that satisfies anyone but a few, staunch supporters of the colonial status quo (such as that resounding 0.1 percent of the electorate who voted for “territorial commonwealth” on the 1998 ballot). How should Puerto Ricans constitute themselves as a political community? Should they have a formal association with the United States and, if so, what sort of association should this be? What government (or governments) should be principally responsible for addressing their day-to-day problems? What form should such government take, and how should it be held accountable to the people it governs? Such are the questions that a fair, effective, and broadly persuasive process of self-determination should resolve, as best they can be resolved. Because the asymmetries of colonialism cannot provide satisfactory answers, those they do provide can only be temporary, and constantly contested. And so the debate continues, as well it should.

The failure to resolve constitutive questions has robbed Puerto Ricans of a viable and legitimate framework for ordinary political deliberation. Instead, high-stakes issues that should be settled as a precondition to the effective conduct of daily political life have come to dominate—and distort—public discourse.

In one of the most obvious examples of the distorting effect that the failure to resolve the status problem has had upon public life in Puerto Rico, the island’s political parties do not align themselves along a spectrum having anything to do with ordinary issues of public concern, such as health, education, jobs, crime, or the environment. Instead, the parties define and distinguish themselves according to their preferred status alternatives: statehood, independence, and enhanced commonwealth.¹⁶ As the qualifier “enhanced” indicates, none of the parties, not even the pro-commonwealth party, advocates the continuation of the status quo.¹⁷ The intractable disagreements among the various segments of the electorate concern what to do, not whether to do something. This stalemate, combined with federal inertia, and in many cases resistance, has conspired to keep Puerto Ricans trapped in a condition of subjection—and mired in a bitter and divisive argument over how to get out.

As one former governor has written, the failure to resolve Puerto Rico’s status problem

divide[s] the people and breeds unending conflict . . . At least 75% of the voters align themselves with status options, as opposed to candidates, programs or solutions to pressing problems. It is as if breaking up the Union into 50 pieces, or redefining the states to cut their number in half, were the only dominant issues in every presidential election in the U.S.¹⁸

Indeed, it is not only “as if” breaking up the Union were the only dominant issue in every election. In Puerto Rico, whether to break up the union—the union between Puerto Rico and the United States, that is—is *in fact* the dominant issue in every election.

And how could it not be? If one believes that Puerto Ricans ought to be granted full and equal voting rights at the federal level, why should one support, say, a gubernatorial candidate who is willing to trade those in for a nebulously defined “enhanced” autonomy—no matter how brilliant the candidate’s platform on social welfare or environmental reform? If one believes that Puerto Rico ought to be independent, why should one support a candidate who supports the irreversible step of admission into statehood—even if that candidate has outlined a compelling program of economic development or crime prevention?

It should come as no surprise that the status issue trumps other issues. Where political self-determination remains unrealized, the debate over it will interfere with, and most likely take precedence over, ordinary politics; Puerto Rico is no exception. This is because constitutive questions matter not only on their own merits—recall the symbolic and practical harms of colonialism—but also because the answers to them have implications for how a polity can most effectively address those day-to-day issues of ordinary public concern. It is therefore completely understandable and eminently justifiable that many Puerto Rican voters give priority to the resolution of the constitutive question of status and, with it, to the eradication of an illegitimate and ineffective framework for political deliberation. Their insistence on the importance of the status issue does not reflect a misguided desire to ignore other problems; on the contrary, it reflects a considered judgment on how best to set the conditions to address those other problems productively.

Some critics of the traditional status debate have suggested, striking a particularly cynical note, that Puerto Rican political elites actually have an interest in perpetuating the status problem, and the debate that goes with it; as Pabón puts it, the status issue “justifies their political existence.” But this is little better than name-calling. Since the allegation rests on the imputation of secret motives, the charge can neither be proven nor refuted. Moreover, such an insinuation is particularly perverse, since it amounts to an assertion that people who give their lives to political causes are *for that very reason* to be mistrusted. Are there not political causes that merit such commitment? And is the basic structure of the polity not such a cause? In this sense, the status issue has indeed “justified the political existence” of not a small number of serious people for several generations as well it ought. In any case, the notion that a solution to the status problem would leave Puerto Rican politicians rudderless and paralyzed is simply not credible. The end of the status problem would not be the end of politics; it would be the end of the status problem. The politicians, no doubt, would find other issues.

There is no question that Puerto Ricans would be better off if they could simply stop their hand-wringing over colonialism, and get on with the project

of building a healthy polity and a just society. On this much, the critics and I agree. But putting aside a debate over colonialism requires more than just saying the debate is over; it requires making sure that colonialism itself is over.

CONCLUSION

As I worked on the early stages of this chapter, I met a legal scholar who had spent several years at the U.S. Department of Justice. He asked me where I was from, and when I said I was from Puerto Rico, he instantly exclaimed, “Puerto Rico! You people have *got* to solve the status problem!” This reaction greatly surprised me, since I am used to hearing something having more to do with the beauty of the island’s beaches. When I asked him why he had reacted that way, he replied, “When I was at the Justice Department, Puerto Rico issues came up occasionally. And no matter what the issue was, the issue was status. Everything was about status. *We could never get anything done.*”

This, I suppose, was the lawyer in him talking, not the legal scholar. Scholars, generally, do not approach problems with the aim of “getting things done.” The task of a scholar is not to close questions, but to keep them open: to adopt a critical stance, to follow one question with another, and to challenge claims to certainty. This may account, at least in part, for why decolonization has lost its luster among some members of the Puerto Rican intelligentsia. The term has been overused. It sounds too linear. Too simple. Too final. It should make any good scholar suspicious.

But my aim in this chapter has been to suggest that politics have much to gain from simply closing certain questions, and that Puerto Rico specifically has a great deal to gain from closing—not evading—the status question. Postponing a resolution to this fundamental problem (or declaring a resolution outdated) in order to focus on other pressing issues gets it exactly backward. The failure to resolve basic matters of political organization, relegating them instead to perpetual limbo, may make good material for scholarly conversation, but it is a terrible way to conduct political life.

NOTES

1. For a summary of the plebiscite results, see <<http://eleccionespuertorico.org/1998/summary.html>> (June 17, 2004); see also “The Results of the 1998 Puerto Rico Plebiscite,” Report by Chairman Don Young and Senior Member George Miller to the Committee on Resources, U.S. House of Representatives, Serial No. 106-A, 106th Cong., 2nd sess. (November 19, 1999), in Appendix D. For the definitions of the status options, see *ibid.* at Appendix A (reproducing the definitions as published in *The San Juan Star*, November 22, 1998).
2. See <<http://eleccionespuertorico.org/1993/summary.html>> (June 17, 2004); “Results,” cited note 1, in Appendix D.
3. The hearing took place before the Senate Committee on Resources, one of a number of federal entities with jurisdiction over matters related to Puerto Rico’s status. For a transcript, see <<http://www.puertorico-herald.org/issues/>>

vol3n21/ senatetranscript-en.shtml> (June 17, 2004). For a sampling of other interpretations of the plebiscite, see, for example, Carolina González and Owen Moritz, “Isle’s Future Uncertain,” *Daily News* (New York), December 15, 1998: (“[E]choing the sentiment of many island residents, [one voter] said he cast a protest vote for ‘none of the above’ because the government went ahead with the referendum ‘right before Christmas and right after the hurricane.’ ”); William Branigin, “Puerto Rico Leader Vows to Press for Statehood,” *Washington Post*, December 15, 1998, A10: (describing the outcome as “a divisive and ambiguous result, leaving politicians [in Puerto Rico] free to attach widely varying interpretations,” and noting that “[p]olitical analysts said the ‘none of the above’ vote not only reflected those concerns [of *status quo* supporters] but served as a catch-all category for people to express dissatisfaction with [Governor] Rossell[ó] for other reasons, including his efforts to privatize the island’s telephone company over the opposition of local unions”); Mireya Navarro, “Looking Beyond Vote in Puerto Rico After ‘None of the Above’ Is Top Choice,” *The New York Times*, December 15, 1998, A16: (“[P]olitical analysts [in San Juan] say that [the “none of the above” option] also sheltered those who feared statehood as too drastic a change and those resentful of Governor Rossell[ó]’s style of governing. The governor himself said he thought voters rejected him more than the statehood option for such decisions as the sale of a majority stake of the government-owned telephone company to a private consortium this year, which led to a bitter strike by telephone workers.”).

4. See, for example, Carlos Pabón’s contribution to this volume: “The Political Status of Puerto Rico: A Nonsense Dilemma.”
5. The Puerto Rican Vacilón: A Conference on Current Debates in Puerto Rican Culture and Politics, University of Miami, April 18–20, 2002. I do not mean to suggest that the conference organizers themselves embraced the plebiscite result, only that they recognized that others had, and thought it was worth exploring why.
6. Residents of Puerto Rico do not vote in presidential elections; they have a single, nonvoting “Resident Commissioner” who sits in the House of Representatives. On the U.S. territories’ presence in Congress, see Abraham Holtzman, “Empire and Representation: The U.S. Congress,” *Legislative Studies Quarterly* 11 (1986): 249.
7. For an account of this period by one of these leaders, see José Trías Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven: Yale University Press, 1997), at Chapters 9–11.
8. See Chris Mooney, “Treasure Island,” *American Prospect* 11, no. 21 (September 29–October 5, 2000), <<http://www.prospect.org/print/V11/21/mooney-c.html>> (June 14, 2004).
9. Representative Luis Gutiérrez (D-Illinois), an ethnically Puerto Rican congressman, exemplifies this problem well. See, e.g., “U.S. Congress,” *Chicago Sun-Times*, March 10, 2002, editorial: (observing that his “critics complain, with some cause, that Guti[é]rrez sometimes acts like he believes his district is in Puerto Rico”).
10. For a brief overview of Puerto Ricans’ service in the U.S. military, see <<http://www.veteransforpr.com/history.htm>> (June 17, 2004).

11. José A. Cabranes, "Some Common Ground," in *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution*, ed. Christina Duffy Burnett and Burke Marshall (Durham: Duke University Press, 2001), 40–41.
12. David Kennedy, "The Twentieth-Century Discipline of International Law in the United States," in *Looking Back at Law's Century*, ed. Austin Sarat, Bryan Garth, and Robert A. Kagan (Ithaca: Cornell University Press, 2002), 405.
13. See Andreas Osiander, "Sovereignty, International Relations, and the Westphalian Myth," *International Organization* 55, no. 2 (Spring 2001): 251.
14. Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (Cambridge: Cambridge University Press, 2001), 125 (internal quotation marks omitted); see generally *ibid.*, Chapter 2.
15. *Cherokee Nation v. Georgia*, 30 U.S. 1, 17 (1831); the *Insular Cases*, see, e.g., *Downes v. Bidwell*, 182 U.S. 244 (1901).
16. The "free association" option has gained increasing support in recent years, but has not been formally endorsed by any political party as part of its platform. An organization called PROELA, loosely associated with the pro-commonwealth party, backed the "free association" option in 1998 and defended it before Congress. See Letter to Chairman Don Young from Luis Vega-Ramos, president, PROELA, in "Results," cited note 1, in Appendix C.
17. I have analyzed proposals to "enhance" commonwealth status elsewhere. See Christina D. Burnett, "The Case for Puerto Rican Decolonization," *Orbis: A Journal of World Affairs* 43 (Summer 1998): 433.
18. Rafael Hernández Colón, *La nación de siglo a siglo y otros ensayos* (Hato Rey, Puerto Rico: Ramallo Bros. Printing, 1998), 230.