FOR RELEASE ON DELIVERY
Expected at 2:00 p.m.
Friday, May 17, 1963

STATEMENT OF HAROLD SEIDMAN
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ORGANIZATION, BUREAU OF THE BUDGET,
BEFORE THE SUBCOMMITTEE ON TERRITORIES AND
INSULAR AFFAIRS OF THE HOUSE COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS, ON H.R. 5945, A BILL
"TO ESTABLISH A PROCEDURE FOR THE PROMPT SETTLEMENT,
IN A DEMOCRATIC MANNER, OF THE POLITICAL STATUS OF PUERTO RICO"

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before this Subcommittee to discuss H.R. 5945, a bill "To establish a procedure for the prompt settlement, in a democratic manner, of the political status of Puerto Rico."

The Commonwealth of Puerto Rico today offers a concrete demonstration of the dynamism of our constitutional system and our faith in free democratic institutions. We rightfully share with our fellow American citizens in Puerto Rico pride and pleasure in the remarkable progress of the Puerto Rican Commonwealth. President Kennedy has said: "Puerto Rico has furnished an example to the world of the benefits that can be achieved by close collaboration between a larger and smaller community within the framework of freedom and mutual agreement."

The Congress added a new concept to our political system when, fully recognizing the principle of government by consent, it authorized the people of Puerto Rico, by the Act of July 3, 1950, to "organize a
government pursuant to a constitution of their own adoption." On July 25, 1952, the Governor of Puerto Rico proclaimed the establishment of the Commonwealth of Puerto Rico under its own constitution. This proclamation represented the culmination of a series of actions taken by the Congress to grant to Puerto Rico an increasingly larger measure of self-government. We recognize that, as a logical consequence of the evolutionary growth of this concept, further actions may need to be taken not only to revise existing laws in the light of Puerto Rico's unique status, but also to develop new arrangements which may well be without precedent in United States law or practice. As President Kennedy wrote to Governor Munoz on the tenth anniversary of the Commonwealth of Puerto Rico, "the Commonwealth relationship is not perfected" and "it has not yet realized its full potential." We strongly favor, therefore, the enactment of any perfecting legislation which would assist the Commonwealth of Puerto Rico to realize its full potential.

President Kennedy has taken steps to assure that executive departments and agencies are completely aware of the unique position of the Commonwealth, and that policies, actions, reports on legislation, and other actions affecting the Commonwealth are consistent with the structure and basic principles of the Commonwealth. In a memorandum for the heads of executive departments and agencies dated July 25, 1961, the President stated:

"The Commonwealth structure, and its relationship to the United States which is in the nature of a compact, provide for self-government in respect of internal affairs and
administration, subject only to the applicable provisions of
the Federal Constitution, the Puerto Rican Federal Relations
Act, and the Acts of Congress authorizing and approving the
Constitution."

All departments, agencies and officials of the executive branch were
directed by the President to "faithfully and carefully observe and
respect this arrangement in relation to all matters affecting the
Commonwealth of Puerto Rico."

We strongly favor the perfection of existing arrangements with the
understanding, however, that actions taken now cannot and should not
be considered to be binding for all time in the future. The relations-
ships between the United States and Puerto Rico should be susceptible
to change, on the basis of mutual agreement, to meet future circumstances
and conditions. We believe the words "permanent union," as used in
section 2 of the bill, may give rise to misunderstandings. We do not
believe that the Congress should attempt to foreclose for all time the
consideration of various alternatives to commonwealth status such as
independence, statehood, or any other relationship, and obviously the
parties to any agreement should be in a position, upon mutual consent, to
alter it. Because the expression "permanent" may be misconstrued, we
believe it is essential that there be a clear understanding of its meaning
or perhaps other terminology could be used. In the nature of things, it
is inevitable that any relationship that may be entered into may require
reexamination and possible adjustment as circumstances change.
Accordingly, the Commission authorized by H.R. 5945 should give attention to recommending a means by which such reexamination and adjustments may be proposed and acted upon—in short an amendatory process would seem to be an essential ingredient of any relationship between the United States and the people of Puerto Rico.

The fact that future changes in economic status may well influence the choice of political status is recognized in H.R. 9234, introduced in the 86th Congress, by the Resident Commissioner of Puerto Rico. This bill provided in Article XVI that "at such time as the per capita income of Puerto Rico as determined by the United States Department of Commerce, shall equal that of any member of the Union...due consideration shall be given by the Congress to such proposals for the revision of the fiscal relationships of the Commonwealth of Puerto Rico with the United States as may then be made by the Commonwealth of Puerto Rico or to such proposals with respect to the basic terms of association between Puerto Rico and the Federal Union as may then be submitted by the people of Puerto Rico on the basis of a plebiscite held under the laws of the Commonwealth of Puerto Rico."

Although the Administration is firmly committed to the principles of self-determination, and the President has indicated his belief that it would be desirable to have the views of the people of Puerto Rico on the question of their relationship to the United States, it seems to us inappropriate for the legislation to make consideration of the compact conditioned upon rejection of other possible relationships such as statehood or independence. It may well be that the legislature of Puerto Rico, as suggested in its
resolution, will desire to present the issue to the people of Puerto Rico in a plebiscite with various alternatives, but it does not seem appropriate to require that it be done in that fashion as the present language of the bill would require. Accordingly, we recommend that the language be altered to make the plebiscite optional on the part of the people of Puerto Rico rather than mandatory.

With respect to details of the bill, the language of Section 2 of H.R. 5945 raises a number of problems. The section incorporates by reference joint resolution numbered 1 of the Legislative Assembly of Puerto Rico. The Commission would be required to draft a proposed compact "in the light of the principles" expressed in the joint resolution. The enumeration of the "principles," however, set forth in subsections (a), (b), (c) and (d) of Section 2 of H.R. 5945 seems to us to exclude significant language contained in the provisions of the joint resolution. For example, the language appearing in subsection (a) is followed in the joint resolution by the phrase "so that no doubt may remain of their capacity to enter a compact under conditions of juridical equality." Subsection (c) combines paragraphs 3 and 4 of the joint resolution, but again with what appear to us to be significant omissions. The paragraphs of the joint resolution read as follows:

"3. The specific definition of the power of the United States with respect to Puerto Rico, which shall exclusively be those essential to the Union."

"4. All other powers shall be exercised by the constitutional organisms of the people of Puerto Rico."
Subsection (d) consolidates paragraphs 5 and 6 of the joint resolution but deletes the sentence: "This may include, among other ways of implementing such participation, the right to vote for the President and Vice-President of the United States."

We believe that Section 2 of the bill unduly restricts the Commission's charter. The Commission should be in a position to take into account not only the principles expressed in joint resolution numbered 1 of the Legislative Assembly of Puerto Rico, but also the Constitution of the United States, laws enacted by the Congress, and any other factors which may have a bearing on the future relationship between the United States and Puerto Rico. Accordingly, we believe the Commission should be directed simply to develop proposals for a new compact or for such other arrangements as it may find to be feasible and appropriate.

The bill establishes no deadline for a report by the Commission. We suggest that Section 2 be amended to require that a report be submitted within eighteen months of the date of enactment.

President Kennedy has indicated that there is "no reason why the Commonwealth concept, if that is the desire of the people of Puerto Rico, should not be developed as a permanent institution in its association with the United States." Subject to the modifications and amendments indicated above, the Bureau of the Budget favors the enactment of H.R. 5945.