

116TH CONGRESS
1ST SESSION

H. RES. 641

Acknowledging that the decisions rendered by the United States Supreme Court in the so-called Insular Cases rest on the same racist and ethnocentric assumptions leading to *Plessy v. Ferguson*'s infamous "separate but equal" doctrine, that the legal doctrine emanating from the Insular Cases has no place in United States Constitutional law, and that the Insular Cases must be rejected in their entirety.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2019

Mr. GRIJALVA (for himself, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. SAN NICOLAS, Mr. SABLAN, and Ms. PLASKETT) submitted the following resolution; which was referred to the Committee on the Judiciary, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Acknowledging that the decisions rendered by the United States Supreme Court in the so-called Insular Cases rest on the same racist and ethnocentric assumptions leading to *Plessy v. Ferguson*'s infamous "separate but equal" doctrine, that the legal doctrine emanating from the Insular Cases has no place in United States Constitutional law, and that the Insular Cases must be rejected in their entirety.

Whereas the Spanish Kingdom transferred to the United States sovereignty over Puerto Rico, the Philippine Is-

lands, and Guam pursuant to the 1898 Treaty of Paris, which put an end to the so-called Spanish-American War;

Whereas the newly acquired territories were non-contiguous archipelagos separated by thousands of miles from the United States continental mainland and inhabited by distinct nationalities made up by peoples whose races, languages, cultures, and religious beliefs set them apart from the dominant Anglo-Saxon societal structure then in place in the United States;

Whereas the constitutional question of whether the United States Constitution followed the United States flag into these new lands was answered by the United States Supreme Court in a series of decisions announced in 1901 commonly known as the Insular Cases;

Whereas the same Fuller Court that rendered the discredited Plessy v. Ferguson decision in 1896 also resolved the Insular Cases;

Whereas a fractured United States Supreme Court found that the United States Constitution did not follow the United States flag into these new far-flung possessions;

Whereas the United States Supreme Court held that the Caribbean and Pacific possessions were now unincorporated territories belonging to the United States but not a part of the United States as that phrase is used in the Uniformity Clause of the United States Constitution;

Whereas under the Insular Cases only those rights deemed to be fundamental apply to the unincorporated territories;

Whereas notions of Anglo-Saxon racial and imperialist supremacy, together with the perceived racial and cultural inferiority of non-White peoples, drove the outcome of the Insular Cases;

Whereas in 1900, the Eastern Samoan Islands, now known as American Samoa, transferred its sovereignty to the United States;

Whereas in 1917, Denmark transferred to the United States sovereignty of the Danish West Indies, now known as the Virgin Islands of the United States;

Whereas in 1976, the Northern Mariana Islands entered into a covenant with the United States establishing the territory's status as a self-governing commonwealth in political union with the United States;

Whereas the Insular Cases today negatively impact a community of nearly 4,000,000 Americans living in Puerto Rico, Guam, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and American Samoa;

Whereas the doctrine established by the Insular Cases is still used to perpetuate the egregious unequal treatment of United States citizens and nationals in the territories;

Whereas jurists and legal scholars have recognized that the Insular Cases rest on reasoning that runs afoul the original intent of the framers of the United States Constitution; and

Whereas the imperialist and racist ideologies underlying the Insular Cases must be rejected: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) recognizes the importance of supporting

3 equal rights and upholding the interests of Ameri-

4 cans living in the United States territories;

1 (2) acknowledges that the Insular Cases rest on
2 racist and imperialist assumptions that have no
3 place in the constitutional landscape of the United
4 States; and

5 (3) rejects the Insular Cases and their applica-
6 tion to all present and future cases and controver-
7 sies.

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