



Dr. Daniel Immerwahr, Professor of History, Northwestern University
Testimony on H.Res 279, “Insular Cases Resolution”
U.S. House of Representatives Committee on Natural Resources
May 18, 2021

Chair Grijalva and distinguished committee members:

It was a pleasure to testify about H.Res 279 last week. I’m grateful for the opportunity.

Rep. Sablan has asked, “How may a change in the territorial incorporation doctrine affect various territories differently?” As I read it, this is a question about law. I am a historian, not a legal expert, so I am not qualified to fully answer Rep. Sablan’s question. But I can say that, in the past, Congress has claimed enormous discretion in governing the territories, independent of the territorial incorporation doctrine, under the territorial clause of the Constitution. It has advanced some incorporated territories to statehood quickly and held others as territories indefinitely. Compare the fates of California, which became a state two years after annexation, to that of present-day Oklahoma, whose land was held as non-state territory for more than a century before statehood (and which was known for most of that time as “Indian Territory”). Neither California nor present-day Oklahoma was unincorporated, so the territorial incorporation doctrine as established by the Supreme Court in the Insular Cases did not apply. If we are to take historical precedent as a guide, then changing or rejecting the territorial incorporation doctrine would not prevent Congress from treating different territories differently.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'DIL'.

Daniel Immerwahr
Professor of History
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