

1998, there was another clear question also in terms of the advocates of commonwealth not even participating.

So is this not really where the problem lies, that we really have not gotten a clear will of the majority of the Puerto Rican people as to what option they really want to pursue? And if so, let us say for the sake of argument that the pro-commonwealth people get a majority, if a future plebiscite should ever take place, under the Constitution, is not really the only option possible within the framework that there has to be some kind of a negotiable treaty relationship to then allow these negotiables, I suppose, with our government when you talk about citizenship, talk about trade, and all these others. This bill presupposes that we give all these things to this status that is being sought by the pro-commonwealth rather than being negotiated under a treaty relationship. Then it will better clearly define what our options and what we may or we may not want to do as a country in relation to the people of Puerto Rico.

Mr. THORNBURGH. I think a lot of these features set forth in this legislation put the cart before the horse.

Mr. FALCOMVAEGA. Right.

Mr. THORNBURGH. The problem is that there has been no legally binding Congressionally defined choice given to the people of Puerto Rico in these referenda that you refer to, and I think the thesis that is obviously contained in the platform of both Presidential candidates and their parties and what you have heard today is that it is time for the Congress to carefully define these alternatives. Once they have been voted upon and a status has been divined for the future of Puerto Rico, then the relationships that ensue can be on the agenda for policy determination. But I think what we are urging today is that a constitutional process contemplates that the Congress, the ultimate sovereign, if you will, for the time being, enunciate those choices in a clear and constitutional manner.

Mr. FALCOMVAEGA. Just one quick question, Mr. Chairman. I know my time is up. You heard earlier Mr. Tauzin from Louisiana said, if all these things are to be given to Puerto Rico, will this allow other States to negotiate similar compacts? We do not have to pay Federal income taxes, we can go ahead and establish trade relations with other countries, all these goodies that are contained in this proposed package. Will this set a precedent that will allow other States to also claim similar rights under the Constitution if we were to grant this kind of a status to Puerto Rico?

Mr. THORNBURGH. I think to ask the question is to answer it, Congressman.

Mr. FALCOMVAEGA. Thank you, Mr. Chairman.

Mr. DOOLITTLE. Thank you.

Mr. Underwood?

Mr. UNDERWOOD. Thank you, Mr. Chairman, and I must congratulate you on introducing legislation you do not agree with and then finding a way to hold a hearing on it.

[Laughter.]

Mr. UNDERWOOD. I have several ideas I know you do not agree with that I would like to see a hearing on.

We have had a lot of discussion about the nature of the political status arrangements and the nature of citizenship. I guess as we look around here, conceivably, I suppose, under the distinction be-

tween statutory citizenship and constitutional 14th Amendment citizenship, there are maybe two of us on the panel here that are statutory citizens. So trying to understand the dynamics of that is very critical, because citizenship is the linchpin of much of these discussions about the kind of relationship that we are envisioning and other areas aspire to, as well.

If U.S. citizenship is not individually revokable, and certainly that is not likely to happen under any scenario, but Congress can take away the capacity to make citizens in the territories and I think there is general consensus on that, although perhaps the chairman caught a little bit of shifting of ground there in the process of that discussion.

I want to introduce another novel situation which Mr. Thornburgh sort of touched on in his characterization of what happened with the Philippines, and people in the Philippines did not have citizenship prior to becoming independent. But there was the hint that perhaps in that arrangement or in that arrangement that we have seen with the freely associated states that under perhaps a negotiated arrangement, that it is legally possible to extend citizenship to a freely associated country. I know that presents kind of a new novel situation that Mr. Treanor refers to, since we are trying to explore all the possibilities of that. How would you respond to that, Mr. Treanor? Is it possible to extend just citizenship to a freely associated state?

Mr. TREANOR. Our position is that it would be, as a matter of constitutional law, as opposed to—there are serious policy concerns that others—

Mr. UNDERWOOD. I know the policy concerns well, believe me.

Mr. TREANOR. But as a matter of constitutional law, Congress has the power to grant citizenship and there is no textual limitation to that power. So the answer would be yes.

Mr. UNDERWOOD. Mr. Thornburgh, you have discussed in the context of the two political platforms for this upcoming Presidential election that special mention has been made that the Congress is responsible for this, and I quite agree. If we do not have a Congressional process for self-determination, then we are not going to have a real process for self-determination. This is not a best two-out-of-three elections. It has to be viewed as a single process and what we have to date, as Mr. Faleomavaega has outlined, several election results. I keep thinking that people think that we will keep having these elections until we get the result we want and then we will stop. That is not the way this is supposed to work. It is supposed to be a Congressionally mandated responsibility that is consistent with the international understanding of that.

That is why I find it very, very ironic that despite all the protestations to the contrary, that clearly Puerto Rico is just another territory, just like Guam or American Samoa or the Northern Mariana Islands, and if we all understand that, why do we not put them back on the non-self-governing list at the United Nations because that is where the other territories are at because it is clear that we were all grouped together there to begin with. If we all accept the fact or we all accept the notion that nothing fundamentally has changed, there is still no consent of the governed of laws

that apply over Puerto Rico or any of the other small territories in Federal law, then I still think they are non-self-governing.

But Mr. Thornburgh, you mentioned those particular items in the political platforms, and you mentioned that what we have done with Puerto Rico is unacceptable. Would you extend that same characterization to the other territories, that, indeed, we should get a Congressionally mandated process for the small territories and get them to make a choice between Statehood and independence?

Mr. THORNBURGH. I think as a general matter, that is probably a position that is consistent with our history and the commitment of our Constitution. I must admit that I am not as familiar with the background and history of those territories as I am with Puerto Rico, where my interest has been longstanding. But as a general principle, I cannot quarrel with that.

Mr. UNDERWOOD. Well, that is very heartening, because for those of us who are smaller territories, and as much as we love our friends from Puerto Rico, they are sometimes the 800-pound gorilla when it comes to insular policy. But there are other flags represented in this committee room behind the chair and the responsibility to deal with this issue in a serious way, that should not be impeded by notions about size or about the individual characteristics of each territory. If we believe in firm principles regarding self-determination and we believe that democratic principles and consent of the governed should apply to all areas, then they should apply to all areas regardless of size.

Mr. FALCOMVAEGA. Will the gentleman yield?

Mr. UNDERWOOD. Yes, I would be happy to yield.

Mr. FALCOMVAEGA. I think it was some years ago, if I recall, over 10 years ago, the people of Guam by plebiscite—what was the percentage? It was about 85 percent voted and opted for commonwealth status. For the past 15 years, from past administrations, even the current administration, the people and the leaders of Guam have gone nowhere in trying to implement what the will of the people of Guam have wanted for all these years and I wanted some responses from the panel. What do you suggest? Here is the representative from Guam, has been for how many years now, and our own government has failed to allow the people of Guam to go through with it. I mean, they have already made their decision, years ago. We still have not gotten even to first base.

Mr. FARROW. Congressman, the people of Guam voted for a particular piece of legislation that members of this committee urged caution before they voted for a specific piece of legislation. Both the Bush administration and the Clinton administration have worked hard on that proposal and responded to the proposal. The responses have been similar from the Bush administration and the Clinton administrations of what the executive branch would agree to of those proposals. The people of Guam have not accepted or agreed to the extent to which either administration has agreed to the proposals. There was a similar effort when the people of Guam first voted on this proposal, done in this committee, and this committee also advised the government of Guam at the time to what extent it found the proposals acceptable.

So I think we do have a serious problem to continue to work on and there is a commitment and a willingness of this administration

to do that. The President has said, he has gone out to Guam and said it and told the Governor, as well, that he is willing to work on the issues and bring them to closure to the extent he can. But the territory, like Puerto Rico, cannot unilaterally determine what changes in Federal policy there should be or how the structure of the Federal Government should change. That has been the essence of the problem with that specific proposal. It is largely the problem with this proposal, as well.

If I may, I would like to add, as well, a comment with respect to your—

Mr. FALCOMA. I am on Mr. Underwood's time. I am sorry, Mr. Farrow.

Mr. FARROW. With respect to self-determination, because you raised that, the U.N., there are two basic tests on self-determination for a territory. One is that the people of the territory freely choose their form of government, and the Puerto Ricans did that and they have not yet chosen another form of government. The other basic question that is out there and continues until it is answered is that the people of a territory elect the people who make and implement their national laws. That is clearly not the case with Puerto Rico.

And yes, in 1967 there was a referendum in Puerto Rico on status options and a majority voted for commonwealth. There have been two referenda since. There has been no majority, including for the current governing arrangement, and as you noted, in the last vote, the vote was one-tenth of 1 percent for the current governing arrangement. In 1993, there was a plurality for a commonwealth proposal and the proposal was in essence the following, that the Congress would restore tax benefits for U.S. companies operating in Puerto Rico that it had repealed 2 months earlier, a multi-billion-dollar proposal, that Supplemental Security Income would be extended to Puerto Rico under the new Commonwealth, which aid to the needy, aged, blind, and disabled cost about \$900 million, that Puerto Rico would be treated equally in the food stamps program, gets now a block grant in lieu of food stamps, that would have cost at that point about \$600 million, and that there would be protection for Puerto Rican agricultural products from competition from abroad.

None of those proposals were acceptable either to this Congress, and there was some consideration here, or to the executive. That is why the President responded by saying that we ought to clarify what viable options are in response to Puerto Rican proposals and we ought to put that choice to the people of Puerto Rico. That led to Chairman Young's bill offering options. Our administration insisted that the Popular Democratic Party, the Commonwealth Party of Puerto Rico, be able to offer its proposal to the committee. It did. The committee worked its will and we reached agreement with the bipartisan leadership of this committee on what a viable commonwealth option is.

The commonwealth that is contemplated in this bill is vastly different than what the committee agreed to and the House agreed to in 1998, several Senators agreed to in 1998. It is different than the commonwealth entirely that was on the ballot in 1993 and different entirely than the commonwealth that was on the ballot in 1967. I