

107th Congress
1st Session

COMMITTEE PRINT

SERIAL No.
107-C

**HEARING ON H.R. 4751, PUERTO RICO-
UNITED STATES BILATERAL PACT OF
NON-TERRITORIAL PERMANENT UNION
AND GUARANTEED CITIZENSHIP ACT**

**UNEDITED TRANSCRIPT
COMMITTEE ON RESOURCES**

**October 4, 2000
Washington, DC**



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U.S. GOVERNMENT PRINTING OFFICE

72-135

WASHINGTON : 2001

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. FALEOMAVAEGA. 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. FALEOMAVAEGA. 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. FALEOMAVAEGA. 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