

TESTIMONY IN REGARDS TO THE ECONOMIC
STATUS OF PUERTO RICO AS A NON-INCORPORATED
TERRITORY OF THE UNITED STATES OF AMERICA
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INTRODUCTION

Nothing has done more damage to the development of a healthy Puerto Rican Economy than the interpretation given by the Supreme Court on the relation between Puerto Rico and the United States. The lack of security for investment has hampered economic stability. Let me explain why this is still causing our economic woes.

HISTORICAL BACKGROUND

The Foraker Act of 1900 and the Jones Act of 1917 established the basis for a Puerto Rican civilian government, and gave Puerto Ricans the right to accept American citizenship which almost 100% accepted. It is important to note that the interpretation by the U.S. Supreme Court of the Foraker Act and the Jones Act, known as the Insular Cases, created an ambiguity in the relations between Puerto Rico and the United States. The chief case to be studied is the case of Jesus M. Balzac vs. the People of Puerto Rico - 258 U. S. 298.

In the above case, Chief Justice Taft wrote the opinion. He concluded that under the Jones Act Puerto Rico belongs to the

U.S., but it was a non-incorporated territory of the United States, meaning that there was no specific provision in the Jones Act of 1917 from which to infer that Congress intended to incorporate Puerto Rico into the Union and to render applicable certain provisions of the Federal Constitution.

This gave birth to ambiguity in our 87 years of economic and political relations with the U. S. Such uncertainty did not pertain to relations with all the other states and territories.

To illustrate the ambiguity prevalent in relations with the non-incorporated territory of Puerto Rico, let me compare various items in the Balzac decision with what has happened to date once Puerto Ricans became citizens in 1917:

(a) American Citizenship- A key section of the Balzac decision is, I quote:

It is true that in the absence of other and counter-vailing evidence, a law of Congress or a provision in a treaty acquiring territory, declaring an intention to confer political and civil rights on the inhabitants of the new lands as American citizens, may be properly interpreted to mean an incorporation of it into the Union, as in the case of Louisiana and Alaska. This was one of the chief grounds upon which this court placed its conclusion that Alaska has been incorporated in the Union in Rasmussen vs. United States, 197 U. S. 516, 49 L. ed. 882. But Alaska was a different case from that of Puerto Rico. It was an enormous terri-

tory, very sparsely settled and offering opportunity for immigration and settlement of American Citizens.³

(b) The Blood Tax- Citizenship was granted to us on March 2nd, 1917. When America entered the First World War and from that war on Puerto Ricans have honorably discharged their duty as American citizens in the Armed Forces of our nation. They have died in the First and Second World Wars, the Korean War, and Vietnam War, and even the recent Libyan Raid.

We have paid our blood tax and in case of war declared by Congress in which we have no voting representation, we receive the greetings letter from the President calling us to serve in the Armed Forces although we did not elect him.

Politically speaking we are second class American citizens, for by a mere fiat of the U. S. Supreme Court, we Americans living on the island of Puerto Rico do not enjoy the same rights and privileges each and every American who lives in any of the fifty states has. As absurd as it may sound, we have the obligation to shed our youth's blood in wars we do not participate in declaring.

(c) Separate Tax Structure- Puerto Rico's authority to enact its taxing system derived from the Foraker Act; in most cases only local Puerto Rican taxes are effective; in other cases federal taxes apply, and, incredibly, both federal and Puerto Rico's taxes, are applicable in other instances. Thus, the economic panorama disturbingly differs from that of the U. S. Given the undefined status that we live in, the second-class

American citizen who pays local taxes and federal taxes because the source of part of his income is located any of the fifty states of our nation, contributes yearly to the U. S. treasury. Nevertheless, he is treated differently for purposes of federal aid programs because Puerto Rico is in a political limbo.

Now the percentage of those paying federal income tax is small compared to what the U. S. treasury has missed by the fact of Puerto Rico not being an incorporated territory. It is estimated that if Puerto Rico were an incorporated territory, twenty-five percent of the persons and other taxable entities would pay federal income tax.

A controversial example of legal tax evasion is IRC Sec. 936 approved by the Tax Reform Act of 1976. Thus corporations located in Puerto Rico can repatriate profits--tax free--to their parent companies in the U. S. It is known that billions of dollars earned as profit by corporations doing business in Puerto Rico have not been subject to payment of U. S. income tax, constituting a case of legal tax evasion which has led to a politically sensitive and economically risky revision of the law.

(d) Economic Impact- Because of Puerto Rico's unincorporated status, all sectors of the Puerto Rican economy are adversely affected by Congress's selective and diverse application of federal provisions particularly those of economic aid programs. The areas of housing, health, education, social services, etc, for Puerto Ricans are discriminated against when

compared to what the 50 states receive in those same areas from the federal government. In terms of the economy, equal citizenship and equal protection of the law cannot prevail because of the ambiguity created by the doctrine of unincorporated territorialism.

CONCLUSIONS AND RECOMMENDATIONS

After 87 years, the time is past due for Congress to recognize that an end must come to the ambiguous relations under which we have lived and are still suffering. Congress must stop thinking of Puerto Rico as an island, just a drop of water in the Atlantic Ocean, for in that island live 3,300,000 human beings proud of their American citizenship.

I make the following economic recommendations:

1. A direct expression by Congress in a law must be approved making the island of Puerto Rico a fully incorporated territory of our nation, thus eliminating any doubts as to the applicability of all federal legislation to Puerto Rico.
2. The title of the Resident Commissioner should be changed to that of the Delegate from the U. S. Territory of Puerto Rico.
3. To bring about a gradual integration of our economy to that of the fifty states the following action should be taken by Congress to give the territory the opportunity to equalize its economy to that of the rest of the nation.

(a) Partial exemption and gradual implementation of certain federal taxes such as the controversial section of IRC, Sec. 936; application of the income tax law; the rum tariff; and customs tariffs, to name a few.

(b) Revision of Merchant Marine Law to allow usage of foreign vessels in trade relations, as in the case of Hawaii and Alaska.

I am positive to state that a strong majority of Puerto Ricans will welcome the elimination of our non-incorporated status as a territory of the U. S. and an end to Chief Justice Taft's fiat disenfranchising Americans living in Puerto Rico. I ask you: "Why must we be treated differently when our citizenship is equal to yours?"

Finally, please read my full testimony filed with the committee.

Respectfully submitted with grateful consideration for your time and consideration.