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Date: October 28

Time: 500pm

FOR ACTION: Phil Buchen
Robert Hartmann
Jack Marsh
Alan Greenspan
Jim Lynn

cc (for information): Jim Connor
Brent Scowcroft
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: November 10

Time: 530pm

SUBJECT:

Compact of Permanent Union between
Puerto Rico and the U.S.

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

JAMES W. CANNON
For the President

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

October 28, 1976

MEMORANDUM FOR: Phil Buchen
Robert T. Hartmann
Jack Marsh
Max Friedersdorf
Alan Greenspan
Jim Lynn
Brent Scowcroft
Bill Seidman

FROM: Jim Cannon 

SUBJECT: Compact of Permanent Union Between
Puerto Rico and the United States

The attached memorandum is self-explanatory. I would appreciate your comments, suggestions and recommendations by c.o.b. Wednesday, November 10, 1976.

October , 1976

MEMORANDUM FOR THE PRESIDENT

FROM: Jim Cannon

SUBJECT: Compact of Permanent Union Between
Puerto Rico and the United States

BACKGROUND

Three years ago, President Nixon and Governor Hernandez-Colon of Puerto Rico appointed a joint U.S.-Puerto Rico ad hoc advisory group to review the existing relationship between the United States and Puerto Rico and to recommend ways to provide Puerto Rico with a greater degree of self-government and self-determination within the existing framework of common defense, common market, common currency and common citizenship. The group's report, recommending a new Compact of Permanent Union between Puerto Rico and the United States, was submitted to you on October 9, 1975.

The proposed Compact would institute fundamental and far-reaching changes in the relationship between the United States and Puerto Rico and its provisions affect a wide array of Federal programs and interests. Since its receipt, therefore, the report has been under intensive study by the Domestic Council, OMB and the departments and agencies of the Executive Branch. By law, you have one year within which to review the report and submit it to the Congress, together with your recommendations for action. Because the Congress did not, in its Adjournment Resolution, make provision for receipt of any Presidential report, you are precluded from submitting your report on the Compact to the Congress until it reconvenes in January.

Notwithstanding the fact that the law provides that the President shall have a year within which to review the proposed report, Jaime Benitez, Resident Commissioner of the Commonwealth of Puerto Rico, introduced the Compact in legislative form in the Congress last December. It was his hope, and the hope of Governor Hernandez-Colon and other members of the majority party in Puerto Rico (the Popular Democratic Party), that the Congress and the President would act on the Compact this year, before Puerto Rico's general election in November. While hearings on the bill were conducted by the House and the bill was twice amended, the Congress adjourned without taking further action on the matter.

SUMMARY OF MAJOR PROBLEMS WITH THE COMPACT

On merit, the proposed Compact is highly objectionable to the Administration. The objectionable features fall into four principal categories: status, economic, legal and international.

- Status

Our most serious objection derives from various features of the proposed Compact that would create an equivocal relationship between Puerto Rico and the United States under which Puerto Rico would enjoy certain attributes normally associated with sovereign nations while retaining or expanding upon other rights and programs typically associated with a U. S. commonwealth or territory. At the same time, Puerto Rico would potentially benefit from programs that historically have been available only to the several States.

For example, the Compact provides that citizens of Puerto Rico should have the right to "participate equally in the benefits provided by the laws of the United States relating to social and economic aid" but continues to exempt inhabitants of Puerto Rico from Federal and other income taxes. The fiscal impact of treating Puerto Rico as a State for the purpose of Federal assistance programs would be significant. OMB estimates that Public Assistance costs would have risen by about \$80 million, Medicaid costs by about \$280 million and Supplementary Security Income program costs by about \$300 million in the current fiscal year had Puerto Rico been eligible to participate as a State.

- Economic

In an attempt to enable Puerto Rico to rehabilitate her ailing economy, the Compact grants to Puerto Rico special rights and privileges relating to the regulation of commerce among Puerto Rico, the United States and foreign countries. Specifically, the Compact would authorize Puerto Rico to levy, increase, reduce or eliminate tariffs and quotas on articles imported directly from foreign countries or trans- shipped through the United States and would allow Puerto Rico to import materials duty-free for subsequent shipment and sale in the United States, provided that the shipping price includes at least 35 per cent value-added in Puerto Rico.

These provisions are highly inconsistent with the concept of a "common market." Under the former, it is conceivable (indeed, likely) that Puerto Rico could enact more restrictive tariffs than the United States to protect its domestic industry. The latter authorization would, in effect, enable Puerto Rico to import goods for resale in the United States at a price below that charged by either the United States or foreign manufacturers who do not have the "duty-free" privilege. Both of these provisions could, therefore, have a serious adverse impact on U. S. industry and employment.

Finally, as was mentioned earlier, the Compact would continue to exempt inhabitants of Puerto Rico from Federal income and other taxes and would specify that all taxes collected in Puerto Rico or in the United States under the internal revenue laws of the United States on articles produced or manufactured in Puerto Rico shall be covered into the Treasury of Puerto Rico. When read together with the other provisions respecting tariffs and imports this provision is antithetical to the common market which now exists between the United States and Puerto Rico.

● Legal

The Compact proposes a number of alterations in the existing relationship between the United States and Puerto Rico of questionable constitutional validity and/or legal soundness. For example, the Compact provides that Federal laws and administrative rules and regulations would cease to apply to Puerto Rico if they were "incompatible" with the provisions of the Compact. The question of incompatibility, in the first instance, would rest with Puerto Rico. This would cause great uncertainty as to the applicability of existing and future Federal laws and regulations in Puerto Rico.

Further, the Compact would provide that title to all crown lands and navigable waters seaward to the Continental Shelf shall be vested in Puerto Rico and would deny to the United States the right of eminent domain. These provisions are inconsistent with our continuing obligation to provide for the defense of Puerto Rico and to provide essential services, such as transportation, to the people of Puerto Rico. Additionally, with respect to navigable waters, the Compact would literally oust the United States Government from any jurisdiction over the waters surrounding Puerto Rico. This immunity from U. S. jurisdiction over navigable waters is not now enjoyed by any State or any other U. S. possession.

Finally, the Compact provides that, prior to enactment of any legislation applicable to Puerto Rico, the President, at the request of the Governor of Puerto Rico, may suspend the application of such law to Puerto Rico. However, such suspension could be terminated by the Congress by Joint Resolution. The Compact also provides for the transfer, by Executive Order, of responsibility for carrying out major Federal functions to Puerto Rico, but that such transfer would not become effective if either House of the Congress objected to it within ninety days of promulgation of the Executive Order. The Department of Justice has raised constitutional questions concerning both of these provisions.

● International

The Compact would authorize Puerto Rico to participate in international organizations in its own right and to enter into international agreements, unless the President specifically finds such participation and such agreements to be inimical to the foreign relations of the United States. This authority is incompatible with the overriding responsibility and authority of the Federal government to conduct foreign affairs and to provide for the military defense of Puerto Rico. It would grant to Puerto Rico foreign relations prerogatives in excess of those enjoyed by any State or other U. S. Possession.

These are but a few of the problems we have with the Compact. There are many others. Attached at Tab A is a more detailed analysis of these problems.

OPTIONS

In sum, the proposed Compact is not acceptable to the Administration. Moreover, it is doubtful that, even if enacted as proposed, it would resolve the very serious economic, social and political problems facing Puerto Rico.

Because the Congress has adjourned sine die, you cannot transmit your report on the Compact until it reconvenes next January. The questions arise, therefore, as to what your response should be at that time and to what use, if any, you should put the time between now and the convening of the 95th Congress. Several alternative courses of action are available:

1. Simply direct OMB, in consultation with the Domestic Council and the National Security Council, to prepare a report indicating the nature of your objections to the proposed Compact for submission in January.

2. Appoint a special in-house task force to develop an alternative proposal to be submitted to the Congress next January, together with a report outlining your objections to the instant proposal.
3. Inform Governor Hernandez-Colon of Puerto Rico that you have serious problems with the proposed Compact in its current form and suggest that, together, we might profitably use the additional time to jointly develop a more appropriate proposal for submission to the Congress upon its return.
4. Direct OMB, in consultation with the Domestic Council and the National Security Council, to prepare a report outlining your objections to the proposed Compact and suggesting to the Congress that the real issue for debate and resolution is whether Puerto Rico should be made a State of the Union or given its independence.

RECOMMENDATIONS

DECISION

- _____ Option 1
- _____ Option 2
- _____ Option 3
- _____ Option 4

Tab A

Issue #1. Amendment of the Compact by Mutual Consent

Statement of Issue

Section 18 of the draft Compact identifies twelve fundamental areas which cannot be amended without the consent of the Puerto Rican electorate. Other areas would also be subject to a mutual consent requirement in the event of revision, but with respect to these, consent may be given by the Government of Puerto Rico. Thus, any revision is subject to some form of Puerto Rican approval.

Discussion

The draft Compact, as indicated above, would preclude the amendment of any provision without some manifestation of Puerto Rican assent, whether by the electorate or Puerto Rican Government. The likelihood of future revision, however, is by no means remote. In commenting upon the original Compact, as well as the present version, several Executive agencies have expressed concern that the Compact is ambiguous as to the continued applicability of existing Federal laws to Puerto Rico. There is no clear statement of which existing Constitutional and Federal statutory provisions shall apply. Instead, existing law applies unless modified by or incompatible with the Compact. However, as the Attorney General has noted, the law does not favor repeal by implication. It is altogether likely that the applicability of specific Federal laws to Puerto Rico will be tested in the courts. In the event of judicial interpretations favorable to Puerto Rico but adverse to the intent or interest of the United States, corrective amendment

of the Compact would appear to require Puerto Rican assent, as would provisions which the United States may wish to terminate but with respect to which Puerto Rican acquiescence should not be assumed (e.g., common market provisions).

In addition, the Compact would subject those provisions, which are not identified as fundamental, to the requirement of consent by the Puerto Rican Government. This injects into the relationship an unnecessary degree of ⁱⁿflexibility and is an aspect which has apparently caused considerable concern among the members of the Ad Hoc Group. As a result of this inflexibility and breadth of restriction, members of the Ad Hoc Group have themselves questioned whether Congress may alter or abrogate unilaterally non-fundamental sections. Congressman Clausen refers to an opinion of the Library of Congress that if Congress "chooses in the future to disregard the restraints written into the Compact, this action . . . would appear to present no problem." Practical, if not legal, problems from such action would be presented. As the success of a Compact and any new relationship, must be premised on mutual respect and trust, it would be preferable to frame its provisions so as to obviate, to the maximum extent practicable, the need to raise the spectre of unilateral abrogation.

It would be more desirable if Congress retained the necessary flexibility to revise the Compact at least with respect to non-fundamental provisions. Confining the mutual consent feature to fundamental provisions would reflect the Puerto Rican role in the "mutuality" of the relationship. In addition,

no reason is perceived why the Puerto Rican Government cannot speak for the people of Puerto Rico when Puerto Rican consent is necessary, just as other governments do in such situations. To alleviate the problem of ambiguity with respect to the applicability of existing Federal law in case adverse judicial interpretation necessitates amendment of the Compact, applicable Constitutional and statutory provisions should be defined with greater clarity.

Issue #2. Right of Eminent Domain

Statement of Issue

The Compact would deny to the United States the right of eminent domain in Puerto Rico.

Discussion

Without the right of eminent domain, as dictated by Subsection 7(a) of the bill, it appears problematic whether the United States will be able to carry out designated governmental functions and responsibilities, particularly in the field of common defense and security. Also, as important an attribute as the right is to sovereignty, it is conceivable that our giving up such a right is to acknowledge that we are no longer sovereign as relates to Puerto Rico.

Puerto Rico's current legal status is consistent with the Territorial Clause of the Constitution (Article IV, Section 3, clause 2), and until now the sovereignty of the United States has not been seriously disrupted. Adoption of the Compact would change this relationship fundamentally.

Under these circumstances, it would be surprising if we did not encounter difficulties in trying to carry out governmental functions and responsibilities under the Compact, in the absence of the right to condemn land for public purposes.

While subsection 7(a) provides that "The President of the United States may, from time to time, accept by grant from Puerto Rico, any lands, buildings or other interests or property which may be needed for public purposes by the United States" it is clear that reserving to Puerto Rico the right to grant lands and property implies a concomitant right to refuse to make such a grant. Thus, any agency of the United States which must occupy physical space in the performance of its duties could be faced with the necessity of negotiating with the government of Puerto Rico over each new acquisition.

If the United States is to be responsible for the defense of, and continue to provide services to the people of Puerto Rico then it must retain the power to condemn land for public use.

Issue #3. Puerto Rico Participation in International Agreements and Organizations

Statement of Issue

The Compact would grant Puerto Rico the authorization to negotiate international agreements and participate in specialized agencies of international organizations.

Discussion

Subsection 2(c) would authorize Puerto Rico to negotiate

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international agreements on educational, cultural, health, sporting, professional, industrial, agricultural, financial, commercial, scientific or technical matters and to join specialized agencies of international organizations concerned with these matters, unless the President determines and advises the Governor that such action is inimical to U.S. foreign relations. Puerto Rico does not have such authority under present law.

Subsection 2(c) is incompatible with the overriding responsibility and authority of the Federal Government for foreign affairs and defense affecting Puerto Rico. To allow Puerto Rico to enter into such agreements would grant foreign relations prerogatives in excess of those permitted by the Constitution to the States of the Union, inconsistent with the constitutional obligation of the Federal Government to assure that all citizens enjoy the equal protection of its laws.

Issue #4. Authority to impose and change import tariffs and quotas.

Statement of Issue.

Should the Compact allow Puerto Rico to levy, increase, reduce or eliminate tariffs and quotas on articles imported directly from foreign countries or transhipped through the United States after prior consultation with Federal authorities?

Discussion

Subsection 6(d) of the revised draft bill would grant tariff and quota authorities to Puerto Rico. Under the existing relationship, U.S. import regulations apply to Puerto Rican imports from third countries and free trade prevails between the United States and

Since Puerto Rico is part of the United States customs area, the United States is responsible internationally for Puerto Rican customs actions. Since barriers more restrictive than those of the United States would be inconsistent with U. S. obligations under the General Agreement on Tariffs and Trade (GATT), this provision contains substantial potential for conflict unless the United States has full authority to reject prospective Puerto Rican actions.

As a practical matter, differing levels of import restrictions on particular commodities would create pressures for transshipment of foreign goods through the low-duty area to the high-duty area, with an increased burden of administering rules of origin.

Issue #5. Rules of origin for identifying Puerto Rican goods eligible for duty-free entry into the United States

Statement of Issue.

Should the Compact allow Puerto Rico to import materials and articles duty free for subsequent shipment and sale to other parts of the United States customs territory provided that the F. A. S. (free along side) shipping price contains at least 35% value added in Puerto Rico?

Discussion

Section 6(e) would authorize treatment to Puerto Rico similar to that accorded to developing countries in the U. S. generalized system

of preferences (GSP), but the goods would not be subject to any of the controls or limitations that apply to our GSP as a result of Title V of the Trade Act of 1974. Thus, products excluded by law from our GSP would be eligible for duty free entry from Puerto Rico. Further, these imports would not be subject to the safeguard provision of Title II of the Trade Act. Such a situation should not be sanctioned.

The amount of trade that would satisfy the 35% value-added requirements could be significantly greater than that which would meet the stringent GSP requirement. For GSP purposes, the term "value added" is limited to the cost or value of material and "direct costs of processing operations" which are required for GSP shipments. For purposes other than GSP, the "value added" term is normally defined to include profits, overhead, administrative expenses, and salaries, all of which can be easily transferred from one country to another by multinational corporations. Given the ease with which the value added requirement can be met, it is doubtful whether Puerto Rico would realize significant employment benefits from the proposed provision, especially since Puerto Rico is subject to U.S. minimum wage laws.



Issue #6. Legislative Encroachments

Statement of Issue

Subsection 11(b) of the draft Compact provides that prior to the enactment of any legislation applicable to Puerto Rico, the President at the request of the Governor of Puerto Rico, may suspend the application of such legislation to Puerto Rico -- Congress must be promptly advised of the President's suspension action. However, the suspension could be terminated if Congress adopted, within 60 legislative days of notification by the President, a Joint Resolution providing for termination of the suspension.

Similarly, subsection 13(b)(1) provides for the modification or discontinuance of existing laws to Puerto Rico as recommended by the Joint Commission on United States - Puerto Rico Relations and concurred in by the Governor of Puerto Rico and the President unless Congress provides otherwise by Joint Resolution adopted within 60 legislative days following the receipt of the recommendation.

Subsection 13(b)(2) provides for the transfer by Executive order of major Federal functions as recommended by the Commission and concurred in by the Governor of Puerto Rico and the President. Such orders would not become effective if either House of Congress objects to it within 90 legislative days after receipt of the order.

Finally, Section 15 authorizes the Governor of Puerto Rico and the President to agree to limit or increase the number of aliens who may be admitted into Puerto Rico, unless Congress expressly provides otherwise by Joint Resolution.

Discussion

The four provisions cited above all present serious constitutional problems. Under Article I, section 7 of the Constitution, every bill which passes the House of Representatives and the Senate shall, before it becomes law, be presented to the President for his approval or disapproval. If disapproved, it does not become law unless repassed by a two-thirds vote of each House. Although the intent of the provisions under subsections 11(b), 13(b)(1), and 15 is not entirely clear, the wording implies that only Congressional approval of a Joint Resolution is necessary to nullify certain action taken or recommended by the President. If this is the intent, these provisions are unconstitutional. A Joint Resolution, must be presented to the President for his approval or disapproval. However, it is not very likely that a President would approve a Joint Resolution overriding a suspension which he made not long ago. In this light, the sixty-day time limitation is per-

plexing. Since a Joint Resolution has the effect of a statute, it should be able to put the legislation into effect in Puerto Rico at any time. It is the Compact's stipulated time limitation taken in conjunction with usage of "Congress by Joint Resolution" which leads me to conclude that these provisions are more consistent with a Concurrent Resolution which would not provide for Presidential consideration as required under the Constitution.

Even more objectionable is the one-House veto provision set forth in subsection 13(b)(2). This type of legislative disapproval by one House of the Congress of Presidential action is a clear violation of the express language and spirit of the Constitution as discussed above.

Finally, we note that the Department of Justice has expressed "serious doubts as to the constitutionality" of enabling the President to suspend or modify the applicability of a statute to a specific area as provided for in subsections 11(b) and 13(b)(1).

Issue #7. Legal Title to Crown Lands

Statement of Issue

Should the United States agree to vest legal title to crown lands in the Government of Puerto Rico?

Discussion

Present authority (48 U.S.C. 747) placed under the control of the Government of Puerto Rico all property which may have been acquired in Puerto Rico by the United States under the cession of Spain in the treaty of peace signed December 10, 1898

which had not been reserved by the United States for public purposes prior to March 2, 1917.

This subsection raises substantial problems in that we would be transferring needed Federal properties to Puerto Rico, knowing that there is a very real likelihood of possible future Federal use. Of course, if we transferred such lands and later needed them, we would have to compensate Puerto Rico. Also, the proposal to waive the requirements of the Federal Property Act to Federal properties in Puerto Rico would be an undesirable precedent.

While these provisions may be attractive to Puerto Rico in that valuable resources would be transferred to that government, the U.S. renders valuable services to Puerto Rico by using these property holdings. Among other things, search and rescue services are provided by a rescue coordination center at San Juan and by using ships and aircraft stations in Puerto Rico.

Issue #8. Navigable Waters

Statement of Issue

Should the U.S. agree to vest legal title to navigable waters in the Government of Puerto Rico?

Discussion

Present authority (48 U.S.C. 749) places under the control of the Government of Puerto Rico the harbor areas and navigable streams and bodies of waters and submerged lands underlying the same which were owned by the U.S. on March 2, 1917 and not reserved by the U.S. for public purposes. All laws of the U.S.

where the protection and the improvement of navigable waters is involved and laws for the preservation of the interests of navigation and commerce except so far as the same may be locally inapplicable, shall apply to the island waters and to its adjacent islands and waters. The statute specifically protects the powers of the Secretary of War or other authorized officials of the U.S. with respect to the authorizations, permits, or other powers with respect to these waters and submerged lands prior to March 2, 1917.

The modified draft of H.R. 11200 substantially modified Section 7(b) of the Compact as originally proposed by the Ad Hoc group.

The effect of the current version of Section 7(b) is to grant to Puerto Rico, interests far beyond those held by the States as well as the U.S. While the Compact would give Puerto Rico title to the seabed and waters seaward from the three-mile zone, the U.S. never claimed title to those waters or to the seabed, but only the exclusive right to explore and exploit the natural resources of Outer Continental Shelf.

In addition, since many statutes have as the basis of their jurisdiction the navigable waters or air space of the U.S., such statutes would no longer apply to Puerto Rico if section 7(b) were enacted.

Issue #9. Congressional Representation

Statement of Issue

Subsection 10(a) of the draft Compact would grant Puerto Rico representation not only in the House, but in the Senate as well. These representatives would not vote on the floor on legislation but would participate in committee work.

Discussion

Puerto Rico at present has one Resident Commissioner of the United States (48 U. S. C. 891). The District of Columbia, Guam and the Virgin Islands each have one delegate. The Mariana's Covenant (Pub. L. 94-241) provides for the appointment or election of one Resident Representative from the Northern Mariana Islands.

In view of the considerable autonomy which the proposed Compact would confer upon Puerto Rico, increased representation does not appear warranted. Were Puerto Rico being drawn closer into the Federal structure of our Government, such that Federal statutes and regulations would apply to Puerto Rico as if it were a State, the desire for increased representation would be understandable. However, the draft Compact restricts the applicability of Federal law and regulations to Puerto Rico and provides a mechanism by which it may seek exemption from those that would apply. Moreover, the

relationship between the United States and Puerto Rico will be effectively frozen in that revision of any provision of the Covenant will require Puerto Rican assent.

It should be noted that other territories over which the United States exercises a greater measure of sovereignty, such as the Northern Marianas, would not have such representation though enactment of this provision for Puerto Rico would most likely provide a precedent.

Issue #10: Exemption from some and Dedication of Revenues from other Federal Taxes.

Statement of Issue: Should the Administration support provisions of the draft legislation which increase Puerto Rican exemptions from Federal taxes?

Discussion of the problems: Subsection 6 of the draft proposed Compact provides for either Puerto Rican exemption from Federal taxes or for revenues to be covered over into the Treasury of Puerto Rico. In many instances, the draft language is so ambiguous that it is not possible to state the impacts with certainty. In these instances, the draft language must be altered to remove ambiguities. Some of the major changes between the existing arrangement and that proposed are:

Sec. 6(a) prohibits the United States from imposing "tariffs, customs, or duties of any kind on articles imported into the United States from Puerto Rico" and also prohibits Puerto Rico from imposing "tariffs, customs, or duties of any kind on articles imported into Puerto Rico from the United States." This provision raises questions about whether excise taxes, which are a major source of revenue to Puerto Rico, can be imposed. In FY 1975, excise taxes produced almost \$500 million dollars in revenues for Puerto Rico, partly Puerto Rican excise taxes on U.S. produced goods and partly U.S. excise taxes on Puerto Rican goods, covered over into the Treasury of Puerto Rico.

Sec. 6(c) provides that the "proceeds of customs, duties, licenses for imports, and tariffs collected in or in respect to imports into Puerto Rico. . ." as well as all taxes collected in Puerto Rico or in the United States under the internal revenue laws of the United States on articles produced or manufactured in Puerto Rico and transported to the United States or consumed in Puerto Rico, shall be covered over into the Treasury of Puerto Rico. This provision has a number of undesired effects: (1) It requires that import license fees on petroleum collected in Puerto Rico be paid into the Puerto Rican Treasury. Currently, only that portion of oil import license fees collected in Puerto Rico attributable to oil consumed in Puerto Rico should be covered over to Puerto Rico.



(2) This provision may be construed to require covering over to Puerto Rico the gasoline excise tax on gasoline refined in Puerto Rico and consumed in the United States. The U.S. gasoline excise tax is considered a charge for the use of highways and is earmarked for the Highway Trust Fund from which Puerto Rico receives benefits. The Administration has strongly opposed efforts to divert these funds to Puerto Rico through S-2998 or through litigation brought by Puerto Rico. (3) This provision could also be construed to exempt Puerto Rico from income taxes. This would be inconsistent with the Internal Revenue Code, which provides that all taxes collected by the Secretary in Puerto Rico must be paid into the U.S. Treasury (section 7651(2)(A)), with certain specific exceptions covered over to the Treasury of Puerto Rico under section 7652(a)(3).

Taken together, these provisions tend to break down the common market that now exists between the United States and Puerto Rico. Up until now, the two areas have shared a common currency, economic policies, and an external tariff. Since the proposal would do away with the common external tariff producing trade distortions because of tariff differences rather than relative economic efficiencies, we do not believe that this is an efficient method for dealing with Puerto Rico's economic problems.

Issue #11. Unemployment Insurance

Statement of Issue

The proposed Compact, by rendering internal revenue laws of the U.S. inapplicable to Puerto Rico, would effectively remove Puerto Rico from the Federal-State unemployment insurance system.

In addition, the proposed Compact may preclude unemployed workers in Puerto Rico, whose jobs were adversely affected by increased imports, from receiving Adjustment Assistance under the Trade Act of 1974.

Discussion

Unemployment Insurance

Subsection 8(a) of the proposed Compact, rendering the internal revenue laws of the U.S. inapplicable to Puerto Rico, would have an important effect upon the unemployment insurance system now operating in Puerto Rico. Puerto Rico currently is treated in the same manner as a State for purposes of the Federal-State unemployment insurance system. The Puerto Rican unemployment insurance law is an approved law under the Federal Unemployment Tax Act (FUTA) and meets the requirements of title III of the Social Security Act (SSA). Therefore, Puerto Rico participates in, and receives the benefits of, the Federal-State unemployment insurance system. Accordingly, Puerto Rico is entitled to reimbursement by the Federal Government for 50 percent of the cost of extended unemployment benefits. It is also eligible for Federal supplemental benefits as well as for advances under title III of the Social Security Act

for the payment of unemployment benefits. Puerto Rico has, in fact, borrowed \$47 million from the Federal unemployment account, as of April 15, 1976, to pay unemployment benefits, all of which is outstanding and not repaid. Participation in the Federal-State system qualifies Puerto Rico to receive Federal funds under title III of SSA for the administration of its unemployment insurance system. Finally, Puerto Rico's unemployment insurance law, as approved by the Secretary of Labor under FUTA, qualifies employers in Puerto Rico for credits against the tax imposed on them by FUTA.

Since FUTA is a part of the U.S. internal revenue laws, subsection 8(a) of the proposed Compact would also make FUTA inapplicable to Puerto Rico. The Federal-State unemployment insurance system is supported by the Federal unemployment tax imposed on employers. To render FUTA inapplicable to Puerto Rico would remove Puerto Rico from continued participation in the Federal-State unemployment insurance system. The benefits of such participation to both Puerto Rican workers and the Puerto Rican government, described above, would be lost.

It is not clear whether Puerto Rico would assume full responsibility for collecting revenues to support an adequate unemployment insurance system on its own. However, in light of the \$47 million already advanced, there is a serious question as to whether Puerto Rico would be able to support an adequate unemployment assistance program without Federal assistance. It would be unfortunate to discontinue the flow of benefits to Puerto Rican workers because of Puerto Rico's inability to participate in the Federal-State unemployment insurance system.

Trade Adjustment Assistance

Subsection 6(d) of the proposed Compact might preclude workers in Puerto Rico from receiving worker adjustment assistance under the Trade Act of 1974. Subsection 6(d) would authorize Puerto Rico to impose, increase, reduce or eliminate tariffs and quotas on articles imported directly from foreign countries or transshipped through the United States. The Trade Act of 1974 specifies that in order for a group of workers to be eligible for adjustment assistance, the increase of imports must contribute importantly to the required adverse effect on the workers and their employers. While the Act does not specifically state that any request for trade adjustment assistance must be related to tariff changes, the legislative history of the Act indicates that such assistance was deemed necessary to offset the adverse effects on workers that might result from the exercise of the trade negotiating authority in the Trade Act. Because subsection 6(d) of the proposed Compact would authorize Puerto Rico to adjust its tariffs unilaterally, apart from the authority of the Trade Act, it would seem that this legislative history of that Act might remove Puerto Rican workers' present eligibility for trade adjustment assistance.

Issue #12. Applicability of Federal Laws

Statement of Issue

Subsection 11(a) of the Compact provides that Federal laws now applicable to Puerto Rico would remain in effect "except and to the extent repealed or modified by this Compact or incompatible with it." Subsection 11(b) stipulates that new

laws "must be compatible with this Compact and explicitly refer to Puerto Rico or are applicable to Puerto Rico pursuant to the powers and functions expressly vested in the United States pursuant to this Compact. . . ." and it provides a mechanism with which the President, at the request of the Governor of Puerto Rico, could suspend the application of prospective laws, unless overruled by Joint Resolution. Moreover, subsection 11(c) would authorize Puerto Rico to render inapplicable, on the grounds that such rule, regulation or order is incompatible with the Compact, any rule, regulation or order promulgated by a department or agency of the United States. Such rule, regulation, or order could be reinstated only upon a finding and declaration by the affected department or agency that the "application thereof to Puerto Rico is necessary to the interests of the United States and is compatible with this Compact." Such determinations would be subject to judicial review.

In addition, subsection 13(b)(1) requires the Joint Commission on United States - Puerto Rico Relations to "study the desirability of retaining, modifying or eliminating the application of specific Federal laws to Puerto Rico . . ." If the Governor of Puerto Rico and the President concur in the Joint Commission's recommendations for modification or discontinuance of the applicability of a particular law to Puerto Rico, such recommendations would become effective immediately unless Congress provides otherwise by Joint Resolution adopted within 60 legislative days following the receipt of the recommendation.

Discussion

In addition to the constitutional questions presented in subsections 11(b) and 13(b)(1) which are discussed under issue no. 6, I have serious reservations with the above cited provisions because of the considerable uncertainty, inequity, and undesirability that they entail. For example, by stipulating that laws "incompatible" with the Compact are repealed, without specifying criteria or providing standards for such a determination, 11(a) creates confusion and casts doubt upon the administration of Federal programs in Puerto Rico.

Similarly, the provisions set forth in 11(b), 11(c), and 13(b)(2) appear ill-advised and potentially the source of significant difficulties. Among other things, these provisions could:

- . extend to the government of Puerto Rico and the Executive Branch far ranging powers to grant exemptions from what often would be a complex and otherwise integrated scheme for the regulation of financial transactions in securities in commerce;
- . provide very ambiguous and inadequate criteria for the President to use in evaluating Puerto Rico's request for the modification or discontinuance of existing or prospective laws;
- . nullify the enforcement of otherwise applicable Federal laws which as a practical matter cannot be implemented without appropriate regulations, or as minimum, force agencies to

unnecessarily expend resources in justifying, through litigation, the application of their regulations to Puerto Rico

- . have a major and undesirable impact on the programs of many Executive agencies; Congress establishes the jurisdiction of a program by statute and once this determination is made, it should not be tampered with on a case-by-case basis; and
- . constitute a far-reaching relinquishment of legislative powers, and, is irreconcilable with the general doctrine that one Congress cannot bind a subsequent one.

Issue #13. Impact on the Federal Budget

Statement of Issue

While it is unclear as to how Puerto Rico is considered by the Compact in regard to Federal domestic assistance programs, if Puerto Rico is treated as a State for these programs the impact on the 1977 President's Budget would be significant.

Discussion

Although many Federal programs already consider Puerto Rico a State, a sample of three entitlement Federal social welfare programs which do not treat Puerto Rico as a State, indicates the Compact will have a substantial dollar impact in 1977, assuming citizens of Puerto Rico become eligible for the same program benefits given U.S. citizens in the States.

Public Assistance (Maintenance Assistance Program)

A special dollar limitation for Puerto Rico is now

prescribed in the program's authorizing statute. If Puerto Rico were treated like a State, program costs would rise by about \$80 million over the 1977 President's Budget.

Medicaid Program

A special dollar limitation for Puerto Rico is now prescribed in the program's authorizing statute. Assuming Puerto Rico is considered a State for eligibility purposes and Puerto Rico retained its present level of matching funds, the Federal contribution (given current law) to Medicaid would increase in 1977 by approximately \$280 million.

Supplemental Security Income (SSI) Program

Puerto Rico is now eligible for benefits under programs which were replaced in the States by SSI. If Puerto Rico is extended full entitlement (as if it were a State) to participate in the SSI program, costs would rise by about \$300 million over the 1977 President's Budget.

In addition to increased costs in these and other entitlement programs, Puerto Rico -- treated as a State -- could receive additional benefits from the hundreds of non-entitlement Federal domestic assistance programs. Presumably this increase to Puerto Rico would come about by diverting program dollars (now spent for States' and localities' needs) to Puerto Rico. While it is not possible to estimate this shift of funds from the States and localities to Puerto Rico, it is reasonable to suggest that the dollar transfer could be substantial.

Issue #14. Assignment of Federal Functions

Statement of Issue

Section 12 of the Compact authorizes the President, with the concurrence of the Governor of Puerto Rico, to transfer to the Government of Puerto Rico the total or partial performance of functions vested in the United States by law. In any such transfer, Federal employees in charge of the functions on the date of their transfer would retain the rights previously acquired by reason of their employment (subsection 12(a)).

Subsection 13(b)(2) further authorizes the President, upon the recommendation of the Joint Commission and with the concurrence of the Governor of Puerto Rico, to transfer major Federal functions to agencies of Puerto Rico by Executive Order and advise the Congress of his action. The Executive Order becomes effective at such time as it specifies unless either House of Congress objects within 90 legislative days from receipt of the Executive Order.

Discussion

In addition to the previously discussed constitutional problem raised by subsection 13(b)(2), the Compact's provisions for the assignment of Federal functions to Puerto Rico is viewed unfavorably by the Administration on several grounds.

First, the Supreme Court has recently ruled pursuant to Article II, section 2, clause 2, of the U.S. Constitution that Federal statutes must be enforced by persons appointed by the President and with the advice and consent of the Senate, by the President alone, the courts of law, or the heads of

departments. Officers appointed pursuant to Puerto Rican law would not meet that requirement.

Second, these provisions could lead to a degree of enforcement or mode of administration of Federal programs different from that contemplated by Congress or practiced in the States.

Third, the Administration opposes the provision in subsection 12(a) authorizing retention of Federal civil service rights and benefits by employees performing functions which are transferred to the Government of Puerto Rico.

Continuation of Federal employee rights and benefits in the transfer of employees to non-Federal functions is inappropriate and involves an unwarranted use of Federal programs. The Civil Service Commission believes that benefits and rights of transferred, former employees, and the credit to be given for their Federal service should be determined under laws of the new employer.

November 20, 1975

JIM FALK

Attached are the comments
received from DOT on the
Puerto Rico report. The
only one missing now is
from Dept. of Justice.



Trudy Fry

cc: Steve Low



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

November 19, 1975

MEMORANDUM FOR DR. JAMES E. CONNOR
Secretary to the Cabinet
The White House

SUBJECT: Proposed Compact of Permanent Union Between
Puerto Rico and the United States

Your memorandum to the Cabinet of October 23, 1975, requested our comments and recommendations on the proposed compact with Puerto Rico.

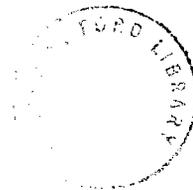
On July 9, 1975, we submitted comments to the Honorable Marlow W. Cook of the Ad Hoc Advisory Group on Puerto Rico in which we noted problems with portions of the proposed compact which affect the Department of Transportation. A copy of that letter is attached. With exception of the changes noted below, our comments remain the same as those communicated to Mr. Cook.

Our comments concerning section 2a have been met by the use of the term "territorial seas" in place of "seas" in describing the jurisdiction of Puerto Rico over waters surrounding it, and we do not have any objections to that section as revised. However, our general comments and our specific comments on section 2d, 3a and 3b have not been accommodated, and I would reiterate those views.

With respect to Section 12, the revised section 12d provides that Puerto Rico is to notify Congress of its objections to having legislation apply to the Free Associated State of Puerto Rico prior to final passage of the bill. Congress is required to act specifically on those objections. While this provision meets our previous objections, we note that committee vote determines the issue and it is not preserved for action by the full Congress. In addition, the effect of conflicting votes of different committees is not addressed. In our view, the language of the bill as enacted should be determinative of whether it applies to the Free Associated State of Puerto Rico.


William T. Coleman, Jr.

Attachment
Letter to Hon. Marlow W. Cook
dated July 9, 1975





THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

July 9, 1975

Honorable Marlow W. Cook
Co-Chairman,
Ad Hoc Advisory Group on
Puerto Rico
1016 16th Street, N.W.
Washington, D.C. 20036



Dear Mr. Cook:

This is in reference to your letter of March 4, 1975, and Mr. Peter J. Gallagher's letter of April 1st 1975, forwarding the preliminary and final drafts of a legislative proposal to establish a Compact of Permanent Union between Puerto Rico and the United States, prepared by the Puerto Rican members of the Ad Hoc Advisory Group on Puerto Rico. By letter dated April 8, 1975, I advised you that this proposal was under study within the Department of Transportation. Our review has been completed, and I am now able to offer you our views on this proposed Compact.

At the outset it should be noted that the draft proposal is vague in regard to its potentially adverse impact on many of the laws administered by the Department of Transportation, including the Federal Water Pollution Control Act, the Federal Boat Safety Act, and those relating to navigation and merchant marine safety. Acceptance of the draft Compact in its present form would also bring into question the obligations of the United States under numerous international treaties and agreements administered by this Department, and would raise serious legal questions over the administration of land under the jurisdiction or control of the Department of Transportation within Puerto Rico.

We have, for your consideration, the following specific comments concerning this draft proposal:

Section 2a. - The use of the term "seas adjacent to Puerto Rico" in this subsection places in doubt the extent of Puerto Rico's jurisdiction over the waters surrounding it. A reference to the territorial sea or other similarly accepted international standard would not be subject to subsequent interpretive difficulties.

Section 2d. - This subsection raises the question of Puerto Rico's status in relation to other nations and for this reason the comments of the Department of State on this proposed Compact should be solicited. However, we note that the question of enforceability, in Puerto Rico, of those treaties implemented by the United States but not accepted by Puerto Rico, is left unanswered by the proposed Compact.

Section 3a. - This subsection, dealing with the legal title to lands in Puerto Rico, needs further clarification. In this subsection, the United States would be required to relinquish title to all lands held in Puerto Rico that were acquired under the cession of Spain in the treaty of peace entered into on December 10, 1898. In that treaty, Spain ceded all of Puerto Rico to the United States, in effect granting sovereignty over all of those lands to the United States. The United States would become a lessee of those lands in Puerto Rico under Federal control. These provisions appear to go far beyond the stated purpose of the Compact, and this subsection should be reexamined in that light.

Section 3b. - In our view, there should be a uniform system of laws applicable to the navigable waters of the United States, including those of Puerto Rico. To assure this result, this subsection should be couched in terms of concurrent jurisdiction over the navigable waters of the United States. Plenary jurisdiction over the internal nonnavigable waters of Puerto Rico can be established without interfering with the Federal scheme. This is an important consideration, as the enforcement of numerous Federal laws promoting maritime safety and environmental protection depend on establishing Federal jurisdiction by a declaration that the waters concerned are "navigable waters of the United States."

Section 12 - This section places severe restrictions on the application of Federal law to Puerto Rico. Existing Federal law would be applicable only to the extent that it is compatible with the draft Compact. A Federal law enacted after the effective date of the Compact would not apply to Puerto Rico if it objected to that application and Congress did not pass a joint resolution thereafter specifically making it applicable. In our view, Congressional inaction should not be the basis used to exempt Puerto Rico from the operation of Federal law. Under subsection (e), no Federal department or agency rule or regulation issued after the

effective date of the Compact would apply to Puerto Rico unless, and then only to the extent, they are compatible with the Compact. Therefore, if Puerto Rico objected to the application of a rule or regulation under this subsection, the agency would have to make a declaration, subject to judicial review, that the rule or regulation's application to Puerto Rico was essential to the interests of the United States and compatible with the Compact. This subsection, in conjunction with section 18 of the Compact, could be used to severely restrict the authority of the Coast Guard to protect the marine environment of Puerto Rico.

The draft Compact leaves unanswered the status of Puerto Rico in regard to the application of the coastwise trade laws of the United States (46 U.S.C. 877). Presumably, Puerto Rico would no longer enjoy the preference granted by these laws as it would be neither a territory nor possession of the United States within the meaning of that section.

In view of the limited time provided to review the draft Compact, and its potential for adversely affecting many ongoing programs of the Federal Government, we recommend that it be submitted to the Office of Management and Budget for a more complete review and to obtain a Presidential determination of its relationship to the Administration's program.

Sincerely,



William T. Coleman, Jr.



November 25, 1975

Jim Falk -

Attached is the report from the Department of Justice on the Puerto Rico report. This completes the comments from members of the cabinet. Now we will start pushing you for the completed package.....



Trudy Fry

cc: Steve Low



Office of the Attorney General

Washington, D. C. 20530

NOV 21 1975

MEMORANDUM FOR THE HONORABLE JAMES E. CONNOR
Secretary to the Cabinet

Re: Report of the Ad Hoc Advisory
Group on Puerto Rico



This is in response to your request for the comments and recommendations of the Department of Justice on the report of the Ad Hoc Advisory Group on Puerto Rico entitled "Compact of Permanent Union Between Puerto Rico and the United States."

At the outset I should point out that a letter dated May 12, 1975, from this Department (signed by Acting Assistant Attorney General McConnell) to Co-Chairman Marlow W. Cook of the Ad Hoc Advisory Group on Puerto Rico, commenting on an earlier draft of the proposed Compact, concluded that the Compact "would, without altering the fundamental nature of Puerto Rico's Commonwealth status, provide increased autonomy to the island government and its people." There are important differences, however, between the earlier draft and the present one. Of particular interest is subsection 12c of the current draft, which would limit the legislative power of the United States over Puerto Rico "to the powers and functions expressly vested in the United States in this Compact." This did not appear in the earlier version, and would bring about a far-reaching change in the status of Puerto Rico. While at present Puerto Rico enjoys a unique autonomous position, its current legal status is consistent with the Territorial Clause of the Constitution (Article IV, section 3, clause 2), and the sovereignty of the United States over Puerto Rico has not been seriously disputed. Under subsection 12c, however, the United States and Puerto Rico would be basically equals, with Puerto Rico utilizing certain United States institutions, such as common citizenship, common defense, common currency and a common market. As shown in the following brief discussion of the Compact, it cannot be said with any degree of confidence

that the new status of Puerto Rico has its basis in the Territorial Clause of the Constitution, except to the extent that the United States would make a "disposition" of "Territory or other property belonging to the United States" as authorized thereby.

The status of Puerto Rico under the Compact, which would neither be that of a State, nor of a territory, nor based on a treaty, presents, of course, some constitutional perplexities. But I am in general agreement with a memorandum prepared by Mr. Felix Frankfurter in 1914, while he was an attorney in the War Department, which concluded:

"C. The form of the relationship between the United States and unincorporated territory is solely a problem of statesmanship.

"1. History suggests a great diversity of relationships between a central government and dependent territory. The present day shows a great variety in actual operation. One of the great demands upon inventive statesmanship is to help evolve new kinds of relationship so as to combine the advantages of local self-government with those of a confederated union. Luckily, our Constitution has left this field of invention open. The decisions in the Insular cases mean this, if they mean anything; that there is nothing in the Constitution to hamper the responsibility of Congress in working out, step by step, forms of government for our Insular possessions responsive to the largest needs and capacities of their inhabitants, and ascertained by the best wisdom of Congress."



Hence, there is in my opinion no constitutional obstacle to the transformation of "dependency" into "free association." Whether this is sound as a matter of policy, whether it is workable, and whether each of the individual provisions of the Compact is desirable, of course, are questions, largely within the competence of other Departments. The comments that follow deal principally with matters of law and draftsmanship, though some issues of policy are noted.



Section 2c. Pursuant to this subsection, all governmental powers relating to Puerto Rico not vested in the United States as "specified" in the Compact would be reserved to the Free Associated State of Puerto Rico or to the people of Puerto Rico. While this provision is analogous to the Tenth Amendment, its practical effect is likely to be far more restrictive than in the case of a State because the powers conferred on the Federal Government in the Compact are much narrower than those granted it under the Constitution. Moreover, as I have already observed, the legislative authority of the United States under the Compact would be limited to the powers and functions expressly vested in the United States. There is no "necessary and proper" clause in the Compact. This suggests considerable doubt as to whether many of the activities now performed by the United States could be performed in Puerto Rico under the Compact. To mention only a few of the more important ones: The Postal Service, the Coast Guard, the Weather Service, the FAA, and many of the regulatory agencies.

Section 2d. Under this subsection, Puerto Rico may participate in international organizations and enter into certain international agreements "as determined by the President of the United States and the Governor of the Free Associated State on a case-by-case basis." I do not question the legality of this provision, but note should be taken of Article I, section 10, clause 3, of the Constitution pursuant to which States may enter into agreements or compacts with foreign powers only with the consent of the Congress, not of the President.

Section 3. Subsection a would deny to the United States the right of eminent domain. Under subsection b, the navigable waters of Puerto Rico would be the property of the latter rather than of the United States. The right of eminent domain and ownership of the navigable waters are important incidents of sovereignty. Moreover, it appears problematic whether the United States will be able to carry out its governmental functions and responsibilities under the Compact, particularly in the field of common defense and security as authorized by subsection 2d and section 7, in the absence of the power of eminent domain. As with subsection 2d, it should be noted that section 3 would confer on Puerto Rico a far greater degree of autonomy than is enjoyed by the several States.



As a matter of draftsmanship, it should be observed that the formulation of subsection 3b would not entirely resolve a present controversy between the United States and the Commonwealth of Puerto Rico concerning ownership of the submerged lands under the navigable waters of Puerto Rico and the natural resources of the continental shelf beyond the navigable waters.

Section 6. This section deals with the rights of persons born in Puerto Rico as citizens of the United States and of citizens of the United States who move to Puerto Rico. It provides, among other things, that all persons born in Puerto Rico are citizens of the United States and shall have all the rights, privileges, and immunities inherent in citizenship as well as the duties pertinent thereto. The section similarly implies that any citizen of the United States who moves his residence to Puerto Rico is to retain his rights and duties as a citizen of the United States. The problem is one of drafting: The provision does not define the rights, privileges, and immunities of citizens of the United States in Puerto Rico. Many of these are the correlatives of the duties of, or prohibitions against, the States or the Federal Government. Since Puerto Rico under the Compact would be neither a State nor an instrumentality of the Federal Government, it is uncertain which of the provisions of the Constitution defining the rights, privileges, and immunities of citizens of the United States would be applicable to Puerto Rico. Similar problems in the unincorporated territories of Guam and the Virgin Islands are dealt with by specifying in the Organic Acts which of the provisions of the Constitution guaranteeing basic rights of citizenship shall be applicable to those territories as if they were States of the Union. See 48 U.S.C. 1421b(u) and 1561. A similar problem currently exists with respect to Puerto Rico, viz., whether it is subject to the Due Process Clause of the Fifth Amendment or rather the Due Process Clause of the Fourteenth Amendment. The distinction can make a difference, see Fornaris v. Ridge Tool Co., 400 U.S. 41, 43-44 (1970).

I also note that the section is confined to citizens and therefore does not protect the rights of aliens in Puerto Rico.



The comments on this section in the report indicate that its purpose is to extend to Puerto Rico federal services and financial programs now applicable to the States but not to Puerto Rico. The Administration strongly objected to a similar provision attached by the House of Representatives to the Joint Resolution to approve the Covenant with the Northern Mariana Islands. It may be observed that under such an arrangement the federal contributions to Puerto Rico would be increased at the same time as the federal authority over the island would be drastically reduced.

Section 9. This section would establish the basic principle that the common market relationship between the United States and Puerto Rico is to continue in effect, and that Puerto Rico will remain within the customs territory of the United States. At the same time, the Compact envisages exceptions to the status of Puerto Rico as part of the customs territory of the United States and would also authorize Puerto Rico under certain conditions to increase, reduce or eliminate tariffs or quotas on articles imported into Puerto Rico.

A genuine common market presupposes uniform laws governing commerce. It is not clear to what extent federal statutes regulating interstate commerce would remain applicable to Puerto Rico. If such statutes--particularly those dealing with product safety and consumer protection--are not applicable, it would be necessary to exclude certain Puerto Rican products from the mainland. Customs barriers would also be necessary to exclude articles imported into Puerto Rico at tariff rates lower than the U.S. customs duties. This, however, would create substantial enforcement problems as long as Puerto Rico is to be considered a part of the customs territory of the United States.

Provision should be made to exempt from subsection 9c employment or self-employment taxes, which are not used for general United States revenue purposes but paid into Social Security trust funds. In Guam and the Virgin Islands such taxes are exempted from analogous turnover provisions. 48 U.S.C. 1421(h), 1642.

Section 10a. The first portion of this subsection would permit Puerto Rico (with concurrence of the President, and absent statutory prohibition) to regulate the entry into Puerto Rico of aliens who have been admitted to the United States as permanent residents under the Immigration and Nationality Act, where such entry might have an adverse economic or demographic effect. The same problem exists with respect to Guam, the Virgin Islands, and possibly Hawaii. It may be preferable to solve it by federal legislation covering all four island communities.

The second branch of subsection 10a would permit an increase in the number of aliens who may be admitted to Puerto Rico as permanent residents. It is not clear whether those immigrants would be entitled to naturalization as citizens of the United States after having fulfilled the Immigration and Nationality Act's residence requirements in Puerto Rico, or whether such immigrants would be permitted to enter the United States with the status of permanent resident aliens. In any event, this aspect of subsection 10a would appear to complicate the administration of the Immigration and Nationality Act.

Section 11. This section would provide that Puerto Rico shall have representatives in the Senate as well as in the House, and that those representatives shall have "all the rights and privileges of such members as are compatible with the Constitution." I agree with Senator Buckley (Report p. 60) that under the Constitution these representatives would not have the right to vote on the floor of the Senate or the House of Representatives.

The phrase "upon presentation by the Department of State" should be "through the Department of State." See 48 U.S.C. 891.

Section 12. This section deals with the applicability of federal laws to Puerto Rico. Subsection a would keep in effect federal laws now applicable to Puerto Rico, "except and to the extent repealed or modified by this Compact, or incompatible with it, and except as hereafter modified, suspended or repealed." I have misgivings concerning the "incompatible" language. Repeals by implication are not favored and the question gives

rise to much uncertainty. It would seem better to have the Joint Commission provided for in section 14 determine which federal laws are incompatible with the Compact and recommend their repeal. It is not apparent whether, under this subsection, the Compact is to take the place of the Puerto Rico Federal Relations Act in its entirety, or whether the latter is repealed only to the extent that the two are incompatible.

Subsection c would provide in substance that after the effective date of the Compact the United States may legislate with respect to Puerto Rico only pursuant to the powers and functions expressly vested in the United States in the Compact, and then only to the extent compatible with the Compact. This provision exemplifies the extent to which Congress, by virtue of the Compact, would surrender its plenary powers under Article IV, section 3, clause 2 of the Constitution. It constitutes a far-reaching relinquishment of legislative powers, and, of course, is irreconcilable with the general doctrine that one Congress cannot bind a subsequent one. Although it is my opinion that Congress has the authority irrevocably to relinquish its power of legislation in the process of creating a new political status, it certainly should not commit itself in this manner unless it clearly understands the finality of its action.

Subsection d establishes several procedures designed to preclude the applicability of federal laws to Puerto Rico. As a matter of draftsmanship, it should be noted that the subsection refers to the "Resident Commissioner" (the title of the current representative of Puerto Rico in the House of Representatives), although section 11 creates two new "Representatives" to the House and Senate. The relationship between the first and second sentence of the subsection is not clear. The former provides that Congress may exempt Puerto Rico from the application of federal legislation, while the latter seems to provide that this may be done by committee vote, even if the full Congress does not address the point, and indeed even if the full Congress provides otherwise. We believe that the latter would be an unconstitutional delegation of power by the Congress to one of its committees, and may (depending upon its operation) also violate the constitutional requirement that legislative dispositions must be presented to the President for his approval or veto.



Section 13. This section would permit the transfer of existing functions vested in the United States to the Government of Puerto Rico, to be administered by Puerto Rican officials. It raises the question whether it is desirable to have federal statutes administered in general by persons who are not officers or employees of the United States. It is not clear from the draft Compact whether Puerto Rican officials involved in executing functions thus transferred would have to take an oath to uphold the Constitution and the laws of the United States applicable to Puerto Rico.

Section 14. This section would establish a Joint Commission to monitor the operation of the Compact. One of the Commission's functions is to study the desirability of retaining, modifying, or eliminating the applicability of federal law to Puerto Rico. Paragraph 1 of subsection b would provide that when a report of the Commission recommends that a law be rendered inapplicable, and the President of the United States and the Governor of Puerto Rico concur, the recommendation shall be submitted to Congress, and the law shall cease to be effective in Puerto Rico if, ninety days after such submission, neither House has rejected it. This is not, in my view, a constitutionally permissible manner of legislating. Congress should act by a law submitted for Presidential approval.

Section 15. Subsection a would provide that causes of action brought in the local courts of Puerto Rico may not be removed to the United States District Court for Puerto Rico solely on the ground that the provisions of the Compact are in issue. This limitation on the right of removal into the federal courts seems to me of questionable wisdom.

Section 16. This section deals with the United States District Court for Puerto Rico. Subsection b would provide that all procedures, pleadings, and records shall be conducted in Spanish, unless the Court, in the interest of justice, shall otherwise determine. This would make Spanish the principal, if not the exclusive, language in the U.S. District Court, and would completely reverse the existing law (48 U.S.C. 864), which requires proceedings to be conducted in English. It goes far beyond an administration bill, recently introduced in Congress (H.R. 6318), which would give equal status to the two languages in the District Court.



Subsection d would provide that the United States District Court is not to intervene in order to prevent the establishment or collection of any tax imposed by the laws of Puerto Rico. The provision is similar to 28 U.S.C. 1341 relating to the assessment, levy or collection of State taxes. It omits, however, the important qualification that a denial of jurisdiction is conditioned on the existence of "a plain, speedy and efficient remedy" in the State courts. Absent subsection d, 28 U.S.C. 1341 would be applicable to Puerto Rico by virtue of section 16a of the Compact, pursuant to which the U.S. District Court for Puerto Rico would have the same jurisdiction as the other District Courts of the United States.

Section 21. This section provides that none of the provisions of the Compact may be amended except by mutual agreement, and that with respect to any amendment affecting fundamental relations between the United States and Puerto Rico, consent must be given by the electorate of Puerto Rico. This contrasts significantly with the Covenant between the United States and the Northern Mariana Islands. There only the amendment of five fundamental provisions of the Covenant would be subject to a mutual consent requirement. The comment of Congressman Clausen on page 64 of the Report misses this difference.



The Ad Hoc Advisory Group recommends that the President refer the proposed Compact to both Houses of Congress with his endorsement (Report p. vi). The foregoing analysis, which does not purport to be exhaustive, demonstrates to my satisfaction that the proposed Compact contains many technical inadequacies which must be remedied--in addition to major substantive dispositions on which the President should have the well considered views of various agencies. It is my view that the text of the Compact cannot be approved in its present form, and must

be subjected to a thorough Executive Branch review before it can be transmitted to the Congress with Administration support.


Edward H. Levi
Attorney General



NOV 21 1975

MEMORANDUM FOR THE HONORABLE JAMES E. CONNOR
Secretary to the Cabinet



Re: Report of the Ad Hoc Advisory
Group on Puerto Rico

This is in response to your request for the comments and recommendations of the Department of Justice on the report of the Ad Hoc Advisory Group on Puerto Rico entitled "Compact of Permanent Union Between Puerto Rico and the United States."

At the outset I should point out that a letter dated May 12, 1975, from this Department (signed by Acting Assistant Attorney General McConnell) to Co-Chairman Marlow W. Cook of the Ad Hoc Advisory Group on Puerto Rico, commenting on an earlier draft of the proposed Compact, concluded that the Compact "would, without altering the fundamental nature of Puerto Rico's Commonwealth status, provide increased autonomy to the island government and its people." There are important differences, however, between the earlier draft and the present one. Of particular interest is subsection 12c of the current draft, which would limit the legislative power of the United States over Puerto Rico "to the powers and functions expressly vested in the United States in this Compact." This did not appear in the earlier version, and would bring about a far-reaching change in the status of Puerto Rico. While at present Puerto Rico enjoys a unique autonomous position, its current legal status is consistent with the Territorial Clause of the Constitution (Article IV, section 3, clause 2), and the sovereignty of the United States over Puerto Rico has not been seriously disputed. Under subsection 12c, however, the United States and Puerto Rico would be basically equals, with Puerto Rico utilizing certain United States institutions, such as common citizenship, common defense, common currency and a common market. As shown in the following brief discussion of the Compact, it cannot be said with any degree of confidence

that the new status of Puerto Rico has its basis in the Territorial Clause of the Constitution, except to the extent that the United States would make a "disposition" of "Territory or other property belonging to the United States" as authorized thereby.

The status of Puerto Rico under the Compact, which would neither be that of a State, nor of a territory, nor based on a treaty, presents, of course, some constitutional perplexities. But I am in general agreement with a memorandum prepared by Mr. Felix Frankfurter in 1914, while he was an attorney in the War Department, which concluded:

"C. The form of the relationship between the United States and unincorporated territory is solely a problem of statesmanship.

"1. History suggests a great diversity of relationships between a central government and dependent territory. The present day shows a great variety in actual operation. One of the great demands upon inventive statesmanship is to help evolve new kinds of relationship so as to combine the advantages of local self-government with those of a confederated union. Luckily, our Constitution has left this field of invention open. The decisions in the Insular cases mean this, if they mean anything; that there is nothing in the Constitution to hamper the responsibility of Congress in working out, step by step, forms of government for our Insular possessions responsive to the largest needs and capacities of their inhabitants, and ascertained by the best wisdom of Congress."

Hence, there is in my opinion no constitutional obstacle to the transformation of "dependency" into "free association." Whether this is sound as a matter of policy, whether it is workable, and whether each of the individual provisions of the Compact is desirable, of course, are questions, largely within the competence of other Departments. The comments that follow deal principally with matters of law and draftsmanship, though some issues of policy are noted.

Section 2c. Pursuant to this subsection, all governmental powers relating to Puerto Rico not vested in the United States as "specified" in the Compact would be reserved to the Free Associated State of Puerto Rico or to the people of Puerto Rico. While this provision is analogous to the Tenth Amendment, its practical effect is likely to be far more restrictive than in the case of a State because the powers conferred on the Federal Government in the Compact are much narrower than those granted it under the Constitution. Moreover, as I have already observed, the legislative authority of the United States under the Compact would be limited to the powers and functions expressly vested in the United States. There is no "necessary and proper" clause in the Compact. This suggests considerable doubt as to whether many of the activities now performed by the United States could be performed in Puerto Rico under the Compact. To mention only a few of the more important ones: The Postal Service, the Coast Guard, the Weather Service, the FAA, and many of the regulatory agencies.

Section 2d. Under this subsection, Puerto Rico may participate in international organizations and enter into certain international agreements "as determined by the President of the United States and the Governor of the Free Associated States on a case-by-case basis." I do not question the legality of this provision, but note should be taken of Article I, section 10, clause 3, of the Constitution pursuant to which States may enter into agreements or compacts with foreign powers only with the consent of the Congress, not of the President.

Section 3. Subsection a would deny to the United States the right of eminent domain. Under subsection b, the navigable waters of Puerto Rico would be the property of the latter rather than of the United States. The right of eminent domain and ownership of the navigable waters are important incidents of sovereignty. Moreover, it appears problematic whether the United States will be able to carry out its governmental functions and responsibilities under the Compact, particularly in the field of common defense and security as authorized by subsection 2d and section 7, in the absence of the power of eminent domain. As with subsection 2d, it should be noted that section 3 would confer on Puerto Rico a far greater degree of autonomy than is enjoyed by the several States.

As a matter of draftsmanship, it should be observed that the formulation of subsection 3b would not entirely resolve a present controversy between the United States and the Commonwealth of Puerto Rico concerning ownership of the submerged lands under the navigable waters of Puerto Rico and the natural resources of the continental shelf beyond the navigable waters.

Section 6. This section deals with the rights of persons born in Puerto Rico as citizens of the United States and of citizens of the United States who move to Puerto Rico. It provides, among other things, that all persons born in Puerto Rico are citizens of the United States and shall have all the rights, privileges, and immunities inherent in citizenship as well as the duties pertinent thereto. The section similarly implies that any citizen of the United States who moves his residence to Puerto Rico is to retain his rights and duties as a citizen of the United States. The problem is one of drafting: The provision does not define the rights, privileges, and immunities of citizens of the United States in Puerto Rico. Many of these are the correlatives of the duties of, or prohibitions against, the States or the Federal Government. Since Puerto Rico under the Compact would be neither a State nor an instrumentality of the Federal Government, it is uncertain which of the provisions of the Constitution defining the rights, privileges, and immunities of citizens of the United States would be applicable to Puerto Rico. Similar problems in the unincorporated territories of Guam and the Virgin Islands are dealt with by specifying in the Organic Acts which of the provisions of the Constitution guaranteeing basic rights of citizenship shall be applicable to those territories as if they were States of the Union. See 48 U.S.C. 1421b(u) and 1561. A similar problem currently exists with respect to Puerto Rico, viz., whether it is subject to the Due Process Clause of the Fifth Amendment or rather the Due Process Clause of the Fourteenth Amendment. The distinction can make a difference, see Fornaris v. Ridge Tool Co., 400 U.S. 41, 43-44 (1970).

I also note that the section is confined to citizens and therefore does not protect the rights of aliens in Puerto Rico.

The comments on this section in the report indicate that its purpose is to extend to Puerto Rico federal services and financial programs now applicable to the States but not to Puerto Rico. The Administration strongly objected to a similar provision attached by the House of Representatives to the Joint Resolution to approve the Covenant with the Northern Mariana Islands. It may be observed that under such an arrangement the federal contributions to Puerto Rico would be increased at the same time as the federal authority over the island would be drastically reduced.

Section 9. This section would establish the basic principle that the common market relationship between the United States and Puerto Rico is to continue in effect, and that Puerto Rico will remain within the customs territory of the United States. At the same time, the Compact envisages exceptions to the status of Puerto Rico as part of the customs territory of the United States and would also authorize Puerto Rico under certain conditions to increase, reduce or eliminate tariffs or quotas on articles imported into Puerto Rico.

A genuine common market presupposes uniform laws governing commerce. It is not clear to what extent federal statutes regulating interstate commerce would remain applicable to Puerto Rico. If such statutes--particularly those dealing with product safety and consumer protection--are not applicable, it would be necessary to exclude certain Puerto Rican products from the mainland. Customs barriers would also be necessary to exclude articles imported into Puerto Rico at tariff rates lower than the U.S. customs duties. This, however, would create substantial enforcement problems as long as Puerto Rico is to be considered a part of the customs territory of the United States.

Provision should be made to exempt from subsection 9c employment or self-employment taxes, which are not used for general United States revenue purposes but paid into Social Security trust funds. In Guam and the Virgin Islands such taxes are exempted from analogous turnover provisions. 48 U.S.C. 1421(h), 1642.

Section 10a. The first portion of this subsection would permit Puerto Rico (with concurrence of the President, and absent statutory prohibition) to regulate the entry into Puerto Rico of aliens who have been admitted to the United States as permanent residents under the Immigration and Nationality Act, where such entry might have an adverse economic or demographic effect. The same problem exists with respect to Guam, the Virgin Islands, and possibly Hawaii. It may be preferable to solve it by federal legislation covering all four island communities.

The second branch of subsection 10a would permit an increase in the number of aliens who may be admitted to Puerto Rico as permanent residents. It is not clear whether those immigrants would be entitled to naturalization as citizens of the United States after having fulfilled the Immigration and Nationality Act's residence requirements in Puerto Rico, or whether such immigrants would be permitted to enter the United States with the status of permanent resident aliens. In any event, this aspect of subsection 10a would appear to complicate the administration of the Immigration and Nationality Act.

Section 11. This section would provide that Puerto Rico shall have representatives in the Senate as well as in the House, and that those representatives shall have "all the rights and privileges of such members as are compatible with the Constitution." I agree with Senator Buckley (Report p. 60) that under the Constitution these representatives would not have the right to vote on the floor of the Senate or the House of Representatives.

The phrase "upon presentation by the Department of State" should be "through the Department of State." See 48 U.S.C. 891.

Section 12. This section deals with the applicability of federal laws to Puerto Rico. Subsection a would keep in effect federal laws now applicable to Puerto Rico, "except and to the extent repealed or modified by this Compact, or incompatible with it, and except as hereafter modified, suspended or repealed." I have misgivings concerning the "incompatible" language. Repeals by implication are not favored and the question gives

rise to much uncertainty. It would seem better to have the Joint Commission provided for in section 14 determine which federal laws are incompatible with the Compact and recommend their repeal. It is not apparent whether, under this subsection, the Compact is to take the place of the Puerto Rico Federal Relations Act in its entirety, or whether the latter is repealed only to the extent that the two are incompatible.

Subsection c would provide in substance that after the effective date of the Compact the United States may legislate with respect to Puerto Rico only pursuant to the powers and functions expressly vested in the United States in the Compact, and then only to the extent compatible with the Compact. This provision exemplifies the extent to which Congress, by virtue of the Compact, would surrender its plenary powers under Article IV, section 3, clause 2 of the Constitution. It constitutes a far-reaching relinquishment of legislative powers, and, of course, is irreconcilable with the general doctrine that one Congress cannot bind a subsequent one. Although it is my opinion that Congress has the authority irrevocably to relinquish its power of legislation in the process of creating a new political status, it certainly should not commit itself in this manner unless it clearly understands the finality of its action.

Subsection d establishes several procedures designed to preclude the applicability of federal laws to Puerto Rico. As a matter of draftsmanship, it should be noted that the subsection refers to the "Resident Commissioner" (the title of the current representative of Puerto Rico in the House of Representatives), although section 11 creates two new "Representatives" to the House and Senate. The relationship between the first and second sentence of the subsection is not clear. The former provides that Congress may exempt Puerto Rico from the application of federal legislation, while the latter seems to provide that this may be done by committee vote, even if the full Congress does not address the point, and indeed even if the full Congress provides otherwise. We believe that the latter would be an unconstitutional delegation of power by the Congress to one of its committees, and may (depending upon its operation) also violate the constitutional requirement that legislative dispositions must be presented to the President for his approval or veto.

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Section 13. This section would permit the transfer of existing functions vested in the United States to the Government of Puerto Rico, to be administered by Puerto Rican officials. It raises the question whether it is desirable to have federal statutes administered in general by persons who are not officers or employees of the United States. It is not clear from the draft Compact whether Puerto Rican officials involved in executing functions thus transferred would have to take an oath to uphold the Constitution and the laws of the United States applicable to Puerto Rico.

Section 14. This section would establish a Joint Commission to monitor the operation of the Compact. One of the Commission's functions is to study the desirability of retaining, modifying, or eliminating the applicability of federal law to Puerto Rico. Paragraph 1 of subsection b would provide that when a report of the Commission recommends that a law be rendered inapplicable, and the President of the United States and the Governor of Puerto Rico concur, the recommendation shall be submitted to Congress, and the law shall cease to be effective in Puerto Rico if, ninety days after such submission, neither House has rejected it. This is not, in my view, a constitutionally permissible manner of legislating. Congress should act by a law submitted for Presidential approval.

Section 15. Subsection a would provide that causes of action brought in the local courts of Puerto Rico may not be removed to the United States District Court for Puerto Rico solely on the ground that the provisions of the Compact are in issue. This limitation on the right of removal into the federal courts seems to me of questionable wisdom.

Section 16. This section deals with the United States District Court for Puerto Rico. Subsection b would provide that all procedures, pleadings, and records shall be conducted in Spanish, unless the Court, in the interest of justice, shall otherwise determine. This would make Spanish the principal, if not the exclusive, language in the U.S. District Court, and would completely reverse the existing law (48 U.S.C. 864), which requires proceedings to be conducted in English. It goes far beyond an administration bill, recently introduced in Congress (H.R. 6318), which would give equal status to the two languages in the District Court.

Subsection d would provide that the United States District Court is not to intervene in order to prevent the establishment or collection of any tax imposed by the laws of Puerto Rico. The provision is similar to 28 U.S.C. 1341 relating to the assessment, levy or collection of State taxes. It omits, however, the important qualification that a denial of jurisdiction is conditioned on the existence of "a plain, speedy and efficient remedy" in the State courts. Absent subsection d, 28 U.S.C. 1341 would be applicable to Puerto Rico by virtue of section 16a of the Compact, pursuant to which the U.S. District Court for Puerto Rico would have the same jurisdiction as the other District Courts of the United States.

Section 21. This section provides that none of the provisions of the Compact may be amended except by mutual agreement, and that with respect to any amendment affecting fundamental relations between the United States and Puerto Rico, consent must be given by the electorate of Puerto Rico. This contrasts significantly with the Covenant between the United States and the Northern Mariana Islands. There only the amendment of five fundamental provisions of the Covenant would be subject to a mutual consent requirement. The comment of Congressman Clausen on page 64 of the Report misses this difference.

The Ad Hoc Advisory Group recommends that the President refer the proposed Compact to both Houses of Congress with his endorsement (Report p. vi). The foregoing analysis, which does not purport to be exhaustive, demonstrates to my satisfaction that the proposed Compact contains many technical inadequacies which must be remedied--in addition to major substantive dispositions on which the President should have the well considered views of various agencies. It is my view that the text of the Compact cannot be approved in its present form, and must

be subjected to a thorough Executive Branch review before it can be transmitted to the Congress with Administration support.

Edward H. Levi
Attorney General

THE WHITE HOUSE
WASHINGTON

Trudy,

Scali's comments were not very substantive, and I have a feeling Moynihan isn't going to care much about Puerto Rico, so I soft-pedaled this request. If Falk had thought Moynihan's comments necessary, he could have let us know sooner. I wanted to give Moynihan an out, so he could defer to State Department if he wanted to.

E.

12/3

December 3, 1975



Dear Pat:

The attached report of the Ad Hoc Advisory Group on Puerto Rico has been received for transmittal to the President. Before sending it to the President, however, we have requested the comments of various Cabinet departments since some of the recommendations involve areas of concern to them.

John Scali commented on the draft report in May of 1975, and I enclose a copy of his letter to Marlow Cook for your information. We have received the comments of the State Department, but would be pleased to include any comments you might have from the perspective of the UN if you feel any are appropriate.

We hope to have the final package ready for the President within two to three weeks so that it would be helpful to have your response before the end of the month.

Sincerely,

James E. Connor
Secretary to the Cabinet

encl.

The Honorable Daniel Patrick Moynihan
U.S. Representative to the United Nations
New York, New York 10017

THE REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
UNITED NATIONS

6 May 1975

Mr. Marlow W. Cook
Chairman
Ad Hoc Advisory Group
on Puerto Rico
1016 16th Street, NW
Washington, D.C. 20036



Dear Marlow:

I very much appreciate your letter of April 15 asking for my reaction to the draft compact prepared by the Puerto Rican members of the Ad Hoc Advisory Group on Puerto Rico.

As you know, at the United Nations I have devoted a considerable amount of time and energy to refuting the Cuban-inspired canard that Puerto Rico is nothing more than a colony of the United States. I firmly believe that the people of Puerto Rico, as a result of the negotiations and plebiscite in 1952, have freely entered into the present commonwealth relationship with the United States. I also believe that whenever the Puerto Rican people, speaking through their freely elected representatives, request a readjustment of this relationship, the United States will respond positively and in a manner consistent with the ideals of the United States and Puerto Rican Constitutions. I therefore welcomed the decision of President Nixon to establish the Ad Hoc Advisory Group in order to reexamine the current relationship and welcome the careful review you are giving to the Puerto Rican proposals.

Mr. Marlow W. Cook
Page 2
6 May 1975



The Department of State, I understand, is commenting in detail on the specific provisions of the draft compact of permanent union as proposed by the Puerto Rican side. Since virtually all of these proposals involve complicated questions of law, which do not relate directly to our participation in the United Nations, I do not believe that it would be advisable for me to express an opinion on them.

So far as the question of Puerto Rican participation in international organizations is concerned, I believe further sympathetic consideration should be given to such participation, under both the existing and the proposed arrangements. It seems to me that Puerto Rico should have the opportunity, as appropriate, to participate in those organizations concerned with economic and social problems whose Charters provide for membership by political entities other than independent states. The precise manner for securing such participation by Puerto Rico is essentially a matter of detail which I am certain should provide no obstacle.

In conclusion, I do hope that the above comments will not be interpreted as an expression of opinion on Puerto Rico's political status. I want to reemphasize what I have stated for the record on many occasions at the United Nations -- I believe that the Puerto Rican people must make the ultimate determination of their own political status, whether it be commonwealth, free association, independence, statehood or some combination thereof.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Scali".

John Scali

Best regards to all -

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 22, 1975

Time:

FOR ACTION:

cc (for information):

Jim Cannon
Brent Scowcroft



FROM THE STAFF SECRETARY

11/5/75

DUE: Date: October 28, 1975

Time: 2 P. M.

SUBJECT:

Letter of October 9, 1975 from
Ad Hoc Advisory Group on Puerto Rico
(Marlow Cook) enclosing "Compact of
Permanent Union Between Puerto Rico
and the United States"

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Jim Cannon -

Please arrange for an interim Presidential
acknowledgment of the report while both your people
and NSC prepare recommendations on the report.

*comments from Defense attached:-
and other Cabinet
members*

*As of 12/5 awaiting Mayrhuban's
comments*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

Jim Falk is

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

Jim Connor
For the President

coordinating

Checked with Jim Cavanaugh's office on 1/8/76

Still working on it -- Plan to send up end of Janaury



Mid June 1976

Congressional Office is asking about Ad Hoc Report on Puerto Rico to answer Senator Jackson

Checked with Jim Cavanaugh - Dick Parsons is still reviewing this packaged with OMB & NSC.

Trudy Fry

THE WHITE HOUSE
WASHINGTON

The attached statement was part
of a Briefing Book prepared for
the President for the Summit in
Puerto Rico on 6/22/76.



PROPOSED COMPACT OF PERMANENT UNION BETWEEN
PUERTO RICO AND THE UNITED STATES

BACKGROUND

Three years ago, President Nixon and Governor Hernandez Colon of Puerto Rico appointed a Joint United States-Puerto Rico ad hoc Advisory Group to review the existing relationship between the United States and Puerto Rico and to recommend ways to provide Puerto Rico with a greater degree of self-government and self-determination within the existing framework of common defense, common market, common currency and common citizenship. The Group's report, recommending a new Compact of Permanent Union Between Puerto Rico and the United States, was submitted to the President last October. By law, the President has a year within which to review the report and submit it to the Congress, together with recommendations for action. Since receipt of the report, it has been under intensive study by the Domestic Council, OMB and the departments and agencies of the Executive Branch.

Notwithstanding the fact that the law provides that the President shall have a year within which to review this report, Jaime Benitez, Resident Commissioner of the Commonwealth of Puerto Rico, introduced the Compact in legislative form in the Congress this past December. The reason for this is that he, Governor Hernandez Colon and other members of the majority party in Puerto Rico (the Popular Democratic Party) are hopeful that Congress and the President will act on the Compact this year, before Puerto Rico's general election. The negotiation of a new Compact with the United States would be a major plus for the incumbent party going into the election.

Representative Phil Burton, who chairs the House Committee on Interior and Insular Affairs, has held initial hearings on the bill and has developed an amended version. The Senate has been less active than the House on this matter, however, although Senator Jackson recently expressed his concern over the fact that the Administration has not communicated its view on the Compact to the Congress.

Mayor Carlos Romero Barcelo of San Juan, and other members of the minority party (the New Progressive Party) have expressed their dissatisfaction with the Compact and have urged careful analysis of it by the Administration.

SUMMARY OF MAJOR PROBLEMS WITH THE COMPACT

On merit, the proposed Compact is highly objectionable to the Administration. The objectionable features fall into four principal categories: status, economic, legal and international.



o Status

Under the Compact, Puerto Rico would be granted a status unlike that enjoyed by any other entity having a relationship with the United States. Basically, Puerto Rico would be able to avail herself of all of the privileges currently enjoyed by the States of the Union while, at the same time, having to shoulder few of the responsibilities of a State. For example, the Compact provides that citizens of Puerto Rico should have the right to "participate equally in the benefits provided by the laws of the United States relating to social and economic aid," but continues to exempt inhabitants of Puerto Rico from Federal and other income taxes.

It is unclear how Puerto Rico would be considered in terms of eligibility to participate in Federal domestic assistance programs under this compact, but if it were treated as a State, the impact on the FY77 budget would be significant. OMB estimates that public assistance costs would rise by about \$80 million, Medicaid costs by about \$280 million and Supplementary Security Income program costs by about \$300 million.

o Economic

In an attempt to enable Puerto Rico to rehabilitate her ailing economy, the Compact grants to Puerto Rico special rights and privileges relating to the regulation of commerce among Puerto Rico, the United States and foreign countries. Specifically, the Compact would authorize Puerto Rico to levy, increase, reduce or eliminate tariffs and quotas on articles imported directly from foreign countries or trans-shipped through the United States, and would allow Puerto Rico to import materials duty-free for subsequent shipment and sale in the United States, provided that the shipping price includes at least 35 per cent value-added in Puerto Rico.

These provisions are highly inconsistent with the concept of a "common market." Under the former, it is conceivable (indeed, likely) that Puerto Rico could enact more restrictive tariffs than the United States to protect its domestic industry. The latter



authorization would, in effect, enable Puerto Rico to import goods for resale in the United States at a price below that charged by either U. S. or other foreign manufacturers who do not have the "duty-free" privilege. Both of these provisions could, therefore, have a serious adverse impact on U. S. industry and employment.

Finally, as was mentioned earlier, the Compact would continue to exempt inhabitants of Puerto Rico from Federal income and other taxes and would specify that all taxes collected in Puerto Rico or in the United States under the internal revenue laws of the United States on articles produced or manufactured in Puerto Rico shall be covered into the Treasury of Puerto Rico. When read together with the other provisions respecting tariffs and imports, this provision is antithetical to the common market which now exists between the United States and Puerto Rico.

o Legal

The Compact proposes a number of alterations in the existing relationship between the United States and Puerto Rico of questionable constitutional validity and/or legal soundness. For example, the Compact provides that Federal laws and administrative rules and regulations would cease to apply to Puerto Rico if they were "incompatible" with the provisions of the Compact. The question of incompatibility, in the first instance, would rest with Puerto Rico. This would cause great uncertainty as to the applicability of existing and future Federal laws and regulations in Puerto Rico.

Further, the Compact would provide that title to all crown lands and navigable waters seaward to the Continental Shelf shall be vested in Puerto Rico, and would deny to the United States the right of eminent domain. These provisions are inconsistent with our continuing obligation to provide for the defense of Puerto Rico and to provide essential services, such as transportation, to the people of Puerto Rico. Additionally, with respect to navigable waters, the Compact would literally remove the United States Government from any jurisdiction over the waters surrounding Puerto Rico. This immunity from U. S. jurisdiction over navigable waters is not now enjoyed by any State or any other U. S. possession.

Finally, the Compact provides that, prior to enactment of any legislation applicable to Puerto Rico, the President, at the request of the Governor of Puerto Rico, may suspend the application of such law to Puerto Rico. However, such suspension could be terminated by the Congress by Joint Resolution. The Compact also provides for the transfer, by Executive Order, of responsibility for carrying out major Federal functions to Puerto Rico, but that such transfer would not become effective if either House of the Congress objected to it within ninety days of promulgation of the Executive Order. The Department of Justice has raised constitutional questions concerning both of these provisions.

International

The Compact would authorize Puerto Rico to participate in international organizations in its own right and to enter into international agreements, unless the President specifically finds such participation and such agreements to be inimical to the foreign relations of the United States. This authority is incompatible with the overriding responsibility and authority of the Federal Government to conduct foreign affairs and to provide for the military defense of Puerto Rico. It would grant to Puerto Rico foreign relations prerogatives in excess of those enjoyed by any State or another U. S. possession.

These are but a few of the problems we have with the Compact. There are many others. In sum, it is unlikely that the Administration will be able to favorably comment on the Compact. Given the political sensitivity of this issue in Puerto Rico and its potential impact on the upcoming general elections, it is recommended that the President avoid specific comments on the Compact and indicate merely that the Compact is currently under review.

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

----- (Vail, Colorado)

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT



In October, 1975, the Ad Hoc Advisory Group on Puerto Rico, appointed jointly by the President of the United States and the Governor of the Commonwealth of Puerto Rico, recommended a new Compact of Permanent Union between Puerto Rico and the United States, to provide maximum self-government and self-determination for Puerto Rico.

The proposed Compact would institute fundamental and far-reaching changes in the relationship between Puerto Rico and the United States, and its provisions would affect a wide array of Federal programs and interests.

Members of my Cabinet have thoroughly analyzed the proposed Compact and made recommendations to me.

After studying their comments and recommendations, and giving deep thought to this important proposal, I have concluded that the proposed Compact, significant and important though it is, does not advance as rapidly as it might freedom and opportunity for the American citizens of Puerto Rico.

I believe that the appropriate status for Puerto Rico is statehood.

I propose, therefore, that the people of Puerto Rico and the Congress of the United States begin now to take those steps which will result in statehood for Puerto Rico.

I will recommend to the 95th Congress the enactment of legislation providing for the admission of Puerto Rico as a State of the Union.

The common bonds of friendship, tradition, dignity, and individual freedom have joined the people of the United States and the people of Puerto Rico. It is now time to make these bonds permanent through statehood, in accordance with the concept of mutual acceptance which has historically governed the relationship between Puerto Rico and the United States.

#

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE
PRESS CONFERENCE
OF
JAMES M. CANNON
ASSISTANT TO THE PRESIDENT FOR DOMESTIC AFFAIRS
THE BRIEFING ROOM

3:30 P.M. EST

MR. NESSEN: The President recently indicated that he would recommend to Congress the enactment of legislation to make Puerto Rico a state and, as you know, it was despite the best efforts of Dick Lerner that the Interior Department has managed to complete the legislation.

What you should pick up, if you don't have all of the pieces, are the letter from the President to the Speaker of the House of Representatives and to the President of the Senate proposing such legislation, and then a text of the legislation and a final page which will indicate to you the process that this legislation has to go through and the total amount of time it could take.

Now, this is the main document, but also prepared for you by Jim Cannon and his Domestic Council are a chronology of relations between the United States and Puerto Rico, a chart, a full version here, which demonstrates the growth of sentiment for statehood in Puerto Rico as measured by election results, and those same figures transferred to a listing here.

To talk to you about this legislation and answer your questions about it is the Director of the Domestic Council, Jim Cannon.

MR. CANNON: Thanks, Ron.

The President has sent this bill up to the Congress today and strongly urged that Congress take this first step in a long series of steps that must be taken if the citizens of Puerto Rico are to have equality.

I have no further statement. I would be glad to answer any questions by anybody.

Q Why go to the trouble at this time, particularly since it is so late in the Administration?

MR. CANNON: This bill is a response to the proposed compact which was given to the President on October 9, 1975. He had a year, under the statute, to respond to that to Congress. As it happened, when the time came, the termination of that year, Congress was out of session. We continued studying the matter and the President addressed it later in November and again early in December and directed the Domestic Council to proceed with the preparation of additional study work and the papers that were necessary for him to make a final decision on whether he wanted to propose statehood.

MORE



Q Jim, was there any prior consultation between the White House and Mr. Romero before the decision was made to introduce this legislation now?

MR. CANNON: Let me answer your question this way: Before the President made his announcement, we informed Governor-elect Romero Barcelo that the President was going to make the announcement. On this particular legislation, I have consulted with him and advisors to the Governor.

Q What was his reaction, sir?

MR. CANNON: Favorable.

Q Favorable. Well, I am a little confused because some of his public comments had seemed to indicate that he is not terribly anxious to have statehood right away, and yet -- I am sorry; go ahead.

MR. CANNON: I was going to say this statehood could not possibly come for Puerto Rico right away. It is a long and complex process. What we have done is set forth the steps here that must be taken in a process that we estimate will take from 40 to 70 months after the Act is passed.

We believe that the process should begin immediately, as soon as possible, as soon as Congress can address it.

Q And your legislation does have the support of the Governor; is that correct?

MR. CANNON: I will let him speak for himself. I told him what we were doing. I had his representative look at the legislation and read it. We went over the process, and his reaction -- in answer to your question -- was favorable. I will let him speak for himself, as to what he would want to say about it.

Q What are the major changes between the draft bill that was released earlier this week and the final version?

MR. CANNON: The draft bill was leaked earlier this week and it did not -- that was an early draft. It did not appropriately provide, in my judgment, for the island-wide referendum, and that was put in at a later point.

Q Was that the major change?

MR. CANNON: There may be some other procedural and technical changes, but that was a substantial change. That was, I guess, a second or third draft of the measure. When I saw that draft and realized that it did not have the referendum put into it, we redrafted it to make it clear that after the process of consideration of the terms of statehood could be examined, then as soon as possible after that the citizens of Puerto Rico would have an opportunity to vote before further steps were taken.

Q Jim, what is your reading as to when and whether the Congress will act on it?

MORE



MR. CANNON: The President is urging them to act as soon as possible. I would not make a speculation on how soon Congress will act. I think that, as more information is developed about the social and economic needs of Puerto Rico and the desire for political equality, the equality of statehood, then I think Congress will be more inclined to act.

Q Since a lot of this took place during the transition period, did you advise the President-elect of what was coming?

MR. CANNON: I did not.

Q Did anybody?

MR. CANNON: We did not prior to the President's announcement.

Q Why?

MR. CANNON: We saw no need to. The President was responsible to make this decision, and he did make it.

Q Didn't you think as a gesture of good will, if you were really sincere about wanting this -- and I don't doubt that you were sincere -- that it might help things along?

MR. CANNON: The President felt strongly that he had studied this question of the status of Puerto Rico for the full time he was in office. It was one of the responsibilities that he inherited when he came into office. He had a group, the Domestic Council and OMB, who had been working on it for some time. We had briefed him from time to time, since shortly after I came to work in the White House, and he felt that this was his decision to make as to whether he wanted to propose this or not.

As I indicated, he did not consult with Governor-elect Romero Barcelo. He did not want to put him in any position of having to approve it or disapprove it. The President concluded this was the best action to take, and he took it.

Q I am sorry. I was referring to President-elect Carter.

MR. CANNON: The decision was made to clear it with the White House staff, but the President felt this was his own decision. His questions related to the propriety of what he was doing. As we look back at the history of this, it certainly did seem in keeping with past Presidents that he could make a comment on this, and the procedure.

Q I don't doubt that. What I am saying is, don't you think it might have been a good idea to inform the incoming administration?

MR. CANNON: We did not feel that was a responsibility, that we had a responsibility to inform the President-elect.

MORE

Q Are you satisfied that there is at the present time a majority of the Puerto Rican people who are in favor of statehood?

MR. CANNON: I would direct your attention to the chart which is here, and of which you have copies. If you look at the five elections since Puerto Rico became a Commonwealth, you will see a steadily increasing trend of support for statehood and a steadily declining trend of support for the Commonwealth.

Q But Mr. Barcelo made it very clear during the campaign that the vote he was asking for was not a vote on the status of Puerto Rico but a vote on his economic policy.

MR. CANNON: That is correct. But the fact is that the party of statehood swept the field. They elected the Governor, the Resident Commissioner, and both houses of the legislature. That is an incontrovertible fact. You can speculate any way you want to about it, but that is a fact, and there it is.

Q Jim, excuse me. Is it a fact that the other party campaigned only on status the majority of the time, the Commonwealth Party, in the last campaign?

MR. CANNON: The party of Governor Hernandez Colon did support the idea of the Compact, the Free Associated States described in the Compact.

Q So it is a fact that status was completely discussed all through the campaign; that this wasn't something new that was brought up?

MR. CANNON: I think that is fair. In fact, it is fair to say that status has been a question in Puerto Rico for more than 75 years.

Q Jim, the other day in an interview with the New York Times the President said that he did not expect the 95th Congress to approve this legislation, but that he went ahead; that he was going ahead in doing this because he thought it was important to get it out for debate. Have you heard him say anything subsequently to change that view?

MR. CANNON: He said this morning, when he signed the letters of transmittal, that we must get this action started. We must go ahead. And this is the first step.

Q Well, then, would it still be fair to assume that the President does not expect the 95th Congress to approve this legislation?

MR. CANNON: I didn't raise that question with him.

Q I mean, you declined to speculate on how soon Congress might act on it, and I --

MR. CANNON: No. I think that is a matter for congressional judgment, and there would be no useful purpose in my speculating on it. We think the appropriate committee should start hearings and address the matter.

MORE

We believe we have good legislation. We believe this is a good procedure as a way to begin what is a complex and difficult process. But how long it takes them is really a judgment of Congress, not of mine.

Q I appreciate that, but I want to put this in the proper perspective. If, in fact, the President does not expect the 95th Congress to approve this, I think we should say so. As far as you know --

MR. CANNON: He did say so the other day.

Q So far as you know, that has not changed?

MR. CANNON: So far as I know, that has not changed.

Q This is in a sense a Republican Party position, then, as opposed to a Democratic Party position?

MR. CANNON: It is true that it was in the Republican platform that Puerto Rico should have statehood. That is in the 1976 Republican platform. The decision to go ahead and propose legislation at this time was a decision by the President.

Q This doesn't alter the platform, then, of the Republican Party, or won't in the future?

MR. CANNON: I think, again, every platform has to be debated in a quadrennial election year.

Q Who will introduce the bill on the Hill?

MR. CANNON: I am not sure. We have talked to some Members about sponsoring it. I am not sure who will sponsor it.

Q Jim, this is the enabling act? There is no separate act?

MR. CANNON: That is the enabling act.

Q And it requires a simple majority by both houses?

MR. CANNON: Correct.

Q Is there anything else the Executive must do or the Congress must do?

MR. CANNON: Under this bill?

Q Well, in connection with the whole statehood issue.

MR. NESSEN: Look at the last page, Russ.

MR. CANNON: Look at the last legal-sized page, at this chart, and you will see that actually Congress and the President must take several actions in the whole process in these eight major steps that must be taken before Puerto Rico can finally achieve statehood.

MORE

Q But as far as the Executive goes now, this is it? The President does not have to present anything further to the Congress or to Puerto Rico?

MR. CANNON: No. But constitutionally there are certain steps that he must take. For example, he must approve the State Constitution that would be proposed by an aspiring state.

Q The delay of 40 to 70 months, that is at the time that Congress has approved the bill?

MR. CANNON: From the time this act would be passed it would be an interval of from 40 to 70 months before Puerto Rico would become a state under this process.

Q Mr. Cannon, is this situation different from that of Hawaii and Alaska? Was there a more clear-cut statement by the people of those two territories that they wanted statehood as compared to Puerto Rico?

MR. CANNON: I believe it is fair to say that every State has had some differences in coming into the Union from other states. Some states have come in two at a time. I believe Arizona and New Mexico did. But there are special circumstances in each state.

A difference here is that Puerto Rico does have a special status of being a commonwealth. They have special geographical circumstances. There are special questions relating to trade which aren't precisely true for Alaska and Hawaii. So part of the purpose of this extensive examination of the terms under which Puerto Rico should come into the Union, part of that process has addressed a great variety of issues, such as those I have just described, such as cultural issues. For example, the Spanish language. There is a feeling by some that the English language should be the principal language of all States, but we feel this is a question that should be discussed in Congress and in Puerto Rico before the final terms are set by which they might enter the Union.

Q Is one reason for this legislation, sir, a wish to send a message to both Castro and to any others who might wish to subvert Puerto Rico toward independence?

MR. CANNON: It did not figure in the consultations.

Q It did not?

MR. CANNON: They may have sent him a message. I do not know. It was not a matter of consideration. The President felt the central issue here is equality.

Q Was the State Department consulted at all as to the repercussions of this decision on relations of the United States with Latin America?

MR. CANNON: Yes.

Q And they gave a favorable reply?

MR. CANNON: Correct.

MORE

Q Jim, you have been working on this for a year?

MR. CANNON: Actually, I looked it up the other day, and I came to this job March 1st of 1975. One of my earlier visitors that month was Governor Hernandez Colon, who came to see me about the problems of Puerto Rico. They were having a recession and they were desperately in need of additional Federal assistance and we discussed the question of status at that time. When I came in, it had already been under consideration for a year or so. The question of status had been under consideration by the Domestic Council several years before that.

Q During any of this period, did the subject of offshore oil reserves come up, and if so, in what context?

MR. CANNON: The only time it came up, to my knowledge, was after the announcement was made, when I was told about it. This was a kind of curious call. But as a practical and legal matter, the Commonwealth at this time does not have any rights to offshore minerals. As a State, Puerto Rico would have rights to offshore minerals. That is another question that should be resolved in the preliminary discussions before terms will be set for Puerto Rican entry into the Union.

Q Given the President's pessimistic view of what can happen in the present Congress, is his motive really to set off some sort of informed debate about Puerto Rico?

MR. CANNON: Obviously, this is what he feels the process must begin. I think it is not correct to characterize that as his pessimism. The fact is, to my knowledge, Ernest Gruening spent well over two decades trying to persuade the Congress to permit Alaska to enter the Union. So I don't think to say that it will not pass in this Congress is necessarily pessimistic.

I think Congress is going to address it. I think there is a growing number of people in Puerto Rico who feel strongly about statehood, and I think that they will bring their message to Congress and that Congress will listen. I am optimistic about statehood for Puerto Rico. I believe it will happen.

Q And you and the President do believe there is a solid majority in Puerto Rico for statehood?

MR. CANNON: The facts speak for themselves.

Q Well, they require some interpretation, though.

MR. CANNON: All right. I will interpret it this way: The last plebescite on the main issue of Commonwealth versus statehood was in 1967. Then the vote was 60 percent for Commonwealth, 39 percent for statehood. It is interesting to us that since that time two of the three gubernatorial candidates were elected who supported the concept of statehood.

We feel that those figures show that there is a strong trend over time for increasing support for statehood and lessening support for the Commonwealth status.

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Q But you are not making the flat statement that there is a majority?

MR. CANNON: I am not making a flat statement. I think that question cannot really be answered until the people of Puerto Rico would know the terms under which they might enter the Union. That is, again, why we feel it is essential that the long process of hearings, discussion, examination, and very serious deliberation of major issues that are still outstanding take place, so that the Puerto Rican people would know exactly what they are voting on.

Q But supposing this legislation is passed and the referendum says no to statehood? What happens then?

MR. CANNON: Then they remain as they are.

Q They remain as they are?

MR. CANNON: That is correct. They continue to be a Commonwealth, and that is provided for in the legislation. When the time for referendum comes, if the statehood issue fails, then the further steps are wiped out and Puerto Rico remains a Commonwealth.

Q Jim, am I correct in calculating then that, even if the Congress, the current Congress, were to approve this legislation, you are saying that Puerto Rico couldn't really become a State for perhaps eight years?

MR. CANNON: In the early 1980's. I think a realistic judgment would be that Puerto Rico, under this plan, would become a State in the early 1980's.

Q Governor Romero made an announcement today, or a statement in an interview, that the White House had agreed to change this legislation so no real action would be taken until after 1980, until the next gubernatorial term in Puerto Rico.

MR. CANNON: He did mention that he thought it would be best constitutionally. Under the laws and Constitution of Puerto Rico, there cannot be a referendum in a gubernatorial year. We discussed this matter, and once I explained to them this process, we concluded that it would be the early 1980's before a referendum could occur anyway.

Q Have you considered what this might do psychologically to other nations in the Caribbean area who might see some advantage and apply for admission as a State?

MR. CANNON: We have discussed it to some extent with representatives of the State Department. We did not perceive that at this point to be any problem. The association between the United States and Puerto Rico has gone on, as you know, for more than three quarters of a century and they do have a special status. In the eyes of most Americans there are special ties. So we believe that they occupy, in relation to the United States, a unique position that is not enjoyed by any other Caribbean nation.

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Q There is no change anticipated concerning the Virgin Islands?

MR. CANNON: Not at this time. This bill relates entirely to Puerto Rico.

Q There has been some speculation, including by the President of the University of Puerto Rico, that this proposal will create or provoke more terrorism on the part of the independence advocates, some independence advocates, for Puerto Rico, inasmuch as it is a divisive measure.

MR. CANNON: It is our judgment that the worst thing you can do is nothing; that the process must begin and that the proper status for Puerto Rico is the equality of statehood. The President felt strongly it was time to make a move, and he made a judgment that he would do so.

Q Jim, have you any thoughts on how you arrange 51 stars on a flag?

MR. CANNON: We haven't reached that point yet.

Q In about eight years?

THE PRESS: Thank you.

END

(At 3:58 p.m. EST)

JANUARY 14, 1977

Office of the White House Press Secretary

THE WHITE HOUSETEXT OF A LETTER FROM THE
PRESIDENT TO THE SPEAKER OF THE
HOUSE OF REPRESENTATIVES
AND THE PRESIDENT OF THE SENATE

JANUARY 14, 1977

Dear Mr. Speaker: (Dear Mr. President:)

I submit herewith to the Congress the Puerto Rico Statehood Act of 1977.

The purpose of the Act is to extend to the people of Puerto Rico the opportunity to achieve the status of statehood if they should so desire.

Since 1900, Presidents and Congresses have debated the question of statehood for Puerto Rico.

Some progress has been made in providing the people of Puerto Rico with greater autonomy and a greater measure of self-government. But these great people are still not represented with a vote in either the House or Senate. They are still not represented in the election of a President.

Full equality for the people of Puerto Rico cannot come without full representation.

The social and economic progress to which they aspire cannot come without the political equality of statehood.

Any change in the status of the Commonwealth must be accomplished by the mutual consent of the people of Puerto Rico and the United States.

As Congress considers the appropriate course of action relating to the permanent status of Puerto Rico, it is essential that the dignity and self-respect of the great people of Puerto Rico be a matter of the highest consideration.

Accordingly, the legislation I propose would establish, within the framework of the United States Constitution and the Constitution of the Commonwealth of Puerto Rico, a sequence of steps reflecting the historic procedures by which present states entered the Union, while recognizing the special circumstances of the Commonwealth of Puerto Rico and the aspirations of the citizens of the Commonwealth.

First, in recognition of the fact that statehood for Puerto Rico would require the resolution of many complex issues, Congress would establish a joint U.S.-Puerto Rico Commission to enable the people of Puerto Rico to participate effectively in determining the terms and conditions for Puerto

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Rico's proposed admission to statehood. By providing a forum for the reaching of a broad understanding of the issues and implications involved in admission to the Union, this Act would ensure that the advantages and disadvantages and the rights and responsibilities of statehood are fully presented to the people of Puerto Rico -- before deciding whether their Commonwealth should become a state.

Second, Congress, after receiving the Commission Report, would set the terms and conditions of statehood.

Third, the Act provides for an island-wide referendum among the people of Puerto Rico on whether the Commonwealth should become a state.

Fourth, the Act proposes that if the referendum passes, delegates to a Constitutional Convention will meet to frame a Constitution for the proposed state.

Fifth, the new constitution would be presented to the people of Puerto Rico for ratification.

Sixth, the proposed State constitution, if ratified, would be submitted to the President of the United States and to Congress for approval.

Seventh, upon approval of the proposed Constitution, the voters of Puerto Rico would elect two Senators and five Members of the House of Representatives.

Eighth, the Governor of Puerto Rico would certify the results of the election to the President, and the President would proclaim Puerto Rico a state.

After more than three-quarters of a Century of discussion about Puerto Rico, it is time to act and act positively. By passage of this Act the representatives of the people of the 50 States will say to the people of Puerto Rico: Join us as equals.

I urge the Congress to act.

Sincerely,

GERALD R. FORD

#



A BILL

To enable the people of Puerto Rico to form a constitution and State government, to be admitted into the Union, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Puerto Rico Statehood Act of 1977. That it is the sense of the Congress of the United States that the appropriate status for the Commonwealth of Puerto Rico is Statehood and that the people of Puerto Rico should be able to achieve this status under the Constitution of the United States if they should so desire. The Congress recognizes, however, that the change from the status of Commonwealth to Statehood for Puerto Rico involves many complex issues, and it believes that the people of Puerto Rico should be fully apprised of those issues before they are asked freely to express their wishes on changing their status from Commonwealth to Statehood.

It is therefore the purpose of this Act, first, to establish a sequence of steps by which the complex issues associated with the proposed change of status of Puerto Rico from a Commonwealth to a State of the Union may be identified and addressed in an orderly way and the implications of such a change in status be made known to the people of Puerto Rico, and further to enable the people of Puerto Rico to form a constitution and State government, so that Puerto Rico -- if it is the free choice of the people of that Commonwealth -- may be admitted into the Union on an equal footing with the original States.

Title I. Puerto Rico Statehood Commission

Sec. 101. Establishment and Purpose of the Commission

There is hereby established a Commission to be called the "Puerto Rico Statehood Commission," the purpose of which shall be to develop a broad understanding throughout Puerto Rico of all the issues and implications involved in changing the status of Puerto Rico from that of a Commonwealth to that of a State of the Union so that the people of Puerto Rico can be fully knowledgeable of the merits and responsibilities of Statehood for Puerto Rico before they are asked freely to decide the question of Statehood.

Sec. 102. Duties of the Commission

It shall be the duty of the Commission to make comprehensive, factual studies to determine the effect of Statehood on the political, economic, and cultural status and aspirations of the people of Puerto Rico, and to sponsor public

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discussions of the issues throughout the Commonwealth. These studies and discussions shall include, but not be limited to:

- (a) the economic issues that relate to the status of Statehood for Puerto Rico;
- (b) the jurisdictional limits of Puerto Rico, including rights or interests to the natural resources therein;
- (c) the effect of any necessary changes in internal revenue laws that may be or become applicable to Puerto Rico, including levels of revenue sharing, customs and duty collections and related questions;
- (d) fair labor standards, health, welfare, social services, and education;
- (e) questions of a cultural nature, including the use of Spanish as the official language of the State;
- (f) possible transfer of Federal real or personal property to Puerto Rico; and
- (g) the general question of the applicability of the United States Constitution and Federal laws to Puerto Rico.

Sec. 103. Powers of the Commission

(a) In carrying out its duties under this Act, the Commission is authorized to hold such hearings and take such testimony, establish such facts, conduct such studies, and make such expenditures as, in its discretion, it deems advisable to carry out the purposes of this Act.

(b) The Commission is authorized to secure from any department, agency, or instrumentality of the Executive Branch of the Government any information it deems necessary to carry out its functions under this resolution, and each such department, agency, or instrumentality is authorized and directed to furnish such information -- consistent with the security of the United States -- to the Commission and to conduct such studies and surveys as may be requested by the Chairman or the Vice Chairman when acting as Chairman.

(c) If the Commission requests of any witness or of any Government department, agency, or instrumentality the production of any materials which have theretofore been submitted to such witness or Government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material -- consistent with the security of the United States -- may be made available to the Commission and shall be held in confidence by it.

Sec. 104. Composition and Appointment of the Commission

(a) The Commission shall be composed as follows:

(1) Five (5) members of the Commission shall be appointed by the President of the United States and five (5) members shall be appointed by the Governor of Puerto Rico, within six (6) months from the date of this Act.

(2) Selection of the members shall take into consideration, and be based upon, expertise and knowledge in the fields of social and economic progress, law, and disciplines related to the aspirations of free people.

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(b) The members of the Commission shall, at their first meeting, elect from among themselves a permanent Chairman and Vice Chairman by simple majority vote of those voting. In the event that the members do not elect a Chairman or a Vice Chairman at their first meeting, the President, after consultation with the Governor, shall designate the Chairman or the Vice Chairman as may be appropriate.

(c) Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as in the case of the original appointment.

(d) Six (6) members of the Commission shall constitute a quorum but a smaller number, as determined by the Commission, may hold hearings or conduct study missions.

(e) Officials or employees of the Executive, Legislative or Judicial Branches of the Federal Government who are members of the Commission shall serve without compensation in addition to their regular pay, but they may be reimbursed in accordance with applicable Federal laws and regulations for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(f) All other members of the Commission shall receive compensation for each day such members are engaged in the actual performance of duties vested in the Commission at a daily rate not to exceed the rate specified for Level IV or the Executive Schedule under Section 5315 of Title 5 of the United States Code. Each such member may be reimbursed for travel expenses, including per diem in lieu of subsistence, in accordance with applicable Federal laws and regulations.

Sec. 105. Staff of the Commission

(a) The Commission may, by record vote of a majority of the Commission members, appoint, without regard to the provisions of the Civil Service Laws and the Classification Act of 1949, an Executive Director of the Commission and a General Counsel. The compensation of the Executive Director and the General Counsel shall be set by the Commission at rates not to exceed those that now or hereafter are prescribed for the highest rate for Grade 18 of the General Schedule under Section 5332 of Title 5 of the United States Code. The Executive Director is authorized to appoint, without regard to the provisions of the Civil Service Laws and the Classification Act of 1949, such professional staff members and clerical assistants as the Commission shall determine are necessary to perform its functions under this Act. The Executive Director shall prescribe the duties and responsibilities of such staff members and fix their compensation at rates not in excess of those now or hereafter prescribed in the General Schedule for Civil Service employees under Section 5332 of Title 5 of the United States Code having similar duties and responsibilities.

(b) In carrying out any of its functions under this Act, the Commission is authorized to utilize, without reimbursement, the services, information, facilities and personnel of the Executive departments and agencies of

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the Government of the United States, and the Executive Director is authorized to procure expert and consultant services in accordance with the provisions of Section 3109 of Title 5 of the United States Code.

Sec. 106. Final Report

(a) The Commission shall submit a final report to the President of the United States, the Congress of the United States and to the Governor of Puerto Rico, who shall make the report available to the people of Puerto Rico, and the Legislative Assembly of Puerto Rico not earlier than eighteen (18) months nor later than thirty (30) months from the date of the original appointment of the tenth Commissioner. The Commission shall cease to exist not later than sixty (60) days after submission of its final report.

(b) Within ninety (90) days after the submission of the final report of the Commission, the President of the United States and the Congress of the United States, whether jointly or separately, shall determine whether the nature and content of the final report requires any modification of this Act, additional legislation or other action concerning the terms for Puerto Rico's admission as a State of the Union.

Sec. 107. Federal Advisory Committee Act

The Commission shall be exempt from the provisions of the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C., Appendix 1.

Sec. 108. Use of Property, Facilities and Services

To the extent of available appropriations, the Commission may obtain by purchase or rental such property, facilities and services as may be needed to carry out its duties. Disposal of property shall be in accordance with the existing laws of the United States.

Sec. 109. Authorization

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Title, as hereinabove set forth.

Title II. Puerto Rico and Statehood

Sec. 201.

(a) Subject to the requirements hereinafter set forth, the qualified electors of the Commonwealth of Puerto Rico shall vote for

(1) the adoption or rejection of the following proposition: "Shall Puerto Rico be admitted into the Union as a State?";

(2) delegates to form a convention for the purpose of framing a constitution for the proposed State of Puerto Rico. Said convention shall consist of that number of delegates which equals the number of Senators and Representatives serving in

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the Legislative Assembly of Puerto Rico at the time of enactment of this Act and each delegate shall represent, as nearly as is possible, an equal portion of the total population of Puerto Rico.

(b) The Governor of Puerto Rico shall -- as soon as possible under the constitution and laws of the Commonwealth but in any event within three hundred and seventy-five (375) days after receipt by him of the report of the Puerto Rico Statehood Commission established by Title I of this Act -- by proclamation, in which the aforesaid proposition and the aforesaid apportionment of delegates to the convention shall be fully specified and announced, order a referendum on said proposition and an election of the delegates aforesaid on a day designated by him in the proclamation, not earlier than sixty (60) days nor later than ninety (90) days after the date on which the proclamation is issued. Such referendum and election for delegates shall be held and conducted, and the returns made, and the certificates of the results of such referendum and of persons elected to such convention issued, as nearly as may be, in the same manner as is prescribed by the laws of the Commonwealth regulating referenda and elections of members of the Legislative Assembly, and the provisions of such laws are hereby made applicable to such referendum and election. The said convention, when called to order and organized, shall be the sole judge of the election and qualification of its own members.

(c) In the event the foregoing proposition is adopted by a majority of the qualified electors of Puerto Rico, the delegates to the convention duly elected shall meet at a time and place to be designated by the Governor. After organization they shall declare on behalf of the people of the Commonwealth of Puerto Rico that they adopt the Constitution of the United States, whereupon the said convention shall be, and is hereby, authorized to frame a constitution and provide for a State government for Puerto Rico, in the manner and under the conditions contained in this Title. The constitution shall be republican in form, shall include a bill of rights and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

(d) In the event the foregoing proposition is not adopted by a majority of the qualified electors of Puerto Rico, the provisions of this Act shall thereupon cease to be effective.

Sec. 202.

(a) Upon the completion of the constitution by the convention, the convention shall provide for the submission of the constitution to the people of Puerto Rico for ratification at an election which shall be held on a day named by the convention and at which election the qualified voters of Puerto Rico shall vote directly for or against such proposed State constitution and for or against any provisions thereof separately submitted.

(b) If the constitution is adopted at said election by a majority of the legal votes cast, a certified copy of the same shall be submitted to the President of the United States and to the Congress for approval, together with the statement

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of the votes cast thereon and upon any provisions thereof which were separately submitted to and voted upon by the people of Puerto Rico. If Congress and the President approve said constitution and the separate provisions thereof, or if the President approves the same and Congress fails to disapprove the same within ninety (90) days of continuous session as defined in section 906 of title 5 of the United States Code, the President shall certify such fact to the Governor of Puerto Rico who shall, within thirty (30) days after receipt of such notification from the President, issue his proclamation for the elections, as hereinafter provided, for all officers of all elective offices under the Constitution. The officers so elected shall in any event include two Senators and five Representatives in Congress.

(c) If the constitution is rejected at the election by a majority of the legal votes cast, the Governor of Puerto Rico shall reconstitute a convention, as herein before provided, for the purpose of framing a constitution which shall be presented to the people of Puerto Rico for acceptance in the same manner as herein above provided.

Sec. 203.

(a) The proclamation of the Governor of Puerto Rico required by subsection (b) of Sec. 202 of this Title shall provide for the holding of a general election on a date to be fixed by the Governor, except that such general election shall be held not earlier than three (3) months nor later than six (6) months after receipt of notification from the President of approval of the constitution. At such election, the officers required to be elected as provided in subsection (b) of Sec. 202 shall be, and officers for other elective offices provided for in the constitution of the proposed State of Puerto Rico may be, chosen by the people. Such election shall be conducted in the manner provided for by the constitution and laws of the proposed State of Puerto Rico and the returns of the election shall be made and certified in such manner as such constitution and laws may prescribe. The Governor of Puerto Rico shall certify the results of said election to the President of the United States, who thereupon shall immediately issue his proclamation announcing the result of the election and, upon the issuance of said proclamation of the President of the United States, the Commonwealth of Puerto Rico shall be deemed admitted by Congress into the Union, by virtue of this Title of this Act, on an equal footing with the other States.

(b) Until such Commonwealth is so admitted into the Union, all of the officers of the Commonwealth, including the Resident Commissioner in Congress from such Commonwealth, shall continue to discharge the duties of their respective offices. Upon the issuance of such proclamation by the President of the United States and the admission of the State of Puerto Rico into the Union, the officers elected at such election, and qualified under the provisions of the constitution and laws of such State, shall proceed to exercise all the functions pertaining to their offices in or under or by authority of the government of such State, and officers not required to be elected at such initial election shall be selected or continued in office as provided by the constitution and laws of such State. The Governor of such State shall certify the elections of the Senators and Representatives in the manner required by law, and such

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Senators and Representatives shall be certified to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

(c) (1) Upon admission of the State of Puerto Rico into the Union as herein provided, all of the Commonwealth laws then in force in the Commonwealth of Puerto Rico shall be and continue in full force and effect throughout said State except as modified or changed by this Act, by the constitution of the State, or by the legislature of the State. All of the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States.

(2) As used in paragraph (1) --

(a) the term "Commonwealth laws" includes (in addition to laws enacted by the Legislature of the Commonwealth of Puerto Rico) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Puerto Rico prior to the admission of the State of Puerto Rico into the Union, and

(b) the term "laws of the United States" includes all laws or parts thereof enacted by the Congress that (i) apply to or within Puerto Rico at the time of the admission of the State of Puerto Rico into the Union, (ii) are not "Commonwealth laws" as defined in subparagraph (a), and (iii) are not in conflict with any other provisions of this Title; provided, however, that the State and Local Fiscal Assistance Act of 1972, as amended, 86 Stat. 919, 31 U.S.C. 1221, et seq., shall apply to Puerto Rico.

Sec. 204.

The State of Puerto Rico upon its admission into the Union shall be entitled to five Representatives until the taking effect of the next reapportionment, and such Representatives shall be in addition to the membership of the House of Representatives as now prescribed by law. Such temporary increase in the membership shall not operate either to increase or decrease the permanent membership of the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13), nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (2 U.S.C. 2a), for the Eighty-third Congress and each Congress thereafter. The laws of the United States governing the election of Senators and members of the House of Representatives shall become applicable to Puerto Rico upon the certification by the President of the approval of the constitution pursuant to Section 202 of this Act.

Sec. 205.

There is hereby authorized to be appropriated, out of any money in the Treasury of the United States not otherwise appropriated, such sums as may be necessary for defraying the expenses of the elections provided for in this Act and of the convention, and for the payment of the members and officers and employees thereof under the same rules and regulations and at the same rates as are provided in the

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case of members of the Legislature of the Commonwealth of Puerto Rico, and the disbursements of money appropriated by this section shall be made by the Treasury of the United States.

Sec. 206.

The United States District Court for the District of Puerto Rico established by and existing under title 28 of the United States Code is a court of the United States with judicial power derived from article III, section 1, of the Constitution of the United States.

Sec. 207.

Effective upon the admission of the State of Puerto Rico into the Union --

(1) the first paragraph of section 1252 of title 28, United States Code, is amended by striking out "and any court of record of Puerto Rico";

(2) section 1258 of title 28 of the United States Code is repealed, and the analysis of chapter 81 of such title is amended by striking out "1258. Supreme Court of Puerto Rico; appeal; certiorari."

(3) section 3771 of title 18 of the United States Code is amended by striking out "in the Supreme Court of Puerto Rico,"; and

(4) the first paragraph of section 3772 of title 18 of the United States Code is amended by striking out "in the Supreme Court of Puerto Rico,".

Sec. 208.

The first paragraph of section 2 of the Federal Reserve Act, as amended (38 Stat. 252), is amended by striking out the last two sentences thereof and inserting in lieu thereof the following: "When any State is admitted to the Union, the Federal Reserve districts shall be readjusted by the Board of Governors of the Federal Reserve System in such manner as to include such State. Every national bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the Federal Reserve System by subscribing and paying for stock in the Federal Reserve bank of its district in accordance with the provisions of this Act, and shall thereupon be an insured bank under the Federal Deposit Insurance Act, and failure to do so shall subject such bank to the penalty provided by the sixth paragraph of this section."

Sec. 209.

Notwithstanding the admission of the State of Puerto Rico into the Union, authority is reserved to the United States, for the exercise of the Congress of the United States the power of legislative jurisdiction as provided in article 1, section 8, clause 17 of the Constitution of the United States, over lands within the said State which are owned and controlled by the United States and over which such legislative jurisdiction was exercised immediately prior to the admission of the said State.

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Sec. 210.

(a) Nothing contained in this Act shall be construed as depriving the Federal Maritime Commission Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Puerto Rico and other ports in the United States, or possessions, or as conferring on the Interstate Commerce Commission jurisdiction over transportation by water between any such ports.

(b) Effective on the admission of the State of Puerto Rico into the Union --

(1) the last sentence of section 505 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1155), is amended by striking the words "and the Commonwealth of Puerto Rico" where they appear at the end of the section;

(2) the first sentence of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), is amended by inserting immediately before ", or an island possession or island territory" the following: ", the State of Puerto Rico";

(3) section 605(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1175), is amended by inserting immediately before ", or an island possession or island territory", the following: ", the State of Puerto Rico";

(4) the last sentence of section 606 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1176) is amended by striking the words "or the Commonwealth of Puerto Rico" where they appear at the end of the section; and

(5) the second paragraph of section 714 of the Merchant Marine Act, 1936 (46 U.S.C. 1204), is amended by inserting immediately before ", or an island possession or island territory" the following: ", the State of Puerto Rico".

Sec. 211.

(a) Section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)) is amended by striking out "Puerto Rico,".

(b) Section 212(d)(7) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(7)) is amended by striking out in the first sentence "Puerto Rico.".

(c) The first sentence of section 310(a) of the Immigration and Nationality Act (8 U.S.C. 1421(a)) is amended by striking out "and for Puerto Rico".

(d) Nothing contained in this Act shall be held to repeal, amend, or modify the provisions of section 302 of the Immigration and Nationality Act (8 U.S.C. 1402).

Sec. 212.

Nothing contained in this Act shall operate to confer United States nationality, nor to terminate nationality heretofore lawfully acquired, or restore nationality heretofore lost under any law of the United States or under any treaty to which the United States is or was a party.

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Sec. 213.

If any provision of this Act, or any section, subsection, sentence, clause, phrase, or individual word, or the application thereof in any circumstance is held invalid the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase, or individual word in other circumstances shall not be affected thereby.

Sec. 214.

All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the Legislature of Puerto Rico or by Congress, are hereby repealed.

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Section-by-Section Summary of the Puerto Rico
Statehood Act of 1977

Statement of Purposes

- Enables the people of Puerto Rico to achieve the status of Statehood for the Commonwealth of Puerto Rico, if they so desire;
- Establishes a sequence of steps by which the complex issues associated with Puerto Rico's admission to the Union may be addressed in an orderly way; and
- Insures that the people of Puerto Rico would be fully aware of the merits and responsibilities of Statehood before deciding whether their Commonwealth should become a State.

Title I. Puerto Rico Statehood Commission

Sec. 101.

- Establishes the Puerto Rico Statehood Commission to develop a broad understanding throughout Puerto Rico of the implications of Statehood so that the people of Puerto Rico can be fully knowledgeable of the merits and responsibilities of Statehood.

Sec. 102.

- Sets forth the duties of the Commission and lists some of the issues the Commission should study.

Sec. 103.

- Authorizes the Commission to hold hearings, establish facts, conduct studies, and secure information from Federal agencies;

Sec. 104.

- Describes the composition of the Commission: five members appointed by the President of the United States and five members appointed by the Governor of Puerto Rico;
- Sets forth the method of selecting a Chairman, filling vacancies, selecting a quorum and determining the composition of the Commission.

Sec. 105.

- Provides for a staff and its compensation;
- Authorizes the Commission to use the facilities of the Executive Branch of the Federal government.

more

Sec. 106.

- Requires the Commission to submit a final report to the President, the Governor of Puerto Rico (who would make the report available to the people of Puerto Rico), the Congress and the Legislative Assembly of Puerto Rico;
- Provides an opportunity for additional Congressional or Presidential action concerning the terms of Puerto Rico's admission into the Union, to be made in light of the nature or content of the final report.

Sec. 107.

- Exempts the Commission from the Federal Advisory Committee Act.

Sec. 108.

- Authorizes the Commission to purchase or rent property.

Sec. 109.

- Authorizes the appropriation of sums of money for the Commission.

Title II. Puerto Rico and StatehoodSec. 201.

- Provides for an island-wide referendum for the people of Puerto Rico on the proposition whether Puerto Rico should become a State;
- Provides, if the referendum passes, for a convention of delegates, duly elected by the people of Puerto Rico, for the purpose of adopting the United States Constitution and framing a constitution for the State government of Puerto Rico.

Sec. 202.

- Provides for the submission of the proposed State constitution to the people of Puerto Rico for ratification;
- Provides, if the constitution is ratified, for a certified copy of the proposed constitution of Puerto Rico to be submitted to the President and the Congress for approval;
- Provides for a proclamation for the elections of two Senators and five Representatives for the new State of Puerto Rico.

Sec. 203.

- Provides for the proclamation of the Governor of Puerto Rico for election of two Senators and five Representatives;

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- Provides for the certification of the results of the election to the President;
- Provides for the President's proclamation announcing the results of the election and upon the issuance of this proclamation, the Commonwealth would be deemed admitted by Congress into the Union;
- Provides that until the Commonwealth is admitted into the Union the laws of the Commonwealth and the officers of the Commonwealth would continue to discharge their duties;
- Provides that upon admission of Puerto Rico into the Union all of the Commonwealth laws shall remain effective except as changed by Congress, the new State constitution or the State legislature.

Sec. 204.

- Entitles Puerto Rico to five members in the House of Representatives until the taking effect of the next reapportionment.

Sec. 205.

- Authorizes appropriations for expenses of the elections required by this Act.

Sec. 206.

- States that the United States District Court for the District of Puerto Rico is a court of the United States with judicial power derived from Article III, Section I of the United States Constitution.

Secs. 207 - 214.

- Provides certain housekeeping and other actions necessary to coordinate the Act with other statutes of the United States and the United States Constitution.

The time frame for this Act proceeds along the general outline (on the attached page) which could require 40-70 months.

